KCDC Comments on Natural and Built Environment Bill

Proposal	Comment	Change Sought
Clause 5(b)(i-iii) - Climate change objective	The requirement for the NPF and plans to "achieve" the outcomes is potentially too high of a threshold - a strong planning framework will be necessary, but not sufficient to achieve these outcomes. It is not clear to Council whether the term reduction in clause 5(b)(i) means fewer greenhouse gas emissions or negative greenhouse gas emissions, and whether they are expected to achieve this at a national/regional/local level/or for individual consents.	That further clarification and guidance is provided about what the "achieve" directive means for councils, and how this could practically be achieved/implemented.
Clause 5 (c) – well functioning rural and urban areas	We are concerned at the emotive and ill-defined terminology used in this system outcome. In particular, the words "ample" and "inflated" in (ii) are highly subjective. The clause also seems to unnecessarily duplicate concepts between the subclauses. For example, "avoid inflated urban land prices" could be considered to be covered by "housing affordability", while the "ample supply of land" is covered in a general way by the outcome of "...promotes...(i) the use and development of land for a variety of activities..."	Redraft the clause to more closely mirror the language of the NPS-UD language, such as 'sufficient development capacity' (noting 'development capacity' is a defined term in the Bill).
Clause 7 - Adverse effect definition	The term 'adverse effect' is not defined and neither is 'trivial effect'. The Bill appears to introduce new term 'trivial'. This is likely to create, confusion, uncertainty and add expense and delay as case law defining this new term is created.	Adverse effect needs to be defined in its own right, not just as it relates to trivial effects. 'Trivial effects' should be separately defined, or an alternate term which has an established case law should be used (e.g., 'minor').
Clause 7 - Cultural heritage definition	Council is concerned that the term 'cultural heritage' could be used in a similar way to "amenity values" under the RMA, because the term 'cultural' in part (a) of the definition is undefined and very broad and the phrase 'cultural landscapes' in part (b) of the definition is similarly undefined and therefore potentially broadly interpreted. Together, those phrases might lead to clause 6(3) being used to essentially protect amenity values.	In part (b) of the definition, define cultural landscapes more narrowly to ensure the intent of the term is clear.

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Proposal	Comment	Change Sought
Clause 8 – Meaning of a public notice	The obligation to publish public notices in newspapers does not reflect the way the general public currently engages with news and official content. We suspect very few people learn of public notifications from reading them in newspapers. The new legislation should provide for online and email public notifications, which would also reduce the administrative costs of making public notifications.	Amend clause 8 to remove the requirement to publish public notices in newspapers.
Clause 1 – Effects management framework	As a more general drafting concern, we are concerned at the inconsistent use of directive terms throughout the Bill. Consistently referring to the terms set out in the effects management framework at clause 61 would provide much greater clarity. As an example, in clause 646, the terms "prevent" and "mitigate" are used, however these are not terms set out in cl61. "Prevent" could easily be replaced by "avoid" for clarity. Mitigate could either be replaced by "minimise or remedy" or clarified that it is used as a collective term for "minimise, remedy, offset, or provide redress".	• Redraft directive clauses of the Bill to use the terms set out in clause 61. • You may also wish to specify that the term "mitigate" is used to collectively refer to the directives in the effects management framework to "minimise, remedy, offset, or provide redress" to allow for drafting efficiency.
Clause 34 – National Planning framework to be made as regulations	We support the idea of a consolidated National Planning Framework, as regulations, which contains all NPSs and NESs.	
Clause 36 – Resource allocation principles	We seek further explanation of the three resource allocation principles and how they relate to each other. Are they intended to be equally weighted? How should conflicts between those principles be resolved?	Further clarification, either through drafting or supporting guidance, on how these principles are intended to be implemented and how they relate to each other.
General comment on Subpart 2: Limits and Targets	There is very little information in the Bill about how Limits and Targets will operate in practice. This makes it very challenging to understand the real implications of these new tools and how they will interact in the new resource management system. We support the inclusion of limit setting at the regional and local level, where this is the appropriate scale.	We request that limits and targets are developed in partnership with local government to draw on their experience in setting freshwater limits and to ensure that limits and targets are practical and achievable.

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Proposal	Comment	Change Sought
Clause 37 – Purpose of setting environmental limits	We support the notion of the environment being protected from any further degradation and the protection of human health. However, will environmental limits protect health of indigenous fauna? This doesn't appear to be included in the "ecological integrity of the natural environment".	Redraft the purpose of limits to specifically include the protection of the health of indigenous fauna.
Clause 40 – Form of environmental limits	We consider that the term 'minimum biophysical state' used in this clause should be defined in the interpretation (clause 31), rather than in the explanatory notes.	Include an additional definition in clause 31: **"Minimum biophysical state** means the maximum amount of harm or stress to the natural environment that may be permitted in a management unit."
Clause 45 – Essential features of exemption	We support the requirement for exemptions to be time bound.	
Clause 48 – Form of targets	Given that targets *must* be set for all mandatory environmental limits (see cl49(1)), we consider that 48(2)(c) should be expanded to include "is designed to assist in achieving … an environmental limit".	Include "achieving an environmental limit" as an additional function of targets in 48(2)(c).
Clause 50 – Minimum level targets	We share Taituara's concern that the phrase "minimum level target" will result in a race to the bottom, as they will likely become the default and litigation is likely where targets are higher than a limit or minimum level target. We support the inclusion of (2)(c)(i) i.e. will not place "indigenous plants or animals at increased risk", as this consideration was absent from the discussion of Limits.	Reframe "minimum level targets" as "Targets for degraded environments". This makes it clearer that these targets are only appropriate where the environment is already degraded to an unacceptable level.
Clause 53 – Monitoring of limits and targets and responses	We support the requirement to monitor and report on limits and targets, as this creates the necessary transparency and accountability. However, we consider it appropriate for central	Include drafting that directs the Government to fund the monitoring on national-level limits and targets.

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Proposal	Comment	Change Sought
	government to fund nationally consistent information and data to monitor progress against nationally-set limits and targets. We support the requirement f 53(c) to "enable Māori to be involved in monitoring of environmental limits and targets". However, we also suggest that appropriate resourcing and support will need to be provided to support this function.	Commit resourcing and support for iwi to enable their involvement in monitoring of environmental limits and targets.
Clause 56 – National planning framework must include strategic direction and provide for monitoring	We support the requirement to provide strategic direction and provide for monitoring, however, we consider it useful to also specify who will be responsible for monitoring the implementation and effectiveness of the framework.	Include specific responsibilities for monitoring.
Clause 59 – National planning framework may direct how certain provisions must be given effect	Suggest this clause is reordered to better reflect the hierarchy of documents in the framework.	Redraft to reverse the order of (a) and (b) so that RSS sit above plans.
Clause 66 – Limits to exemptions	Clarity of language – given the use of limits elsewhere in the Bill, we suggest renaming this "restrictions on exemptions".	Rename section "Restrictions on Exemptions"
Clause 68 – Giving effect to the national planning framework in plans	We are supportive of the provisions for NPF content to be incorporated into plans without using the Schedule 7 process, as there is no opportunity at this stage for public input. However, we acknowledge the importance of comprehensive and widespread community consultation on the draft content of the NPF to ensure there is still an opportunity for local input/voice on these matters.	
Clause 73 – Regional planning committee or local authority must take action directed by framework	We are concerned with the lack of clarity of roles in this provision – the delineation of roles between the regional planning committee and local authority should be clear.	Redraft and provide guidance to ensure clarity of roles and intent, eg: "A regional planning committee or local authority, as appropriate, …"
Clause 85 – Incorporation by reference	Clause 85(1)(b)(i) uses the NPF acronym, but it should be spelled out in full for clarity.	Redraft cl85(1)(b)(i), replacing NPF with national planning framework.

