Taituarā
Local Government Professionals Aotearoa

Regarding the Natural Environment and Planning Bills

Submission to the Environment Committee

February 2026

Taituarā submission Natural Environment and Planning Bills

Taituarā — Local Government Professionals Aotearoa ('Taituarā') thanks the Environment Committee for the opportunity to submit in respect of the Natural Environment Bill and the Planning Bill.

Taituarā wishes to be heard in respect of this submission.

1.0 Who is Taituarā?

Taituarā (Local Government Professionals Aotearoa) is New Zealand's leading network for local government professionals. A few words about us. Taituarā is Aotearoa New Zealand's leading membership network for professionals working in, and for, local government. We have a membership base of just over 1,020 members drawn from local authority of Chief Executives, managers, and staff across all 78 local authorities. What unites Taituarā members is our commitment to be our own professional best, supporting local government excellence through connection, collaboration, and care for the wellbeing of our communities.

Taituarā strengthens the local government sector by using our members' insights and experience to influence the public policy debate. We submit on legislation and regulations to provide perspectives on what works and how to make policy work.

Our primary role is to help local authorities perform their roles and responsibilities as effectively and efficiently as possible. We have an interest in all aspects of the management of local authorities from the provision of advice to the planning and delivery of services, infrastructure, urban development and placemaking, community wellbeing and climate resilience and mitigation. We are therefore highly motivated to assist in the creation of a more efficient, certain, less complex and implementable resource management system that delivers positive outcomes for the environment and communities.

Local government plays a critical role in the management of the natural and built environments in Aotearoa. The RMA is one of the primary statutes that local government implements. Although the Government's reform of the resource management system will fundamentally change the role that local government plays, it will remain critical to the delivery of the new system.

2.0 Introduction

RM reform (both the legislation and the national direction) takes place against a backdrop of other reforms and reviews that impact the sector. This includes (among others) Simplifying Local Government, the proposed rate capping model, reforms to building consenting, and reforms to the emergency management system. This takes place alongside the substantial reforms to water services that 67 of the 78 local

authorities are implementing through the Local Water Done Well reforms. Taituarā made the point in our recent submission to the Department of Internal Affair's "Simplifying Local Government" (SLG) consultation: "*local communities and local government face era-scale change. The big challenges our communities face – responding to climate change, addressing cost-of-living pressures, housing, infrastructure, demographic change and social cohesion – require transformative change*."

There is no sign that these significant policy changes have been developed with any heed to the implementation of the **package** of reforms. Our submission to SLG captures this nicely: "*Structural reform, the RMA refresh, and rate changes must be treated as a coherent, coordinated change programme.*" What we are not seeing is a coherent reform programme with a transitional process that recognises overall system capability and capacity.

Specifically, we understand that reorganisation plans (as required by SLG) are most likely to be completed in early to mid-2028. This coincides with the rate capping proposals taking full effect from 1 July 2029. The initial phases of the reorganisation planning process will coincide with the due date for delivery of the first regional spatial plans (November 2027) and any changes to the emergency management reforms.

The relevance of rate capping, the cost of other reforms, and their potential to constrain implementation of the new planning legislation should not be underestimated. The Regulatory Impact Statement estimates that resource management reforms will create some $860 million in establishment costs for the sector, and the emergency management reforms some $84 million more. Local authorities are expected to keep rate increases within a centrally set band (with an indicative range of 2-4 per cent per annum). On top of this, SLG will require substantial expenditures in administering a Combined Territories Board (CTB), identifying and investigating options for governance and service delivery reform, and implementing the results.

Recognition of the combined/cumulative costs is essential, but it is not being discussed outside of local government. Overcoming these significant challenges is essential to implementation – hence we are making these big points up front in our submission.

Our submission

This submission has been developed with input from the Taituarā Resource Management Reference Group.

We have developed this submission through the following lenses:

- **Roles, duties and functions** - are they clear and appropriate
- **Powers and tools/mechanisms that enable delivery** of roles and functions
- **Governance and decision-making**

- **Involvement/consultation** - are the settings appropriate
- **Effective management of adverse effects** that matter, and protection of key values on behalf of communities
- **Efficient and cost-effective regulation** and processes where regulation is needed
- **Enables integrated management**
- **Minimising unintended complexity**/duplication
- **Funding and costs to administer** – where costs fall
- **Upholding obligations under Te Tiriti – a partnership approach**

Taituarā engaged Simpson Grierson to provide legal advice on particular matters. This legal advice has been incorporated into this draft submission and can be made available on request.

Our submission reflects extensive sector expertise and a strong commitment to achieving a planning system that is enduring, effective, and workable for communities, councils, and the Crown. While we support the intent of reform and the aspiration for a more integrated, consistent and future-focused framework, we have identified significant design, sequencing, and implementation risks that, if unaddressed, will compromise the system's ability to deliver on its objectives. -

We have focused our submission on what we see as the "big issues," and have not provided detailed analysis of the entire Natural Environment Bill (NEB) and the Planning Bill (PB). We urge the Select Committee to carefully consider the submissions of individual councils, the New Zealand Planning Institute and Te Uru Kahika, including their detailed analyses of the Bills.

3.0 Executive Summary

1. Legislative design creates gaps, inconsistencies and complexity

A fundamental issue with the Bills is the artificial split of the "environment" into separate statutory domains, with land use effects addressed under the PB and natural environment effects addressed under the NEB. This division makes many real-world effects unmanageable under either regime, creates overlapping or conflicting obligations, and risks leaving significant adverse effects entirely unregulated. The Bills also exclude consideration of multiple effects at the consenting stage, creating disconnects between plan making, consenting, and enforcement. Without correction, these design flaws will generate litigation, uncertainty, and inconsistent decision-making across the country.

2. The implementation timeline is unworkable and legally risky

The proposed sequencing requires regional spatial plans to be prepared before key national policy direction, environmental limits, and standards are in place. Councils cannot deliver credible plans without the foundational national instruments the system relies on. Current timeframes place unrealistic demands on councils'

capacity, risk poor quality plans, and ultimately jeopardise the integrity of the reform. A fully integrated and realistic sequencing of national direction, Regional Spatial Plans (RSPs), Natural Environment Plans (NEPs) and Land Use Plans (LUPs) is critical to system success.

We strongly encourage the Government not to prioritise speed over quality. This resource management system is too important for NZ to deliver it “half-cooked”, and the cost of doing so will be years of litigation and/or amendments and rework at every level (national, regional and local) of the system. Getting it right upfront should set NZ up well for decades.

In particular, the new framework depends heavily on good quality national direction and standards being established first, and then for Councils to have sufficient time to properly interpret and apply those in spatial, natural environment and land use planning. As the Bills present a whole new system, successful achievement of Government’s objectives rides on delivering this first round of implementation as well and robustly as possible.

3. Transition arrangements will create a highly complex interim system

The Bills require local authorities to implement RMA planning instruments modified by a substantial set of transitional rules and altered effects tests, while simultaneously preparing for the new system. Differences between how effects are considered for consents, designations, plan making and enforcement will create uncertainty, inconsistent outcomes, and high legal risk. We urge that “tinkering” with the transitional rules is kept to a minimum. Unnecessary short-term changes will divert resources from preparing high quality instruments for the new system. Complex transitional arrangements will be complex for all system users, not just local government.

4. Regulatory relief is fundamentally flawed and imposes major financial and legal risks

The proposed regulatory relief regime is conceptually unclear, operationally unworkable, and financially untenable for councils. It conflicts with councils’ statutory responsibilities, relies on undefined concepts such as “significant impact”, creates overlapping appeal pathways, and exposes councils to open-ended financial liabilities. The regime should be removed or substantially redesigned, with clear thresholds, defined terms, prospective application, and without shifting Crown obligations and costs onto local authorities and ratepayers.

5. The Bills weaken Te Tiriti obligations and require amendment

The Bills dilute the RMA’s longstanding protections for Māori interests by removing key Part 2 provisions and replacing them with lower-level participation requirements. Clauses 9 and 10 (Treaty settlement provisions) risk compelling councils to reinterpret or renegotiate Crown settlement arrangements, an inappropriate transfer

of Crown responsibilities. Clear obligations to uphold Te Tiriti principles and Treaty Settlements, and provision for Māori interests are required. The Bills do not represent an authentic Te Tiriti partnership, they are transactional in their approach to the relationship between local government and Māori.

6. Alignment with other reforms is insufficient and exposes local government to compounded risk

Local government will concurrently implement water service reform, the new emergency management framework, changes to development levies, infrastructure financing, and potential structural reforms to local government, alongside proposed rates caps. The Bills are not adequately integrated with these reforms, generating conflicting obligations, duplicated processes, and significant resource and cost pressures. Without systemwide alignment, the cumulative burden threatens implementation of the new planning system. The Bills need to replicate the tools that councils currently have for managing existing risk associated with natural hazards.

7. Funding and capability requirements are significant and currently unfunded

Implementation costs for local government are estimated at more than **$860 million** for establishment activities alone. This scale of investment is incompatible with current fiscal settings and potential rates caps. This comes at the same time as potential implementation costs associated with the Emergency Management Bill. The Regulatory Impact Statement (RIS) has identified implementation costs that will fall to local authority members of CDEM groups over a 4-year period are an additional $82 million dollars. Implementation costs associated with building reform and potential local government reform are still to be determined.

As yet, the sector does not have visibility of what proportion of total costs will need to be met by local government. No decisions on Government implementation funding have been announced. Given that already significant implementation costs will fall to local government in an environment that is fiscally constrained soon to be further constrained by mandated caps on rates increases, these and any additional costs must be flagged as a very real risk to implementation.

4.0 Recommendations

The following recommendations are contained in the body of the submission. They represent statutory amendments we support and identify the areas where guidance is considered necessary to support implementation.

Alignment with other reforms

Coordination of reforms

1. Avoid contemporaneous implementation of local government reforms. If implementation timeframes are unchanged (a) harmonise governance structures with more efficient decision-making steps and (b) support implementation with dedicated central government funding and support mechanisms.

Local Government (System Improvements) Amendment Bill

2. Include "planning" for the natural and built environments as a core service that local authorities must provide in the Local Government (System Improvements) Amendment Bill.

Implementation

Timeline for implementation

3. The Bills must be clear, and drafting errors corrected, to confirm when each set of national direction will be delivered.
4. Relate delivery timeframes to each sequence point, not Royal assent, given the inter-dependency between different national direction and subsequent implementation steps.
5. Re-sequence the statutory framework so that RSPs are prepared **after** all necessary national direction is released and environmental standards confirmed.
6. Irrespective of the decision on (1) above, extend the timeline for implementation:
   - allow at least 24 months from enactment of the Bills) for notification of the draft Regional Spatial Plans; and
   - determine a realistic timeframe (with local government) for National Environment Plans and Land Use Plans.
7. If the timeframe for preparation of draft Regional Spatial Plans is not to be adjusted, develop the option of an Interim Regional Spatial Plan.
8. Add a clause enabling the extension of time by an Order in Council for RSPs, LUPs and NEPs.
9. Provide clarity in the Bills as to when each tranche of national direction will be confirmed and what each tranche will contain.

Implementation costs

10. Provide visibility to local government as soon as possible about the details of where implementation costs will fall.
11. Work with local government to develop a realistic estimate of implementation costs.

The transition

12. Work with local government to develop clear and timely guidance on the transitional provisions well ahead of enactment of the new legislation.
13. Work with LG to develop clear communications for the public/system users well ahead of the enactment of the new legislation.

Transitional National Rules

14. Minimise the number of Transitional National Rules in the PB and the NEB.
15. Provide clarity in the Bills in relation to Transitional National Rules so it is clear how the RMA is to be applied during the transition period.
16. Provide guidance about the Transitional National Rules and develop clear communications material for applicants.

Procedural principles

17. Remove the procedural principle "Adopting an enabling approach."
18. Develop guidance on the relationship between the new procedural principles and decision-making tests within the legislation.

Enforcement during the transition

19. Align the transition period consenting and enforcement frameworks
20. Clarify the terminology "processes undertaken."
21. Provide guidance on:
    - which enforcement tools are available during transition and which are not
    - how to interpret "processes undertaken" in relation to enforcement actions
    - how to manage situations where effects excluded from consenting **are still relevant** for enforcement

Resource consents during the transition

22. Redraft the relevant sections of the Bills that relate to consideration of existing RMA planning instruments during the 'transition period' to remove any issues of interpretation and to support the consistent application.
23. Provide guidance on:
    - how to apply the list of excluded effects in s104(1A).
    - how to use the discretion in s104(1B) to disregard NES or plan provisions.
    - how to reconcile existing RMA planning instruments with the new exclusions.
    - how to handle notification decisions when an effect may trigger notification but must later be excluded from substantive consideration.

Designations during the transition

24. Redraft the PB so section 171 and 104 of the RMA are consistent – so the approach for resource consents and designations is the same regarding excluded effects.

25. Provide that a designation must take account of an RSP (as it does for a resource consent).

Appeals during the transition

26. Provide guidance on:
    - how to manage appeals in the Environment Court that must be decided under the RMA, even after repeal.

Additional recommendations related to transition

27. Require that a transitional national rule cannot be made unless a (new) legal test is satisfied
28. Allow councils limited, streamlined plan changes to remove obsolete provisions
29. Work with local government to provide implementation support and decision templates to cover:
    - how transitional national rules will interact with existing national environmental standards (NES) and local plans
    - how to manage the coexistence of RMA instruments and new system instruments over several years
    - how councils should identify which rules prevail when conflicts arise
    - how to handle applications lodged before vs during the transition period
    - how to interpret excluded effects
    - how to treat legacy plan provisions

Purpose and Principles

Goals

30. Include a goal that includes the effects of climate change in relation to adaptation.
31. Include a goal that includes the benefits to be derived from the use and development of renewable energy.
32. Include guidance in the PB as to what "unreasonably affect" amounts to, how incompatible land uses will be separated and what does “others” means PB 11(1)(a).
33. Amend section **11(1) (b)** to read “ to support and enable economic growth and change by enabling the use and development of land and by protecting values that are important to economic activity and amend **section 14(2)** by adding a new clause (f) “amenity, heritage and landscape effects where these significantly contribute to the visitor experience or migrant attraction.
34. Align the goals regarding natural hazards in the NEB and the PB and remove “proportionate.”

Definitions

35. Provide a definition of “enjoyment of land” in the Interpretation section of the PB.
36. Provide a definition of “economic change” in the Interpretation section of the PB.

37. Provide a definition of “infrastructure” in the Interpretation section of both Bills. The new Bills should use the same definition of infrastructure.
38. Provide a definition of significant historic heritage in the PB.
39. Provide a definition of “no net loss” in the NEB.

Role of Te Tiriti and Treaty Settlements

Recognition of Te Tiriti and Treaty Settlements

40. Adopt the Expert Advisory Group’s recommendations and retain the relevant Part 2 provisions of the RMA in relation to the principles of Te Tiriti.
41. The Crown should continue to hold responsibility for interpretation and agreements with iwi as to how their settlements, as far as they relate to the RMA, will now relate to the PB and NEB.

Māori participation in the making of new instruments

42. Require *engagement*, (as opposed to *participation)* in developing national instruments, spatial planning, and land use plans and develop mechanisms to ensure iwi and hapū have that consultation taken into account.
43. Amend relevant clauses to require statutory acknowledgements, relevant planning documents recognised by iwi authority and applicable iwi participation legislation and existing or initiated Mana Whakahono a Rohe are taken into account when a joint committee prepares a regional spatial plan.

Sites of significance to Māori

44. Amend clause 11(1) to include broader cultural landscapes and holistic environmental relationships – where iwi and hapū exercise customary rights and responsibilities.
45. Amend clause 11 to make it clear that sites of significance to Māori do **not** need to be mapped or disclosed publicly.

Consultation requirements

46. Require *engagement*, (as opposed to *participation)* in developing national instruments, spatial planning, and land use plans and develop mechanisms are to ensure iwi and hapū have that consultation taken into account.
47. Amend relevant clauses to require statutory acknowledgements, relevant planning documents recognised by iwi authority and applicable iwi participation legislation and existing or initiated Mana Whakahono a Rohe are taken into account when a joint committee prepares a regional spatial plan.
48. Require applicants for Private Plan Changes to undertake pre-lodgement consultation with iwi authorities and customary marine title groups and require applications to be prepared in accordance with Mana Whakahono ā Rohe agreements.

Regulatory Relief

49. Remove the regulatory relief provisions from the Bills. If the regulatory relief provisions remain:

50. Work with local government to develop the detail and fill in the gaps of the regime:
    - define what constitutes a 'significant impact on the reasonable use of land' and provide guidance to support this
    - improve the definition of "impact" and ensure it is not circular
51. Reverse the onus on local authorities and place the onus on persons to apply for relief if they consider themselves significantly affected.
52. Remove the Environment Court's ability to direct the use of financial tools like rates relief.
53. Justify the application of this regime to the specified topics while not applying it to other rules that affect the use of land.
54. Address drafting inconsistencies.
55. Remove the duplication with the Planning Tribunal and remove the ability for landowners to seek relief from the Environment Court.
56. The regulatory relief regime should only apply prospectively.
57. If a retrospective approach is to be retained, specify a fixed date at which the operative rule was in force.

