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Tēnā koutou,

Environment Canterbury submission on the Inquiry on the Natural and Built Environments Bill: Parliamentary Paper

Opening remarks

Environment Canterbury welcomes the opportunity to submit on the Inquiry into the Natural and Built Environment Bill: Parliamentary Paper and requests the opportunity to speak in support of its submission. We consider reform of the resource management system to be a once in a generation opportunity to shape the future of our natural and built environments.

However, a short consultation period has meant Environment Canterbury has not been able to undertake meaningful engagement with Ngāi Tahu on the content of its submission. Given the importance of our relationship with Ngāi Tahu, the content of the Bill and Ngāi Tahu's rangatiratanga claim, we consider it critically important that sufficient time is provided to all parties to review and comment on the full Bill, once introduced to Parliament.

In addition, uncertainties as to the meaning or intent of clauses in the Bill and insufficient information relating to roles and functions in the new system, has meant the Council has been unable to fully assess the costs, benefits, impacts and implications. We consider this information vital to understanding how the system as a whole is intended to operate and welcome a further opportunity to submit in early 2022.

Put simply, while we appreciate the urgent need for reform, a Bill of this significance and consequence is too important to rush.

The Canterbury Region

Canterbury / Waitaha lies within the takiwā of Ngāi Tahu and is New Zealand's largest region by area. Stretching inland from the Southern Alps in the west, south to the Waitaki River, north to Kaikōura and east to the Pacific Ocean, it is home to world-renowned braided alpine river systems, unique biodiversity, rich freshwater resources and iconic landscapes.

The rich cultural tapestry of Canterbury has been shaped through the weaving of traditions and histories of the Waitaha, Māmoë and Tahu and the formation of Ngāi Tahu who hold rangatiratanga over all of Waitaha.

Over time, many threads have been added to that tapestry through the arrival of the first European settlers, and through more recent modern-day migrations. Today, the diversity of Canterbury's natural and built environments is matched only by the diversity of its communities.

However, Canterbury is also a region facing significant environmental challenges, particularly in areas of freshwater, biodiversity and adaptation to climate change. In addition, our taonga are facing increased pressures and new challenges as a result of a changing climate. We acknowledge as a Council that new tools, approaches and ways of working will be needed to ensure their preservation for future generations.

Environment Canterbury is committed to facing these challenges head-on and working shoulder-to-shoulder with Ngāi Tahu. Our partnership approach is evident through joint initiatives that facilitate Council / Ngāi Tahu discussion (i.e. via Te Rōpū Tuia and Te Paiherenga), the establishment of co-governance arrangements for Te Waihora, the appointment of Tumu Taio to provide advice to the Council, and the promotion of Canterbury Regional Council (Ngāi Tahu Representation) Bill through parliament.

We also know our communities are committed to working towards a common goal of a healthy thriving Canterbury. This is evidenced by strong levels of community participation through forums such as Zone Committees and collectives including the Braided River Action Group and Mackenzie Basin Agency Alignment Project.

For the Council it is critically important that in reforming the system, progress made by all Cantabrians towards addressing these challenges is not lost. We know more mahi is required, but our journey has demonstrated what can be achieved by councils, mana whenua and communities working together. Accordingly, we urge the Environment Committee to consider processes and systems that will complement existing initiatives, enhance community participation and enable outcomes and management responses tailored to local circumstances.

Structure of our submission

Environment Canterbury's submission has been prepared in three parts:

- Part 1 of our submission responds to the contents of the Parliamentary Paper and the wider context surrounding the resource management reform programme.
- Part 2 of our submission responds to the exposure draft and identifies high-level outcomes sought by the Council and areas of the Bill requiring clarification or refinement.
- Appendix 1 sets contains our detailed comments and relief sought in relation to specific clauses of the Bill and offers suggestions for improvement.

We look forward to further engagement with the Environment Committee on the development of this important piece of legislation.

Yours sincerely

A handwritten signature in cursive script, reading "Jenny Hughey".

Jenny Hughey
Chair, Environment Canterbury

Part 1 – Parliamentary Paper

Reform objectives

Environment Canterbury supports the intent behind the reform but considers there will be implementation challenges given inherent tensions between reform objectives. For example, objectives to ‘enable development within environmental biophysical limits’ and ‘protect and where necessary restore the natural environment’ invariably rub up against one another.

The challenge for the Natural and Built Environment Bill is how to resolve those tensions and the Council contends that must occur through the establishment of clear priorities. Achieving this requires hard calls to be made as to the prioritisation of outcomes and careful drafting to ensure delivery of intent.

Environment Canterbury therefore requests the Environment Committee pay particular attention to how the reform objectives are given effect to through the Natural and Built Environment Bill and the resolution of tensions. Where tensions remain, mechanisms to resolve those tensions at low or no cost to local authorities, should be explored. This could include Government-funded Inquiries or declarations to test the Bill once enacted.

Localism and democracy

Environment Canterbury considers representative democracy a cornerstone of the current system and one that should remain in the future system. Principles of localism, subsidiarity and empowering communities to shape and decide how natural and built environments are formed are absolute fundamentals for the future system. The Council is therefore pleased to see an explicit objective relating to retaining local democratic input in the new system.

Through its Long-Term Plan / Te Rae Tawhiti (2021-31) Environment Canterbury has committed to initiatives to increase community participation and diversity in perspectives. These include:

- Tumu Taiao – mana whenua experts, appointed by the ten Papatipu Rūnanga Chairs, to provide knowledge, expertise and advice to the Council.
- Zone Committees – catchment-based groups formed to discuss and identify options for tackling freshwater issues at the local scale.
- Youth Rōpū – a voluntary group of 14 – 24 year-olds who facilitate discussion with the regional council and promote perspectives on issues of importance for young people.

We consider the effectiveness of the new system in delivering transformative change will depend, in part, on how well the system harnesses the collective power of communities. A critical first step in that process is providing opportunities for active engagement and participation. We therefore encourage the Environment Committee to consider options for legislating alternative methods of engagement and access to justice (e.g. citizen panels and citizen juries).

Representation

In addition to retaining local democratic input, Environment Canterbury also supports increased representation and decision-making roles for mana whenua. Over the last eleven years, the Council has been subject to different governance structures and models, each providing varying levels of representation for mana whenua. These include government-appointed commissioners, mixed-model membership (appointed and elected members) and democratically elected councillors.

Through that journey the Council has observed mana whenua representation in the system wax and wane. Notably, while the reinstatement of a fully elected council restored democracy, it also reduced representation and decision-making roles for mana whenua by removing their place at the Council table.

Since that time, Environment Canterbury in partnership with Ngāi Tahu, have pursued opportunities to restore and enhance representation. Most recently, at its Meeting on 13 May 2021 the Council resolved to be the promoter of the Canterbury Regional Council (Ngāi Tahu Representation) Bill, which would provide for Ngāi Tahu representation on Council by way of appointment of two councillors to represent the interests of mana whenua. We're hopeful that this Bill can be introduced to the House of Representatives in the coming months.

Consequently, Environment Canterbury strongly advocates for securing the role of mana whenua in a crown / iwi partnership as originally envisaged under Te Tiriti.

Impact of Government's wider reform programme on communities

Environment Canterbury is acutely aware of the potential impacts of Government's wider reform programme on local government and communities. Recent announcements relating to Three Waters, Future for Local Government and District Health Board reforms signal significant, impending change for all parties.

We consider the cumulative impacts of these changes, alongside the pace of reform, has the potential to leave communities behind, exacerbate existing systemic issues, and cause a loss in momentum in progress on current issues.

Environment Canterbury therefore requests the select committee carefully consider the impacts of system reform, as a whole, when making recommendations as to the timing and phasing of implementation.

Treaty settlements and iwi rights and interests in freshwater

Environment Canterbury considers upholding existing treaty settlements in the new system is critical to ensuring cultural redress made by the Crown to Ngāi Tahu is not undermined. We are therefore pleased to see an express statement in the Parliamentary paper to this effect.

The Council also acknowledges statements in the Parliamentary Paper that the exposure draft does not preclude options to address iwi, hapū and Māori rights and interests in freshwater.

Canterbury is fortunate to have significant freshwater resources which, in addition to being a valued taonga, contribute to the environmental, cultural, social, and economic wellbeing of

the region. Therefore decisions relating to freshwater rights and interests, and the allocation of freshwater resources will be highly significant for all Cantabrians.

Accordingly, the Council requests continued and meaningful engagement with the Government on this point.

Funding

Environment Canterbury welcomes statements in the Parliamentary Paper that ‘substantial funding’ will be provided to support implementation of the new system.

Over the coming decades Canterbury will face significant challenges, particularly in areas of freshwater and climate change. Freshwater impacts associated with historic land uses, and future impacts arising from a drying climate, rising sea levels and increases in the frequency and intensity of storm events represent the tip of the iceberg.

Legislative change alone will not be sufficient to address these challenges. Instead, funding of innovative tools, use of new economic instruments and implementation of ‘on the ground’ solutions will be required if the reform objectives of ‘restoring the natural environment’ and ‘better preparing for adapting to climate change’ are to be achieved.

For this reason, Environment Canterbury considers it is critical that funding to support the new system is ring-fenced and made available to local authorities early in the process. We anticipate particular components of the system (e.g. development of natural and built environment plans) will have high costs, particularly in the initial phases as the legislation is examined, embedded and tested through the courts.