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Proposal	Comment	Change Sought
Clause 102 – What plans must include	We are concerned with the language - 'achieve environmental limits' in 102(2)(c). Environmental limit means an absolute minimum viable state of an ecosystem to maintain ecological integrity of human health, as provided for in sections 39 and 40. Seeking only to achieve limits will in many cases lead to unacceptably high adverse environmental outcomes - this is due to limits intending only to prevent ecosystems from degrading further compared to their current state. This disregards the fact that many ecosystems have already degraded to a level which is unsustainable.	Redraft 102(2)(c) to "achieve environmental targets and not exceed environmental limits".
Clause 103 – General: matters within the responsibility of regional councils and territorial authorities	Numbering is incorrect.	Correct numbering.
Clause 106 - Te Oranga o te Taiao statement	This relates to clause 7, which states one of the purposes of the Act as upholding te Oranga o te Taiao. However, it is unclear what the purpose is of iwi providing this particular statement to the RPC. If these statements are to be worthwhile activities for iwi it needs to be clear consideration must be given to these statements, and for what purpose.	Provide a clear directive for when the RPC is required to consider these statements and with what level of weight - eg “have particular regard to”.
Clause 107 - Considerations relevant to preparing and changing plans	• Numbering is incorrect. • It is unclear if 107(1)(c) is intended to encompass Te Oranga o Te Taiao statements (as it is unclear if there are considered “planning documents”. • Planning documents is not a defined term, so it could be unclear what this is intended to cover. It should be clear to both iwi and RPCs what documents are covered by this clause. • We are concerned that the level of consideration to be given to statements of community outcomes is not high enough. This is the primary mechanism for local communities to	• Correct numbering issue. • Redraft 107(1)(c) to specifically include Te Oranga o Te Taiao statements, in addition to any other planning documents provided by iwi. • Define “planning documents” or redraft to make the intent of this phrase clear. • Increase the weight that the RPC must give to statements of community outcomes beyond “have particular regard to”.

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Proposal	Comment	Change Sought
	ensure their concerns and values are appropriately considered in plan making processes. We would seek a higher level of weight to be given to these documents. We also consider it appropriate for the RPC to respond to these documents directly, outlining how they have been reflected (or not) in the draft plan.	• Direct RPCs to respond to statements of community outcomes directly to the submitting authority, outlining how the concerns and values outlined in the document have been incorporated into the plan (or not).
Clause 108 – Matters that must be disregarded when preparing or changing plans	With respect to 108(d), Council is concerned at the lack of clear definition of "people of low incomes, special housing needs, or whose disabilities mean that they need support or supervision in their housing". While we are broadly supportive of the intent of this clause, we are concerned that this could be applied more broadly than intended, for example: • to provide for commercial retirement villages (as many elderly residents have *low incomes*) • to provide for transitional correctional facilities (under *special housing needs*) without being able to manage proximity to other facilities such as schools. We do not believe that these types of activities are the intent of the clause. We are therefore concerned at the scale and significance of effects that would have to disregarded as a result of this clause.	Redraft clause 108(d) to better define the groups this is intended to apply to and consider including appropriate definitions. Provide guidance and clear examples on how clause 108 is intended to be implemented.
Clause 112 – Specific requirements relating to environmental contributions	The term "Good environmental design and practice" in clause 112(2)(iii) is too subjective and difficult to define. Wil there be an environmental design standard to measure this against? What would be the process for quantifying/monetizing positive effects? Extreme care should be taken around this.	Redraft to either replace 'good' or provide clarity about its meaning in this context.
Clause 113 – Plan must require all permitted aquaculture activities to be registered with consent authority	This clause does not use the language of the permitted activity notice consistently – in particular the term "registering with a consent authority" does not accurately reflect the terminology used in cl302/3. It is also unclear why this PAN requirement is being	Either delete this clause and instead provide the national level direction requiring a PAN in the NPF (preferred option), or redraft the clause as suggested:

Proposal	Comment	Change Sought
	specified in legislation rather than through the NPF (which is specifically provided for in cl302 and is the appropriate place for national direction on a PAN).	**113 Permitted Activity Notices required for all permitted aquaculture activities** Permitted activity notices must be required by plans for all permitted aquaculture activities.
Clause 153 – How activities are categorised and Clause 154 – How to decide which activity category applies.	Council is broadly supportive of simplifying the activity classification structure, however caution is required to ensure that the revised structure doesn't result in: • confusion due to the retention of RMA activity class labels that have taken on a new meaning under the NBEA • an overuse of the prohibited activity status (now that non-complying is no longer available), which would result in the need for plan changes in order to be able to undertake a prohibited activity. • an overuse of discretionary status, which would result in higher uncertainty for applicants. The benefit of the non-complying status was that it allowed plans to indicate that activities were unlikely to be approved because they weren't in line with plan outcomes, but provided applicants an avenue *other than a plan change* to demonstrate that the activity could in fact be undertaken in keeping with the plan. This is a more efficient and flexible approach than requiring plan change for prohibited activities. Does the Bill envision that if environmental outcomes are not being achieved then related activities would be prohibited?	Guidance is provided to Councils and users on how the new activity structure is intended to be implemented.
Clause 156 – Activities may be permitted with or without requirements	In KCDC's experience, permitting activities does not necessarily result in fewer resource consent applications, as applicants will often choose not to comply with one or more of the conditions/standards that must be met. These standards are to ensure that the potential impacts of permitted activities on the	• Guidance is provided to Councils and consent authorities on the new activity structure is intended to be implemented.

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	environment can be appropriately managed, and a consent pathway is appropriate should they not be met. There is a risk that overuse of the permitted activity status could result in outcomes not being achieved. One of the challenges with permitted activities is that, provided permitted standards are met, there is no need to inform Council that you have undertaken a permitted activity (unless a new Permitted Activity Notice is required under cl302). It is therefore difficult to know that an activity has occurred that ought to be monitored, and compliance is often difficult to enforce. If a Permitted Activity Notice is required by the plan as a mechanism of ensuring appropriate monitoring and compliance of many Permitted Activities, this will create an administrative cost on both applicants and consent authorities. It may be seen as consent-by-stealth. While specifically providing for monitoring and compliance for permitted activities is important, an increased use of permitted activity status as directed by the Bill in the plan will result in a significant increase in monitoring and compliance activities. Currently Councils do not have the resources to monitor permitted activities except when complaints are received, and it has proved difficult in the past to recover costs from permitted acidity monitoring. It is likely that any reduction in resourcing required to support resource consent applications (if it does eventuate) will be more than offset by the increase monitoring requirements.	• Guidance is also provided on the anticipated use case for Permitted Activity Notices. • Provide clear education for plan users around permitted activities, PANs, monitoring requirements, and cost-recovery mechanisms relating to permitted activities in particular.
Clause 164 - Recovery of costs incurred in consultation and engagement	This clause is supported. In the past, relevant Māori parties have not had resourcing to input into the resource consent process and as a result, Councils often subsidise iwi input. Providing cost recovery for iwi input is a positive change.	