Considering adverse activities

Adverse activities – clause 14 PB and NEB

58. Delete 14(1)(j) of the PB or redraft to enable a consent authority to consider the **environmental** effects of an activity, even where the land use effects are dealt with under other legislation.
59. Amend clause 14(b) of the NEB to remove, or materially narrow, the prohibition on considering effects regulated under the Planning Act.

Clause 15 – offsets and compensation

60. Amend clause 15(1)(a)(ii) to:
    - provide clearer limits on when offsetting or compensation may be relied upon;
    - prioritise avoidance and minimisation more strongly; and
    - either remove "compensated for" entirely or tightly define it to exclude purely financial compensation for environmental harm.

Clause 15(5) less than minor effects

61. Amend clause 15(5) to:
    - provide clearer, more objective criteria for determining what constitutes a "less than minor adverse effect";
    - reduce reliance on subjective concepts such as "acceptable" and "reasonable", and provide guidance on their meanings;
    - clarify how cumulative effects are to be assessed and when "less than minor" effects must be considered collectively; and
    - provide guidance to ensure consistent application of the threshold across decision-makers to reduce uncertainty and litigation risk.

Clause 14 NEB

62. Review the wording of NEB clause 14 and provide clearer and more consistent direction on how effects are to be considered by decision-makers:

- define and provide guidance on the meaning and application of "particular consideration", including whether it requires prioritisation or weighting of certain effects; and
- expressly confirm that both direct and indirect effects are required to be considered under the NEB

Clause 31 Principles for classifying activities

63. Reword clause 31(a) as follows: An activity should be classified as a permitted activity if -
    i. in a national instrument and/or regional spatial plan, the activity is acceptable, is anticipated, and achieves the desired level of use and development; or
    ii. any adverse effects of the activity are not more than minor, can be manged and do not require a specific assessment.

Links with other key legislation, documents and processes

Delegations

64. Amend the PB to expressly state how an SPC is to be established, including whether it is deemed to be a committee established under Schedule 7 of the LGA and how clauses 30 and 30A of Schedule 7 are intended to apply.
65. Amend the PB to clearly provide that local authorities must delegate the full suite of relevant powers and functions necessary for the SPC to perform its statutory role, subject only to the non-delegable matters listed in clause 32 of Schedule 7 of the LGA.
66. Amend the PB to specify how representation from participating local authorities is to be determined.
67. The PB should expressly state whether decisions relating to:
    - the appointment of SPC members,
    - SPC terms of reference, and
    - delegations to the SPC are intended to be subject to Part 6 of the LGA, and if so, how any conflicts with the mandatory obligations under the PB are to be resolved
68. The PB should clarify whether an SPC may be delegated functions beyond those expressly listed in the PB, and if so, set parameters for when and how this may occur
69. If the PB prescribes SPC membership or structure, it should also:
    - require corresponding delegations of authority to SPC members; and
    - ensure SPCs are empowered to make substantive decisions rather than operating as advisory bodies only.
70. Guidance should be developed to support a model framework for SPC establishment, membership, and delegations

LGA/PB requirements to consult on a draft RSP

71. Amend the wording in the PB so it is crystal clear there is no requirement to consult on a draft RSP.

Role and weighting of RSPs

72. Amend the PB so that, once adopted, RSPs have clear and directive weight in subsequent planning, infrastructure, and funding decisions, rather than merely "promoting integration".
73. Provide clearer direction in clause 68 about how RSPs are to relate to, and be given effect through, LGA plans, land transport documents, and other statutory strategies.
74. Amend clause 68 to explicitly include the LGWSA and Water Services Strategies (WSSs) as part of the integrated planning framework alongside RSPs.
75. Require RSPs to be prepared in a way that is clearly aligned with infrastructure that is planned and realistically capable of being funded, including through Long Term Plans and WSSs.
76. Provide clearer direction on whether infrastructure identified in an RSP is expected to be planned, funded, or delivered by local authorities, central government, or other providers.
77. Strengthen the current "have regard to" tests so that key funding and infrastructure strategies cannot be easily departed from without clear justification.
78. Consider requiring RSPs to identify and provide for key community and recreational infrastructure, where this is necessary to support growth and long-term wellbeing.
79. Address the lack of alignment between the PB and the LGA to reduce the risk of inconsistent or fragmented planning and investment decisions.

Funding

80. Revise the timeline for implementation as per previous recommendations so it is realistic.
81. Recommend that the Government allocate implementation funding directly to local government for the development of each RSP, NEP and LUP.
82. That officials work closely (and soon) with local government to develop funding scenarios/assumptions to assist with allocating funding in 2027-2037 LTPs.

Consideration of LG documents under NEB and PB

83. Provide the requirement to have regard to local government planning documents prepared under other legislation, in the preparation of a NEB and a PB.

Role of RSPs and LG decision-making

84. Clarify the intent behind the "lead" role, and how that will be determined.
85. Refine the proposals in the PB as to how RSPs are considered in the course of preparing an LTP.
86. Amend the LGWSA to require WSS to have regard to RSPs when preparing a WSS.
87. Align the planning under the PB with other local government planning documents, including timing.

88. Redraft the provisions to afford clear and strong weighting to RSPs so they direct other strategic plans and policy making under the LGA.

Relationship between the PB and the NEB

89. Do not divide the environment and environmental effects into separate statutory subsets, as it is not necessary or workable.
90. If retained, ensure definitions are sufficiently broad and integrated to reflect real-world environmental interactions.
91. Amend both Bills to ensure that all significant environmental effects of an activity can be assessed, even where those effects fall outside the narrowly defined "environment" of a single Bill.
92. Ensure there are no regulatory gaps where effects are excluded from consideration under both Bills.
93. Provide transitional guidance and support for local authorities to implement the new regime, recognising the legal and financial risks they face during the bedding-in period.

Cross-referencing between the Bills

94. Consider whether it is necessary, better and workable to have two Bills rather than one.
95. Review and improve the clarity of drafting. Make it clear that where processes contained within one Bill apply to the other, those provisions apply with all necessary modifications (including by utilising definitions contained with the other).

Climate adaptation and natural hazards

Climate adaptation

96. Link to the Government's recently announced National Adaptation Framework and the CCRA.
97. Include reference to the requirements on local government to prepare adaptation plans for certain priority areas.
98. Specify that regard must be had to any emissions reduction plan made in accordance with section 5ZI of the CCRA when making RSPs and NEPs and LUPs.

Natural Hazards

99. Provide the ability to manage existing uses for hazards and climate change matters in the PB and the NEB

Regional Spatial Plans

RSPs – general considerations (Schedule 2 clause 5 PB)

100. Amend Schedule 2 clause 5 to:
101. Delete *government policy statements* from clause 5
102. Delete *any instrument notified in the Gazette* (unless it is a national instrument provided for the Planning Act and the Natural Environment Act)
103. Insert reference to national instruments prepared in the context of this Bill and the Natural Environment Bill (as these are directly relevant to RSPs)

Clause 6 Incorporation of information from LUPs and NEPs

104. Amend Schedule 2 clause 6 to:
    - Expand the scope of (6)(1)(a) to enable the RSP to incorporate information from the region's operative NEP.
    - Enable the incorporation of information from the region's operative LUP or NEP by the local authorities when making decisions on the independent hearings panel's recommendations on the review or amendment of an RSP.

Inviting designating authorities (Sch 2 cl 7 PB)

105. Amend Schedule 2 clause 7 to specify that the SPC must invite relevant designating authorities to inform SPCs:
    - of operative RMA designations
    - future or proposed designations for projects that are of strategic significance

    and
    - the designating authority must provide an evaluation report to demonstrate the significance of the designation to regional spatial planning and its relationship to mandatory spatial plan content.
106. Develop regulations that specify the mandatory matters that must be included in the designating authority's evaluation report that accompanies.
107. Delete 7(1)(b) as Schedule 5 cannot apply to the first suite of RSPs.

Ministerial decisions on recommendations Sch 2 cl 19 PB)

108. Amend Schedule 2 clause 19 to:
    - ensure this clause is aligned with the design of the planning bill, with respect to infrastructure and a lack of hierarchy between national policy direction
    - remove the ability for the Minister to make a decision on the RSP cl19(1)
    - remove references to a government policy statement, or other national plan or strategy cl19(1)(b)

Clause 21 Local authorities to consider recommendations

109. Amend Schedule 2 clause 21(3) to give local authorities 18 months to decide whether to accept/reject each recommendation of the IHP etc.

National direction

Engagement on national direction (Cl 46 PB)

110. Amend clause 46(1) as follows:
    (1) Before the Minister publicly notifies a national instrument, the Minister must—
    (a) provide iwi authorities and relevant local authorities …

5.0 Alignment with other reforms

The Bills have been introduced alongside a number of other reforms that collectively create substantial uncertainty and significant pressure for the local government sector, who are a key implementor of the new resource management system. The timeframes to implement these reforms concurrently may undermine the implementation of the new system and implementation of the other reforms, too. Councils' workloads will be exponentially greater with concurrent reform implementation.

Appendix 1 shows the reforms currently in train and the respective timelines for implementation. It shows the complexity that local government is grappling with as it maps out the implementation pathways and the contingencies between each.

The overall effect of the combination of reforms facing the sector, along with the ongoing implementation of the Local Water Done Well reforms, is already placing significant pressure on councils, and can be expected to do so for the coming years. This is particularly in terms of:

- preparing the 2027-37 LTPs with new constraints on financing (as a result of the potential rates caps), and making provision for the rapid, but complex, transition to the new resource management system;
- the requirement to prepare RSPs and then natural environment and/or land use plans, noting the compressed timeframes proposed for the transition; and
- the need to continue implementing other reforms, including structural reforms to the governance of regional councils, preparing development levy policies, and implementing the new development levies regime.

Complexities that will result from the timing of implementation of system reform and the risk that significant parts of the new system will need to be reconsidered in light of potential future structural change (with the resulting cost for system users).

Section 12 of this submission covers in detail the governance and financial barriers to councils paying for the preparation of regional spatial plans - implementation timeframes are misaligned with LTP processes. In a nutshell, there is a clear misalignment between annual plan and LTP processes, created by the extremely tight timeframes to implement the new RM system. Councils will need to allocate funding in advance, likely in their 2026 Annual Plans, in order to ensure that RSPs can be prepared by September 2027. Councils now have insufficient time to make any changes to the annual plan and the timing for the Regional Spatial Plan (RSP) means it is unclear how councils will be able to fund the preparation of the RSP.

Local Waters Done Well

The 2027-37 LTP will see a significant shift for councils as water services are established. These changes coincide with RSPs' notification and expected regional decisions on infrastructure, including three waters. This creates additional complexity

for the next LTP and for water services' inclusion in the RSP. Full participation to effect water services is not guaranteed as standing up of Council Controlled Organisations may not be complete.

Climate Change Response Act

Government has signalled that it intends to amend the Climate Change Response Act (CCRA) to require local authorities to prepare adaption plans for certain priority areas. While the Government's intention is that these priority locations will be identified in the first RSPs, the practical consequences of that requirement (and the complexities and process for preparing the adaptation plans), will not be known until the reforms to the CCRA have been introduced. For many regions, this realistically means that implementation of CCRA actions cannot be progressed until the preparation of the second generation of plans under the new resource management system. The absence of this information from first generation RSPs prevents the efficacy of RSPs and is a lost opportunity.

Proposed reforms to governance structure for regional councils and regional reorganisation plans

The Government has announced proposals to reform the governance of regional councils, through the establishment of Combined Territories Boards (**CTBs**), and a requirement to develop regional reorganisation plans.

The Government indicated that the reorganisation plans were intended to occur alongside the PB and the NEB. If the proposed replacement of regional council governance were to progress (via changes to the LGA), it may be the CTBs (if established) would become the relevant decision-making body for decisions under the Bills (in place of the SPCs). The time and resources required to establish the SPC cannot be underestimated. Under the current proposal for CTBs, the SPC will be short-lived, with the CTB is established mid-way through the RSP process. This is a wasteful and inefficient use of council time and resources.

In terms of the regional reorganisation plan component of these reforms, it is realistic to anticipate that regional spatial planning, natural environment planning, and administration of a combined regional plan would be supported by administration at a regional scale, noting that the shape or number of regions could change through this process. Taituarā wants to signal how this consultation could impact the implementation of the new resource management system. The potential replacement of regional council governors, together with a requirement for local authorities in a region to develop regional reorganisation plans may result in loss of leadership that has experience relating to regional functions at the very time sound, experienced leadership is required. The uncertainty this consultation creates for the sector will be a major distraction, and some of the same resource that is required for implementation of the new RM system will be pulled into supporting the new governance arrangements and working on the regional reorganisation plans.

At an officer level, the uncertainty created by this consultation is likely to lead to valuable and experienced officers leaving local government.

The loss of experienced governors and staff at the time multiple and complex reforms require implementation militate against the success of new systems.

Local Government (System Improvements) Amendment Bill

The Local Government (System Improvements) Amendment Bill does not include "planning" for the natural and built environments as a core service that local authorities must consider when performing their role. However, implementing the Bills is a regulatory function of local government. The Bills continue to provide local authorities with a wide range of policy roles, functions and duties.

Development levies – changes to LG funding for infrastructure

The Government has recently outlined reforms designed to assist local authorities to fund the infrastructure, services and other facilities that are necessary to support urban growth, and has released a preliminary draft of legislation that is intended to overhaul the way in which councils fund growth-related infrastructure, by replacing the current *development contributions* regime with *development levies*.

The proposed development levies are intended to better support the "growth pays for growth" principle, with predictable, flexible funding for infrastructure, and greater predictability for developers about the levies they will be required to pay.

Development levies are proposed to be calculated based on the aggregate cost of providing infrastructure capacity for growth across the levy area. The NEB and the PB are intended to create a more enabling framework for growth, without urban-rural boundaries and greater potential for unanticipated or out-of-sequence growth. Local authorities will in practice, require tools that allow for the costs of that growth to be recovered from developers.

If the Government proceeds to implement the proposed cap on increases in rates it becomes critical that local authorities can recover the total cost of growth from developers via improved funding tools, and financing of infrastructure is undertaken by others where the need for its provision is misaligned with councils' LTPs and RSP implementation. Proposed changes to the Infrastructure Financing and Funding Act do not make special purpose vehicles mandatory.

The proposed timing of the development levies also does not align with the implementation timeframes of the new RM system. The inability for councils to collect financial contributions in the new system and the timing to establish development levies creates a gap for some councils, which is a significant funding risk for councils.

Further the system lacks recognition at the goal level of the importance of resource management in enabling infrastructure to be delivered effectively and efficiently.

It is recommended that Section 11 of the Planning Bill include a goal “to support the cost-effective delivery of infrastructure and public services by government and communities” (preferred) or, if that is not supported, that this concept is included in a definition of a well-functioning urban area in national direction.

Different governance structures

Adding to the complexity of multiple reforms the Government proposes different local authority joint committee governance and decision-making models for different purposes under different laws and reform proposals. It is unclear why different models are proposed, or whether the varied approaches reflect the lack of cohesion between multiple reforms requiring local government implementation. Although each proposed structure has limitations this approach is costly, duplicative and inefficient:

- Under the Emergency Management (EM) Bill – Councils’ mayors and the chair of the regional council all participate (unknown allocation of voting rights) in a joint EM committee, along with other agencies. The Committee decides on the Emergency Management Plan. There is no requirement for each local authority to form a decision or adopt the Emergency Management Plan, although in practice, there would have to be local authority decisions on funding and liability aspects, before some of the content can be legitimately decided upon by the EM Committee (s.91(1)(g)). Decision-making on the emergency management plan does not flow into lower-order decision-making for implementation.
- Under Simplifying Local Government consultation, the allocation of voting rights is unconfirmed, other than the exclusion of the chair of the regional council in the combined territories board (CTB). Decision-making is removed from each local authority, with final decision-making power centralised in the Minister.
- Under the Planning Bill, decision-making on the regional spatial plan is allocated to constituent local authorities. An incomplete conflict-resolution process is proposed, overlain by Ministerial decision-making. Additional Ministerial powers enable Ministerial intervention in decision-making.

Recommendations

Coordination of reforms

- Avoid contemporaneous implementation of local government reforms. If implementation timeframes are unchanged (a) harmonise governance structures with more efficient decision-making steps and (b) support implementation with dedicated central government funding and support mechanisms

Local Government (System Improvements) Amendment Bill

- Include “planning” for the natural and built environments as a core service that local authorities must provide in the Local Government (System Improvements) Amendment Bill

6.0 Implementation

We want to ensure the transition arrangements are workable, adequately resourced and there is sufficient capability and capacity within the local government sector and workforce to make the significant shift to the new system. Taituarā is very pleased to be working with officials on implementation and we are committed to working together to get the new resource management system across the line.