Building Capacity and Capability and Managing Transition

Environment Canterbury welcomes statements in the Parliamentary Paper that the Government will work with local government and Te Tiriti partners to support development of new natural and built environment plans and regional spatial strategies.

Local authorities are already facing skill shortages particularly in areas of policy, planning and consenting. Impacts of a skill shortage have been amplified by a closed labour market (owing to COVID-19), competition between central and local government for skilled labour, and by obligations to meet timeframes relating to implementation of existing national direction (e.g. requirements to notify freshwater plans by 2024).

These impacts are also being felt by our partners. Environment Canterbury is currently working in partnership with Ngāi Tahu to co-design a new integrated regional planning framework for Canterbury. Achieving this takes time, effort, and investment. However, capacity constraints alongside non-negotiable implementation timeframes in current national direction¹ are impeding progress. We anticipate these issues will be exacerbated in the new system unless specific measures are put in place to build capacity and capability, and manage transition.

¹ E.g. Requirements to notify freshwater plans by 31 December 2024 (NPSFM 2020)

Environment Canterbury requests that the Environment Committee consider use of other levers to alleviate capability and capacity constraints. These could include support to local authorities through funding, staging and sequencing implementation to enable impacts to be distributed over time, consideration of alternative models for Planning Committees (see more on this later in our submission), and reducing the amount of rework required to plans to comply with the Natural and Built Environment Act once it is enacted.

Data, systems and tools

Environment Canterbury agrees that new tools will be required to support integration with other parts of the reformed system (e.g. spatial planning under the Strategic Planning Act and adaptation responses under the Climate Adaptation Act).

However, local authorities throughout New Zealand currently use different systems, tools and technologies to support delivery of council functions. Decisions on what, and how much to invest, in digital solutions have historically been made by local authorities taking into account individual needs and impacts (e.g. ratepayer base, cost, integration with other systems, required functionality, and relative significance of the issue).

As a Council we are conscious that examples across other government sectors² have shown the anticipated benefits of centralisation (e.g. reduced costs, improved efficiency) are not always realised. For that reason, we consider it appropriate to approach the proposal for greater centralisation with some caution. Producing fit for purpose, centralised systems for all of local government will be challenging, given the nature, diversity and complexity of issues faced in each region.

In addition, Environment Canterbury considers itself best placed to understand the issues facing its region and the digital tools and solutions required to respond. We are already working on leading edge technologies and solutions to support management of natural and physical resources. Environment Canterbury's Water Data project is one such example. Once completed the project will improve our understanding of the state of the region's freshwater resources and will be a valuable tool for managing allocation and assessing the effectiveness of policy responses. Another example is the MyWay system, an on-demand, public transport service system that gives people the power to decide when, and where, they want to go.

Environment Canterbury has developed these systems and tools by taking a principled approach to solution design, and we consider the Government should take a similar approach. As a first step, the Government should identify what outcome it hopes to achieve, or what issue it hopes to address, through the use of centralised systems and tools. Next an in-depth analysis of tools being used by local government should occur, followed by a gap assessment to identify any holes, followed by an assessment of the relative costs, benefits, implications and limitations of centralised vs distributed systems. Once completed the learnings and information gleaned through the process can be used to guide solution design.

² E.g. The proposal to centralise payroll systems for teachers through NovaPay

System efficiencies

Environment Canterbury has had significant experience in working under special legislation and processes³ designed to increase the efficiency of plan-making processes and expedite recovery following natural disasters.

Our experiences through these processes have highlighted there can be significant benefits in terms of time and cost-savings, but that care must be taken when designing a system to ensure efficiency gains don't come at a cost to public participation and democratic process.

Reflecting on our experiences we consider there are elements that could be applied to the new system which would assist in promoting efficiency while retaining public input. These include:

- front-loading the development of planning instruments, by requiring all parties to put their best case forward at first-instance hearings.
- removing the opportunity for further submissions on planning documents (in recognition of their limited value but significant disbenefits in terms of time and cost).
- encouraging strategic planning approaches by limiting or tightly controlling opportunities for private plan changes.
- encouraging public hearings to occur through digital means (e.g. Zoom, MS Teams) so as to reduce travel, cost and hearing time.
- enabling minor or technical changes to national direction or planning instruments to be made following simplified processes.

³ E.g. the Hurunui / Kaikōura Earthquakes Recovery Act 2016, the Canterbury Earthquake Recovery Act 2011, and the Environment Canterbury Transitional Governance Arrangements Act 2016

Part 2 – Natural and Built Environments Bill exposure draft

Opening remarks

Environment Canterbury has structured its comments on the exposure draft to align with the layout and clauses of the draft Bill. Where appropriate, comments on specific clauses and relief sought by the Council have been included in Appendix 1.

At the outset, we reiterate the challenge with commenting on legislation that is not yet fully formed. Through our analysis we have identified a number of implementation challenges which reinforce the need for an extended consultation period for the full Bill, so as to enable road-testing of provisions.

Clause 3 - Interpretation

Environment Canterbury has included detailed comments on many of the definitions in the exposure draft (see Appendix 1) and does not repeat them here. However, below we have identified particular issues of importance we wish to draw to the Environment Committee's attention.

Definitions relating to restrictions relating to use of natural and physical resources

One of the challenges with the Natural and Built Environments Bill is understanding the intended interaction between draft terms and definitions, and yet to be drafted clauses that will incorporate those terms. The relationship between terms, restrictions and presumptions applying to use of resources, is one area that requires particular care given implications for existing and future uses.

Under the Resource Management Act, definitions for land, air, water and the coastal marine provide clarity on the types of resources regulated, while definitions for take, use and discharge define the types of activities regulated. These terms are cross-referenced through sections 9 – 15 of the RMA to provide an overall picture of the restrictions and presumptions applying to activities and the use of resources.

In contrast to the RMA, the exposure draft of the Bill contains definitions for only land and water, and no definitions for the types of activities regulated. The Council considers these details are critical to understanding how the system operates as a whole, and whether definitions included in the exposure draft are fit for purpose.

In addition, the Council considers subtle changes made to some RMA definitions could have unintended consequences for the implementation of existing national direction and plans. By way of example, the proposed amendment to the definition of 'land' to include the 'surface of water' (including the area of water that overlies the bed of a lake or river) would have the consequence of enabling feedlots to be established in a river or lake as a permitted activity under Regulation 9 of the National Environmental Standard for Freshwater (NES-F). Clearly such an outcome does not accord with environmental outcomes⁴ set out in clause 8 of the Bill.

⁴ relating to protecting and improving the quality of freshwater, and preserving the natural character of rivers.

For this reason, the Council requests the Committee pay careful attention to the drafting of terms and definitions in the exposure draft. Environment Canterbury's own experience with litigating the RMA definition of the 'bed'⁵ of a braided river is an example of the significant cost⁶ that can be incurred if the meaning of a definition is unclear. These types of challenges need to be carefully considered in the development of the new system to ensure outcomes can be achieved and costs minimised.

Definitions for environment, natural environments, ecosystem and ecological integrity

Environment Canterbury submits there are significant challenges with the proposed definitions for 'environment', 'natural environment', 'ecosystem' and 'ecological integrity'. In Appendix 1 we detail specific challenges relating to each, and the unintended consequences that arise through extensive cross-referencing of terms.

These issues fundamentally arise because of frequent blurring between biophysical components of the natural and built environment, people and communities, and social, economic and cultural conditions. As a consequence, where terms are cross-referenced in other definitions or clauses, the meaning of the definition or clause is broader than intended.

For this reason, the Council requests a thorough review of these definitions, redrafting to confine provisions to distinct concepts, avoidance of circular references⁷, and sparing use of cross-referencing throughout.

Precautionary approach

Environment Canterbury supports the proposal to include a definition for 'precautionary approach' but considers it should be expanded to include circumstances that pose a threat to human life. This would allow application of the precautionary approach (set out in clause 16) to a broader set of circumstances, which could be useful for future management approaches relating to risks associated with natural hazards and climate change.

Person

Environment Canterbury notes the definition of 'person' is a significant departure from how the term is defined in the Resource Management Act. Expanding the term to include '*the successor of that person*' could create liability issues for future generations. For this reason, the Council considers the definition and its intended application must be carefully reviewed.

Undefined terms

Environment Canterbury notes there are a number of terms used throughout the exposure draft which are not defined. Examples include '*active management*', '*avoid*', '*built environment*', '*cultural landscape*', '*landscape*', '*mana whenua*', '*remedy*' and '*sustainable use*'.

⁵ *Canterbury Regional Council v Dewhirst Land Co Ltd [2019] NZCA 486 CA 34/2019*

⁶ Costs of approximately \$130,000 not including in-house legal costs and a period of two years

⁷ For example, the definition for 'well-being' includes reference to 'well-being', thus creating a circular reference.

Environment Canterbury submits that if these terms are to be included in the Bill, then clear and concise definitions must be included to avoid future debate and litigation.

In addition, opportunities to include definitions for terms not defined in current legislation, but which have had their meaning clarified through case law (e.g. the meaning of *avoid*) should be capitalised on. At the other end of the spectrum, definitions that have been problematic to implement or which are not fit for purpose in all contexts (e.g. the definition of *bed* in the context of braided river systems) should be reviewed and amendments made. We have included, in Appendix 1, our recommendations for important components to take into account when defining the 'bed' of a braided river as we consider this a critical definition for effective management of these iconic features of the region.