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Proposal	Comment	Change Sought
Clause 187 – Processing Timeframes	We support NZPI's proposal that the NBA should have graduated timeframes to process resource consent applications based on notification/hearing requirements and activity status. For example: • non-notified controlled activities could have process timeframes of 20 working days • non-notified discretionary activities having processing timeframes of 40 working days. This would better reflect the difference in complexity between applications of different activity statuses.	Redraft clause 187 to provide graduated timeframes that reflect both notification/hearing requirements and activity status.
Clause 231 – General requirements before conditions may be included; and Clause 232 – Particular conditions that may be included in resource consent.	It is unclear from the interplay of these two clauses and their internal references whether or not Consent Authorities will be able to impose conditions on subdivision consents that require the installation of infrastructure to ensure that the lot being subdivided is sufficiently serviced. This is an issue that Councils often get push back on from developers, who seek to defer the costs of servicing to later stages of the process (usually making it the responsibility of the purchasers of the individual lots). However, there are administrative and practical limitations to being able to require and install adequate infrastructure at later stages of the process. Therefore, it is essential that Councils are clearly given the ability to require infrastructure servicing as part of subdivision consents. Adequate infrastructure servicing does not immediately appear to fall within the scope if clause 231: • 231(2)(b)(ii) allows conditions directly connected to an applicable provision in a plan or the NPF, however we consider this to be insufficiently directive if it is intended to provide for infrastructure servicing. We consider that this requirement is so fundamental that it should be provided	• Incorrect reference in Cl231(2)(3) – reference to Subpart 4 of Part 11 should be Subpart 4 of Part 9. However, we recommend you remove this reference entirely, as it is already more appropriately and correctly referenced in clause 232(1)(f). • Amend either Clause 232(1) or Subpart 4 of Part 9 to include a provision that specified infrastructure services be provided to the boundary of each lot for subdivision consents.

Proposal	Comment	Change Sought
	for in the legislation rather than relying on subsidiary regulations/documents. • the reference to section 228 in cl 231(3) only requires legal and physical access be provided, not infrastructure servicing. • The reference to Subpart 4 of Part 11 in cl 231(3) (although the actual reference should be to Subpart 4 of Part 9) provides a link to clause 626 - Other requirements relevant to subdivision consents. However, this clause does not identify infrastructure servicing as a specific matter that may be included in subdivision consents. Clause 232 in providing for more specific conditions also does not provide for infrastructure servicing: • Clause 232(1)(c) allows for conditions requiring services or works to be provided, which *could* be interpreted to encompass infrastructure servicing, however it is very unclear whether this does in fact provide enough scope to cover infrastructure servicing requirements. We consider that a provision to require infrastructure servicing should be explicit. • Clause 232(1)(f) again references Subpart 4 of Part 9, but as noted above in relation to clause 231(3), this subpart does not provide scope for infrastructure servicing requirements.	
Clause 302 – Permitted activity notices	Clause 302(4)(a) specifies that PANs may be declined – there should be clearly specified criteria that specify situations where consent authorities can do this to ensure clarity for all parties. As the activity is permitted under the plan (and therefore the expectation is that the activity can proceed without Council approval), we would expect the scope for this to be relatively narrow.	Provide clear criteria in legislation for when a council must accept or decline a PAN application.

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Proposal	Comment	Change Sought
	Similarly, clause 302(6) discussed the ability of a consent authority to revoke a PAN if it was issued as a result of material inaccuracies or non-compliance. Again, criteria for when a PAN must/must not be issued are important here.	
Clause 303 – Duration of PANs	• The duration for a PAN is already set out at clause 302(7). This is unnecessary duplication and is likely to create confusion. The consequences of revoking a PAN are set out at cl303(1). It would be better for this clause to sit with other revocation related content (ie 302(6)).	• Move clause 303(1) to form part of clause 302(6) regarding revocation of PAN. • Delete clause 303(2) or 302(7) to avoid unnecessary duplication.
Clause 318 - Application to use specified housing and infrastructure fast-track consenting process	As per the current Fast Track Consenting Act, there does not appear to be a requirement that comments are sought from the relevant local authority on whether the application is appropriate to proceed through the specified housing and infrastructure fast track consenting process. These applications and decisions can have a significant impact upon local authorities, and it is important that the Minister has as much information as possible when making their decision on whether the proposal should proceed through the fast-track consenting process.	Amend Clause 318 to specifically require that the Minister consults with the relevant Territorial Authorities on whether the application is appropriate to proceed through the specified housing and infrastructure fast track consenting process
Clause 421 – Territorial authority must consider effects of proposed development, etc, on contaminated land	We consider having 'etc' in the clause title creates unnecessary uncertainty. Clause 421(b) seems to give two contradictory directives – to both prevent AND mitigate adverse effects. If adverse effects are prevented as per the directive at (i) there is nothing to mitigate at (ii). It is also unclear why remedy is not considered and appropriate response and why prevent has been used instead of avoid – as per the standard hierarchy set out at cl62.	Redraft title to remove 'etc'. Redraft clauses 421(b)(i) and (ii), to combine them and mirror the drafting of 425(b) and using the common avoid/remedy/mitigate terminology: "*avoid, remedy, or mitigate* any adverse effects…"

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Proposal	Comment	Change Sought
Clause 425 - EPA must consult local authority before taking action	Cl425(a) uses the terms "prevent or remedy". Suggest using commonly accepted terms of the effects hierarchy – avoid and remedy.	Redraft cl425(a) to "*avoid* or remedy any adverse effects…"
585 Requirements relating to conditions of subdivision consent	The individual sub-clauses of clause 585 all provide further context for other clauses throughout the Bill. Council considers that this structure could be simplified by instead including each of these sub-clauses within the referenced parent clause. This would make it much simpler to understand the full set of requirements for subdivision consents.	• Note the deposit requirements directly in section 579 • Include the requirement laid out across subsections (3) and (4) directly within sections 623 and 575(4).
590 – Compensation when esplanade reserve taken from allotment of less than 4 hectares 591 – Compensation when esplanade reserve or strip taken from allotment of 4 hectares or more	These two clauses could easily be combined into a single clause "Compensation for esplanade reserves" which would allow for easier navigation of the Act and better understanding of the compensation provisions for esplanade reserves.	Redraft clauses 590 and 591 into a single clause "Compensation for esplanade reserves".
606 – New reserves and strips required when land is subdivided	For consistency, clarity, and easier navigation of the Act, we suggest the bill consistently refers to relevant strips and reserves specifically as *esplanade* strips and reserves. This will ensure they are clearly differentiated from access strips and other types of reserve.	• Redraft subsection heading to "Requirements to create *esplanade* reserves and strips when land is subdivided" • Redraft clause 606 title to "New *esplanade* reserves and strips required when land is subdivided" and subtitle to "*Esplanade"* reserves and strips required". • Redraft all related clauses to ensure consistent use of terminology.
614 – Vesting in the crown or regional council	Council acknowledges that this clause has been transferred from the RMA without substantive change. However, current drafting appears to allow a Regional Council to declare that an esplanade reserve be vested in the Crown, or vice versa, after only consulting	Redraft clause 614(1) to make the scope of Crown/Regional Council powers clearer.

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Proposal	Comment	Change Sought
	with the affected Territorial Authority. We don't think this is the intention of the clause.	
626 – Other requirements relevant to subdivision consents	It is unclear to Council whether these requirements only relate to natural hazards. This is implied by virtue of it coming under the "Protection against natural hazards" subheading at 625, but is not specified in the drafting of the clause itself. This could have a significant effect on the interpretation of 626(b) in particular – are these bulk and location conditions only being provided for as far as they relate to addressing natural hazard risks? Or are they intended to be allowed as a general consent condition to address a range of factors? If they are intended to provide more general powers, this clause should have a separate subheading. This may also make it an appropriate place to include specific reference to infrastructure servicing, as noted in the above commentary on cl231/2.	Clarify the drafting of clause 626 to make it clear whether these clauses are only intended to apply in as far as they relate to addressing natural hazard risk, or if they are in tended to provide wider scope for consent conditions in general.
Clause 633 – Minister may direct preparation of plan change or variation	By comparison with the equivalent section in the RMA (s25), we note that 633(2)(b) is new and there was no equivalent direction to the Minister to prepare a statement of expectations. We consider this to be a useful additional clarification, however the requirement that the statement sets out the "objectives" to be achieved is potentially confusing, given this word has other meanings in a planning context. Using the term "outcomes" would appear to be better in keeping with section 105(1)(a). Clause 633(3)(a) implies that the plan change or variation must 'meet' the statement of expectations, when in fact clause 633(2)(b) only requires that the regional planning committee to 'have regard' to it. The language of these two clauses should be consistent.	• Redraft 633(2)(b) to avoid using the word 'objectives'. This could be replaced by "outcomes" if that is the intent of the provision. • Redraft clauses 633(2)(b) and 633(3)(a) to align the language used and weight given to Statements of Expectations.