The timeline for implementation is hugely ambitious and, we consider, unworkable, with the consequence that it will either need extending or it will result in planning documents that are rushed and lack quality and integration, risking the overall success and intended outcomes of the system. This will be echoed in submissions from across local government, the planning industry and from sector groups representing different interests. We urge the select committee to consider the details of our submission and of these submissions carefully.

The transition timeline 'puts the cart before the horse' by only allowing for 6 months to prepare a regional spatial plan (**RSP**) after receiving the national policy direction and some national standards, and then having other national instruments (that could include environmental limits relevant to the RSP) due 6 months **after** it is notified. Practically, this means that decision makers are either unable to take into consideration these limits, or ongoing statutory processes will need to be wound back to allow these matters to be addressed (for example to reopen submission processes or renotify plans).

The timeline in **Appendix 2** shows the key steps set out in the Bill and when they are likely to occur.

6.1 Delivery of National Direction

The Government is aiming to pass the Bills into law mid-2026, with changes to consenting beginning one month after Royal Assent. Nine months after the Bills are given Royal assent, the Bills provide that the following are to be issued:

1. PB and NEB national policy: National Policy Direction (NPD) under each of the Bills;
2. PB national standards: national standards that set the evidence base supporting combined plans;
3. NEB national standards: national standards required by "section 6.5(a), (b), and (d) and section 6.8(1)b)" of the NEB – albeit these provisions do not exist in the NEB.

The Government's 'Overview of New Zealand's new planning system' factsheet states that the Government intends for this first suite of national instruments to include the NPD for the PB and the NEB, nationally set environmental limits relating to human health for the freshwater, coastal water, land and soil, and air domains, national standards needed for RSPs, an indicative list of standardised zones and overlays, and a set of transitional national rules that sit outside plans and support the transitional consenting framework.

15 months after the Bills receive Royal assent, the first RSPs are to be notified (or within 6 months after the first national policy direction is issued). The Bill does not give any direction on when the different timing options are available (e.g. "whatever is latest in time").

The second suite of national standards are to be issued 18 months after the Bills receive Royal Assent, estimated to be in December 2027. The PB provides that these standards will be made up of national standards on standardised provisions.

It is not clear which national direction standards required by the NEB will form part of this tranche. However, MfE's factsheet indicates this second tranche will include:

- national standards needed for the LUP and NEP components of regional combined plans;
- standardised plan content, including land-use zones and overlays under the PB (as is confirmed in the PB); and
- processes to set and manage ecosystem health limits to safeguard life-supporting capacity for the freshwater, coastal water, land and soil, and indigenous biodiversity domains

The Ministry for the Environment has indicated that there will be a third suite of national instruments to be released around mid-2028, establishing the allocative methods for regional councils to use when allocating natural resources through NEPs. The lack of certainty in the bills about timing will compromise regional councils' ability to prepare their NEPs in an efficient manner.

The first LUPs and NEPs are to be notified nine months after decisions are made on regional spatial plans. This is estimated to be in December 2028. At this point, all of the components of the combined regional plans would have been notified. Should the Minister be satisfied with these plans as notified, the Order in Council will be made to specify a transition date, at which point the 'transition period' is over.

Decisions on LUPs and NEPs are due 12 months from their notification, estimated to be in December 2029. Based on this timeframe, at the earliest, the new system under the Bills will be fully operational in three and a half years' time.

The Bills must be clear, and drafting errors corrected, to confirm when each set of national direction will be delivered, given the significant role it needs to play for the new regime to be successful. Amendments are necessary to relate delivery timeframes to each sequence point, not Royal assent, given the inter-dependency between different national direction and subsequent implementation steps, like regional spatial plan preparation. Local authorities' ability to produce compliant and effective plans is hampered by the national direction delivery timeframes, as discussed below.

6.2 Issues with the implementation timeline

The wording of the clauses in relation to national direction does not clearly define **what** is required and **when**. The substantive issue with the implementation timeline is the integration between national instruments and the notification of, and decisions on, the RSPs. If national direction comes too late in the piece, this will create issues for implementation. For example, new national instruments on allocation may be too late to properly inform the preparation of the NEPs.

The RSPs must be consistent with national instruments and environmental limits yet they are required to be prepared only 6 months after receiving the national policy direction, and it is not clear what will be included in the first tranche of national direction. 6 months is not enough time to prepare a RSP for notification, including the process / steps required by the Bills. Given it is critical that the national policy direction is issued, the timeframe for the first RSPs (and other plans) to be notified must be based on the delivery of each relevant national instrument(not on a time period following Royal Assent). This will allow for slippage in delivery of the national policy direction which, given the complexity of this, is considered to be likely as acknowledged in the Bill by a Ministerial time-extension power.

The second tranche of national instruments is expected to include the methodologies through which regional councils are to set ecosystem health limits. These will be released **afte**r the RSPs are set to be notified, meaning regional councils cannot have set ecosystem health limits in time to indicate sensitive areas in RSPs where urbanisation is to be avoided, or other locations intensified, as the prescribed methodologies will not yet be available. The requirement for an RSP to be consistent with these environmental limits is problematic, as they will not be available at notification of the RSP. First-generation RSPs will not be able to be consistent with ecosystem health environmental limits.

After these methodologies are released under the second suite, regional councils will only have three months to set these limits until territorial authorities are due to issue decisions on the RSPs.

The current timeline is internally inconsistent, legally risky, and operationally unrealistic. A slower, properly sequenced rollout will:

- improve plan quality,
- reduce litigation,
- support councils as implementers,
- and increase the chance the new system actually delivers its intended outcomes

6.3 Amended implementation timeline

Taituarā advocates for an amended timeline for implementation. We have considered the timeline for Regional Spatial Plans in detail. The PB specifies **15 months** from the Bills becoming law for RSPs to be notified. The Taituarā Resource Management Reference Group (RMRG) has broken down the process to develop a draft RSP for notification (see **Appendix 3** and the graphic at **Appendix 4**). Our work shows that a "best possible (but unlikely) scenario" is expected to take a total of **23 months** for the preparation of the draft RSP. This includes developing the Process Agreement (the PB allows 14 weeks) and setting up the Spatial Planning Committee (SPC) (we have assumed 2.5 months for this). We have assumed that some tasks can be done in tandem (i.e they do not all need to be done sequentially) and that some steps can be started soon after the Bill becomes law and well before the first tranche of national direction is published. Some regions will have early discussions ahead of enactment, based on the provisions of the Bills, and we encourage this.

Taituarā holds real concerns at the 15-month timeframe proposed in the PB and that the first tranche of national direction is only to be made available just 6 months before the draft RSPs are to be notified. The National Policy Direction and National Environmental Standards are a critical part of the new framework, clause 67 requires that RSPs must implement national instruments made under this Act. The conundrum is that in order to meet the 15 month timeframe, councils will want to get started early and to do this, will need to use the best available information. This best available information will be the strategic documents that are already available: Regional Policy Statements, growth strategies, future development strategies.

The new system is reliant on both National Policy Direction being done well and Regional Spatial Plans being done well, but it is clear the proposed timeframes will **not** let this happen. Local government is very invested in National Policy Direction being done well and Regional Spatial Plans being done well. We appreciate the desire to have the new resource management system have full effect in the shortest time possible. The compromise with this, however, is the quality of RSPs (and probably NPD).

Taituarā has considered a number of options. The most obvious is to **extend the timeframe for the notification or the draft RSPs**, to take account of the actual work involved in their preparation.

Taking the Government's approach, that only limited NPD (ie the first tranche) is needed for the first RSPs, Taituarā suggests that the timeframe should be extended from 15 months after Royal Assent to **24 months** after Royal Assent, to accommodate the practical steps needed to prepare a draft RSP.

A second option, and based on retaining the 15-month timeframe, is to amend the Bill to require an "**interim RSP**" to be notified. This interim RSP would be based on the existing information described above (RPSs, FDSs, existing growth strategies). The interim RSP would be a different concept – it wouldn't do anything new as it would be based on existing documents, so it would have a limited scope.

Taituara has carefully considered the timeframe for the preparation of a draft RSP to the point of notification. We have not undertaken the same exercise for NEPs and LUPs. Our work shows that a "release valve" is needed to enable timeframes to be extended. We recommend the ability to do this by an Order in Council and suggest this is included in the PB.

We have a general concern that timeframes here and elsewhere in the Schedule need to be based on the most recent milestone event rather than the date a regional spatial plan is notified. Perverse outcomes are likely by calculating process requirements on long-completed rather than current procedural steps.

In order to meet truncated timeframes, in theory work could begin ahead of enactment of the new legislation. However, it is unrealistic to expect local government to scale up early ahead of enactment, given the levels of uncertainty and risk of change.

The proposed timing also creates funding issues in that existing Long-Term Plans (2024-2027) are unlikely to have identified funding for significant work on new regulatory plans within this time period (the Spatial Plan is expected to be developed during 2026 and 2027, with notification in the third quarter of 2027.

Recommendations

Timeline for implementation

- The Bills must be clear, and drafting errors corrected, to confirm when each set of national direction will be delivered,
- Relate delivery timeframes to each sequence point, not Royal assent, given the inter-dependency between different national direction and subsequent implementation steps,
- Re-sequence the statutory framework so that RSPs are prepared **after** all necessary national direction is released and environmental standards confirmed.
- Irrespective of the decision on (1) above, extend the timeline for implementation:
    - allow at least 24 months from enactment of the Bills) for notification of the draft Regional Spatial Plans; and
    - determine a realistic timeframe (with local government) for National Environment Plans and Land Use Plans
- If the timeframe for preparation of draft Regional Spatial Plans is not to be adjusted, develop the option of an Interim Regional Spatial Plan.
- Add a clause enabling the extension of time by an Order in Council for RSPs, LUPs and NEPs
- Provide clarity in the Bills as to when each tranche of national direction will be confirmed and what each tranche will contain.

6.4 Implementation costs

Supplementary Analysis Report and Regulatory Impact Statement estimates

The Supplementary Analysis Report (SAR)[1] (published November 2025) builds on the Regulatory Impact Statement (RIS) [2] (published March 2025), prepared in relation to the "Blueprint".

Castalia's *Economic Impact Analysis of Proposed Resource Management Act Reforms* (Castalia, 2025) identified the following broad areas of cost which will fall to local government.

One-off establishment costs as the new Planning Act and Natural Environment Act are assumed to include, broadly:

- Developing new regional spatial plans
- Transitioning to combined district and natural environment plans

[1] Supplementary-Analysis-Report_-Replacing-the-Resource-Management-Act-1991-Further-Policy-Decisions_Redacted.pdf

[2] Replacing the Resource Management Act

- Updating processes for standardised zones, national direction, and new consenting pathways
- Changing administrative systems to align with ex-post compliance and a new Planning Tribunal

The RIS and the SAR conclude that the reforms will create short-term costs for local government, primarily due to transition activities including new plan development, system redesign, and capacity and capability building. And that the long-term costs to local government are expected to fall substantially, as shown by major reductions in system-wide administrative and compliance costs. Castalia expects that local government will capture a significant share of these cost savings over time as planning, consenting, and compliance become more standardised and streamlined.

The SAR, at Table 19, estimates administrative costs to local government (and other parties). The **establishment costs of the proposed system to local government** are estimated to be **$860,840,891** and the **net change in annual ongoing cost** of the proposed system relative to the current system is estimated to be **$195,556,667 for local government**.

The RIS (prepared prior to the SAR) includes detailed estimates of the establishment administrative costs and the ongoing costs of the Blueprint package. The RIS estimates that the establishment administrative costs of the Blueprint package to **local government** are a total of **$470.55 million.** For completeness, the detailed breakdown of the establishment costs to local government in the RIS is located at **Appendix 5** (noting there is no visibility of any rework of these detailed costs for the SAR).

The costs associated with the new RM system cannot be looked at in isolation. The Regulatory Impact Statement (RIS) for the Emergency Management Bill has identified implementation costs that will fall to local authority members of CDEM groups over a 4-year period are an additional **$82 million** dollars. Implementation costs associated with building reform and potential local government reform are still to be determined.

We appreciate the difficulties in estimating costs associated with a reform of this scale. It is unclear to what extent the cost estimate has built in (1) the very complex transition period described below and (2) the extent of rework which will be required to plans as a result of the sequencing of national direction.

Potential underestimation of costs

Taituarā is concerned that costs will significantly exceed the estimates contained in the RIS and the SAR. We have considered the assumptions in the RIS and make the following comments:

- The estimated $1.9M to develop or review a plan is very inaccurate. For example, Auckland Council spent more than $75M preparing the Auckland Unitary Plan (similar in breadth and content to the now proposed combined

plan), taking it through the hearings and appeals. Public engagement alone cost $372,000 (in 2016). This is approximately the Ministry's current estimation for a whole plan review in the new system (RIS Table 4 *Estimated ongoing administrative costs of regional and district plan making and implementation*).

- Auckland Council has currently budgeted $70M in its Long-Term Plan to review the Auckland Unitary Plan.

- The assumption that implementation cost of national direction will automatically reduce because instruments will reduce in number is simplistic. While the number of national direction instruments will decrease to one each per Act, their breadth, complexity and implementation range will be considerably greater. Each NPD must address all relevant topics and domains, rather than the single domain/topic a national direction does under the RMA. Each will also be more complicated because it must resolve policy conflicts in the absence of a statutory purpose and absence of a system goals hierarchy. The span of implementation that follows must be broader, and will likely cost more to implement. (RIS Table 3).

- We also dispute the estimates of local government costs to implement national direction: $88M/annum across the local government sector for each council to implement two items of national direction averages at approximately $1.1M each (RIS Table 3 *Estimated establishment administrative costs of national policy direction and implementation*). Auckland Council alone cites they have incurred more than four times that estimate for implementation of National Policy Statement Freshwater Management and National Policy Statement Urban Development. We urge you to consider the submission of Auckland Council carefully and question these estimates contained in the RIS.

- We are also concerned (as discussed elsewhere in this submission) that the potential for change at the top of the system has not been factored into ongoing operational costs. Ministerial decision-making on National Policy Direction means the policy pendulum will swing with electoral cycles. Repeated change with associated cost will create uncertainty lower in the system and for system participants, including local authorities, which will lead to plan amendments. Estimates of the expected costs of implementation for these policy mandates in the ex-ante analyses published by the central government1 often suggest that the impact on local government budgets is not material. These estimates have not considered the need for rework and the cost of consultation and hearings on policy changes at the local level.

The sector does not have visibility of what proportion of the costs to implement the new system will need to be met by local government, noting this depends on the outcome of decisions about funding by the Government of an implementation package. Given the costs for implementation will fall to local government in an environment that is fiscally constrained and will soon have mandated caps on rates increases, this must be flagged as a very real risk to implementation. By way of

example, if central government does not provide the e-planning platform necessary to consistently implement the combined plan. Each local authority will need to undergo its own procurement exercise, which is tremendously wasteful of public monies and extraordinarily inefficient.

Recommendations

Implementation costs

- Provide visibility to local government as soon as possible about the details of where implementation costs will fall
- Work with local government to develop a realistic estimate of implementation costs

7.0 The transition

7.1 A complex transition period

During the 'transition period', the RMA will remain in force subject to amendments made by Part 1 of Schedule 11 of the PB. The insertion of new sections 104(1A), (1B), (1C), and (1D) have significant implications for how resource consents will be processed during the 'transition period'. A particularly complex matter will be how to process a resource consent by excluding specific effects when those effects are reflected in the RMA framework, policy planning provisions that will be applied to the consent in practice, and other relevant matters.

The PB makes changes to the RMA that will apply from one month after Royal Assent. The changes to the RMA are set out in Part 1 of Schedule 11 of the PB and include:

- the introduction of 'transitional national rules' into a myriad of sections where they must be considered, and those rules prevail over national environmental standards;
- 'procedural principles' (that mirror those in clause 13 of the Bills) which apply to decisions on resource consents;
- the removal of the 'special circumstances test' from public notification (by the repeal of section 95A(9)), but **not** from limited notification;
- the exclusion of certain adverse effects from consideration in a resource consent application (mirroring those in clause 14 of the PB);
- providing that the consent authority may disregard a national environmental standard or a plan or proposed plan to the extent that it regulates or purports to regulate an effect described in subsection 104(1A);
- a requirement to consider consistency with a RSP and a future development strategy in resource consent decisions;

- the repeal of section 79 of the RMA being the requirement for review of policy statements and plans; and
- providing provisions on adverse publicity orders and financial assurances and other enforcement related amendments.