Inconsistent use of terms

Environment Canterbury notes terms to describe similar concepts are used frequently throughout the exposure draft. Examples include use of the terms '*coast*', '*coastal water*' and '*marine*' to describe aspects of the coastal environment. The Council submits these terms should be rationalised, or where appropriate definitions included that distinguish similar but different components.

Clause 5 – Purpose of the Act

Environment Canterbury supports the proposal to retain an integrated framework for management of natural and built environment but considers there are aspects of clause 5 which are unclear or require clarification. Matters of particular significance are summarised below with further detail in Appendix 1.

Tensions between sub-clauses 1(a) and 1(b)

Environment Canterbury considers the competing and unresolved tensions between reform objectives are reflected in the Act's somewhat nebulous purpose. Competing protectionist elements in sub-clause 1(a), and enabling elements in sub-clause 1(b), create confusion as to the outcome expected and weaken the Bill's effectiveness as a tool to achieve reform objectives.

The Council notes the use of the word 'and' between sub-clauses infers both outcomes must be provided for contemporaneously, for the Act's purpose to be achieved. However there are practical challenges with such an approach. For example, upholding Te Oranga o te Taiao, through protection and enhancement of the natural environment may require existing uses to be curtailed in degraded environments. In contrast, use of the environment (e.g. through provision of new development areas in response to climate change) may be required to provide for the well-being of future generations.

Each example demonstrates that achieving one outcome often comes at the expense of the other. The challenge for the Bill is being clear as to what its purpose is, and how it is to be achieved. This is critical if the Bill is to avoid falling victim to the same fate as the RMA where 'balancing' arguments were used to support trade-offs in outcomes.

Outcomes for the benefit of the environment

Environment Canterbury considers the proposal to require broad, undefined 'outcomes for the benefit of the environment' to be provided for (distinct from the environmental outcomes in clause 8) creates confusion and will open the door to further debate and litigation.

In addition, the Council notes there are no mechanisms in the Bill that would enable consideration of a broader suite of outcomes. Clauses for the national planning framework and national and built environment plans set clear parameters on the content and matters to be addressed. These do not extend to consideration of 'other outcomes'.

The Council therefore requests the clause is removed, or outcomes defined along with their relative level of importance as compared to the 'environmental outcomes' in clause 8.

Clause 6 - Te Tiriti o Waitangi

Environment Canterbury strongly supports elevated recognition of Te Tiriti o Waitangi, through requirements for persons exercising powers and functions to 'give effect to' the principles of Te Tiriti. We consider these strengthened provisions appropriately recognise the Crown's obligations as a Treaty partner, and provide a solid foundation for other clauses in the Bill that enhance representation and decision-making roles for mana whenua.

In addition, Environment Canterbury strongly supports Government working closely with mana whenua to conceptualise what 'giving effect to' Te Tiriti principles may mean within the local context.

However, given Environment Canterbury will have a significant role to play in working alongside Ngāi Tahu to enable manifestation of the principles in a local context, the Council requests sufficient funding, guidance and support is provided to all parties.

Clause 7 - Environmental limits

Environment Canterbury supports the inclusion of environmental limits and considers these fundamental to achieving the Act's purpose of upholding Te Oranga o te Taiao. Specific details on elements of clause 7 are included below and detailed in Appendix 1.

Precautionary approach to setting environmental limits and use of different knowledge sources

Environment Canterbury supports implementation of a 'precautionary approach' when setting environmental limits for ecological integrity and human health. However, we reiterate our earlier comments regarding the need to resolve issues with the definition of 'ecological integrity' so that provisions and limits are fit for purpose. Furthermore, the Council supports the ability to take into account different data and knowledge sources (including mātauranga Māori), and flexibility to set limits as either a minimum state, or minimum or maximum amount of harm.

Setting environmental limits through plans

The Council also supports the proposal to enable environmental limits to be set through plans where expressly allowed by the national planning framework.

Environment Canterbury's experience with limit-setting processes under the National Policy Statement for Freshwater Management is that nationally derived environmental limits are extremely challenging to achieve in catchments where significant time-lags exist between land uses and freshwater impacts. Enabling limits to be set through plans could allow for local, biophysical considerations to be taken into account, enabling the establishment of robust, evidence-based limits.

The Council also considers confidence in limit-setting processes could be improved by including principles, processes and non-negotiables that must be adhered to by Planning Committees when setting environmental limits in plans. This approach would provide certainty to all stakeholders as to the parameters and scope of authority of Planning Committees.

Clause 8 – Environmental outcomes

Effects vs Outcomes

Environment Canterbury supports the 'outcomes' focused approach of the Natural and Built Environment Bill, but contends the required 'shift' from 'effects-based' management to 'outcomes-based' management will not be as significant as indicated in the Parliamentary paper. Local authorities are well-practiced in developing strategies and plans that deliver 'outcomes' for natural and built environments and communities.

Unprioritised and competing outcomes

Environment Canterbury submits the inclusion of 16 unprioritised environmental outcomes is a significant flaw in the draft Bill and a backward step from Part 2 of the RMA which distinguishes matters to 'recognise and provide for', 'have particular regard to' and 'take into account'.

The importance of getting clause 8 right cannot be understated given its critical role as part of the 'engine room' of the Natural and Built Environments Bill. The environmental outcomes in clause 8, alongside the environmental limits and treaty clause, provide the framework for how the Bill's purpose is to be achieved. This, in turn, guides the development of the national planning framework and national and built environment plans. For clause 8 to add value, environmental outcomes must be rationalised, tensions confronted, and outcomes prioritised to indicate explicit trade-offs made.

Environment Canterbury considers principles to guide the prioritisation of outcomes should be driven from the reform objectives, and in turn should be reflected in the Bill's Purpose. We have highlighted challenges with the reform objectives and Act's purpose that need to be addressed before the next step of prioritisation can occur. However, the Council contends that healthy ecosystems and management of societal threats (e.g. climate change and natural hazards) are essential to supporting thriving communities and these should feature as clear priorities.

Comments on specific environmental outcomes

Environment Canterbury has included detailed comments on specific environmental outcomes in Appendix 1. Summarised below are matters of particular importance the Council wishes to bring to the Environment Committee's attention.

Amenity and aesthetics

Environment Canterbury recognises the decision to not include 'amenity values' as an environmental outcome is a deliberate response by the Government to curtail rising 'nimbyism' and the influence of subjective perspectives.

However, the Council considers the wholesale removal of reference to amenity values may not be warranted, and a better response might be to reduce the weight afforded to amenity values, relative to other environmental outcomes. In addition, by removing all references to amenity values there is a risk that broader reform objectives may not be achieved.

For example, while it is appropriate that the reform objectives focus on supply and affordability of housing, these matters are not the only factors which influence a purchaser's choice of property. The old adage of 'if you build it and they will come' may hold true in cities where housing supply is constrained and choices limited (e.g. Auckland) but it does not hold true for other cities and towns where supplies are less constrained (e.g. Greater Christchurch).

Where developments fail to provide for amenity, purchasers will instead look to other developments, contributing to disconnected, patch-work growth, and increased emissions through transport.

Furthermore, while the Parliamentary Paper states the lack of an amenity outcome will not come at the cost of good quality urban design, it is hard to see how this is possible given there are few 'hooks' off which to hang urban design considerations. While an outcome for 'well-functioning' urban environments has been included, the Council considers the link between this outcome and 'good urban design' principles is tenuous at best.

For these reasons the Council considers there is merit in including an outcome relating to amenity but that this should be linked to outcomes that support the protection and enhancement of the quality of air, freshwater and coastal waters. This will provide another lever for ensuring good quality design and decisions that support sustainable 'green' infrastructure.

Landscapes

The Council supports the recognition and protection of outstanding landscapes and features, but makes the point that landscape values are derived from the interaction of underlying biophysical components and human interactions and modifications with a space.

In other words, landscapes are not separate from culturally significant areas, outstanding landscapes, ecologically significant areas, or urban and rural areas, rather these elements form part of the fabric that makes up a landscape and the values associated with it.

Attempts to separate and compartmentalise elements may lead to less integrated planning and pigeonholed management responses according to land categorisation. For example, in reality there is no clearly demarcated boundary between an 'urban' and 'rural' environment, rather there are transitional zones with intermediary areas that exhibit both urban and rural characteristics, and the combination of these elements contribute to overall values associated with a landscape.

For this reason, the Council requests the Environment Committee considers how changes can be made to the Bill to appropriately recognise the interconnected elements of landscapes and their values.

Climate change and natural hazards

Environment Canterbury strongly supports inclusion of environmental outcomes relating to climate change and natural hazards but submits these outcomes should be prioritised above other outcomes in clause 8.

Adaptation to the effects of climate change and management of the risks associated with natural hazards collectively represent one of the most significant challenges facing local authorities and communities. National direction on roles and responsibilities of central government and local government, and guidance on how local authorities and communities are to plan and adapt to the effects of climate change and risks of natural hazards is urgently needed to enable strategic and co-ordinated planning responses.

The Council considers the Climate Adaptation Act and Strategic Planning Act have the potential to be 'game-changers' in this space, offering new tools and mechanisms to improve resilience and support adaptation. It is critically important that all three pieces of legislation 'talk' to each other. We therefore reiterate our earlier point for the need to carefully consider the definition of 'land' and presumptions applying to the future use of land (i.e. continuation of existing use rights) in the context of climate change adaptation and risk management.