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Proposal	Comment	Change Sought
Clause 634 – Ministers may direct review of plan to be commenced	As per the commentary on clause 633 above: • the use of the word 'objectives' in 634(3)(b) is problematic. • The direction for plan reviews to meet the statement of expectations in 634(4)(a) is inconsistent with the directive for an RPC to "have regard to" these statements in 634(3)(b).	Noting the need for these provisions to mirror those in Clause 633: • Reword 634(3)(b) to avoid using the word 'objectives' – noting the need to mirror the terminology used in 633(2)(b). • Redraft clauses 634(4)(a) and 634(3)(b) to align the language used and weight given to Statements of Expectations.
Clause 646 (a)(i) - Matters for which territorial authority or unitary authority responsible	We are concerned that the direction to avoid natural hazard risks has now been removed from the matters for which TAs are responsible - and it is now just to mitigate and reduce the risks. This is a significant change, and we are concerned that this will prevent TAs from being able to take strong positions to avoid natural hazard risk where mitigating and reducing risks are not appropriate strategies. We also recommend the clause use the terms specified in clause 61 of the Bill (effects management framework) as a consistent way of referring to duties to manage effects.	• Amend 646(a)(i) to: "<u>avoiding, minimising or remedying</u> the risks arising from natural hazards".
Clause 650 – Transfer of powers	Council is concerned at the breadth of the exemption provided at subsection 4 proving for transfer of power to iwi or hapū. We are absolutely supportive of the ability for powers to be transferred to iwi or hapū but are concerned that removing the requirement for both the local authority and the iwi authority or hapū group to agree that the transfer is desirable is not in keeping with the intent of the provision. It would not be reasonable for a TA to transfer powers to an iwi/hapū group that was not in agreement.	Redraft 650(4) to say: "**Subsection (3)(c)** does not apply in the case of a transfer of power *from a local authority* to an iwi authority or a group representing hapū. *Instead, both parties must agree that the transfer is desirable for at least one of the following reasons:* *(i) the authority to which the transfer is to be made represents the appropriate community of interest*

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	We recommend that instead of removing the section (3) requirement in its entirety, it is instead provided that only one of the three tests must be satisfied. We consider that this should provide sufficient scope for these transfers of power to occur, while still requiring agreement of both parties and some clear and transparent rationale for the transfer. Council considers that the requirement to undertake a special consultative procedure under section 83 of the LGA could present a barrier to transfers of power to iwi and hapū groups. While we are not recommending that this provision be removed, as it is important for the community to be consulted, it is important to note that this process is likely to result in a strong reaction from parts of the wider community who may not understand the Treaty relationship and the role that provides for iwi and hapū to be involved in the management of our environment. Maintaining a culturally safe environment during public engagement is likely to be difficult in these circumstances.	*relating to the performance or exercise of the function, power, or duty:* ***(ii)*** *the transfer will result in greater efficiency in the performance or exercise of the function, power, or duty:* ***(iii)*** *technical or special capability or expertise.* Request that training for decision-makers (eg the current Making Good Decisions programme) includes how to maintain cultural safety in public consultation and hearing processes.
Clause 653 – Delegation by local authorities	Clause 653(3) appears to be missing the words 'local authority'.	Amend 653(3) to: A <u>local authority</u> may delegate to a local board any of its functions, powers, or duties under this Act in relation to a matter of local significance to that board.
Clause 697 – Application for declaration	Poor drafting. Note, the "No person (other than x...)" format appears repeatedly throughout this section. We recommend that this is redrafted for clarity.	For clarity, propose redrafting clause 697(2) and 697 (3) (and other similarly phrased clauses) to begin: *"Only the local authority, a consent authority, or the Minister of Conservation* may apply to the Environment Court..."

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Proposal	Comment	Change Sought
Clause 702 – Application for enforcement order	Clause 702(3)(b) it is unclear why applications from people other than TAs is linked to three months after **a plan or policy statement becomes operative** - as 700 (1) (g) and (i) are related to consent conditions. It seems that, if a specific time frame is required, a three month timeframe from when the consent was issued would be more appropriate.	Amend 702(3)(b) to "...by any other person, no later than 3 months after *the date the resource consent was issued*.
Clause 708 – Scope of abatement notice	Drafting of cl 708(1)(a)(ii) is unnecessarily complex - could just refer to adverse effects.	Amend cl708(1)(a)(ii) to: "*is or is likely to have an adverse effect on the environment*"
Clause 732 – Plan may require financial assurance	We support the ability for financial assurances to be required, including for permitted activities. Where there is no requirement for a consent, Council has found it incredibly difficult to cost-recover for monitoring and compliance activities. The introduction of Permitted Activity Notices (PANs) through section 302 provides a much clearer avenue for requiring financial assurances as they relate to monitoring and compliance for permitted activities. While there is nothing in this section that appears to specifically prevent financial assurances being required for permitted activities, we recommend that a provision is added to section 302 to specify that either: • a consent authority may issue a PAN conditional on the payment of a financial assurance (under clause 732), or • a consent authority must not issue a PAN if there is an outstanding request for a financial assurance relating to the activity, and providing for the 10-day clock to be stopped while the request is outstanding. Both of these options would allow a PAN to be withheld until payment of the financial assurance has been made.	Include an additional clause in section 302 (Permitted Activity Notices) to specifically provide that required any financial assurances (as provided for under section 732) are to be paid prior to the issue of a PAN.

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Proposal	Comment	Change Sought
	As per clause 732(1), the ability to request a financial assurance for the permitted activity would still need to be specified in the plan (or regulations).	
818 – Local authority Māori participation policies	While we are supportive of this in principle, we are concerned that there is no timeframe specified for when this policy must be in place. These may take some time to develop and iwi/hapū will often need to negotiate these with a large number of TAs.	
819 – Duty to keep records relating to iwi and hapū	We note that this clause mirrors the provisions of the RMA, and places the onus on the Crown to advise local authorities of relevant iwi and hapū groups in the region or district. However we are concerned there is a lack of clarity about how this provision interacts other parts of the Bill. For example, the term used in Schedule 7 Clause 9 (Purpose of engagement agreements) uses the term "Māori Groups with interests in the region" which could be interpreted more broadly than the iwi and hapū groups specified in this clause.	• Clarify and make consistent that language relating to Māori engagement throughout the Bill. • If it is intended that specific provisions within the Bill are to be applied more widely than the groups identified through clause 819, that should be clearly drafted and guidance provided on how those provisions are expected to be implemented.
Schedule 3 Clause 2 – Limits to offsetting	Overall, this a positive principle for the protection of biodiversity. However, there are some issues with what is written: - What quantifies irreplaceability? - What quantifies socially acceptable? Who in society is being affected? Are they the people being consulted? - Acceptable timeframes – what does this look like? Who decides?	Requires clarification through drafting / additional definitions, and additional guidance.
Schedule 3 Clause 4 – Additionality	Would make more sense for this principle to say that a biodiversity offset must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the activity (rather than offset). This is because the idea is to offset the activity with adverse effects, rather than offsetting an offset.	Amend drafting to "A biodiversity offset must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the *activity*."