The RMA will be repealed by Order in Council when all plans making up the combined plan for each region have been notified (i.e. the RSP, land use plan (**LUP**) and natural environment plan (**NEP**)). The end of the transition period may be applied only in certain regions. It will be for the Minister to recommend that an Order in Council is made that specifies the 'transition date'. That 'transition date' brings an end to the 'transition period' by:

1. repealing the RMA;
2. bringing into force the remaining provisions of the Act; and
3. giving legal effect to all LUPs and NEPs

At this point, notified plans would have legal effect and the new planning system will be 'switched on', with all new system instruments and processes applying instead. This means the RMA system (as amended by the Bills for the 'transitional period') will continue to be the law for a number of years.

This all adds up to an extremely complex transition period for local government and for all system users. Clear and timely guidance will be needed to enable councils to consider how this transition will be managed and how to communicate this (clearly) to the public and to system users who will be committing resources to preparing applications now.

Recommendations

Transition

- Work with local government to develop clear and timely guidance on the transitional provisions well ahead of enactment of the new legislation
- Work with LG to develop clear communications for the public/system users well ahead of the enactment of he new legislation

7.2 Amendments to the RMA in the transition period

Transitional national rules

During the transition period, references to 'transitional national rules' will be inserted throughout the RMA. The term will be defined by an insertion into section 2 of the RMA, as follows:

> **Transitional national rule** means a national standard that—
> (a) is made under the Planning Act 2025 or the Natural Environment Act 2025; and

(b) is identified in that standard as a national rule that has legal effect during the transition period within the meaning of clause 1 of Schedule 1 of the Planning Act 2025.

These references to transitional national rules will appear in the RMA alongside the various existing references to national environmental standards, and in some places, regulations.

Where there is a conflict between a national environmental standard under the RMA and a transitional national rule, the rule will prevail over the standard. The effects of this amendment are yet to be seen on account of the sparse detail relating to transitional national rules that has been released to date. Beyond these insertions into the RMA, there is no other mention of transitional national rules in either of the Bills, and none of the material released by the Government sheds further light on what such rules might entail. To date, without the necessary detail, the potential adjustments to the way in which the RMA is applied during the transition period are far from clear.

The recently-gazetted NES-Detached Minor Residential Unit (NES-DRMU) provides a good case study of the complexity associated with a set of national rules being laid over local rules. For the NES-DRMU, every new national rule cuts across existing local rule frameworks, such that councils must meticulously identify which parts of which rules still apply, which are more stringent and which are less stringent. And the complexity must be explained to applicants. To minimise complexity, transitional rules should be kept to a minimum during this period. A focus on short-term amendments will divert both national resources from getting the new framework right and local resources from gearing up for the new system. We need stable consenting in the transition, while we all focus on setting up the new framework well.

Cl 5 Schedule 1 First key instruments under this Act and Natural Environment Act 2025

There appears to be an error in the cross-referencing in cl.5(3)(a),(b),(c) of Scheule 1. We have been unable to find the sections referred to within either Bill:

(3) After the first national policy direction is issued under the Natural Environment Act 2025—

(a) national standards required by **section 6.5(a), (b), and (d)** of that Act must be issued within 9 months after Royal assent; and

(b) national standards required by **section 6.5(c)** of that Act must be issued within 18 months after Royal assent; and

(c) national standards required by **section 6.8(1)(b)** of that Act must be issued within 9 months after Royal assent.

We have also been unable to identify within the Bills the correct clauses. This type of clause numbering (ie 6.5) is not typical of the drafting of primary legislation. We have assumed that the references are to sections in secondary legislation that is yet to be released. This uncertainty is unfortunate as it impacts on our ability to make an informed and helpful comment re the feasibility of timeframes.

Recommendation
Transitional National Rules

- Minimise the number of Transitional National Rules in the PB and the NEB
- Provide clarity in the Bills in relation to Transitional National Rules so it is clear how the RMA is to be applied during the transition period.
- Provide guidance about the Transitional National Rules and develop clear communications material for applicants

7.3 Procedural principles during the transition

New section 18B, inserted into the RMA, will require anyone exercising powers under the RMA during the transition period to "take all practicable steps" to comply with a series of procedural principles. These include requirements to:

1. use plain language;
2. act in a timely and cost-effective manner;
3. act proportionately to the scale and significance of the matter;
4. ensure they have enough information to understand the implications of their decision (after considering both the cost and feasibility of obtaining the information, and the scale and significance of the matter to which the decision relates); and
5. act in an enabling manner (for example, by being solutions-focused) that is consistent with the above principles

These mirror the procedural principles established at clause 13 of both Bills (except clause 13(f) which requires decision-makers to avoid unnecessary repetition in key instruments). We consider there are likely to be issues with the interpretation of some of these principles – especially around what an "enabling manner" is intended to mean. And from an implementation point of view, it is not clear how this direction will interact with decision-making tests elsewhere in the Act.

Given the Government's intention to avoid giving room for interpretation issues and resulting litigation further down the 'funnel' structure, we imagine national instruments are intended to provide further guidance. However, not all of these instruments will be available throughout the transition period, meaning the interpretation issues are likely to be more severe earlier on. This risks creating the

very issue the RMA has been criticised for – that implementation was stymied because the required national direction was not provided at the outset.

Taituarā submits that the requirement to adopt an ‘enabling approach' appears to be a substantive direction rather than a procedural principle and should be removed.

Recommendation

Procedural principles

- Remove the procedural principle “Adopting an enabling approach”
- Develop guidance on the relationship between the new procedural principles and decision-making tests within the legislation

7.4 Enforcement during the transition

Further amendments come in the form of provision for financial assurance (e.g. bonds) and adverse publicity orders. The PB inserts several provisions detailing how financial assurances are to be applied, into the RMA, and these provisions appear to mirror those in the PB that will come into force on the specified transition date. The same appears to be true for the provisions relating to adverse publicity orders.

However, there are other new enforcement tools in the form of enforceable undertakings, adverse publicity orders, monetary benefit orders, and pecuniary penalty orders. These tools are set out in Schedule 8 of the PB, but notably are absent from the tools inserted into the RMA for the transition period. Given Schedule 9 of the PB – which relates to the Environment Court – does not come into force until the specified transition date, it appears that the Government does not intend for the Environment Court to fully adopt its new powers and functions until the new regime is fully operational.

In terms of existing tools (i.e. abatement notices, infringement notices, enforcement orders, and prosecution), enforcement processes undertaken under the RMA **during** the transition period must be continued under the RMA **without** the amendments made to it by the Bills. Specifically, there are no amendments that exclude certain effects from being considered in enforcement processes during the transition period, like those excluded by the new section 104(1A) for consenting.

We support that some of the new enforcement tools under the Bills will be available during the transition period. However, we are concerned that problems may arise from the lack of alignment between the transitional consenting and enforcement frameworks – namely, the fact that some effects are excluded from consenting decision-making, but not for enforcement matters. This may lead to situations where enforcement actions are sought in relation to certain adverse effects – like the removal of something that is impacting an amenity landscape zone – but if the party that enforcement action is taken against then seeks a resource consent for that

activity, the impact on visual amenity of the activity would be excluded from consideration.

We also consider the use of the “processes undertaken” terminology could be made clearer. Is this intended to capture non-compliant works that happened during a certain period, or is it intended to capture the actual bringing of enforcement action?

Recommendations

Enforcement during the transition

- Align the transition period consenting and enforcement frameworks
- Clarify the terminology “processes undertaken”
- Provide guidance on:
    - Which enforcement tools are available during transition and which are not
    - How to interpret “processes undertaken” in relation to enforcement actions
    - How to manage situations where effects excluded from consenting **are still relevant** for enforcement

7.5 Issues with consenting during the ‘transition period’

Resource consents during the transition

The PB states (Schedule 1, clause 11(b)) that if a resource consent application is made during the 'transitional period' it will be processed and determined under the RMA as amended by the PB. There appears to be an error in this clause of the PB, which states that the RMA will apply as amended by Part 1 of Schedule 9. This schedule relates to the constitution of the Environment Court, and as established in clause 2 of the PB, will not be in force until the end of the transition period. Amendments to the RMA are instead set out in Schedule 11 of the PB.

Beyond this cross-referencing error, the impacts of these amendments on resource consenting in the transition period are significant and Taituarā holds significant concerns with the approach proposed in the Bills. The approach is very complex and will result in legal challenge and inconsistent application. We urge the Select Committee to recommend minimal transitional national rules in the transition period.

The RMA will be amended to insert sections 104(1A), (1B), (1C), and (1D). Section 104(1A) will preclude a consent authority from having regard to a number of effects of allowing the activity in question (reflecting clause 14 of the Bills).

Schedule 11, Part 1 of the PB lists these:

(a) the internal and external layout of buildings on a site (for example, the provision of private open space);

(b) negative effects of development on trade competitors, including on competing providers of input goods and services;
(c) retail distribution effects;
(d) the demand for or financial viability of a project;
(e) the following matters:
    i. the type of residential use; and
    ii. the social and economic status of future residents of a new development;
(f) views from private property;
(g) effects on landscape, excluding—
    i. areas of high natural character within the coastal environment, wetlands, lakes, rivers, and their margins;
    ii. outstanding natural landscapes and features;
    iii. sites of significant historic heritage;
    iv. sites of significance to Maori;
    v. effects on natural hazards; and
    vi. contaminated land.

New section 104(1B) allows a consent authority to disregard existing national environmental standards, plans, or proposed plans to the extent that they regulate the effects out of scope listed above. This gives consent authorities a discretion (as opposed to new section 104(1A) which is mandatory). Our legal advice considers this will be very unclear for consent authorities and could make consenting in the transition period very difficult. This may lead to inconsistent consideration of existing RMA planning instruments during the ‘transition period’, and without further guidance from the Government, in certain cases may leave local authorities unsure of the place of existing instruments.

As mentioned above, existing RMA planning instruments including national policy statements, national environmental and environmental standards, regional policy statements, and district and regional plans will remain in force until the end of the transition period. However, certain transitional amendments may apply to these instruments, like the insertion of a new 104(1B).

If the Government truly intends to make the transitional regime efficient and effective (and enabling), it should do the least possible tinkering with existing planning frameworks during the transition. These should be left stable and consistent, allowing central government officials and local government officers to focus on the new system.

A potential issue with this pre-emptive narrowing of effects speaks to the overarching structure of the new Bills, being the 'funnel' that is intended to narrow matters for consideration at each decision-making point. The way in which consent authorities are to make decisions under the funnel structure will be heavily dependent on the NPD and national standards released by the Government. However, as set out in the timeline above, this guidance will not all be published at the same time, but instead will be dispersed throughout the transition period.

If consent authorities are intended to make decisions right from the beginning of the transition period in a way that aligns with the Government's new philosophy on decision-making, but without all the relevant guidance to implement this philosophy, local authorities may struggle to make consenting decisions in a standardised and cohesive manner. It also risks an increase in disputes about how the provisions are to be applied. This is particularly the case during the first nine months of the regime, before any new national policy is available. This potential issue could impede the Government's aim of achieving standardised consenting practices nation-wide.

Another problematic aspect of these narrowed effects is that the Bills have not adjusted notification provisions in the RMA accordingly. Sections 95 and 95A of the RMA provide for public and limited notification of resource consent applications, under which consenting authorities may notify a consent application based on a more than minor effect. Such an effect could feasibly include one that is listed in the new section 104(1A), meaning the effect that triggered public notification would then have to be excluded from consideration when the application is processed and determined.

The new section 104(1D) of the RMA will require a consent authority to consider the extent to which its decision on a resource consent application is consistent with any relevant RSP, and any relevant future development strategy published before such a RSP is notified.

This amendment does not change much around the relevance of future development strategies, which are already often considered by consent authorities as a relevant matter under section 104(1)(c). However, the requirement to consider RSPs may be more problematic because:

- First, it is not yet clear how consent authorities are to manage potential conflicts between RSPs and existing RMA instruments like national direction, regional plans, or district plans (i.e. which is to be given more weight).
- Second, this change means that there is a further divide in how consents will be treated during the transition period, beyond the initial split between those lodged before or during the period, as there will also be consent applications that are lodged before the notification of the relevant RSP. The full scope of the differences between RSPs and predecessor future development plans will be seen in due course, but at this point, we envision this additional divide to be yet another hurdle to consistent consenting standards across the country.

Recommendations

Resource consents during the transition

- Redraft the relevant sections of the Bills that relate to consideration of existing RMA planning instruments during the 'transition period' to remove any issues of interpretation and to support the consistent application.
- Provide guidance on:
    - How to apply the list of excluded effects in s104(1A).
    - How to use the discretion in s104(1B) to disregard NES or plan provisions.
    - How to reconcile existing RMA planning instruments with the new exclusions.
    - How to handle notification decisions when an effect may trigger notification but must later be excluded from substantive consideration.

7.6 Designations during the transition period

The same issue on the narrowed scope of effects applies for designations. Section 171 of the RMA is amended to insert section (1C) which states that "when considering the effects on the environment of allowing the requirement under subsection (3), the territorial authority must not have regard to any effects described in section 104(1A)."

However, section 171 does not contain the supplementary amendment as section 104 has received, namely providing a discretion to disregard a national environmental standard, a plan, or a proposed plan that purports to regulate an excluded effect (despite those being a relevant consideration for designations). The amendments do not require a future development strategy or RSP to be taken into account as they do for resource consents, despite those potentially being just as relevant to designations.

There is a clear inconsistency in amendments to section 104 and 171, as section 171 is missing the equivalent of section 104(1B) and (1D).

Recommendations

Designations during the transition

- Redraft the PB so section 171 and 104 of the RMA are consistent – so the approach for resource consents and designations is the same regarding excluded effects.
- Provide that a designation must take account of an RSP (as it does for a resource consent).

7.7 RMA Planning processes during the transition period

The 'plan stop' in sections 80O-80Y of the RMA remains in place during the transition period, until the 'specified transition date'. Part 1 of Schedule 11 replaces the date of '31 December 2027' with the 'specified transition date' in sections 80O and 80P. The effect being that the plan stop is extended until the RMA is finally repealed (as set out in the timeline at **Appendix 1**, likely 3.5 years away).

Any existing planning processes not affected by 'plan stop' or planning processes that are allowed to proceed as exemptions to the 'plan stop' will continue unaffected in the transition period. Notably, the 'effects exclusion' only applies to consents and designations, it does not apply to regional or district plans. The current scope of effects in the RMA will apply to plan making (with the exception of needing to apply any transitional national rules). This is interesting given that any appeal on the planning process will be assessed under the refined RMA, and consenting of activities under the new regime, once operative, will be subject to the 'effects exclusion' discussed above.

Clause 30(2) of Schedule 1 provides that “All proceedings in progress or pending in the Environment Court operating under the RMA immediately before the commencement of this clause must be continued, completed, and enforced under that Act”. It appears that the RMA would apply to any appeal before the Environment Court in the transition period or remaining after the end of it.

The 'and enforced under that Act' language could also be problematic, given that the Bills clearly provide that the 'effects exclusion' change will apply to RMA instruments. The Bills also state that the effects exclusion applies to RMA instruments. But Clause 30(2) requires enforcement of Court decisions under the RMA. This creates a potential conflict:

- An Environment Court decision may require enforcement based on effects the new regime says must be excluded.
- Decision-makers could face uncertainty about:
    - whether to enforce conditions or outcomes grounded in excluded effects, or
    - whether the new statutory exclusions override the Court’s RMA-based ruling

Likely consequences are an increased risk of judicial review, delays and uncertainty in enforcement and pressure on courts to reconcile conflicting statutory directions.

Taituarā has concerns that having consents and designations subject to the new “effects exclusion” but plan-making not subject to “effects exclusion” will create a **disconnect** between how plans are written and appealed, and how activities are later consented. This raises the risk of internal inconsistency, reduced weight of plan provisions in practice and confusion for applicants and submitters (and local government).

Any appeal on a plan during the transition period will be assessed under the refined RMA, while consenting under the same plan, once the new regime is operative, will apply the effects exclusion.

This will create tensions:

- The Environment Court may assess plan provisions assuming a broader effects-based framework.
- Later decision-makers may be legally required to ignore those same effects when applying the plan.
- This weakens the practical value of Environment Court decisions on plans.

Environment Court proceedings stay under the RMA — even after repeal timing. Clause 30(2) of Schedule 1 states that proceedings "must be continued, completed, and enforced under [the RMA]". The implications of this are that any Environment Court appeal already underway will remain governed by the old RMA, even during or after the transition. This creates a long tail of RMA-based litigation running alongside the new system.

Recommendations

Appeals during the transition

- Provide guidance on how to manage appeals in the Environment Court that must be decided under the RMA, even after repeal.

7.8 Overall system-level implications

Taken together, these provisions extend uncertainty, fragment decision-making frameworks, and increase legal complexity during transition.

Practically, this means higher compliance and litigation risk, and Courts will play a larger role in resolving contradictions rather than interpreting a coherent system.