Rural areas

Environment Canterbury considers there are a number of challenges with the drafting of clause 8(m) which will make the provisions challenging to implement.

For example, the type and nature of development to be pursued in rural areas is unclear, as is the relationship of this outcome with clause 8(l) which promotes increases in the supply and affordability of housing. We consider there is a risk that by requiring development to be **pursued** in rural areas, this could lead to the expansion of housing developments into productive areas with poor outcomes for rural values and their communities.

The example above also serves to demonstrate the need for particular care in the expression of environmental outcomes. The requirement for plans to '**pursue development in rural areas**' will place an explicit obligation on Planning Committees to actively encourage development into rural areas, rather than simply enabling it, where appropriate.

Furthermore, the decision to protect only **highly** productive land from inappropriate use and development, may leave unclassified productive rural areas vulnerable to development, with impacts for the overall availability and distribution of productive land. Additionally the requirement to promote development that contributes to **economic** resilience, without the need to promote **social** resilience fails to recognise that both are required for healthy thriving rural communities.

For these and other reasons detailed in Appendix 1, the Council requests the Environment Committee review and amend the drafting of the outcomes for rural areas and makes changes to support recognition and protection of the broad range of values associated with these areas.

Biosecurity

Environment Canterbury considers the Bill is an opportunity to contribute towards the Government's objective of a Predator-Free New Zealand by 2050 by better aligning biosecurity responses and planning for our natural and built environments.

In the Council's opinion, a more 'joined-up' approach is essential given increased biosecurity risks and threats as a result of climate change. Within Canterbury, higher temperatures (on land and in water) and reduced seasonality are expected to increase 'over-wintering' of pests and incursions of pests into new areas.

Where development occurs there is the potential for these risks to be exacerbated or realised. For example, enabling 'good transport links within and beyond the urban areas'⁸ may enhance integration of land-use and transport planning, but may also enable pest migrations through utilisation of infrastructure as pest highways.

It is therefore critical that development and infrastructure is planned and managed in a way that takes account of these risks. This could be achieved by modifying environmental outcomes relating to development and infrastructure (e.g. clauses 8(k), 8(m) and 8(o)) to require biosecurity risks to be identified and reduced.

Clauses 9 – 15 National planning framework

Environment Canterbury supports the proposal to consolidate national direction into a single national planning framework but considers this will not be a simple exercise.

Our experience with implementing national direction has exposed tensions between policy documents. For example, provisions in the National Policy Statement for Freshwater Management requiring no net loss of wetlands, rubbing up against provisions in the National Policy Statement for Urban Development that encourage expansion of housing developments.

However the Council also contends the task of resolving conflicts between environmental outcomes should principally occur through primary legislation (via clause 8), with the national planning framework reserved for resolution of unanticipated conflicts and finer-grained issues. We consider this particularly important given the proposal for the national planning framework to be a 'disallowable instrument' with the ability for Parliament to review and suspend the framework (see further comments on this below).

Purpose and Contents of the National Planning Framework

Environment Canterbury submits there is a disconnect between the purpose and contents of the national planning framework, and the purpose of the Bill.

By way of example, clause 13(2) provides for the national planning framework to '*include provisions on any other matter that accords with the purpose of the national planning framework*', while clause 10 constrains the purpose of the national planning framework to '*providing integrated national direction on matters of national significance, matters for which national consistency is desirable and matters for which consistency is desirable in some, but not, all parts of New Zealand.*'

⁸ Clause 8(k)(ii)

The narrow list of matters in clause 10 does not include ‘promotion of outcomes for the benefit of the environment’, a matter specifically referred to in the Purpose of the Act. While the Council does not advocate for retaining reference to broad undefined outcomes, the example serves to illustrate disconnects in the Bill which need to be resolved for the Bill to be effective.

National Planning Framework to be made as a disallowable instrument

Environment Canterbury considers there are distinct advantages and disadvantages to making the national planning framework a disallowable instrument. The ability to review and update the framework to take account of new information, and suspend the framework where its contents are not fit for purpose or where it is preferable for national and built environment plans to instead prevail, will enable a more adaptive and responsive system.

However, the relative ease with which the framework can be suspended also exposes a vulnerability. If suspended, local authorities and stakeholders could find themselves without clear policy guidance on nationally significant issues resulting in uncertainty for all parties. For this reason, if the national planning framework is to be made a disallowable instrument, clear criteria and processes for reviewing, amending and suspending the national planning framework should be included in the Bill.

Clauses 19 – 22 National and built environment plans

Consolidation of local authority plans into a single plan

Environment Canterbury notes ‘improved efficiency’ as the key driver for the proposal to reduce the number of local authority plans from 100 to 14. However, for regions with a large number of local authorities (e.g. Canterbury with its 11 local authorities) the Council considers there is less evidence the anticipated efficiency gains will be realised.

Many territorial authorities across Canterbury are in the process of reviewing and updating existing district plans. In addition, Environment Canterbury has initiated its own comprehensive review of the regional policy statement, land and water plan, coastal plans and catchment-based water allocation plans and intends to notify a revised regional planning framework by the end of 2024.

The scale of this task is immense and requires significant funding, resourcing and co-ordination from within the regional council. That task will be many orders of magnitude greater if all plans in the region are to be reviewed under a new Natural and Built Environment Act and consolidated into a single plan. In addition, there are practical challenges with developing a single plan for each region. Territorial authority boundaries don’t always neatly match up with regional council boundaries and the boundaries for the Waitaki district are one such example of a district which spans two regions (Canterbury and Otago).

There is a risk that in attempting to consolidate planning across a single region that significant resource, time and cost is expended for little material benefit. The Council therefore requests the Environment Committee carefully consider whether the consolidation of plans will in fact contribute to a more efficient system.

Contents of natural and built environment plans

Environment Canterbury considers there are practical challenges with requiring plans to both ‘*give effect to the national planning framework in the region*’ and ‘*help resolve conflicts... between environmental outcomes*’.

Where conflicts between environmental outcomes are not resolved, councils will find themselves having to *give effect to* (i.e. implement) national policies that pull in different directions, while at the same time trying to *resolve conflicts*. Put simply, local authorities cannot do both. For this reason the Council requests the requirement to ‘*help resolve conflicts*’ is removed from clause 22, and tensions instead resolved through prioritising the environmental outcomes in clause 8.

Clauses 23 – 24 and Schedule 23 - Planning committees

Membership of Planning Committees

Environment Canterbury considers details relating to functions, appointment processes, decision-making, funding arrangements and dispute resolution processes for Planning Committees must be clarified before further decisions are made.

For a region as large as Canterbury, with eleven local authorities and ten Papatipu Rūnanga, there are practical challenges with trying to resource and support a Planning Committee of this size. In addition, decisions related to the membership of Planning Committees will have flow-on impacts for representation and decision-making.

Key questions that need to be addressed when considering membership of the Planning Committee include: Should principles of proportional representation be taken into account when deciding the balance of members on a committee? And should competencies and expertise be a matter for consideration?

Environment Canterbury’s position is that regional councils offer different skills, expertise and perspectives to district councils, owing in part to different roles and functions and the management of cross-boundary issues. For this reason, membership of the Planning Committee should consider the nature, breadth and complexity of issues to be addressed in the Plan and where different skills and expertise lie. Getting this balance right will be critical given the extensive powers afforded to Planning Committees to set policy direction (through notified plans) and make decisions on recommendations from independent hearing panels.

In addition, the Council asks the Environment Committee to consider alternative models for the Planning Committee that will enhance and improve representation. Possible options include having more than one Planning Committee within a region (e.g. North, Central and South Planning Committees) with boundaries determined taking into account socio-economic factors, commonality of issues (and whether cross-council responses are required in response), biophysical aspects, catchment boundaries and rohe boundaries. Alternatively, a single core Planning Committee could be retained to ensure integrated responses across the region, but with the option of rotating out Committee members depending on the area of the Plan under development at the time.

Resourcing and support for Planning Committees

Environment Canterbury has had significant experience in working with external committees in the development of planning instruments. These include working with Zone Committees to inform development of freshwater plans, and working with the Greater Christchurch Partnership as part of developing the Greater Christchurch 2050 Plan.

These experiences have shown significant in-house resource is required to support committees through these processes. Given the scale, nature and complexity of issues to be addressed in a single plan, we anticipate resourcing demands to support a Canterbury Planning Committee will be significantly greater. Where costs and resource impacts fall will depend on how Planning Committees are funded, and the extent to which committees can **direct** local authorities to undertake work on their behalf. Environment Canterbury considers that if Planning Committees are to remain, then funding to support them must come from central government. This is essential to ensure the Council can deliver other commitments set out in its Long-Term Plan.

Appendix 1 – Specific comments and relief sought - Natural and Built Environments Bill exposure draft

Please also refer to our comments in the body of the submission.