KCDC Comments on Natural and Built Environment Bill

Proposal	Comment	Change Sought
Schedule 3 Clause 6 – Landscape context	As drafted, this only applies to "development". This is unnecessarily narrow - applying it to all activities would make this more widely applicable.	Amend drafting to "Biodiversity offset actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of *the activity*..."
Schedule 3 Clause 8 – Time lags	We are concerned that the principle as drafted will not be implementable. - How is it possible to procure mature indigenous vegetation at a stage where net gains can be achieved within the consenting period? - Will this lead to mature indigenous vegetation being removed from elsewhere?	We agree with the principle, but review is needed to ensure that this principle is achievable, and that it will achieve the desired outcomes.
Schedule 3 Clause 9 – Trading up	Drafting should be mirrored in Schedule 4 and be re-looked at for maximum clarity.	Redraft for clarity and mirror that drafting to Schedule 4.
Schedule 3 Clause 11 – Proposing a biodiversity offset	While requiring a biodiversity offset management plan is a positive requirement, we are concerned that there is no detail about what this plan is expected to cover which is likely to result in poor quality plans.	Clear guidance about what should be included in a biodiversity offset management plan will be required for the effective implementation of this principle.
Schedule 3 Clause 12 – Science and Mātauranga Māori	We are concerned that this principle is biased towards western science. The wording “an appropriate consideration” raises issues - how much is an appropriate consideration? Will this lead to the tokenistic use of Māori knowledge?	Review needed to more clearly give equal value to Mātauranga Māori as western science (if that is the intention).
Schedule 3 Proposed additional principle	We consider that it would be appropriate for a Leakage principle to be included in this Schedule (as there is proposed for Schedule 5 - cultural heritage). These concerns are equally relevant to biodiversity values as they are to cultural heritage values.	Include the leakage principle from Schedule 5 in Schedule 3.
Schedule 4	* We question whether schedule 3 and 4 could be combined, similar to the way offsetting and redress are combined in schedule 5 for Cultural Heritage.	* Combine schedules 3 and 4 into a single schedule "Principles for Biodiversity offsetting and biodiversity redress compensation".

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Proposal	Comment	Change Sought
	* The preamble references cultural heritage offsetting, rather than **biodiversity redress**, and there are typos. * Biodiversity redress compensation would be a clearer term to use, and to use it consistently throughout the schedule.	* Change the drafting to "The following sets out a framework of principles for the use of *biodiversity redress compensation*. These principles are a standard *form* of redress.
General comment – defining redress and the applicability of the below principles	We think it would be helpful to clearly define redress compensation, and how this is different to offsetting. Our understanding is that redress is *financial compensation,* that will only be considered where avoid, remedy, mitigate, and offset actions are not available or appropriate. If this understanding is correct, many of the principles as drafted below do not appear to apply - they are still discussing where and how enhancements to values should be required. But redress compensation by definition will not provide any enhancements to relevant values - that is something that offsetting will achieve. It is instead providing financial compensation for loss of value.	* Provide a clear definition for redress * Redraft the principles to show clear relevance for redress compensation specifically.
Schedule 4 Clause 2 – Limits to biodiversity compensation	*See comments re this principle in Schedule 3. *Generally supportive of this principle, but consider that engagement with mana whenua will be important to fully understand the value of the indigenous biodiversity in question.	* Amend principle title to "*Limits to biodiversity Redress Compensation*" for clarity and consistency * Recommend including specific consideration of the value of indigenous biodiversity to tangata whenua/mana whenua. * Requires clarification through drafting / additional definitions, and additional guidance.
Schedule 4 Clause 3 – Scale of biodiversity redress	Currently this principle is incredibly confusing. Redress doesn't actually provide positive effects for biodiversity, it is compensating for the loss of values. This needs to specify that the scale of redress compensation must be proportional to residual loss of biodiversity values resulting from the activity.	* Amend principle title to "*Scale of Biodiversity Redress Compensation*" * Amend drafting to specify that redress value must be proportional to the residual loss of biodiversity values resulting from the activity.
Schedule 4 Clause 4 - Additionality	As above, this principle doesn't make sense - it's essentially saying that biodiversity enhancements need to achieve enhancements greater than if no compensation happened in the first place. Redress	Either remove this principle if it is covered by principle 3, or redraft to clarify the relevance to redress compensation.

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Proposal	Comment	Change Sought
	does not create enhancement. We also question if this principle is needed in addition to principle 3) - scale of biodiversity redress.	
Schedule 4 Clause 5 – Landscape context	* As above, this principle doesn't make sense - Redress compensation does not create enhancements. We also question if this principle is needed in addition to principle 3) - scale of biodiversity redress.	Either remove this principle if it is covered by principle 3, or redraft to clarify the relevance to redress compensation.
Schedule 4 Clause 6 – Long-term outcomes	Drafting error. It is also unclear how compensation is expected to be managed to secure long term outcomes.	Either remove, or redraft to: "The biodiversity redress *compensation* must be managed to secure outcomes of the activity that last *at least* as long as the impacts, and preferably in perpetuity."
Schedule 4 Clause 8 – Trading up	As above, this principle doesn't make sense - Redress compensation will not create heritage values. We also question if this principle is needed in addition to principle 14 - scale of cultural heritage redress.	Either remove this principle if it is covered by principle 14, or redraft to clarify the relevance to redress compensation.
Schedule 4 Clause 11 – Science and Mātauranga Māori	We are concerned that this principle is biased towards western science. The wording "an appropriate consideration" raises issues - how much is an appropriate consideration? Will this lead to the tokenistic use of Māori knowledge?	Review needed to more clearly give equal value to Mātauranga Māori as western science (if that is the intention).
Schedule 5 – Principles for Cultural Heritage Offsetting and Redress	Current title is unclear.	* Amend title to "Principles for Cultural Heritage Offsetting <u>and</u> Redress".
Schedule 5 Clause 2 – When cultural heritage offsetting is not appropriate	* See comments on the same principle in Schedule 3. * Generally supportive of this principle, but consider that engagement with mana whenua will be important to fully understand the value of the cultural heritage in question.	* Recommend including specific consideration of the value of cultural heritage to tangata whenua/mana whenua. * Requires clarification through drafting / additional definitions, and additional guidance.
Schedule 5 Clause 4 – Additional enhancements	*Similar to our concerns with the mirror principles in Schedules 3 and 4, we think it would make more sense for this principle to say that an offset must achieve gains in cultural heritage values above and beyond gains that would have occurred in the absence of the	* Amend title of the principle to reflect the mirror principles in Schedules 3 and 4 - "Additionality" not additional enhancements.

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Proposal	Comment	Change Sought
	activity. This is because the idea is to offset/redress the activity with adverse effects, rather than offsetting an offset. *There appears to be a drafting error - the directive should be to achieve the values that would have occurred WITHOUT the offsetting/redress, but the drafting as it stands says with, which is a circular argument.	* Amend drafting to: "A cultural heritage offset achieves enhancement in cultural heritage greater than the enhancements that would have been achieved without the activity..."
Schedule 5 Clause 6 – Landscape context	*For clarity's sake, we recommend that the landscape principles in Schedules 3, 4, and 5 are drafted to mirror each other unless there is a specific reason why they do not. Currently the principle in schedule 5 appears to be unnecessarily differentiated from the other schedules.	*Redraft to mirror the drafting in schedules 3 and 4.
Schedule 5 *Cultural Heritage Redress* - preamble	Typo – change quality to qualify.	The following is a framework of principles for use in cultural heritage redress. They are a standard for cultural heritage compensation and must be complied with for an action to qualify as cultural heritage redress.
Schedule 5 General comment - defining redress and the applicability of the below principles.	We think it would be helpful to clearly define redress compensation, and how this is different to offsetting. Our understanding is that redress is *financial compensation,* that will only be considered where avoid, remedy, mitigate, and offset actions are not available or appropriate. If this understanding is correct, many of the principles as drafted below do not appear to apply - they are still discussing where and how enhancements to values should be required. But redress compensation by definition will not provide any enhancements to relevant values - that is something that offsetting will achieve. It is instead providing financial compensation for loss of value.	* Provide a clear definition for redress * Redraft the principles to show clear relevance for redress compensation specifically.
Schedule 5 Clause 12 – Adherence to effects management framework	It is unclear why this specifies that redress only applies for "more than 1 minor residual adverse impact". This isn't mirrored in the	Recommend amend drafting: "Cultural redress compensation is a commitment to redress minor residual adverse impacts..."