Transition arrangements are a necessary part of implementing a new resource management system, but some of the proposals will keep the RMA alive longer than expected and strip away parts of its effects-based logic at the same time, creating internal tension between:

- plan-making vs consenting,
- court decisions vs statutory exclusions,
- and continuation vs repeal

These proposals shift risk downward onto councils without providing the tools to manage it. Councils will potentially be left administering a system where plans say one thing, consents must do another, and courts may enforce a third.

The potential for different approaches across councils is significant – because these transitional provisions are so complicated. Recommendations are below, with suggestions for improvement.

Recommendations:

- Require that a transitional national rule cannot be made unless a (new) legal test is satisfied
- Allow councils limited, streamlined plan changes to remove obsolete provisions
- Work with local government to provide implementation support and decision templates to cover:
    - how transitional national rules will interact with existing national environmental standards (NES) and local plans
    - how to manage the coexistence of RMA instruments and new system instruments over several years
    - how councils should identify which rules prevail when conflicts arise
    - how to handle applications lodged before vs during the transition period
    - how to interpret excluded effects
    - how to treat legacy plan provisions

8.0 Purpose and Principles

We have considered legal and practical issues associated with the proposed purpose and principles and the provisions related to Te Tiriti o Waitangi (in the section that follows), and implications for implementation by local government.

8.1 Purpose and principles – Natural Environment and Planning Bills

Decision-making under the RMA

Part 2 of the RMA sets out its purpose and principles. *Section 5* of the RMA sets out a single, overarching purpose: to promote the sustainable management of natural and physical resources. The purpose reflects a balance between development and environmental protection, with flexibility for decision-makers to weigh competing considerations and interests.

In order to achieve the section 5 purpose of the RMA:

- *Section 6* lists matters of national importance to be recognised and provided for:
- *Section 7* lists other matters to be given particular regard to; and

- *Section 8* requires the principles of the Treaty of Waitangi (Te Tiriti o Waitangi) to be taken into account

Decision-making under the Natural Environment and Planning Bills

The approach taken in the Bills is significantly different. The purpose is found in clause 4 of each Bill and is focused on what the Bills **do**:

- PB: to establish a framework for planning and regulating the use, development, and enjoyment of land; and
- NEB: to establish a framework for the use, protection and enhancement of the natural environment.

Part 1 and Part 2, Subpart 1 of the PB contain the PB's "foundations" and "core" provisions. The Bills set out "goals" that establish the guiding principles for the new framework. All persons exercising or performing functions, duties or powers under each Bill must seek to achieve the goals listed in clause 11 of each Bill. There are nine goals in the PB and six goals in the NEB.

Many of the "goals" reflect existing matters of national importance in section 6 of the RMA albeit the language used in the Bills is different in a number of cases. The PB's goals reflect new matters that emphasise the Government's priorities of enabling housing and business growth and delivering infrastructure. Many of the RMA's 'other relevant matters' from section 7, and section 6 matters related to Māori are not carried over into the Bills.

Procedural principles for all decision makers accompany the substantive goals. These were discussed earlier and the point made that it is unclear how these principles relate to decision-making in the new bills.

Clause 4 - Purpose

The Bills' purposes are descriptive only and do not appear to apply in any decision-making made under the Bills. We are concerned that the word 'enjoyment' of land in the PB's purpose is very subjective. The only use of the word in the RMA is found in the section on heritage orders (sections 189(1)(b) and 191) which we consider to be too remote to assist. We consider this needs to be addressed.

Clause 11 – Goals

There is no hierarchy between the listed goals, nor is there any hierarchy between the two Bills. This means there is no explicit ranking of one goal over the other. We understand that the reconciliation of tensions between goals is to play out in the national direction.

When designing national direction, the Minister must have regard to the following principles:

- achieving compatibility between the goals is to be preferred over achieving one goal at the expense of another;
- not all goals need to be achieved in all places at all times; and
- any conflicts within the proposed national instrument should be resolved in that document as far as reasonably practicable.

These principles show a preference for pragmatic compromise rather than ideological purism – but also an acceptance that in some circumstances, some goals simply cannot be reconciled.

We are, however, concerned the Bills do not appear to take a consistent approach to each type of clause 11 goal, which risks unpredictable implementation of the Bills in practice. Note the subsequent discussion of 11(1)(i) (providing for Māori interests) in the section on Te Tiriti (page 33).

Examples are:

Subsection	Issue
PB 11(1)(a) – to ensure that land use does not "unreasonably affect others", including by separating incompatible land uses	This may be the guiding principle in the Bill behind private property rights, however there is no guidance in the PB as to what "unreasonably affect" amounts to, nor how incompatible land uses will be separated. Legislation should not have retrospective effect, so it is presumably focused on new development rather than existing. The new terminology would suggest that existing understandings and case law as to a reverse sensitivity approach, will not assist. “Others” is also vague – does it mean other land users? Other people? Future generations of people on or off the land being used?
PB 11(1)(b) – to support and enable economic growth and change by enabling the use and development of land	There is no reference in the PB as to what 'economic growth and change' means or how this is to be measured. While economic growth is a well understood term, **economic change** is not. There is no proper analysis of the importance of landscape, amenity and heritage to New Zealand’s tourism economy and to attracting skilled migrants. These matters should be narrowed to focus on the tangible contribution these matters make to the visitor economy and migrant attraction, rather than be removed. This would narrow the focus of decision-making on

	evidence related to positive effects of protection on the broader economy rather than NIMBY concerns, maintaining the ability to consider aspects that have broader potential economic effects.
PB 11(1)(e) – to plan and provide for infrastructure to meet current and expected demand	There is no definition of 'infrastructure', except in relation to designations, which may lead to interpretation issues. That definition expands on the existing RMA definition, to include the “additional infrastructure” defined in the National Policy Statement (**NPS**) for Infrastructure released on 18 December 2025. Notably, it does not include natural hazard protection structures (e.g, stop banks, walls or pumps). It is unclear why this definition is not provided in the Interpretation section of both new Bills. The new Bills should use the same definition of infrastructure.
PB 11(1)(g)(i)– to protect from inappropriate development the identified values and characteristics of ...High Natural Character...	This goal does not apply in the NEB. In combination with the constraint in the NEB on considering effects managed under the PB, this means that no particular protection needs to be provided from adverse effects of activities managed under the NEB (e.g., the take and use of water, reclamation of water bodies, or discharges into water) on High Natural Character (HNC) of wetlands, lakes or rivers ....PB(2) requires High Natural Character to be mapped – that is, identification of HNC cannot occur through a consenting process. This places the cost of HNC assessments and identification that have not been done comprehensively across a region, upon district councils.
PB 11(1)(g)(iii) – to protect from inappropriate development the identified values and characteristics of— (iii) sites [of] significant historic heritage	Although 'historic heritage' is defined, 'significant historic heritage' is not. This will lead to uncertainty as to what will be protected from inappropriate development and leaves a degree of discretion as to what is 'significant' enough to justify protection. This could be provided for in national direction, but without such national direction, this will be difficult.

PB 11(h) to safeguard communities from the effects of natural hazards through proportionate and risk-based planning	Wording inconsistency with the NPS-Natural Hazards 2025. The NPS-NH refers to a “risk-based proportionate approach” in the objective or “proportionate management of natural hazard risk” in section 3.3. It is unclear whether “communities” has been used purposefully, rather than the broader “people and property” (used in the NPS-NH). Remove “proportionate and” as by definition, risk-based planning is proportionate.
NEB 11(d) to achieve no net loss in indigenous biodiversity	It is not clear whether the 'no net loss' is to be on the application site, in the wider region, or across New Zealand, and over what time period it applies. This goal does not afford protection to nationally or regionally significant or outstanding habitats of indigenous flora and fauna. Foreseeably, loss of one could be offset by creation or restoration somewhere else. This is a substantial reduction in environmental protection in NZ. Original /advanced natural ecosystems and habitats (and in some cases the endangered species housed in them) cannot be replaced once lost.
NEB 11(e) manage the effects of natural hazard associated with the use or protection of natural resources through proportionate and risk-based planning	The scope of this goal and ability to achieve it are unclear. Given that NEB 14 (b) states that effects regulated under the Planning Act 2025 must not be considered, and that PB11(h) is about safeguarding people and communities from the effects of natural hazards and PB 14(2)(e) encompasses all natural hazard effects, it would appear that regional councils may only be able to consider effects of natural hazards on the natural environment. So, for example, if a new development seeks to discharge stormwater to a stream (with resource permit required), and this will increase flood risk to people’s homes in the lower catchment, will regional councils be unable to consider that risk? If however, the same flood risk will only affect bare land (a natural resource) then regional council could consider it?

Remove “proportionate and” as by definition, risk-based planning is proportionate

Omissions from the goals

Several matters have been left out of the goals (compared to Part 2 of the RMA):

- (6)(e) the **relationship of Māori** and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga
- (6)(g) the protection of **protected customary rights -** although we note that while not referenced in the goals, the rights are protected separately in the Bills, which raises a question as to whether the goals are wide enough
- (7)(a) **kaitiakitanga**
- (7)(aa) the ethic of **stewardship**
- (7(b) the **efficient use and development** of natural and physical resources
- (7)(c) the maintenance and enhancement of **amenity values**
- (7)(d) the intrinsic values of **ecosystems**
- (7)(f) maintenance and enhancement of the **quality of the environment**
- (7)(g) any **finite characteristics** of natural and physical resources
- (7)(h) the protection of the **habitat of trout and salmon**
- (7)(i) the effects of **climate change**
- (7)(j) the benefits to be derived from the use and development of **renewable energy**

The matters that have been left out mostly pertain to Māori relationships and values, environmental protections and sustainability for future generations. Our submission is that the removal of these matters leaves gaps.

Notably, there is some uncertainty as to whether the effects of climate change are in or out. The definition of ‘effect’ is wide and all-encompassing, and climate change is not listed in clause 13 where certain effects are specifically excluded from the new regime. However, throughout the two Bills, and excluding the few cross-references to the Climate Change Response Act, the concept of climate change is only referred to three times. Two of these instances fall under the identical definitions of natural hazard. The remaining reference is found in the NEB at clause 57(e)(i) – an assessment of the existing capacity of the natural environment includes the resilience of the natural environment to "pressures and disturbances", an example of which is climate change.

Taituarā is concerned that the absence of an explicit goal relating to the effects of climate change will create implementation challenges for local government. If adaptation planning is required by local government and is inherently relevant to spatial planning, this needs to be underpinned by a clear goal in the PB. We also

note that the effects of climate change may extend beyond natural hazards, e.g., crop production, less reliable water supplies.

Lastly, we are concerned that the removal of both the promotion of renewable energy from the core provisions of the goal, coupled with the removal of climate change could have negative implications for renewable energy projects (and make councils' roles in relation to consenting them less straightforward). This seems to be at odds with the recent approval by the Government of the amended NPS-REG on 18 December 2025.

Alignment of goals (natural hazards)

Taituarā is concerned with the different goal settings between the Planning Bill and the Natural Environment Bill for natural hazards, in combination with the requirement to apply only the relevant key instrument. As the drafting stands there are gaps and it is unnecessarily complicated. Specifying the same goal would avoid policy gaps and potentially perverse outcomes. For example, effects from natural hazards can result from both changes to the built environment as well as the natural environment – an activity under the Planning Bill would require assessment of whether communities are safeguarded, but an activity under the Natural Environment Bill, which could generate similar effects, would be assessed differently. Management of effects of natural hazards does not automatically equate to communities being safeguarded, noting that the Natural Environment Bill goal does not specify that it is effects on people that are of concern.

Recommendations

Goals

- Include a goal that includes the effects of climate change in relation to adaptation
- Include a goal that includes the benefits to be derived from the use and development of renewable energy
- Include guidance in the PB as to what "unreasonably affect" amounts to, how incompatible land uses will be separated and what does “others” means PB 11(1)(a)
- Amend section **11(1) (b)** to read “ to support and enable economic growth and change by enabling the use and development of land and by protecting values that are important to economic activity and amend **section 14(2)** by adding a new clause (f) “amenity, heritage and landscape effects where these significantly contribute to the visitor experience or migrant attraction
- Align the goals regarding natural hazards in the NEB and the PB and remove “proportionate”

Definitions

- Provide a definition of “enjoyment of land” in the Interpretation section of the PB
- Provide a definition of “economic change” in the Interpretation section of the PB
- Provide a definition of “infrastructure” in the Interpretation section of both Bills. The new Bills should use the same definition of infrastructure
- Provide a definition of significant historic heritage in the PB
- Provide a definition of “no net loss” in the NEB

9.0 Role of Te Tiriti o Waitangi and Treaty settlements in new Bills

9.1 Current approach

Through section 8, the RMA requires decision-makers to "take into account" the principles of Te Tiriti in achieving the RMA’s purpose. Important principles relevant to environmental decision-making include partnership, protection and redress.

Part 2 of the RMA also includes provisions requiring decision-makers to:

- Recognise and provide for the relationship of Māori and their culture, and traditions with their ancestral lands, water, sites, wāhi tapu, and taonga under section 6(e);
- Recognise and provide for the protection of protected customary rights under section 6(g); and
- Have particular regard to kaitiakitanga under section 7(a).

The substantial body of case law and practice that has developed over the last 35 years means that the application of these provisions is well-understood. Together with section 8, these sections of the RMA reflect the fundamental importance of environmental decision-making to iwi and hapū.

The Expert Advisory Group (**EAG**) recommended that these provisions be retained in the Bills, with some greater specificity as to how they are applied. The EAG justified this on the basis that:

- The relationship and kinship connections of Māori with the environment is fundamental to the Māori world view and is inherent to the guarantees and protections afforded by the Treaty; and
- Planning and environmental management represents a major intersection with the Māori relationship with the environment that has been devolved to local government. In such a case, it is important that the Crown's obligations to Māori are upheld.

The March 2025 Cabinet Paper that considered the Expert Advisory Group report did not adopt this recommendation.

Under the RMA, Māori participation is integrated throughout planning processes, requiring regard to be had to iwi planning documents and engagement with iwi and hapū. More broadly the RMA enables joint decision-making through mechanisms such as Mana Whakahono a Rohe, and joint management agreements.

The RMA has been criticised for not being 'Treaty-compliant'. Nevertheless, while the RMA requires active consideration of Te Tiriti principles and embeds Māori values and participation at multiple levels of decision-making, the new Bills dilute these commitments.

9.2 Recognition of Te Tiriti and Māori Interests in the Bills

Both the PB and NEB include the same goal to provide for Māori interests through:

- Māori participation in the development of national instruments, spatial planning, and land use plans / natural environment plans;
- the identification and protection of sites of significance to Māori (including wāhi tapu, waterbodies, or sites in or on the coastal marine area); and
- enabling the development and protection of identified Māori land

In both Bills, clause 8 sets out how the Crown's responsibilities in relation to Te Tiriti have been recognised. Notably, there is no express requirement to consider the principles of Te Tiriti. Specifically:

- The PB recognises the Crown's responsibilities in relation to the Treaty through: Māori interest goals (clause 11); the process for making national instruments (clause 46); regional spatial plans (section 70 and clause 10 of

Schedule 2); land use plans (section 80(4)(b), clause 3 of Schedule 3, clauses 5(1) and 14 of Schedule 3); and designations (clause 2 of Schedule 5); and

- The NEB recognises the Crown's responsibilities in relation to the Treaty through: Māori interest goals (clause 11); the process for making national instruments (clause 70); and natural environment plans (clause 97(4)(b), clause 3 of Schedule 3 of the PB, clauses 5(1) and 14 of Schedule 3 of the PB).

Clause 11(1)(i) provides:

> *(1) All persons exercising or performing functions, duties, or powers under this Act must seek to achieve the following goals subject to sections 12 and 45:*
>
> *…*
>
> *(i) to provide for Māori interests through—*
>
> *(i) Māori participation in the development of national instruments, spatial planning, and land use plans; and*
>
> *(ii) the identification and protection of sites of significance to Māori (including wāhi tapu, water bodies, or sites in or on the coastal marine area); and*
>
> *(iii) enabling the development and protection of identified Māori land.*

Clauses 9 and 10 also take a different approach to the RMA. Clause 9 requires the Crown to "work with any post-settlement governance entity…, if they wish to do so, to seek agreement on how their Treaty settlement redress or arrangements will operate with the same or equivalent effect to the greatest extent possible".

Clause 10 requires that, "to the greatest extent possible", the effect of any Treaty settlement redress or arrangement must be the same as, or equivalent to, the effect that redress or arrangement currently has under the RMA.

Overall, the provisions do not amount to a system that gives effect to Te Tiriti o Waitangi, nor do they adequately uphold the Crown's ongoing commitments to iwi and hapū as Treaty partners.

Clauses 9&10 - Treaty settlements

Both Bills attempt to preserve the effect of existing Treaty settlement redress and arrangements (clauses 9 and 10), but only "to the greatest extent possible". This language could create uncertainty and could allow for the dilution of settlement redress if they are found to be inconsistent or incompatible with the new system.