Part, Clause	Provision	Comments	Relief sought
	The Parliament of New Zealand enacts as follows:		
Clause 1	Title This Act is the Natural and Built Environments Act 2021		
Clause 2	Commencement This Act comes into force on X.	Implementing all parts of the Act contemporaneously will exacerbate capacity and capability constraints within the system	Consider phasing in different aspects of the Act, over time.
Part 1 - Preliminary Provisions			
Clause 3	Interpretation – In this Act, unless the context otherwise requires –		
	abiotic means non-living parts of the environment	All references to the terms 'biotic' and 'abiotic'	Re-evaluate whether there is value including separate definitions for 'abiotic' and 'biotic', given there are no instances in the draft Bill where one term is referred to, without reference to the other.
	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 fresh water component; and (b) seawater in estuaries, fiords, inlets, harbours, or embayments (retained RMA definition).	See our comments in the main body of the submission. Various terms are used throughout the draft Bill to refer to different aspects of the coastal environment.	Rationalise use of terms that reference the 'coast', 'coastal water', 'marine environment', or include distinct definitions for each term.
	cultural heritage – (a) means those aspects of the environment that contribute to an understanding and appreciation of 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	The proposal to include a definition of 'cultural heritage' (as compared to the more constrained RMA definition of 'historic heritage') is supported on the basis that this broader term incorporates contemporary places and features of cultural significance. However, the definition fails to recognise landscapes as a critical component of cultural heritage, and that cultural heritage is derived from the interaction of people with landscapes. Furthermore, the drafting of the definition should be reassessed to recognise the matters in clause (a) and clause (b) as distinct	Amend the definition of 'cultural heritage' to recognise the interactions of people with landscapes as a critical component of cultural heritage, and amend the definition to address drafting issues.

Part, Clause	Provision	Comments	Relief sought
	(ii) archaeological sites; and (iii) sites of significance to Māori, including wāhi tapu; and (iv) surroundings associated with those sites	components (one is a set of adjectives, the other a set of nouns). This could be addressed by amending the layout of the definition to say: cultural heritage means those aspects of the environment that contribute to an understanding and appreciation of New Zealand's history and cultures that: (a) is derived from the following qualities (i)... .. (ii)....; and (b) includes- (i)....	
	district , in relation to a territorial authority, means the district of the territorial authority as determined in accordance with the Local Government Act 2002	A key difference between the draft NBA definition and the RMA definition is that that for subdivision applications, the RMA definition includes land that extends beyond the mean-high water spring mark. This exclusion of land beyond MWHS could have implications for other (yet to be drafted) provisions of the NBA, particularly those that define the separate functions, roles and responsibilities of regional councils and territorial authorities.	Consider the implications of confining the definition of 'district' to the boundary of the MHWS mark for functions, roles, and responsibilities of regional councils and territorial authorities. Make any necessary amendments to ensure this definition is fit for purpose for the different roles, responsibilities and functions of territorial and regional councils.
	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	The proposed definition of 'ecological integrity' is similar to the definition included in the draft National Policy Statement on Indigenous Biodiversity (draft NPSIB). While we generally support alignment between terms in primary legislation and lower order instruments, that support is caveated on definitions being fit for purpose in the context used. We consider there are a number of challenges with the definition of 'ecological integrity' which are summarised below. <i>Misalignment between definition, purpose, environmental limits and environmental outcomes.</i> Including the word ' maintain ' in the definition is not supported on the basis it establishes a reference point for future assessments of an ecosystem's ecological integrity. For degraded ecosystems inclusion of the word 'maintain' will lead to comparative assessments of an ecosystem's composition, structure, function and resilience to adverse impacts, relative to a current or past degraded state. Where no	Remove reference to 'support and maintain' and reframe the definition as one which defines 'ecological integrity' by reference to the extent of intactness of a natural system, taking into account the matters set out in (a) to (d).

Part, Clause	Provision	Comments	Relief sought
		<p>change occurs (i.e. the ecosystem remains in a degraded state) ecological integrity is 'maintained'.</p> <p>Use of the word 'maintain' also has implications for provisions that incorporate this term. For example, clause 7 directs environmental limits are set to protect ecological integrity of the natural environment. In the context of a degraded ecosystem the word 'protect' establishes a low bar, requiring only that limits are set at a level that protects the current, degraded state.</p> <p>Furthermore, the word 'maintain' conflicts with the environmental outcomes described in clause 8. For example, clause 8(b) directs ecological integrity is protected, restored or improved. It is not possible to contemporaneously 'maintain' ecological integrity and 'improve it.' If left unresolved, these issues will undermine the NBA and reduce its effectiveness in achieving its intended Purpose (i.e. enabling te Oranga o te Taiao to be upheld).</p>	
	ecosystem means a system of organisms interacting with their physical environment and with each other	<p>There are several practical challenges with the drafting of 'ecosystem' which are summarised below.</p> <p><i>Reference to organisms in the definition</i> The ordinary dictionary meaning for organisms includes all forms of life (including people and communities). Consequently the definition of 'ecosystems' means the ability of all organisms (including people) to maintain their composition, function, structures and resilience to adverse impacts. We anticipate a narrower definition of 'ecosystem' (one which contemplates only the interaction of non-human organisms with the environment) is intended. If that is the case then amendments will be required.</p> <p><i>Reference to environment</i> The inclusion of the term 'environment' in the definition of 'ecosystem' is problematic, for similar reasons. The term environment has a broad definition, one that includes social, economic and cultural conditions that affect, or are affected by those matters'. Consequently, in the context of this definition, the term 'ecosystem' would include the interaction of human</p>	<p>Review the definition of 'ecosystem', and in particular the cross-references to 'environment'. If the definition for 'ecosystem' is intended to have a narrower meaning (i.e. the interaction of non-human organisms with the biophysical environment, then consider an alternative definition e.g.</p> <p><u>Ecosystem means interactions between plants, animals (excluding humans), fungi, algae and microbes and their physical surroundings.</u></p>

Part, Clause	Provision	Comments	Relief sought
		and non-human organisms with the physical environment as affected by social, cultural and economic conditions. We anticipate this is unintended and if amendments are required.	
	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	<p>See our comments in the body of the submission, and comments below.</p> <p>The term 'environment' is cross-referenced extensively throughout the draft NBA. It is incorporated into definitions of 'abiotic', 'biotic' and 'ecosystem', and features in clauses relating to the Purpose of the Act, Environmental Limits and Environmental Outcomes (to name but a few). However, attempts to accommodate the broad range of circumstances in which the term is used have resulted in a definition that is not fit for purpose in all circumstances. We have commented on specific issues with definitions for 'ecosystem' and 'natural environment' in the body of our submission. Principally these issues arise because of a blurring of different concepts, and in particular the proposal to reference 'social, economic and cultural conditions' within the definition.</p>	Re-evaluate the definition of 'environment' and all definitions and provisions that incorporate the term 'environment'. Make any necessary amendments to those terms and clauses to ensure the drafting reflects the intent. See our comments on the definition of 'ecosystem' for an example of how this might be achieved.
	environmental limits means the limits required by section 7 and set under section 12 or 25	<p>See our comments on 'environmental limits' in s7.</p> <p>We support the ability to prescribe environmental limits for 'any other matter that accords with the purpose of the limits as set out in subsection 1'.</p> <p>This appropriately recognises that environmental limits may need to be set for a broader range of matters (than those set out in clause 4), in order to protect 'ecological integrity' or 'human health'. For example, limits to maintain or restore landscape integrity along braided river systems or in the High Country may need to be set in order to protect ecological integrity.</p>	Retain the ability to set environmental limits for a broader range of matters than set out in clause (4).
	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		

Part, Clause	Provision	Comments	Relief sought
	(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]		
	infrastructure services [placeholder]		
	kaitiakitanga means the exercise of guardianship by iwi, hapū and whanau of an area in accordance with tikanga Māori in relation to the natural and built environment.	We support the inclusion of a definition of kaitiakitanga but consider a definition of 'stewardship' (distinct from kaitiakitanga) should also be included in the Bill. This would recognise stewardship as a broader concept with application to a wider range of ethnic groups.	Support the definition, but include a separate definition for stewardship.
	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	<p>It is difficult to comment on this definition without:</p> <ul style="list-style-type: none"> a) seeing the context in which the term will be used; b) understanding whether related terms for other activities (e.g. discharge, take and use etc) will be incorporated into the NBA; c) knowing whether the restrictions and duties in s9 – 15 of the RMA and presumptions (i.e. use of land as a permitted activity unless controlled, discharges restricted unless expressly authorised) will be incorporated into the NBA; and d) understanding how the definition is intended to interact with provisions in existing instruments and regulations. <p>In particular, presumptions relating to the use of land adjacent to, or within sensitive locations (e.g. beds of rivers and lakes), need to be carefully worked through to ensure the outcomes of the NBEA can be achieved. By way of example, Regulation 9 of the National Environmental Standard for Freshwater permits the use of land for a feedlot. A consequence of the proposed change to the definition of 'land' (alongside the absence of an explicit definition for bed) is that would enable feedlots to be established within, or adjacent to, sensitive lakes and rivers.</p>	Consider all potential implications of the proposal to amend the definition to include 'the surface of water' and make any necessary amendments to ensure amendments to this term do not result in unintended consequences for existing national environmental standards, regulations and plans.
	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		