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Proposal	Comment	Change Sought
	biodiversity redress section - if this difference is intentional it needs to be clearly explained.	
Schedule 5 Clause 13 – When cultural heritage redress is not appropriate	* See comments on the same principle in Schedule 3. * Generally supportive of this principle, but consider that engagement with mana whenua will be important to fully understand the value of the cultural heritage in question.	* Recommend including specific consideration of the value of cultural heritage to tangata whenua/mana whenua. * Requires clarification through drafting / additional definitions, and additional guidance.
Schedule 5 Clause 14 – Scale of cultural heritage redress	Currently this principle is incredibly confusing. Redress doesn't actually provide positive effects, it is compensating for the loss of values. This needs to specify that the scale of redress compensation must be proportional to residual loss of cultural heritage values resulting from the activity. It should also mirror the drafting of the mirror principle in Schedule 4.	* Amend principle title to "*Scale of Cultural Heritage Redress Compensation*" * Amend drafting to mirror Schedule 4 and specify that redress value must be proportional to the residual loss of biodiversity values resulting from the activity.
Schedule 5 Clause 15 – Additional enhancements	As above, this principle doesn't make sense - it's essentially saying that cultural heritage enhancements need to achieve enhancements greater than if no compensation happened in the first place. Redress does not create enhancement. We also question if this principle is needed in addition to principle 14 - scale of cultural heritage redress.	Either remove this principle if it is covered by principle 14, or redraft to clarify the relevance to redress compensation.
Schedule 5 Clause 16 – Leakage	As above, this principle doesn't make sense - Redress compensation cannot displace impacts. We also question if this principle is needed in addition to principle 14 - scale of cultural heritage redress.	Either remove this principle if it is covered by principle 14, or redraft to clarify the relevance to redress compensation.
Schedule 5 Clause 17 – Landscape context	As above, this principle doesn't make sense - Redress compensation cannot have landscape effects. We also question if this principle is needed in addition to principle 14 - scale of cultural heritage redress.	Either remove this principle if it is covered by principle 14, or redraft to clarify the relevance to redress compensation.
Schedule 5 Clause 19 – Time lags	As above, this principle doesn't make sense - Redress compensation will not create enhancements. We also question if this principle is needed in addition to principle 14 - scale of cultural heritage redress.	Either remove this principle if it is covered by principle 14, or redraft to clarify the relevance to redress compensation.

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Proposal	Comment	Change Sought
Schedule 5 Clause 20 – Trading up	As above, this principle doesn't make sense - Redress compensation will not create heritage values. We also question if this principle is needed in addition to principle 14 - scale of cultural heritage redress.	Either remove this principle if it is covered by principle 14, or redraft to clarify the relevance to redress compensation.
Schedule 7 Clause 2 – Overview of time frames for development of first plans or full review	We are concerned that 4 years to prepare the first NBEA plan will not be nearly enough time to allow local authorities under a regional planning committee adequate time for consultation.	Increase the noted timeframes to provide adequate time for consultation at the local level - suggestion of 6 years.
Schedule 7 Clause 5 – How plan changes are initiated	We seek further clarifications to the plan change initiation processes, specifically: 1)How will requesting a plan change occur in practice? Written application to the RPC? Is there a form? 2)What duties do regional planning committees have to accept plan change requests? Is this different for local authorities and private plan change requests? 3)Is there a specific process for denying a request?	Clarify the process of plan change initiation, either through revised drafting or guidance.
Schedule 7 Clause 9 – Purpose of engagement agreements; and Schedule 7 Clause 11 – Initiation and formation of engagement agreements	Council has some questions about how these engagement agreements will work, including: * There will be a clear power imbalance between the regional planning committees (which itself will include Māori appointees) and the Māori groups. How will this imbalance be addressed when agreements are negotiated? *These agreements are made by invitation of the RPC, how will the appropriate Māori groups be identified? Is this the same as the iwi/hapū groups provided for in cl819? If not, how will this be determined? *How will the interests of Māori groups be properly considered, particularly if some Māori groups have conflicting views?	We seek further clarification, either through revised drafting or guidance, on how these engagement agreements will be initiated, negotiated, and implemented.
Schedule 7 Clause 14 – Identification of major regional policy issues	We are concerned that not enough legal weight is being given to local authorities on major regional issues, despite being significant stakeholders. We do not consider that subclause (3) requiring RPCs to "have regard to" statements of community outcomes gives	* We request that these provisions are redrafted to provide greater accountability for the RPCs to incorporate local issues - as raised through

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Proposal	Comment	Change Sought
	enough weight to the primary source of locally-specific planning issues. Particularly given the lack of appeal rights in most instances, there will be little recourse if local issues are not appropriately considered by the Committee.	community outcomes statements - in regional plans. * We also request that the RPC is required to respond directly to the territorial authority on its community outcomes statement, outlining how these outcomes have/have not been included in the major regional policy issues included in the NBEA plan and why. This will be important for transparency and accountability with our communities.
Schedule 7 Clause 15 – Engagement register	We find it unclear what purpose this register is intended to achieve, beyond the level of engagement that is achieved through the standard submissions process. Creating and maintaining up-to-date registers can be incredibly time consuming and admin-heavy, so there would need to be a clear benefit.	We request that this requirement is removed unless a clear benefit of the register can be articulated.
Schedule 7 Clause 43 – Correction and change of plans	Council is pleased to see that both proposed and operative plans are covered by a single clause, which is an improvement over the RMA. However, the clause itself is narrower than currently provided for in clause 16(2) of Schedule 1 of the RMA which provided for alterations "to alter any information, where such an alteration is of minor effect, or may correct any minor errors". It is also narrower than the provision proposed in section 44 of the Spatial Planning Bill. We consider the provision to make changes of minor effect creates useful flexibility plan making processes. Eliminating this will create unnecessary inflexibility and inefficiency in the plan making process, even with the availability of the proportional process. It will also better align with the provisions provided for in the Spatial Planning Bill.	Amend the cl43(1) to: "A Regional Planning Committee may, without using 1 of the processes in this schedule, amend a proposed or an operative plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors."

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Proposal	Comment	Change Sought
Schedule 7 Clause 44 – Application of proportionate process for plan changes	Amend the cl43(1) to: "A Regional Planning Committee may, without using 1 of the processes in this schedule, amend a proposed or an operative plan to alter any information, where such an alteration is of minor effect, or may correct any minor errors."	Council is supportive of this process, as it provides much needed change to improve system efficiency where a full planning process isn't justified.
Schedule 7 Clause 47 – Initiation of urgent process for making plan change	Council is broadly supportive of the Urgent plan change process. However, we feel some additional clarification or guidance would be valuable for using subclauses (2)(c) and (d).	We seek additional clarification and guidance on when these reasons for initiating an urgent process are satisfied, specifically subclauses c and d.
Schedule 7 Clause 51 – Duty of local authorities to report to relevant planning committee	We consider that this is an effective way of ensuring that regional level plans are having the desired impacts on local environments. However, it the extent to which a regional planning committee has to take these reports into account and make changes to the plan is unclear.	We request that a statutory weight is given to these reports.
Schedule 8 Clause 3 – Composition arrangement	We support the list of 'dissenting views' under 3.(4)(c). However we are concerned at the level of resourcing required to reach agreement on a composition arrangement. Iwi are currently under resourced in many regions, and some will be better resourced than others. This could prevent some iwi and hapū from participating fully in this process and not being fairly represented on the planning committee. We are concerned there is a tension between (3)(2)(a) to ensure that decision making is effective and efficient, and (3)(2)(b) which requires "regional, district, urban, rural, and Māori interests are effectively represented". In many cases we expect that it will not be possible to satisfy both of these clauses. It is unclear how these trade-offs intended to be managed.	• Funding and support must be made available at a national level to support Māori engagement in all parts of the establishment process, including negotiating composition agreements. • Guidance should be provided to assist TAs and Iwi in negotiating the agreements, specifically referencing how they can resolve directives on composition that may not be able to be satisfied (ie fair representation vs efficient decision-making).
Schedule 8 Clause 4 – Iwi and hapū dispute resolution process	Note concerns above re resourcing for Māori in this process.	As above, request appropriate national level support for Māori groups to participate in this process.