Taituarā holds concerns that:

- The provisions are limited to settlements, rather than making the principles of Te Tiriti relevant. The settlements were not (in general) intended to effectively codify the relevance and application of the principles for all decision-making; and
- There is no requirement to consider Te Tiriti principles in relation to hapū and iwi who have not yet finalised, or do not wish to engage in, a settlement process.

These provisions will require local authorities to firmly understand the contents of any existing Treaty settlements in their takiwā and traverse all pre-existing arrangements to ensure those arrangements will operate with the same or equivalent effect to the greatest extent possible under the new regulatory framework. This will likely include the task of reviewing joint management agreements that were designed to apply to RMA processes, such as bespoke notification processes for iwi and hapū. In addition, there is a particular degree of uncertainty that surrounds how "equivalent effect" will be measured.

Our legal advisers consider that getting to a point where Treaty settlement redress or arrangements "*operate with the same or equivalent effect to the greatest extent possible"* – in all new instruments prepared under the new regime – may require significant litigation and assistance from the Courts in order to reach some form of equivalency. This is especially the case given that settlements need to be interpreted in light of their history and context, including that they were agreed in the context of the RMA provisions. The Government must not hand down responsibility for renegotiating the terms of settlements between the crown and iwi. Interpretation and agreements with iwi as to how their settlements, as far as they relate to the RMA, will now relate to the PB and NEB, should continue to sit with the Crown.

Although Māori involvement is somewhat provided for through regional spatial planning committees – which requires the Committee to consult with iwi authorities and relevant customary marine title groups throughout the preparation of a regional spatial plan (clause 70) – the opportunity to participate in consultation does not necessarily equate with an appropriate level of influence.

This is a significant shift from the status quo and one that, we are concerned, will adversely impact Māori-local government relations.

Taituarā does not support the approach taken in the Bills regarding Treaty Settlements. The potential cost associated with these provisions is unknown, but costs associated with litigation will be significant and many local authorities are likely to be placed in a position of defending provisions they do not support.

Recommendations

Recognition of Te Tiriti and Treaty Settlements

- Adopt the Expert Advisory Group's recommendations and retain the relevant Part 2 provisions of the RMA in relation to the principles of Te Tiriti
- The Crown should continue to hold responsibility for interpretation and agreements with iwi as to how their settlements, as far as they relate to the RMA, will now relate to the PB and NEB

Clause 11 - Māori participation in the making of new instruments

Clause 11(1)(i) requires "Māori participation" in developing national instruments, spatial planning, and land use plans but it does not specify the level of influence or decision-making power. This risks reducing participation to consultation rather than

effective and material engagement, which falls short of Te Tiriti principles and the standard of engagement generally afforded to iwi and hapū under RMA processes. Moreover, this does not generally reflect the role iwi and hapū have as tangata whenua and kaitiaki, as protected under article 2 of the Treaty.

The statutory language should be amended to require *engagement*, as opposed to *participation*, and should ensure mechanisms are developed to ensure iwi and hapū can be consulted, have that consultation taken into account, and potentially influence the development of the planning documents. The consultation requirements for regional spatial plans and land use / natural environment plans differ – and it is not clear if this is intentional. When preparing a land use plan or natural environment plan, those responsible for drafting the plan must have regard to:

- Statutory acknowledgements (clause 80(4)(b) PB, clause 97(4)(b) NEB);
- Relevant planning documents recognised by iwi authority (clause 80(4)(b) PB, clause 97(4)(b) NEB); and
- Applicable iwi participation legislation and existing or initiated Mana Whakahono a Rohe (clause 3 of Schedule 3 PB).

These three matters are not required to be taken into account when a joint committee prepares a regional spatial plan, Taituarā seeks this is rectified.

Recommendations

Māori participation in the making of new instruments

- Require *engagement*, (as opposed to *participation)* in developing national instruments, spatial planning, and land use plans and develop mechanisms to ensure iwi and hapū have that consultation taken into account
- Amend relevant clauses to require statutory acknowledgements, relevant planning documents recognised by iwi authority and applicable iwi participation legislation and existing or initiated Mana Whakahono a Rohe are taken into account when a joint committee prepares a regional spatial plan

Clause 11 - Sites and areas of significance to Māori

Taituarā supports the identification and protection of sites of significance to Māori (clause (11)(1)(i)(ii)), however there are significant issues with this. There appears to be a requirement that for these sites to be considered, they need to be listed and possibly even mapped in plans. This likely becomes necessary because the system architecture proposes reduced participation for mana whenua during consenting and permitting. It is critical to consider that many sites of significance are not publicly disclosed, for a raft of well-argued reasons including: to maintain rangatiratanga over cultural knowledge and taonga; to protect the sites from desecration; and to ensure sites are managed in accordance with tikanga Māori. If sites are destroyed, they cannot be restored and are irrevocably lost. There is a need to recognise that there are circumstances where the public disclosure of some sites is

inappropriate, but protection mechanisms still need to be available to prevent destruction.

We are also concerned it is too narrow in scope. The provision focuses on discrete sites only (wāhi tapu, water bodies, coastal areas) rather than providing for broader cultural landscapes and holistic environmental relationships – where iwi and hapū exercise customary rights and responsibilities (mahinga kai, etc). While they are only given as an example, the examples appear to be relatively well-accepted examples of sites. Taituarā is concerned this extremely narrow focus fails to recognise and provide for the fundamentally important interests generated by the relationships between Māori and their whenua and wai, interests based in tikanga Māori and protected by Te Tiriti.

Recommendations

Sites of significance to Māori

- Amend clause 11(1) to include broader cultural landscapes and holistic environmental relationships – where iwi and hapū exercise customary rights and responsibilities
- Amend clause 11 to make it clear that sites of significance to Māori do **not** need to be mapped or disclosed publicly

Clause 11 Identified Māori Land

Taituarā supports the protection given to enabling the development and protection of identified Māori land in the PB (clause (11)(1)(i)(iii)). This protection is regularly provided for by local authorities in their respective policy statements or plans – whether through rules or policies – in response to the RMA requirements. Taituarā supports a clear direction being given in the Bill. We would like to see this taken further. While there is a requirement to recognise that identified Māori land is “he taonga tuku iho” (a treasure handed down), the subsequent requirement to merely “consider” the rights and interests of owners is insufficient to ensure landowners are afforded the full use and enjoyment of that land in line with their aspirations, needs, and cultural practice. We support stronger language to “recognise and provide for” rather than “consider”.

Recommendation

Identified Māori land

- Amend relevant clauses to **recognise and provide for** the rights and interests of owners of identified Māori land.

Consultation requirements (cl80 PB, cl 97 NEB, cl3 Schedule 3 PB))

The consultation requirements for regional spatial plans and land use / natural environment plans differ – and it is not clear if this is intentional. When preparing a land use plan or natural environment plan, those responsible for drafting the plan must have regard to:

- Statutory acknowledgements (clause 80(4)(b) PB, clause 97(4)(b) NEB);
- Relevant planning documents recognised by iwi authority (clause 80(4)(b) PB, clause 97(4)(b) NEB); and
- Applicable iwi participation legislation and existing or initiated Mana Whakahono a Rohe (clause 3 of Schedule 3 PB).

These three matters are not required to be taken into account when a joint committee prepares a regional spatial plan, Taituarā seeks this is rectified.

We also note there is a loophole regarding private plan changes (PPCs). PPCs to a Land Use or Natural Environment Plan are not required to undertake consultation with iwi authorities and customary marine title groups before lodgement of applications and applications do not need to be prepared in accordance with Mana Whakahono ā Rohe (MWAR) agreements. This loophole needs closing. It is not in the interests of PPC applicants to skip this pre-consultation in many cases. By the time a request gets to the point of public notification, there has been a significant financial outlay in consultancy and technical expertise. Mana whenua can still assert their rights and interests through the public consultation process and may have rights established under settlement legislation, at which point applicants may need to make significant changes to proposals, resulting in duplication of effort, extension of timeframes, and additional costs. It makes more sense for an applicant to work with mana whenua from the outset.

Recommendations

Consultation requirements

- Require *engagement*, (as opposed to *participation)* in developing national instruments, spatial planning, and land use plans and develop mechanisms are to ensure iwi and hapū have that consultation taken into account
- Amend relevant clauses to require statutory acknowledgements, relevant planning documents recognised by iwi authority and applicable iwi participation legislation and existing or initiated Mana Whakahono a Rohe are taken into account when a joint committee prepares a regional spatial plan
- Require applicants for Private Plan Changes to undertake pre-lodgement consultation with iwi authorities and customary marine title groups and require applications to be prepared in accordance with Mana Whakahono ā Rohe agreements

10.0 Regulatory Relief

Taituarā has sought specific legal advice on the implications of the regulatory relief regime (**Regime)** as we have significant concerns about the concept and its implementation. The advice summarises the key legal and practical implications as:

- The Regime lacks detail;
- Local authorities' regulatory relief obligations conflict with their statutory responsibilities;
- Local authorities are likely to face substantial difficulties implementing relief frameworks;
- The Bills' form of relief would have significant financial and practical impacts for local authorities;
- Landowners' ability to seek relief separately from the Environment Court creates unnecessary overlap;
- It is unclear whether voluntary incentives will be taken up if there is a right to regulatory relief;
- The Regime's application to provisions carried over from existing RMA plans would create various issues for local authorities;
- Local authorities are exposed to significant scope for appeals; and
- The Bills contain drafting errors.

10.1 Key components of the regime

Local authorities are required to develop relief frameworks if a specified rule in a plan or proposed plan (land use plans under the PB, and natural environment plans under the NEB) has a significant impact on the reasonable use of land. A person is eligible for relief under a relief framework if they own land that is impacted by a specified rule in a plan when the plan is made operative, subject to exceptions.

A 'specified rule' is a rule on a 'specified topic' under the PB (PB, cl 3) and under the NEB (NEB cl 3).

When preparing or deciding a proposed plan change or private plan change that contains a specified rule, a local authority must:

- consider whether the impact of the proposed rule on the reasonable use of land is substantially different from the operative plan; and
- if the local authority considers the rule is likely to have a significant impact on the reasonable use of land, develop a relief framework for inclusion in the proposed plan when it is notified

The PB anticipates that national instruments and regulations may introduce requirements guiding the development of relief frameworks.

The PB requires local authorities to carry out an assessment of the materiality of impacts at a general level when developing its relief framework.

Local authorities must assess the materiality of impacts of a specified rule by considering the extent to which it:

- restricts or removes development potential;
- imposes obligations for the protection, restoration, or non-use of land;
- creates compliance costs or regulatory constraints that affect the reasonable use or enjoyment of land; and
- affects land value

The PB allows for appeals to be made to the Environment Court against provisions of a relief framework included in a proposed plan. The appeals are not limited to questions of law.

Once the plan is made operative, the Council must, as soon as possible, implement the relief framework by:

- carrying out a relief assessment to identify land impacted by the specified rule;
- applying the relief framework to that land; and
- notifying affected persons of the results of that assessment (as well as publishing those notices online).

When applying the framework to individual properties, the Council must again assess the materiality of impacts following the same criteria, but at a site-specific level.

There is a right for persons to apply to the local authority to review the relief assessment, or a decision not to grant any relief following the assessment above. The applicant for review has a right of objection to the Planning Tribunal against the local authority's decision on review. This is separate to the appeal rights to the Environment Court.

The Regime is also closely tied to requirements for justification reports found in both the PB and NEB. These clauses require that provisions on specified topics (among other matters) must be subject to a justification report prepared and included in the proposed plan before it is notified for submissions.

10.2 Issues with the proposed Regulatory Relief regime

The rationale is unclear

The rationale for applying this relief framework is unclear. In only applying to rules relating to specified topics it appears there is an underlying, unstated set of priorities. For example, it seems to be that the values being protected by specified rules are of less priority than the ability to enjoy land, and the public should pay for the cost of this protection. Specifically, this same philosophy has not been extended to land affected by noise zones to protect industries, state highways, and airports; or development buffers to protect quarries or mines, even though those controls may impact on the ability to use land.

This begs a question as to whether the regime is really about protecting the enjoyment of land or is it about reducing protection of the values protected by specified rules?

The Regime lacks detail

A significant issue with the Regime is that the Bills lack material details on how it will work. For example, there is very limited detail regarding how local authorities are expected to develop regulatory relief frameworks, especially regarding the level and nature of relief that should be granted. This poses risks and uncertainties for local authorities that cannot be sized.

This information is intended for national instruments and regulations will specify many of these missing requirements for relief frameworks. Of particular relevance:

- local authorities must develop relief frameworks in accordance with requirements in national instruments and regulations, which may include methodologies for the purposes of:
    - defining levels of impact within a relief framework;
    - classifying types of impact;
    - setting the types of relief available for different types or levels of impact; and
    - identifying impacted land owners;
- local authorities must consider any matters required by national instruments or regulations when assessing the materiality of impacts (either at the general or site-specific level); and
- relief frameworks must include any matters required by national instruments or regulations.

Whether, and how, any national instruments and regulations provide further guidance on relief frameworks and materiality assessments will strongly influence the workability and costs for local authorities of the Regime. Taituarā has concerns with such important information being left to national instruments and regulations, given the public's very limited ability to test the content of proposed national instruments and regulations. For instance, the process for preparing national instruments is subject to a minimum 20-working day submission period.

The Regime's use of the concept of "*reasonably likely to have a significant impact on the reasonable use of land*" is likely to create uncertainty, litigation and difficulties with implementation.

What is a 'significant impact on the reasonable use of land

What is a 'reasonable use'?

Local authorities are likely to face substantial litigation over what constitutes a 'reasonable use'. The Bills do not define what constitutes a 'reasonable use', except in relation to when the Environment Court may give directions in respect of land subject to controls.

Under the RMA, in the context of section 85, the Environment Court found that 'reasonable use' is not synonymous with optimum financial return. This was in a context where the RMA utilised a similar definition to that now applied in clause 105 of the PB and clause 122 of the NEB.

It is unclear why the Regime is not also subject to the clause 105 of the PB (or clause 122 of the NEB) definition of 'reasonable use'. Without such links it is unclear how previous RMA case law may apply, and the concept of reasonable use is likely to be tested in the courts.

What guidance is provided to local authorities on determining what constitutes a ‘reasonable use’ of land will therefore have a substantial role in determining the Regime’s workability.

What is a ‘significant impact’?

An ‘impact’ is defined under the PB as “the impact of a specified rule on the reasonable use of land”. Taituarā’s legal advice is this definition provides little guidance on what constitutes an ‘impact’, particularly given it is defined by reference to an ‘impact’ (ie is circular).

Notably, unlike an ‘effect’ under the NEB, an ‘impact’ is not explicitly defined to exclude matters already managed under the PB. If land use plans and natural environment plans both contain rules relating to sites of significance to Māori (which is a specified topic under both Bills) it is unclear how impacts should be assessed and relief awarded.

How serious does the impact have to be before it counts as “serious impact”?

The use of a ‘significant’ impact threshold in the Regime could require local authorities to apply the Regime more broadly compared with claims under section 85 of the RMA. The Regime’s use of the phrase ‘significant impact on reasonable use’- as opposed to the phrase ‘incapable of reasonable use’ used in section 85 of the RMA30 - creates uncertainty and litigation risk. Because the words are not the same, it is assumed that they are intended to mean something different. We read this as a widening of eligibility for relief under the Regime. Whatever is intended, it should be clearer.

For example, under section 85 of the RMA, the Courts have found that a requirement to get resource consent does not render land incapable of reasonable use. Under the new threshold, it is unclear whether such a requirement would be considered a ‘significant’ impact.

Depending on the nature of any specified rules, a further subjective judgement would need to be made around what is ‘reasonably likely’ to occur.

It is essential for local authorities to have clear guidance as to what a ‘significant impact on the reasonable use of land’ is at the outset rather than leaving that assessment to local authorities to complete in a vacuum.

The absence of any direction makes the regime potentially unworkable. For example, the trigger for requiring a local authority to prepare a relief framework is an assessment of whether “a specified rule … is reasonably likely to have a significant impact on the reasonable use of land”.

Confusingly, clause 67(b) directs councils in their relief framework “to identify what constitutes a significant impact on the reasonable use of land”. The steps in the process are both circular and out of order.

Local authorities’ regulatory relief obligations conflict with their statutory responsibilities

One significant issue with the Regime, regardless of what is contained in national direction, is that local authorities will face conflicting requirements to compensate landowners for certain actions while being obliged (through the PB and NEB’s regime) to undertake those actions.

Conflicting obligations arise in respect of:

- the goals of the PB and the NEB which seek to achieve:
  - no net loss in indigenous biodiversity
  - identification and protection of sites of significance to Māori
  - "protect from inappropriate development the identified values and characteristics of— areas of high natural character within the coastal environment, wetlands, and lakes and rivers and their margins; outstanding natural features and landscapes; sites of significant historic heritage
- requirements under the NEB to give particular consideration to "the effects on natural resources including… indigenous biodiversity" (among other matters)
- regional councils being required to set ecosystem health limits for indigenous biodiversity attributes (among other matters
- territorial authorities being required to regulate and manage matters that include
  - outstanding natural features and landscapes;
  - areas of high natural character within the coastal environment, wetlands, lakes, rivers and their margins; and
  - significant historical heritage
- regional councils being required regulate and manage matters including indigenous biodiversity; and
- regional spatial plans being required to include "constraints on the use and development of land and the coastal marine area, including natural hazards, highly productive land, significant natural areas, and outstanding natural features and landscapes.