Part, Clause	Provision	Comments	Relief sought
	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	<p>The proposal to clarify off-sets and compensation as <i>forms</i> of mitigation is helpful given their express inclusion in recent national direction (e.g. the National Policy Statement for Freshwater Management 2020).</p> <p>Further consideration needs to be given to where ‘minimisation’ of effects fits within the avoid, remedy, mitigate hierarchy, particularly given its inclusion in the ‘effects management hierarchy’ that forms part of the NPSFM 2020. Under the NPSFM 2020, where effects cannot be avoided they must be minimised, with remediation, offsetting and compensation only available if effects cannot be minimised.</p>	Clarify where ‘minimisation of effects’ sits in the hierarchy of avoid, remedy, mitigate and whether an additional definition of ‘minimise’ is required. Alternatively consider whether amendments to existing national direction are required to clarify the relationship of ‘minimise’ with ‘avoid’, ‘remedy’ and ‘mitigate’.
	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	<p>The definition of ‘national environment’ and its relationship with definitions for ‘ecosystem’, ‘environment’ need to be re-evaluated to ensure each definition is fit for purpose in the context in which it is used. We have identified specific issues with the definition below.</p> <p><i>Reference to ‘ecosystem’ in the definition of natural environment.</i> If the intent is for the definition of ‘natural environment’ to be constrained to biophysical factors, then cross-references to ‘ecosystem’ and ‘environment’ (in the definition of ecosystem) need to be re-examined. The frequent use of cross-referencing is resulting in a definition that is broader than intended (one that includes consideration of abiotic factors e.g. social, cultural and economic conditions).</p> <p><i>Reference to ‘animals’ and ‘living organisms’ in clause (a) of the definition</i> We have commented on challenges with use of the term ‘organism’ in our comments on the definition of ‘ecosystem’. In short, ‘animals’ and ‘living organisms’ are broad, all-encompassing terms which have the effect of expanding the definition beyond its intended meaning (in this case to include people and communities).</p>	<p>Refer to our comments regarding use of the words ‘animals’, ‘living organisms’ and ‘ecosystem’ and review the definition to ensure the meaning fits intent.</p> <p>In addition, we consider that careful attention will need to be given to determining what is natural, and at what point in time.</p>

Part, Clause	Provision	Comments	Relief sought
		Given the Purpose of the Act distinguishes between outcomes for the 'the natural environment (clause 5(1)a)) and outcomes for people and communities (clause 5(1)(b)) we anticipate the intent is for the definition of 'natural environment' to be limited to biophysical components, excluding people and communities. This requires clarification.	
	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	The rationale for, and implications of including a person's successor within the definition of 'person' need to be thoroughly examined. At face value this would appear to have significant implications for functions relating to consenting, compliance and enforcement, with successors potentially liable for actions carried out by predecessors.	Re-evaluate whether referencing a person's successor is appropriate given, potential issues relating to liability. Make any necessary amendments to the definition to address these concerns.
	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 other-wise 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	The inclusion of a definition of 'precautionary approach' is supported, but the definition for the term needs to be re-evaluated in light of our comments relating to the definitions of 'natural environment' and 'ecosystem'. In addition the definition of 'precautionary approach' should be expanded to include threats or harm to human life. We consider this amendment will provide a pathway that enables essential activities relating to other council functions (e.g. flood control) to still be carried out.	Simplify the definition and make amendments to clarify the precautionary approach applies to threats to human life e.g. precautionary approach is an means 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 serious or irreversible harm to the natural environment or threats to human life those adverse effects rather than over postponing action on the grounds that there is a of a lack of information or full scientific certainty
	public plan change [placeholder]		

Part, Clause	Provision	Comments	Relief sought
	region , in relation to a regional council, means the region of the regional council as determined in accordance with the Local Government Act 2002		
	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	As set out in the body of our submission, the Council has experienced significant challenges with implementing the RMA definition of 'bed' in the context of braided river systems. These challenges primarily arise because the RMA definition of 'bed' fails to account for the unique flow patterns of braided river systems (e.g. geomorphology, shifting channels and flow paths). We consider it critically important the Government engage with the Council on development of definitions and provisions as they relate to braided river systems and welcome any opportunities to engage on this further.	Actively engage with the Council on definitions and provisions to ensure they are fit for purpose and take account of the unique characteristics of Canterbury's braided river systems.
	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		

Part, Clause	Provision	Comments	Relief sought
	well-being means the social, economic, environmental, and cultural well-being of people and communities, and includes their health and safety.		
Clause 4	How the Act binds the Crown [Placeholder.]		
Part 2 Purpose and related provisions			
Clause 5	<p>Purpose of this Act</p> <p>(1) The purpose of this Act is to enable—</p> <p>(a) Te Oranga o te Taiao to be upheld, including by protecting and enhancing the natural environment; and</p> <p>(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.</p> <p>(2) To achieve the purpose of the Act,—</p> <p>(a) use of the environment must comply with environmental limits; and</p> <p>(b) outcomes for the benefit of the environment must be promoted; and</p> <p>(c) any adverse effects on the environment of its use must be avoided, remedied, or mitigated.</p> <p>(3) In this section, Te Oranga o te Taiao incorporates—</p> <p>(a) the health of the natural environment; and</p> <p>(b) the intrinsic relationship between iwi and hapū and te taiao; and</p> <p>(c) the interconnectedness of all parts of the natural environment; and</p> <p>(d) the essential relationship between the health of the natural environment and its capacity to sustain all life.</p>	<p><i>Relationship between subclauses 1(a) and 1(b)</i></p> <p>The relationship between clauses 1a and 1b, and in particular whether the Purpose of the Act is enabled only when both clauses are met contemporaneously, needs to be clarified. We expect there will be practical challenges with meeting both clauses, given achievement of one outcome may come at the expense of the other.</p> <p>For example, upholding Te Oranga o te Taiao could potentially require existing ‘uses’ to be curtailed where environments are degraded or where continued use of a resource does not adequately recognise the relationship of iwi or hapū to land or resource. The potential ramifications for communities and resource users are significant and the correct interpretation of these provisions must be clarified.</p> <p><i>Lack of reference to ‘restoring’ in clause 1(a)</i></p> <p>Clause 1a of the definition does not include reference to ‘restoring’ the natural environment. An explicit reference to ‘restoring’ would better align the Purpose of the Act to the environmental outcomes in clause 8 which make frequent reference to restoration, in addition to protection and enhancement.</p> <p><i>Reference to ‘environment’ in Clauses 5(2) and the relationship of those clauses to other provisions in the NBA</i></p> <p>The term ‘environment’ is used throughout clause 5, but given its broad definition (and in particular the inclusion of ‘people and communities’ and ‘social, cultural and economic conditions’ within the definition for the term) there is ambiguity as to how</p>	<p><i>Relationship between sub-clauses 1(a) and 1(b)</i></p> <ul style="list-style-type: none"> Clarify the relationship between sub-clauses 1a and 1b and resolve the inherent tensions between these two clauses. <p><i>Lack of reference to ‘restoring’ in sub-clause 1(a)</i></p> <ul style="list-style-type: none"> Include reference to ‘restoring’ in sub-clause 1(a) to better align with the environmental outcomes in clause 8 <p><i>Reference to ‘environment’ in clause 5</i></p> <ul style="list-style-type: none"> Re-evaluate all references to the term ‘environment’ through clause 5. Where the term is intended to have a narrower meaning, replace it with a more constrained term ‘e.g. natural environment’. <p><i>Outcomes for the ‘benefit of the environment’</i></p> <p>Either:</p> <ul style="list-style-type: none"> Clarify the type of ‘outcomes’ anticipated by clause 5(2)(b) and their relationship and relative level of prioritisation to the ‘environmental outcomes’ in clause 8; or Amend clause 5(2)(b) to replace the reference to ‘outcomes’ with ‘environmental outcomes’ in clauses 8a, b, c, d, f and g. <p><i>Te Oranga o te Taiao - health of the natural environment</i></p> <p>Clarify the intended interpretation of ‘health’ in clause 5(3)(b).</p>

Part, Clause	Provision	Comments	Relief sought
		<p>the term should be interpreted in different scenarios. For example:</p> <ul style="list-style-type: none"> • clause 5(2)(a) states use of the environment must comply with environmental limits. However, given the purpose of environmental limits is to protect the ecological integrity of the natural environment and human health (see clause 7), it appears that in the context of this clause the term 'environment' is intended to have a narrower meaning – being 'use of the natural and built environment' (as opposed to 'use' of people, communities and the social, cultural and economic conditions that relate to those people). • clause 5(2)(b) states outcomes for the benefit of the environment are to be promoted. In this context we anticipate 'environment' is intended to be interpreted more broadly as including the natural and built environment, people and communities, and the social, economic and cultural conditions that affect, or are affected by, those matters. • clause 5(2)(c) states adverse effects on the environment are to be avoided, remedied or mitigated. Again we anticipate the intent is for the term to be interpreted broadly as meaning all three components of the definition. <p><i>References to 'outcomes for the benefit of the environment' (clause 5(2)(b))</i></p> <p>Paragraph 98 of the Parliamentary Paper states the 'outcomes' referred to in cl5(2)(b) are broader than the environmental outcomes set out in clause 8. However, there are practical challenges this approach. For example:</p> <ul style="list-style-type: none"> • without clarity as to the type of outcomes contemplated by clause 5(2)(b), and their relative priority as compared to the environmental outcomes in clause 8, we expect this will 'open the door' to debate and litigation. The flow-on impacts for that are likely to be increased costs and the speed of plan-making and consent decisions reduced. 	