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Proposal	Comment	Change Sought
Schedule 8 Clause 5 – Māori appointing bodies	The review process established in 5(5) could be costly - and it is unclear who will resource this process. There will likely be disadvantages for iwi that have not completed Treaty settlements and are therefore insufficiently resourced to participate fully in this process.	As above, request appropriate national level support for Māori groups to participate in this process.
Schedule 8 Clause 7 – Participation of iwi and hapū and other Māori groups	Note concerns above re resourcing for Māori in this process.	As above, request appropriate national level support for Māori groups to participate in this process.
Schedule 8 Clause 9 – Temporary appointments	It is likely to be difficult to find someone who satisfies (9)(2)(b)(ii) for the whole region - in some region this will be wide and varied if it is expected to cover all iwi and hapū in the region.	Amend drafting to say the Minister must be satisfied that the temporary member has *sufficient* knowledge
Schedule 8 Clause 11 – Facilitation to support composition process	We are supportive of funding being provided for facilitators. However, funding should also be provided for iwi and hapū to engage in this process.	As above, request appropriate national level support for Māori groups to participate in this process.
Schedule 8 Clause 13 – Review of composition arrangement	Clause 13(1) (a) appears to anticipate changes coming through the Future for Local Government reforms and allows review of the committee composition as a result. Composition agreement processes are likely to be resource intensive and costly for both Councils and iwi/hapū. Rather than being expected to incur these costs twice, we consider it would be more efficient and effective to delay the formation of the RPCs until after the FFLG review has been completed.	Recommend that the formation of the RPCs is delayed until after the FFLG review is completed and the form of local government is known.
Schedule 8 Clause 17 – Duty to act collectively	The duty to act collectively in the interest of the region further removes any direct accountability of the RPC back to the constituent communities. The single appointee for each TA is one of the few avenues for any direct representation for local communities in the decision making process. Requiring them to act in the best interests of the region rather than in the interests of their constituent communities further removes this strand of accountability if local interests are in conflict with the wider regional goals. This conflicts	Explicitly provide for RPC members to advocate for the needs of their communities, and allows them to provide dissenting view points when they feel that the interests of the region as a whole are in conflict with the interests of their community. This would provide clearer accountability and representation of local communities, transparent decision-making (ie it would be clear why decisions

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Proposal	Comment	Change Sought
	with the role of Elected Members to represent their communities interests and is likely to be confusing for local communities, who will naturally want to hold the representative accountable for the decisions of the committee and be frustrated if they are not seen to be adequately advocating for their interests as part of the regional group.	were taken that might not be in the interests of individual communities), and would not prevent the committee from making decisions in the best interests of the region.
Schedule 8 Clause 20 – Consensus decision making	As noted above, in seeking consensus decision-making that is in the interests of the region as a whole, the ability for appointees to advocate for the needs of their local communities should be provided for. This does not need to prevent consensus, but will instead allow a clear avenue for local issues to be raised, acknowledged, and discussed.	As in Sch8 Cl7 above, we seek amendments that clearly provides a process for appointees to raise local concerns/issues as part of the consensus decision-making process.
Schedule 8 Clause 25 – Minority reports	We are supportive of this clause as an avenue for appointees to have their views noted where local issues have not been resolved.	
Schedule 8 Clause 29 – Application of Local Government Official Information and Meetings Act 1987 and Public Records Act 2005	We are concerned that this section, which effectively amends LGOIMA, is going to be difficult to implement in practice without an actual amendment to LGOIMA. Often the staff involved in LGOIMA requests are not resource management practitioners and without any clear direction, are unlikely to know they have to look to this section also to fully understand their requirements. It is unclear what direction will be provided in LGOIMA to direct officers to the NBEA to get this additional context.	We recommend consequential amendments are made directly to LGOIMA to better provide for these changes in a more logical/comprehensive way.
Schedule 8 Clause 34 – Responsibilities of director of secretariat	Requiring the secretariat to have expertise in kawa, tikanga, Mātauranga Māori is valuable, but is practically going to require resourcing and support from local iwi partners. They are already likely to be stretched to support their appointees to the RPC, alongside their other resource management obligations (eg input into consenting and monitoring functions). We are concerned that it	Amend the drafting to require the secretariat to ensure *access to* technical advice and expertise in kawa, tikanga and Mātauranga Māori. This would more clearly allow appropriate expertise to be procured and drawn on when necessary (e.g. through consultants), but would not require that

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Proposal	Comment	Change Sought
	is not realistic to assume that this level of resourcing will be able to supported at all levels of the planning system.	the secretariat itself has to fulfil this requirement through its own staffing.
Schedule 8 Clause 36 – Funding and resourcing for regional planning committees	We are concerned at the overall level of financial support required from councils to support the RPCs, where this cost is not going to provide clear accountability back to our communities. We also think that the requirement for Councils to share cost is inefficient and unnecessary. Functionally, ratepayers will be funding this function, and the regional council already has the ability to rate across its whole catchment area (which is the same as the RPC's functional area). It would be more efficient to allow the Regional Council to fund the secretariat and Committee through its own rates. This is more efficient and ends up with the same result - which is the rate payers of the region funding the committee and its associated secretariat costs.	Amend clause 36 to allow the RPC parties to agree that a single Council funds the RPC. Consider the provision of funding to support the RPCs if the costs of the new system are found to be significantly higher than those incurred under the RMA.
Schedule 8 Clause 38 – Statement of intent	We disagree that the funding of iwi participation in regional planning processes should be paid for by Councils. While we agree that it is important for iwi to be appropriately supported and resourced to participate, we consider these costs more appropriately fall at the national level, as this is the system level that has directed the scale of involvement required of them.	The legislation be amended to specify that funding and support for iwi participation in the planning system will be provided at the national level. We also request that additional financial support be made available to iwi and hapū who have not yet completed treaty settlement processes to ensure they are fairly resourced and represented in these processes.
Schedule 8 Clause 41 – Regulation relating to planning committees	We consider that the Minister should be required to consult with local government on the making of any regulations with respect to the RPSs and their processes. This is important as TAs are the implementers of these regulations. Consulting with the Minister of Local Government is not considered to be an appropriate replacement for true consultation with local government.	Amend 41(1) to require the Minister to consult with Local Government on the development of any regulations.

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Proposal	Comment	Change Sought
Schedule 12 Clause 3 – Proof of material incorporated by reference	Certification of copy by a regional planning committee does not seem to be a practical use of the regional planning committee's time.	Delete the requirement to have a certified copy.
Schedule 12 Clause 2 – Effect of amendments to, or replacement of, material incorporated by reference	This section requires that a schedule 7 process is required to adopt amended or revised versions of documents incorporated by reference. We seek clarification that a proportionate plan change process (under Part 2 Subpart 1 of Schedule 7) is appropriate for the adoption of updated versions of documents incorporated by reference.	Amend schedule 12 Clause 2 to specify that a proportionate process is acceptable for incorporating updated versions of documents incorporated by reference.
Schedule 12 Clause 5 – Consultation on proposal to incorporate material by reference, and Schedule 12 Clause 6 – Access to material incorporated by reference	Clauses 5(2)(a) and (b) and 6(1)(a) and (b) require regional planning committees to make copies of documents (proposed to be) incorporated by reference available for inspection and purchase. As all documents are now electronic they should be able to be provided electronically for inspection. Where the documents must be purchased from an external provider (eg Standards NZ), providing a link to a site where they can be purchased directly should be sufficient.	Amend schedule 12 clauses 5 and 6 to make it clear that it is appropriate for documents to be made available for inspection or purchase electronically.