Local authorities may find themselves with limited alternatives but to include rules that trigger regulatory relief in order to meet their statutory responsibilities. The Regime may effectively constitute a large but unfunded mandate on local government. This is particularly concerning given current proposals for the capping of rates increases.

Challenges to implementation

Another key shift from the approach under section 85 of the RMA is that local authorities are responsible for implementing the Regime proactively. As soon as reasonably practical after a plan is made operative, local authorities are required to implement their relief framework, including by identifying land impacted by a specified rule and applying the relief framework to that land.

The reversal of this onus means that local authorities will bear the brunt of any legal and practical difficulties identifying how or when to apply the Regime. Given the Regime's uncertainties and the wide-scope of its application, resolving any issues is likely to be time-intensive and costly.

Local authorities will need to spend significant resources identifying affected land (especially for rules affecting large geographic areas) and then assessing the impact of any specified rules on that land (property by property), including the materiality of these impacts. This may have significant practical implications because the materiality assessments must:

- Assess effects on land values, which requires land valuation expertise and arguably a "before" and "after" valuation for each qualifying property. This

raises the question of whether it is possible to accurately quantify the effects of plan provisions in monetary terms. To the extent that quantification is possible, local authorities will likely need to engage land valuation experts (and potentially other experts such as planning or economic experts).

- Assess the extent to which a specified rule "restricts or removes development potential". The Bills do not provide any guidance on how development potential is determined, although this may follow in national instruments or regulations. In the absence of further direction, this term is likely to be a source of litigation. For instance, it is unclear whether this includes optimum development expected for a zone regardless of any physical constraints on a given site. If so, it may find that this phrase conflicts with how the Environment Court defined 'reasonable use' under the RMA.

Depending on the number of properties impacted by the regime across New Zealand, local authorities may struggle to obtain sufficient expertise required to undertake these assessments (especially for land valuations).

The materiality assessment includes a requirement to assess the "effects on land values." There are multiple complex and intertwined matters that impact land values. The new resource management planning framework anticipates that it will release large amounts of land for development very quickly and make development easier. This increase in supply and a more enabling environment is likely to have a significant impact on land values. Other contextual factors may impact the demand for land and have impacts on land values, including changes to: population and socio-demographic characteristics; the regional economy and specific economic sectors; the provision of services and infrastructure; information about natural hazards and climate change risks.

These factors are likely to have a far greater impact on land values in some districts than the imposition of specified rules. More importantly, it will be difficult, if not near impossible, to ascribe specifically a change in land value to the imposition of a specified rule rather than one of many other contextual factors. This will create a whole new class of litigation and significant costs to local authorities.

The Regime's application to rules relating to terrestrial indigenous biodiversity sits uncomfortably with the other topics and the Regime as a whole. These rules are not always confined to defined sites or planning overlays. Rather, terrestrial indigenous biodiversity rules are likely to have a far wider impact.

The onus falling on local authorities also means that even people who may not otherwise consider themselves affected by a specified rule will benefit from a payout if a local authority finds otherwise. In Taituarā's view, if a regulatory relief regime is to be included, it makes more sense for affected persons to bear the onus of applying for relief if they consider themselves significantly affected, particularly if the Government is serious about preventing rates rises.

The regime is also entirely one-sided. It creates a compensation regime when restrictions are placed on private property, but does not create equivalent taxes

where plan provisions enable greater use of a property (such as when rural land is upzoned to an urban zone).

Financial and practical impacts for local authorities

The regulatory relief framework could impose significant financial burdens on local authorities depending on the form that relief takes.

While the Bills do not necessarily require local authorities to expend money to provide relief, or to provide relief on a like-for-like basis, it is unclear to what extent national instruments or regulations may constrain how local authorities provide relief. Because regulatory relief frameworks are capable of appeal, and there is a monetary incentive in achieving a more liberal framework, it is highly likely that regulatory relief frameworks will be challenged on appeal.

The PB does not prevent national instruments or regulations directing local authorities to provide a given form or amount of regulatory relief in different circumstances. National instruments may direct territorial authorities how to make decisions and undertake different processes and methodologies. Likewise, the Governor-General may make regulations for a wide variety of purposes under the PB. This poses significant risk of having impacts on local authority costs that local authorities have no control over.

Regardless of the form of any future national instruments or regulation, local authorities are likely to face significant expense implementing relief frameworks. This runs at a cross-purpose to the Government's other reforms aimed at limiting rates rises (eg rates capping).

Rates reductions as regulatory relief

Taituarā has concerns with the PB anticipating reducing rates as a possible form of relief. Local authorities calculate rates separately to any processes under planning legislation. In our view, these processes should not be conflated. Rates are a statutory tax linked to the value of land, not a payment for services or the exercise of regulatory functions.

Additionally, councils' ability to reduce rates in response to planning matters is unnecessary where any impact is likely to already be reflected in a reduced land valuation, which will in turn reduce the incidence of rates where rates are assessed using capital or land values

Granting additional development rights as regulatory relief

We also have concerns with the ability to grant additional development rights elsewhere on a property, or on completely unrelated sites owned by the same person, as regulatory relief. Doing so cuts across the principled approach that should otherwise be taken to planning decisions under the Bills.

Granting additional development rights due to separate regulatory relief requirements risks an ad hoc basis to development. This has the potential to

undermine local authorities' regulatory plans and conflict with their other responsibilities, such as creating well-functioning urban and rural areas.

It is also unclear how local authorities would be required to provide this relief – are they supposed to waive a requirement to comply with their regulatory plans and, if so, using what power? Do persons affected by the additional development rights have an opportunity to submit and be heard?

Offering land swaps as regulatory relief

In relation to the ability to offer land swaps as regulatory relief, it is unclear how this would work in practice. Presumably, only land owned by a local authority could be swapped, and the likelihood of having appropriate land available is questionable. Most land would have some form of reserve status under other legislation that would require a process to remove. While not specified, presumably the offer would need to be accepted for regulatory relief to be deemed as provided. Relief conditional on the agreement or acceptance of the landowner is more appropriately considered voluntary and would be better situated within a voluntary method.

'Regulatory relief' is not defined

In addition to the specific issues identified with some of the listed forms of relief, the Regime allows for regulatory relief in forms other than those listed. However, the Regime contains no definition of 'regulatory relief'. Therefore, it is unclear what else local authorities could offer as regulatory relief to satisfy their obligations.

Role of Environment Court

Beyond how the term 'reasonable use' is defined, it is unclear how the Environment Court's ability to give directions in respect of land subject to controls may apply. Clauses 105 of the PB and 122 of the NEB apply where a provision in a plan (not limited to specified topics) would "severely impair the reasonable use of that interest in land".

In these circumstances, upon receiving a request for a change to the plan or an appeal, the Environment Court may direct a local authority to: change the plan, acquire the affected land (with the owner's agreement), provide financial compensation or fee relief, offer alternative development rights or land, or support mitigation through grants and restoration programmes.

These powers effectively recreate section 85 of the RMA. However, they do so with two key differences:

- the threshold is now "severely impair the reasonable use of", as opposed to "render … incapable of reasonable use"; and
- the addition of the ability for the Environment Court to direct the local authority to do any of the matters listed above (which align with the listed forms of regulatory relief in the Regime).

It is not entirely clear how these Environment Court powers are intended to interact with the Regime. It is not clear whether the threshold of “severely impair” is intended to be higher or lower than “significantly impact” (PB, Sch 3, cl 70(2)). If this is intended to direct local authorities to apply a different threshold to that currently used in section 85 of the RMA, it should be made clearer. Alternatively, if it is not intended to impart a materially different threshold, the phrase currently used in section 85 of the RMA should be carried over.

While these provisions apply more broadly than just specified rules (this could have significant impacts on local authorities depending on how the threshold is interpreted), there is still a significant overlap with the Regime. This is unnecessary and likely to be inefficient. In particular, landowners dissatisfied with the application of relief frameworks may also try to seek orders under these provisions from the Environment Court, increasing the burden on local authorities.

How the Environment Court may apply the different orders available is unclear. Under the Regime, local authorities can determine what form of regulatory relief is appropriate for them. Where local authorities have excluded certain forms of relief, it would be strange to allow this to be overridden by these provisions. Additionally, it is unclear why local authorities are not able to elect to modify, delete or replace the provision rather than provide the forms of relief in sub-clause (4)(b)–(f), as they are able to do instead of acquiring land under sub-clause (4)(a).

The inclusion of these provisions is unnecessary if the Regime is included. If these provisions are to be retained, they should not apply where the Regime also applies.

Voluntary incentives

Both the PB and NEB provide an ability for local authorities to include methods within land use plans and natural environment plans, which incentivise landowners to undertake certain activities on their land. The Regime excludes eligibility for regulatory relief for people who have received a voluntary incentive. These provisions appear to be intended to provide an alternative voluntary path to the use of regulatory relief frameworks. It is unclear the extent to which these tools will be used or favoured by landowners in circumstances where landowners already have a right to regulatory relief.

Transitional provisions

The ‘transitional’ provisions in the regulatory relief regime create eligibility for regulatory relief based on provisions contained within existing RMA plans. Relief on the basis of previous RMA plans is available where:

- a person owned land when the last RMA operative plan was publicly notified;
- the land was subject to a rule in the RMA operative plan that is similar to a specified rule in the first proposed plan;
- the land is impacted by the specified rule; and

- the land has not changed ownership between the time that the RMA operative plan was publicly notified and the time that the first proposed plan is notified

This regime effectively requires local authorities to award regulatory relief based on previous plan provisions (provided they are carried over to new plans), acting as an exception to the focus on new rules being substantially different from previous plans in Schedule 3, clauses 64 and 68(5) of the PB.

This transitional provision significantly expands the scope of the regime and potential liabilities of councils, by including not only new rules but existing rules, provided they are carried over. The intention appears to be that local authorities must reconsider existing planning decisions on the specified topics. Many councils will have recently finished their second-generation plan review processes and the hard work in achieving provisions that the community now accepts may need to be repeated.

There are additional practical difficulties:

1. the onus on local authorities to identify landowners eligible for regulatory relief requires local authorities to ascertain the ownership history of all potentially impacted pieces of land dating back to notification of the last operative RMA plan. This is likely to require significant work from local authorities
2. the use of the 'operative RMA plan' as the point of reference is likely to create difficulties for some local authorities. Where RMA plans have not been subject to wholesale replacement, but rather iterative amendment through plan changes (especially where the relevant rule was introduced by way of a plan change), it may not be clear when exactly the last operative RMA plan was notified.
3. The use of the 'operative RMA plan' as the point of reference also appears to assume that the specified rules were introduced via that plan, and not any earlier plan. Eligibility is seemingly intended to exclude owners of land who bought the land knowing of the restrictions (which may have been reflected in the price). However, it is possible that some restrictions predate the last operative RMA plan, such that owners who have held the land since the last operative RMA plan was notified still had knowledge of those restrictions when purchasing the land.

There are different ways to reduce the burden of these provisions. If it is retained, the regulatory relief regime should only apply prospectively. That would avoid relitigating existing plan provisions and the logistical issues set out above.

If a retrospective approach is to be retained, it may be simpler to specify a fixed date at which the operative rule was in force to improve the workability of the regime

Exposure to litigation

The Regime allows for appeals/objections against both the provisions of a framework at the planning phase, and the application of that framework once operative.

As noted above, landowners may also request reviews of assessment decisions under a relief framework. It appears that such reviews are intended to be on the papers (ie without a hearing). Following these reviews, landowners may object to the Planning Tribunal. The Planning Tribunal's role in such objections is to review whether the relief framework was correctly applied and consider whether an alternative relief mechanism would be more appropriate to the circumstances of the relevant property (although limited to other forms of relief available under the relevant plan).

Beyond the practical burden of undertaking reviews, and then responding to objections, the Planning Tribunal's ability to reconsider and alter the regulatory relief awarded could again have significant impacts on local authorities by creating large financial uncertainties.

Drafting errors

The Bills contain several drafting issues. These issues could easily be addressed before the Bill is enacted; however, if they are not, they could have significant legal and practical implications.

When land is eligible for regulatory relief is unclear

The current drafting of the Bills does not clearly prescribe what land is to be identified by Councils as being impacted and entitled to regulatory relief. This is due to a combination of drafting choices.

First, the Regime contains inconsistent language, summarised below:

1. Regulatory relief frameworks are required where there is a specified rule that is reasonably likely to have a "significant impact on the reasonable use of land".

2. Local authorities are also required to consider the "materiality" of impacts when identifying land impacted by a specific rule.

3. There are also separate requirements for relief frameworks that refer to identifying the 'levels of impact'.

4. Finally, eligibility for relief is defined in clause 68 of Schedule 3 to the PB with reference to whether land is "impacted", with no clear requirement that the impact be significant or material. Similarly, the duty to implement a relief framework applies to land identified as 'impacted

Collectively, the use of several different terms and thresholds when referring to impacts and/or the significance/level/materiality of those impacts leads to confusion.

It appears the intention is for relief to only be available to land 'significantly' impacted. However, the lack of any language regarding the significance of impacts in relation to eligibility arguably means that relief is required for all impacted land owners, regardless of significance (provided there is at least some significant impact to trigger the requirement for a relief framework in the first place).

The issue of eligibility is further complicated as a relief framework must "provide for how eligibility for relief is determined", with a local authority being obliged to provide all eligible persons under a relief framework with the relief. It is unclear how this clause is intended to be reconciled, or function alongside, the eligibility criteria in clause 68 of Schedule 3 to the PB.

The exceptions from eligibility are unclear

Clause 68 of Schedule 3 to the PB also provides for circumstances in which persons are not eligible for regulatory relief. One of these exceptions is for a person who previously received relief under a relief framework in a plan in respect of land (unless the impact on the land has become substantially worse).

The relevance of previous plan rules is unclear

Local authorities have a general duty under the Regime to consider the impact of a proposed rule on the reasonable use of land if the impact is substantially different from the existing operative plan. This duty explicitly does not apply to publicly owned land. However, it is unclear how this duty is intended to apply in the overall scheme of the Regime.

It is possible that the obligation is intended to operate as a sort of initial threshold, such that if the impact is not substantially different any duty to prepare a relief framework does not arise. In our view, this would be a sensible approach.

However, this duty is not explicitly linked to the duty to prepare a relief framework. Additionally, if this approach was taken then it is not clear how the transitional regime discussed above would ever be engaged (as a rule of similar effect would not trigger a requirement for a relief framework).

Concluding comments – Regulatory Relief

Taken as a whole, the regulatory relief regime is deeply flawed in both its design and its likely operation. While intended to provide fairness to landowners, the regime instead introduces uncertainty, inconsistency, and significant risk for local authorities, without clear evidence that it will achieve its stated objectives.

At a conceptual level, the regime is poorly defined. Core terms such as "regulatory relief", "reasonable use", "impact", and "significant impact" are either undefined or circular, leaving local authorities to make judgements without clear statutory guidance. The reliance on future national instruments and regulations to fill these gaps is inappropriate given their limited scrutiny and the fundamental role they would play in determining eligibility, thresholds, and forms of relief. This lack of legislative clarity is likely to result in inconsistent application across the country and extensive litigation as thresholds are tested in the courts.

Structurally, the regime places local authorities in an untenable position. Councils are required to compensate landowners for the effects of rules that they are simultaneously obliged to impose to meet statutory goals relating to biodiversity protection, heritage, natural hazards, and sites of significance to Māori. This creates

a direct conflict between regulatory responsibilities and compensation obligations, effectively transforming the regime into a large, unfunded mandate on local government at a time when rates increases are already under pressure.

From an implementation perspective, the regime reverses the long-standing approach under the RMA by placing the onus on councils to proactively identify impacted land, assess materiality, and apply relief frameworks. This task is highly resource-intensive, particularly given the need for site-specific land valuations, development potential assessments, and ownership history investigations. The retrospective application of the regime to provisions carried over from existing RMA plans significantly magnifies this burden, forcing councils to revisit settled planning decisions and exposing them to liabilities for rules that communities have already accepted.

The regime also creates unnecessary duplication and inefficiency by overlapping with Environment Court powers that closely resemble section 85 of the RMA. The existence of multiple thresholds (“significant impact” versus “severely impair”), parallel appeal pathways, and overlapping remedies is likely to increase delay, cost, and adversarial processes.