Part, Clause	Provision	Comments	Relief sought
		<ul style="list-style-type: none"> The purpose and content of the National Planning Framework does not enable consideration of a broader set of outcomes. While clause 13(2) states the National Planning Framework may include 'any other matter that accords with the purpose of the national planning framework', that purpose is constrained to matters relating to national significance and consistency. <p><i>References to the health of the natural environment in clause 5(3)(a)</i> Clause 5(3)(a) states the 'health of the natural environment' is incorporated into the concept of Te Oranga o te Taiao. However it is unclear whether 'health' is to be interpreted narrowly as meaning 'ecological health', or whether the intent is for a broader interpretation – e.g. This should be clarified to ensure the Act achieves its intended purpose.</p>	
Clause 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.	See our comments in the body of the submission.	
Clause 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:	<p><i>Clause 7(5)</i> We support Clause 7(5) which allows environmental limits to be set for 'any other matter that accords with the purpose of the limits as set out in subsection 1'. This appropriately recognises there protecting ecological integrity and human health may require the establishment of limits in relation to other factors. For example, protecting ecological integrity in braided river systems or the High Country may require limits to be established that relate to landscape integrity.</p> <p><i>Clause 7(6)</i> Clause 7(6) should also refer to 'restoring' the natural environment to better align with the intent and phrases used in relation to the Purpose the Act (clause 5) and Environmental outcomes (clause 8).</p>	<p><i>Clause 7(5)</i> Retain the ability to set environmental limits for a broader range of matters than set out in clause 7(5).</p>

Part, Clause	Provision	Comments	Relief sought
	<ul style="list-style-type: none"> (b) biodiversity, habitats, and ecosystems: (c) coastal waters: (d) estuaries: (e) freshwater: (f) soil. <p>(5) Environmental limits may also be prescribed for any other matter that accords with the purpose of the limits set out in subsection (1).</p> <p>(6) All persons using, protecting, or enhancing the environment must comply with environmental limits.</p> <p>(7) In subsection (3)(a), biophysical means biotic or abiotic physical features.</p>		
Clause 8	<p>Environmental outcomes</p> <p>To assist in achieving the purpose of the Act, the national planning framework and all plans must promote the following environmental outcomes:</p> <ul style="list-style-type: none"> (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,— <ul style="list-style-type: none"> (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: 	<p>Please refer to the body of our submission for our overarching comments regarding the challenges with Clause 8. For detailed comments on each sub-clause please refer below.</p> <p>Clause (b) – refer to our comments on the definition of ‘ecological integrity’, and in particular the inconsistency between terms used in that definition and the outcomes set in clause 8b. A failure to address those issues will result in the Act not achieving outcomes relating to ecological integrity.</p> <p>Clause (c) – the scope of this clause is limited to natural features and landscapes that meet the criteria of ‘outstanding’ and does not enable protection of other landscapes and features of high value. We note there are culturally modified rural landscapes that have a lesser degree of naturalness but which are valued by communities.</p> <p>Clause (d) – it is unclear what is meant by the directive to ‘improve’ areas of significant vegetation and habitats of indigenous fauna (e.g. improved how, and for what purpose?). In addition, distinctions between ‘improved’, ‘restored’ and ‘enhanced’ are unclear.</p>	<p>Clause (b) – Refer to our comments on the definition of ‘ecological integrity’ and the challenges with this definition. Make any necessary amendments to ensure the definition is fit for purpose in the contexts used.</p> <p>Clause (c) – Consider including outcomes for features and landscapes that do not meet the criteria of ‘outstanding’ but which have values worthy of protection or enhancement.</p> <p>Clause (d) – amend the drafting of the clause to clarify outcomes sought for ‘significant indigenous vegetation’. If appropriate omit the reference to ‘improve’. In addition make amendments to the outcome to ensure linkages between indigenous habitats are protected and maintained, and restored where these have been lost.</p> <p>Clause (e) – clarify the intent and application of clause (e). If the intent is to improve public access to natural lakes and natural wetlands (not located on private property) this should be clarified through amendments to the clause.</p> <p>Clause (f) & (g) – address the issues and tensions relating to upholding Te Oranga o te Taiao and enabling use of the environment.</p>

Part, Clause	Provision	Comments	Relief sought
	<p>(k) urban areas that are well-functioning and responsive to growth and other changes, including by—</p> <ul style="list-style-type: none"> (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: <p>(l) a housing supply is developed to—</p> <ul style="list-style-type: none"> (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: <p>(m) in relation to rural areas, development is pursued that—</p> <ul style="list-style-type: none"> (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: <p>(n) the protection and sustainable use of the marine environment:</p> <p>(o) the ongoing provision of infrastructure services to support the well-being of people and communities, including by supporting—</p> <ul style="list-style-type: none"> (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>(p) in relation to natural hazards and climate change,—</p> <ul style="list-style-type: none"> (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. 	<p>Clause (e) – at face value this clause requires plans promote public access to all lakes and wetlands (including artificial lakes and artificial wetlands constructed for treatment or amenity purposes). Artificial lakes and artificial rivers do not have the same values as those of natural waterbodies and therefore a distinction should be made.</p> <p>Clause (f) & (g) – refer to our to comments relating to clause 5 of the Act, and in particular the tension between upholding te Oranga o te Taiao and enabling use of the environment.</p> <p>Clause (h) – a definition for ‘cultural landscapes’ is not included in the draft, and consequently how these landscapes are distinct from culturally significant sites is unclear. In addition there are a number of challenges relating to the ‘active management’ requirements these include:</p> <ul style="list-style-type: none"> • the meaning of ‘active management’ and any limitations that apply to its implementation. Does active management extend to extinguishing or curtailing existing land uses where adverse effects are significant, or where continuation of the land use would not uphold te Oranga o te Taiao? If so this has significant and serious implications for land users and resource users • how an active management approach that ‘proportionate to the cultural values’ relating to the site would be implemented This appears to assume cultural values can be quantified and cultural harm ameliorated through applying the ‘right level’ of response. <p>Clause (l)(ii) – amending the clause to require housing supplies to be thermally efficient would assist with ensuring a supply of warm, dry homes with energy efficient heating sources.</p> <p>Clause (m) – there are a number of distinct challenges with the wording of clause 8(m), these include:</p> <ul style="list-style-type: none"> • a lack of clarity as to the type and nature of the ‘development’ outcomes promoted in clause (m), and how 	<p>Clause (h) – include a definition for cultural landscapes if these are to be considered distinct and separate from other culturally significant sites. In addition, clarify what is meant by ‘active management’ and any limitations that apply to its implementation. Reconsider the appropriateness and validity of an approach that requires active management to be ‘proportionate’ to the cultural values that exist.</p> <p>Clause (m) – refer to the body of our submission for specific issues and relief sought in relation to the proposal to set outcomes specific to rural Environments.</p> <p>Clause (n) – clarify what ‘sustainable use’ of the marine environment is, and how this is different to other uses provided for under the Bill.</p> <p>Clause (o) – amend the clause to remove the requirement for ‘ongoing provision’ of infrastructure services, given the significant obligation this places on local government to retain infrastructure even where the costs outweigh benefits. Alternatively if the clause is to remain include an additional sub-clause 8(o)(iii) that requires wellbeing to be supported through a reduction in energy consumption and an increase in energy efficiency.</p> <p>In addition to the above, amend clauses 8(k), 8(m) and 8(o)) to require biosecurity risks to be identified and reduced.</p>

Part, Clause	Provision	Comments	Relief sought
		<p>these are distinct from other development outcomes in clause 8 (e.g. 'housing' outcomes in clause 8 (l)).</p> <ul style="list-style-type: none"> • use of the word 'pursued' which suggests a more active obligation than other commonly used terms in legislation (e.g. 'enabled') • the rationale for why clause 8(b) is limited to economic resilience, and not for example social resilience. • the rationale for why the protectionist elements of clause 8(m)(iii) are concerned only with 'highly productive land' (and not other features or values) • how to implement clause 8(m)(iii) – e.g. how can development promote protection of highly productive land? This appears counter-intuitive and contrary to the usual approach of instead imposing constraints or limitations on development in order to protect certain values or to achieve outcomes. <p>Clause (n) – a definition of 'sustainable use' is not included and therefore the intended meaning is unclear. In addition various terms are used throughout the draft NBA to describe areas within and adjacent to the coast. These include 'marine environment', 'coast', 'estuaries', 'coastal waters'. These terms should be rationalised or alternatively distinct definitions included for each.</p> <p>Clause (o) – requirements relating to the 'ongoing provision of infrastructure services' impose an unfettered obligation on central and local government to maintain services, even where the economically and socially prudent response might be to discontinue those services. In addition this outcome seems inappropriate given the need for communities to plan for adaptation to climate change and natural hazards and could frustrate the use of tools and methods that would enable future resilience (e.g. managed retreat).</p>	
Part 3 National Planning Framework			
	<i>Requirement for national planning framework</i>		

Part, Clause	Provision	Comments	Relief sought
Clause 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 .	Refer to the body of our submission for specific comments on provisions relating to the national planning framework.	
Clause 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.	Clause 5(2)(b) states the Purpose of the Act to be achieved through promoting 'outcomes for the benefit of the environment.' However the list of matters that the National Planning Framework may provide direction on (clause 10) is restricted to three matters, none of which relate to broader outcomes.	Remove the reference to 'outcomes for the benefit of the environment' in Clause 5(2)(b) or alternatively clarify what those outcomes are, and their relationship to the environmental outcomes in clause 8.
Clause 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).	Refer to the body of our submission for our comments on the proposal to establish the National Planning Framework as a regulation. Clause 11 'Definitions', 'rules', 'methods' and 'targets' are commonly understood terms defined either in primary legislation or national direction. However, the term 'goal' is undefined, and it is unclear how this is to be distinguished from a 'target'. If the term is intended to have a different meaning then a definition should be included.	Refer to the body of our submission for relief sought in relation to the proposal to establish the national planning framework as a 'regulation'
	<i>Contents of national planning framework</i>		
Clause 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.	Refer to the body of our submission for comments on this section.	Retain the ability to set limits through natural and built environment plans but include further detail in the legislation on processes that must be followed by a Planning Committee when setting those limits.
Clause 13	Topics that national planning framework must include	Refer to the body of our overarching comments on this clause.	Refer to the body of our submission for the relief sought.