KCDC Comments on Spatial Planning Bill

Proposal	Comment	Change Sought
Clause 7 – Iwi and hapū responsibilities in relation to te taiao	In recognising and providing for the responsibility and mana of each iwi and hapū to protect and sustain the health and well-being of te taiao in accordance with the kawa, tikanga (including kaitiakitanga), and mātauranga in their area of interest, RPCs must be able to balance competing kawa, tikanga (including kaitiakitanga), and mātauranga of the various iwi and hapū within their region. It may not be possible to satisfy this requirement for all groups.	Provide guidance on how competing interests are expected to be balanced within a region.
14 – Geographical boundaries of regional spatial strategies	While this Bill specifies that regional council boundaries will determine the extent of a RSS, we suggest that this does not always reflect the functional extent of a region. The Wellington region, for example, has previously included Horowhenua in spatial planning activities, as the social and economic footprint of their populations overlap – with Horowhenua becoming increasingly linked to the wider wellington economic, housing and employment markets.	Provide flexibility for groups of territorial authorities to create spatial strategies over areas that are defined on the basis of other methods (eg the functional economic, housing and employment behaviours of their populations).
Clause 17 – Contents of regional spatial strategies: key matters	Council is broadly supportive of this section. It provides certainty to how resources will be managed on a spatial basis over a relatively long time horizon. We are also supportive of the way it promotes a resilience approach to vulnerable areas and promotes climate change mitigation and adaptation activities. We would, however, like to see the definition of urban centre of scale" further clarifies, as it is currently a very broad definition.	Clarify the definition for "urban centre of scale".
Subheading at cl 24: Considerations, etc, when preparing regional spatial strategies	We suggest the "etc" in the subheading is unnecessary and reduces clarity	Redraft to avoid the use of "etc" in subheading.
Clause 25 – General considerations: other matters	At 25(3) the Bill specifies that the RPC must not have regard to effects on scenic views or visibility of commercial signage or advertising. This mirrors provisions in section 108 of the NBEA, but omits two additional matters. While we agree that trade competition is unlikely to be relevant at the RSS level, we consider that provision 108(d)(iii) in the NBEA relating to the adverse effects	Mirror clause 108(d) of the NBEA in clause 25.

KCDC Comments on Spatial Planning Bill

Proposal	Comment	Change Sought
	from the use of land by certain categories of people *could* be considered relevant at the RSS level.	
Clause 32 – Process must encourage participation	This provision is particularly loose, given the level of importance placed on Regional Spatial Strategies in determining the way in which growth will be managed within a region over time. We suggest that having requirements that align with the special consultative procedures set out in section 83 of the LGA could set an appropriate baseline for consultation. Approval could be sought from the Minister if an RPC would like to bypass hearings on the basis of sufficient consultation already having been undertaken. This is similar to the provisions of the Streamlined Planning Process under the RMA. This would provide an appropriate check and balance to ensure that community views are allowed for.	• Redraft this section to establish the Special Consultative Procedure under the LGA as the baseline for community engagement. • Provide for ministerial approval of a truncated process if sufficient up-front engagement is undertaken.
Clause 35 - Process may include hearing	As discussed in clause 32 above, a presumption that hearings will be held (as per section 83 of the LGA) is appropriate given the significance of the RSS. However approval could be sought from the Minister to bypass hearings if sufficient up front consultation is undertaken.	• Redraft this section to establish the Special Consultative Procedure under the LGA as the baseline for community engagement. • Provide for ministerial approval of a truncated process (ie without hearings) if sufficient up-front engagement is undertaken.
Clauses 37 – 41 (Engagement agreements)	This clause mirrors provisions in Schedule 7 of the NBEA. As per our comments those provisions, Council has some questions about how these engagement agreements will work, including: * There will be a clear power imbalance between the regional planning committees (which itself will include Māori appointees) and the Māori groups. How will this imbalance be addressed when agreements are negotiated?	We seek further clarification, either through revised drafting or guidance, on how these engagement agreements will be initiated, negotiated, and implemented.

KCDC Comments on Spatial Planning Bill

Proposal	Comment	Change Sought
	*These agreements are made by invitation of the RPC, how will the appropriate Māori groups be identified? Is this the same as the iwi/hapū groups provided for in cl819? If not, how will this be determined? *How will the interests of Māori groups be properly considered, particularly if some Māori groups have conflicting views?	
Clause 42 - Establishment of cross-regional planning committees	We consider it to be important to provide for cross-regional planning issues. As mentioned previously, the Wellington Region has included Horowhenua in spatial/growth planning forums due to the close relationship and overlap between our communities and their functional footprints (in the way the access services, and engage in employment and housing markets). We are concerned that the way cross-regional issues are provided for through clause 42 is unnecessarily complex and administratively burdensome. As per our comments on clause 14, we consider that it would be more efficient to allow flexibility in the geographic boundaries of the RSS to better reflect the common economic, housing, employment and social footprints of communities. Clause 42 could still be retained to address discrete, isolated cross-regional issues.	Retain clause 42, but also provide for more flexibility in the geographic boundaries of RSS through clause 14.
Clause 44 – Minor and technical amendments	Council supports the ability of the RPC to make both minor and technical amendments to the RSS without following a Section 30 process.	
Clause 48 - Regional spatial strategies must be received if there is significant change in region	Council supports this provision, as it provides for a region to adapt its approach to reflect significant change in the region. We do not anticipate that this will be used regularly.	
Clause 49 - Policy for determining if there is significant change	Guidance could be helpful to ensure a level of national consistency.	Recommend guidance is provided on policies for determining if there is significant change.

KCDC Comments on Spatial Planning Bill

Proposal	Comment	Change Sought
Clause 53 – Consultation on implementation plans and agreement of responsible persons	The requirement that an RPC must obtain agreement from reach of those persons with a responsibility assigned to them through an implementation plan is useful. However, unless a local authority is able to undertake community consultation on matters that will have a financial impact on their communities (ie initiatives that will need to be funded through LTP commitments) this does not allow for clear and transparent accountability between territorial authorities and their communities.	Appropriate consultation must be able to be undertaken with communities before responsibilities can be assigned to TAs through an implementation plan.
Clause 54 - Contents of implementation plans	This is positive as it sets out the clear expectations that after the plan is formed there needs to be clear decisions on how progress will be monitored and reported and those who will be responsible for that. It should also be specified how activities will be funded, particularly if joint funding is envisaged.	Amend clause 54 to specify how initiatives are to be funded.
Clause 57 – Implementation Agreements	We are supportive of implementation agreements, and their requirement to set out a clearly agreed sequencing of activities and funding sources.	
Schedule 4 – Preparation of regional spatial strategies: key process steps	As noted above in commentary on clause 32, Council recommends having requirements that align with the special consultative procedures set out in section 83 of the LGA as an appropriate baseline for consultation. We also suggest that approval could be sought from the Minister if an RPC would like to bypass hearings on the basis of sufficient consultation already having been undertaken. This is similar to the provisions of the Streamlined Planning Process under the RMA. This would provide an appropriate check and balance to ensure that community views are allowed for.	• Redraft this schedule to establish key steps that mirror the Special Consultative Procedure under the LGA. • Provide for ministerial approval of a truncated process if sufficient up-front engagement is undertaken.