Part, Clause	Provision	Comments	Relief sought
	<p>(1) The national planning framework must set out provisions directing the outcomes described in—</p> <p>(a) section 8(a) (the quality of air, freshwater, coastal waters, estuaries, and soils); and</p> <p>(b) section 8(b) (ecological integrity); and</p> <p>(c) section 8(c) (outstanding natural features and landscapes); and</p> <p>(d) section 8(d) (areas of significant indigenous vegetation and significant habitats of indigenous animals); and</p> <p>(e) section 8(j) (greenhouse gas emissions); and</p> <p>(f) section 8(k) (urban areas); and</p> <p>(g) section 8(l) (housing supply); and</p> <p>(h) section 8(o) (infrastructure services); and</p> <p>(i) section 8(p) (natural hazards and climate change);</p> <p>(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.</p> <p>(3) In addition, the national planning framework must include provisions to help resolve conflicts relating to the environment, including conflicts between or among any of the environmental outcomes described in section 8.</p>	In addition to those comments, we note our support for clause 13(2) which provides for the national planning framework to include topics that relate to other matters (e.g. amenity values, landscapes that do not meet the criteria of outstanding)	Also note an amendment to the Heading for Clause 13 is required. Clause 13 includes a list of mandatory topics (clauses 13(1) and 13(3)), and discretionary topics (clause 13(2)). The reference to 'must include' in the heading is therefore inappropriate.
Clause 14	<p>Strategic directions to be included</p> <p>The provisions required by sections 10, 12, and 13 must include strategic goals such as—</p> <p>(a) the vision, direction, and priorities for the integrated management of the environment within the environmental limits; and</p> <p>(b) how the well-being of present and future generations is to be provided for within the relevant environmental limits.</p>	Definitions for 'strategic direction' have not been included and the meaning, intent and breadth of these strategic directions remains unclear. In addition the relationship of these 'strategic directions' to the provisions of the Strategic Planning Act and regional spatial strategies remains unclear.	Clarify the meaning, intent and role of strategic directions and their relationship with the SPA and contents of regional spatial strategies.
Clause 15	<p>(1) The national planning framework may direct that certain provisions in the framework—</p> <p>(a) must be given effect to through the plans; or</p> <p>(b) must be given effect to through regional spatial strategies; or</p> <p>(c) have direct legal effect without being incorporated into a plan or provided for through a regional spatial strategy.</p> <p>(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—</p>	<p>Clarification is required on the relationship between the national planning framework and the regional spatial strategies given their promulgation under different pieces of legislation.</p> <p>In particular it is challenging to see how a national planning framework could direct provisions to be <i>given effect to</i> through regional spatial strategies, given the contents of the regional spatial strategy will be primarily driven by the Strategic Planning Act and will cover a range of matters not within the scope of the NBA (e.g. infrastructure matters).</p>	Review the language used in Clause 15 to ensure drafting matches intent, paying particular attention to the requirements to 'give effect' to the contents of a regional spatial strategy.

Part, Clause	Provision	Comments	Relief sought
	<ul style="list-style-type: none"> (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— <ul style="list-style-type: none"> (i) inserting that part of the framework directly into their plans; or (ii) using the public plan change process. <p>(3) Amendments required under this section must be made as soon as practicable within the time, if any, specified in the national planning framework.</p>		
Clause 16	<p>Application of precautionary approach In setting environmental limits, as required by section 7, the Minister must apply a precautionary approach.</p>	A disconnect exists between the <i>definition</i> of precautionary approach (which is constrained to matters concerning the natural environment and ecosystems) and the <i>application</i> of the precautionary approach which provides for environmental limits to be set for both ecological integrity <u>and</u> human health.	Clarify the definition and application of the 'precautionary approach', and in particular whether threats to human life / health are intended to be included.
Clause 17	<p>[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.]</p>		
Clause 18	<p>[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.]</p> <p>[Relevant persons must]—</p> <ul style="list-style-type: none"> (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: 		

Part, Clause	Provision	Comments	Relief sought
	(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 <i>Requirement for natural and built environments plans</i>		
Clause 19	Natural and built environments plans There must at all times be a natural and built environments plan (a plan) for each region.		
Clause 20	Purpose of plans The purpose of a plan is to further the purpose of the Act by providing a frame-work for the integrated management of the environment in the region that the plan relates to.		
Clause 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.]		
	<i>Contents of plans</i>		
Clause 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	See our comments in the body of our submission. In addition, clarify through amendments to clause 22 whether local authorities are required to incorporate a regional policy statement into their natural and built environment plan, or whether the regional spatial strategy is intended to fulfil this role. If regional policy statements are to remain as a component of the plan, we consider changes are required to clause (f) to clarify the roles and responsibilities of local authorities in areas where overlaps exist (e.g. biodiversity and natural hazards management).	See the body of our submission for relief sought. In addition, amend clause (f) to require plans to specify the responsibilities of local authorities in areas where overlapping functions exist

Part, Clause	Provision	Comments	Relief sought
	<ul style="list-style-type: none"> (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 out-comes 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). <p>(2) A plan may—</p> <ul style="list-style-type: none"> (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. 		
	<i>Planning committees</i>		
Clause 23	<p>Planning committees</p> <p>(1) A planning committee must be appointed for each region.</p> <p>(2) The committee's functions are—</p> <ul style="list-style-type: none"> (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). <p>(3) Provisions on the membership and support of a planning committee are set out in Schedule 3.</p>	See the body of our submission for specific comments on membership of Planning Committees.	See the body of our submission for our suggestions for how to improve representative democracy within this part of the system while managing efficiency and resourcing challenges.
Clause 24	<p>Considerations relevant to planning committee decisions</p> <p>(1) A planning committee must comply with this section when making decisions on a plan.</p> <p>(2) The committee must have regard to—</p> <ul style="list-style-type: none"> (a) any cumulative effects of the use and development of the environment: 	<p><i>Clause 24(2)</i></p> <p>We consider decision makers should be required to afford more weight, in decision-making, to cumulative effects, and the effects of activities that cause significant or irreversible harm.</p>	<p><i>Clause 24(2)</i></p> <p>Require decision-makers to afford more weight, in decision-making, to cumulative effects and effects that cause significant or irreversible harm.</p>

Part, Clause	Provision	Comments	Relief sought
	<ul style="list-style-type: none"> (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. <p>(3) The committee must apply the precautionary approach.</p> <p>(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.</p> <p>(5) [Placeholder for additional matters to consider.]</p> <p>(6) In subsection (2)(d), conflicts—</p> <ul style="list-style-type: none"> (a) means conflicts relating to the environment; and (b) includes conflicts between or among any of the environmental outcomes described in section 8. 	<p>This could be achieved either through stronger wording (e.g. have <i>particular regard</i> to) or by clarifying the relative priority of different outcomes in clause 8.</p> <p><i>Clause 24(4)</i> We support enshrinement of the <i>King Salmon</i> principles into clause 24(4), but consider there should be an explicit obligation on the Planning Committee to 'give effect to' higher order planning instruments (including the national planning framework). However</p>	
Clause 25	<p>Power to set environmental limits for region</p> <p>(1) This section applies only if the national planning framework—</p> <ul style="list-style-type: none"> (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. <p>(2) The planning committee must—</p> <ul style="list-style-type: none"> (a) decide on the limit in accordance with the prescribed process; and (b) set the limit by including it in the region's plan. 		
Schedule 1	Preparation of national planning framework [placeholder]		
Schedule 2	Preparation of natural and built environments plans [placeholder]		
Schedule 3	Planning Committees		
	<i>Membership</i>		
Clause 1	<p>Membership of planning committees</p> <p>(1) The members of a region's planning committee are—</p> <ul style="list-style-type: none"> (a) 1 person appointed under clause 2 to represent the Minister of Conservation; (b) mana whenua representatives appointed under clause 3: 		

Part, Clause	Provision	Comments	Relief sought
	<p>(c) either—</p> <p>(i) 1 person nominated by each local authority that is within or partly within the region; or</p> <p>(ii) [placeholder for appropriate representation if the regional council is a unitary authority].</p> <p>Despite subclause (1)(c), the same person may be nominated by more than 1 local authority for the purpose of that paragraph.</p>		
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.]		
	<i>Support</i>		
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) co-ordinate submissions. (3) [Placeholder: policy intent is that local authorities support secretariat.]		
Clause 6	Local authorities must fund secretariat [Placeholder.]	See our comments in the main body of the submission.	Require central government to fund secretariats for planning committees.