Financially, the regime exposes councils to potentially significant and unpredictable costs. The availability of appeals on the substance of relief frameworks, combined with the possibility of national direction mandating particular forms of relief, creates ongoing fiscal risk. Some proposed relief mechanisms - such as rates reductions, additional development rights, or land swaps - cut across established planning, rating, and governance principles and risk undermining coherent plan-making.

Finally, the regime is undermined by numerous drafting errors and internal inconsistencies, particularly around eligibility, thresholds, and exceptions. These issues are not minor technical defects; they go to the heart of who is entitled to relief and when. If left uncorrected, they will inevitably lead to confusion, inconsistent outcomes, and further litigation.

In summary, the regulatory relief regime is not merely complex—it is conceptually unsound, operationally unworkable, financially risky, and legally fragile. Unless fundamentally rethought or removed, the regime is likely to impose significant costs on local authorities, undermine confidence in the new planning system, and distract from the core objectives of the PB and NEB.

Recommendations

Regulatory Relief

1. Remove the regulatory relief provisions from the Bills.
2. If the regulatory relief provisions remain:
    - Work with local government to develop the detail and fill in the gaps of the regime:
        - define what constitutes a 'significant impact on the reasonable use of land' and provide guidance to support this
        - improve the definition of "impact" and ensure it is not circular
    - Reverse the onus on local authorities and place the onus on persons to apply for relief if they consider themselves significantly affected
    - Remove the Environment Court's ability to direct the use of financial tools like rates relief
    - Justify the application of this regime to the specified topics while not applying it to other rules that affect the use of land
    - Address drafting inconsistencies
    - Remove the duplication with the Planning Tribunal and remove the ability for landowners to seek relief from the Environment Court
    - The regulatory relief regime should only apply prospectively
    - If a retrospective approach is to be retained, specify a fixed date at which the operative rule was in force

11.0 Considering adverse effects of activities

Narrowing of scope of effects (Clause 14 PB and NEB)

The scope of the effects able to be considered in the Bills is significantly curtailed, with the Bills containing a list of effects that must be disregarded under the PB.

Taituarā's legal advice is that that how the exclusion of these effects will work in practice might be challenging in some instances given that clause 14(2) goes on to say "*This section does not restrict the management of … a number of matters including outstanding natural landscapes and features*."

While in some cases excluding an effect might be straightforward (such as the type of residential use), in other cases the practicalities of having to exclude that effect could be challenging and potentially in conflict with some of the goals in clause 11. For example, significant historic heritage is a goal of the PB, but "any matter where the land use effects of an activity are dealt with under other legislation" is out of scope. Where the Heritage New Zealand Pouhere Taonga Act 2014 applies and requires an archaeological authority, then the land use effects of that activity – eg, adverse effects on significant historic heritage - might be out of scope (inconsistent with the goals of the PB).

Of greatest concern from a technical perspective is 14(1)(j):

(1) A person exercising or performing a function, duty, or power under this Act who is considering the effects of an activity must disregard—

…

(j) any matter where the land use effects of an activity are dealt with under other legislation.

The effect of clause 14(1)(j) is that consent authorities must not consider certain land use effects where they are regulated elsewhere (for example, under mining, transport, or building legislation). This is well-intended in terms of removing duplication of regulation and processes, but narrows the environmental lens compared to the current RMA approach.

The concern is that if other legislative regimes do not fully address environmental consequences, these issues may fall through the cracks by virtue of not being able to be revisited and considered under the PB. Consenting authorities are likely to lose the ability to impose conditions that mitigate broader environmental impacts, especially where those impacts are related to land use. Clause 14(1)(j)) will be difficult and uncertain to apply. This provision does not seem to reflect that while another Act might address the same effect, it is for a different purpose and in a different context than assessing environmental effects for the purposes of planning and environmental regulation.

Clause 14(b) of the NEB states that when considering effects under the Bill, a person must not consider effects regulated under the Planning Act. This seems problematic given that both Bills deal with the same effects - natural hazards is one clear example. This risks creating a fragmented approach where overlapping issues cannot be addressed holistically, increasing the risk of gaps in environmental protection. Notably, the PB does not contain the same restriction.

Further clarification is also required to ensure consistency between the Bills in relation to excluded effects. While the PB expressly excludes certain effects from consideration (including retail distribution effects, landscape effects, and the effect of setting a precedent), the NEB does not contain equivalent exclusions. As a result, it appears these effects may still be considered under the NEB where relevant, creating uncertainty and inconsistency between the two regimes.

Clause 14 of the PB does not expressly exclude consideration of adverse effects on natural resources/natural environment, although clause 139 only compels regard to be had to adverse effects on “a person” and the built environment during planning consent processing. To promote coherence, certainty, and integrated decision-making, the NEB should either:

- align with the PB by explicitly excluding the same effects; or
- clearly confirm that such effects may be considered under the NEB where they relate to outcomes within the Bill’s purpose.

An example of the application of clause 14(1)(j) (a person must disregard any matter where the land use effects of an activity are dealt with under other legislation)

probably means that effects on natural resources cannot be considered because NEB 14(a)(iii) specifically requires consideration of the effects of natural hazards associated with the use or protection of natural resources. The interaction of these clauses is very complex and will create gaps as well as confusion.

Recommendation

Adverse activities – clause 14 PB and NEB

- Delete 14(1)(j) of the PB or redraft to enable a consent authority to consider the **environmental** effects of an activity, even where the land use effects are dealt with under other legislation
- Amend clause 14(b) of the NEB to remove, or materially narrow, the prohibition on considering effects regulated under the Planning Act.

11.2 Clause 15(1)(a)(ii) - offsets and compensation

The Bills allow effects to be avoided, minimised, or remedied where practicable, **or** offset or compensated for where appropriate (clause 15). In particular, where national direction is silent on the availability, scope, or limits of offsetting and compensation, clause 15 confers a wide and largely unconstrained discretion on those exercising functions, duties, or powers under the Bills to determine what is “appropriate”. This creates uncertainty and risks inconsistent application across regions and decision-makers.

The inclusion of 'compensated for' may provide scope for financial compensation to be offered in response to potential environmental degradation. Clause 15(1)(a)(ii) of the Bills is likely to be difficult to apply and likely to undermine the core purpose of environmental regulation. Unlike offsetting, which at least seeks to achieve ecological equivalence, compensation may allow adverse environmental effects to be addressed through measures that do not directly remedy or offset the environmental harm, including the potential for financial compensation.

Clause 15(1)(a)(ii) is likely to be difficult to apply in practice, undermines the integrity of the effects management hierarchy, and is not consistent with the core purpose of environmental regulation. Taituarā recommends that the clause be amended to improve certainty, consistency, and ensure that the effects management hierarchy operates as a genuine environmental safeguard.

Recommendation

Offsets and compensation

- Amend clause 15(1)(a)(ii) to:
  - provide clearer limits on when offsetting or compensation may be relied upon;
  - prioritise avoidance and minimisation more strongly; and
  - either remove “compensated for” entirely or tightly define it to exclude purely financial compensation for environmental harm.

11.3 Clause 15(5) – less than minor adverse effects

While the Bills have a very broad definition of effects, clause 15 provides that a less than minor adverse effect must not be considered unless the cumulative effect of 2 or more such effects creates effects that are greater than less than minor. Clause 15(5) defines a "less than minor adverse effect" as meaning an adverse effect that is "acceptable and reasonable in the receiving environment with any change being slight or barely noticeable".

There are two issues with this. (1) the definition lacks clarity, and (2) the use of the subjective terms “acceptable” and “reasonable” introduces uncertainty and is likely to result in inconsistent interpretation and increased litigation.

Cumulative effects are, however, expressly within the scope of the regime. This includes less than minor adverse effects which, when considered individually, are excluded from consideration but may become relevant when their cumulative impact exceeds the less-than-minor threshold.

Amendments to this clause are required to improve certainty, support consistent decision-making, and better align the treatment of effects with the purpose of the Bills.

Recommendation

Clause 15(5) Less than minor effects

- Amend clause 15(5) to:
  - provide clearer, more objective criteria for determining what constitutes a “less than minor adverse effect”;
  - reduce reliance on subjective concepts such as “acceptable” and “reasonable”, and provide guidance on their meanings;
  - clarify how cumulative effects are to be assessed and when “less than minor” effects must be considered collectively; and
  - provide guidance to ensure consistent application of the threshold across decision-makers to reduce uncertainty and litigation risk.

11.4 Clauses 14 and 15 – Natural Environment Bill specific effects clauses.

Clause 14 of the NEB states:

A person exercising or performing a function, duty, or power under this Act who is considering the effects of an activity on a person, people, or a natural resource,—

(a) must give particular consideration to effects such as the following, as far as each is applicable:

(i) the positive effect of enabling activities under this Act:

(ii) the effects on natural resources including air, water (freshwater, geothermal and coastal), land and soils, and indigenous biodiversity:

(iii) the effects of natural hazards associated with the use or protection of natural resources

(b) must not consider effects regulated under the Planning Act 2025:

(c) may consider any other effect of the activity, subject to paragraph (b).

There is no clear direction as to what ‘particular consideration’ means or requires in this context. It seems to introduce a 'give the most weight to' provision but only in the NEB and only when assessing effects. It is not clear how this will work in practice.

Further, while clause 14(a)(ii) includes consideration of effects on natural resources, the NEB does not explicitly require consideration of indirect effects in the definition of effect in clause 3 (albeit it is implicitly in scope). Although clause (c) allows decision-makers to consider 'other' effects, that exercise is not mandatory. This weakens consistency and could lead to uneven application across regions, especially for social or cultural impacts that are not identified in clause 14(a).

Clause 14 of the Natural Environment Bill needs to be amended to provide clearer and more consistent direction on how effects are to be considered by decision-makers. In particular, clarification is required as to the meaning and legal effect of the requirement to give “particular consideration” to the effects listed in clause 14(a).

These amendments would improve clarity, help to support consistent decision-making, and better ensure that the assessment of effects under the NEB is comprehensive, transparent, and aligned with the purpose of environmental regulation.

Recommendation

- Review the wording of NEB clause 14 and provide clearer and more consistent direction on how effects are to be considered by decision-makers:
    - define and provide guidance on the meaning and application of "particular consideration", including whether it requires prioritisation or weighting of certain effects; and
    - expressly confirm that both direct and indirect effects are required to be considered under the NEB

11.5 Clause 31 Principles for classifying activities

We have concerns about the way clause 31 is written regarding principles for permitted activities. We see two issues.

Lack of specificity The principles are too broad and appear open to interpretation ("anticipated", "acceptable" etc). Acceptable to whom and anticipated by whom? If aiming for consistency with system architecture, when making a rule in a land use or natural environment plan, local authorities are constrained inherently by the hierarchy in the system. In determining if an activity is "acceptable" or "anticipated", local authorities should need to consider the regional spatial plan and any national instrument that expressly applies. There is limited scope for interpreting this in another way if acting consistently with the rest of the system architecture. To allow an alternative definition would undermine the role of national instruments and regional spatial plans.

Insufficiency of tests There is a related issue around the use of "or" rather than "and". Potentially any activity could be interpreted as permitted. The issue lies in the use of "or" in (i) and between (i), (ii), and (iii). The way this clause is currently written, an activity would only have to meet one of the following tests:

- is acceptable, is anticipated, or achieves the desired level of use/development; **or**
- adverse effects are known and can be managed; **or**
- a specific assessment is not required.

Each of these are insufficient tests on their own and could result in poor outcomes and inability to achieve the goals in the Bills.

Recommendation

Clause 31 Principles for classifying activities

Reword clause 31(a) as follows: An activity should be classified as a permitted activity if -

i) In a national instrument and/or regional spatial plan, the activity is acceptable, is anticipated, and achieves the desired level of use and development; or

ii) any adverse effects of the activity are not more than minor, can be manged and do not require a specific assessment.

12.0 Links with other key legislation, documents and processes

This section considers how the Bills interact with LGA processes and other reforms including water reform, the Emergency Management Bill, Rates Capping, development levies and the recent proposals to "Simplify Local Government." We have specifically considered the sequence of financial decisions for water services, Long-term Plans (LTPs), Regional Land Transport Plans (RLTPs) and the National Land Transport Plan (NLTP).

We have considered how the Bills interact with:

- LGA processes
- the timing of this decision-making work for funding infrastructure
- the relationship between the NEB, PB and the Climate Adaptation Bill
- the links between the Bills and National Policy Direction
- the impacts on the roles and responsibilities of local government (including the cumulative effect of reforms

12.1 Interaction between PB, NEB and LGA processes

The PB and the NEB will have a similar relationship to the LGA as the RMA currently does, i.e., they are designed to generally operate independently of the LGA. As neither the PB nor the NEB explicitly incorporate the decision-making requirements in Part 6 of the LGA, it is implicit that those decision-making requirements will not apply to substantive or regulatory decisions made under the Bills. While it could be made explicit that the LGA does not apply because the PB is a separate and specific regime, apart from the specific instances identified below, we do not consider it is likely to cause any actual issue or challenges.

Constituting a spatial plan committee (SPC)

Under the PB, an SPC is required to be formed to, among other things, prepare a draft RSP (PB, cl 73(b)). Except where the SPC is an existing committee established under legislation, it must be appointed "in accordance with" the LGA (PB, cl

71(2)(a)). This is assumed to mean the requirements applying to “joint committees” under clauses 30 and 30A of Schedule 7 of the LGA.

In practice, if decision-making is to be the responsibility of a subordinate body (the SPC), it will require the delegation of the relevant responsibilities conferred on each of the local authorities within each region. The power of delegation available to local authorities is found in Schedule 7 of the LGA. This means that while the PB requires a subordinate body to be appointed, it must necessarily be established under the LGA as well, as one of the bodies provided for under clause 30(1) of Schedule 7 of the LGA. Once established, a local authority may then formally delegate any of its responsibilities, duties or powers to the committee, except for those listed in clause 32 of Schedule 7 to the LGA. There will remain some risk if there is any limitation placed on delegations, which could occur where there is not complete confidence in the decision-making structures or composition of a SPC.

Clauses 30 and 30A of Schedule 7 leave it to the relevant local authorities to reach an agreement on matters that will be key to the operation of the SPC, including:

- the composition of the SPC, including the number of members each local authority may appoint to the SPC; and
- the terms of reference for the SPC, including whether the Minister will be permitted to appoint more than one person to the SPC

Because the PB confers a prescribed set of functions and powers on an SPC, there is a question as to whether there is scope for a broader role to be delegated to the SPC. If the SPC was to do so, determining that role would more than likely engage the decision-making requirements in Part 6 of the LGA.

As Part 6 of the LGA generally applies to all decisions made by local authorities, the obligation to appoint an SPC “in accordance with” the LGA gives rise to a potential argument that decisions about the appointment and terms of an SPC would need to be made “in accordance with” the provisions in Part 6 of the LGA. This could be argued to be the case given the need for formal delegations to be made to the SPC (even if there is no other option), and due to the need for agreements to be reached on various matters between the relevant councils. The lack of specificity in the PB relative to the establishment of, and delegations to, an SPC leaves room for such arguments.

This could give rise to practical difficulties for the participating councils, as they will then need to reconcile their statutory role (serving the best interests of their district or region), with the mandatory need to establish an SPC under the PB. Any difficulties could be resolved if the PB was more explicit about how an SPC was to be established, and how its membership was to be comprised, as otherwise the decisions will be left for the relevant councils to make against multiple, and potentially competing, LGA and PB considerations.

The counterfactual is that if the PB is more explicit and prescribes the membership of the SPC, there would be a risk that the council members of the SPC may only receive limited delegations from their parent councils, which could serve to limit or constrain decision-making by the SPC. This again could be resolved by the PB, if it was to provide more specificity about the structure, membership and role (including required delegations) of the SPC.

Purpose of SPC - PB, cl 292(1)

In addition to the requirement to constitute a SPC, the PB seeks to "encourage local authorities to work together to prepare, implement, and administer planning documents" (an RSP, a natural environment plan or a land use plan).

Should local authorities decide to do so, clauses 30 and 30A of Schedule 7 of the LGA will "apply to the appointment and conduct of any joint committee set up for the purposes of preparing, implementing, or administering a combined document". This will engage the same decision-making complexities described above, particularly those relating to decisions about the membership of the joint committee, which is likely to lead to some tension between local authorities (ie potential that larger metro councils will expect greater numbers of votes to reflect their population base, etc).

Recommendations

Delegations

- Amend the PB to expressly state how an SPC is to be established, including whether it is deemed to be a committee established under Schedule 7 of the LGA and how clauses 30 and 30A of Schedule 7 are intended to apply
- Amend the PB to clearly provide that local authorities must delegate the full suite of relevant powers and functions necessary for the SPC to perform its statutory role, subject only to the non-delegable matters listed in clause 32 of Schedule 7 of the LGA
- Amend the PB to specify how representation from participating local authorities is to be determined
- The PB should expressly state whether decisions relating to:
  - the appointment of SPC members,
  - SPC terms of reference, and
  - delegations to the SPC

  are intended to be subject to Part 6 of the LGA, and if so, how any conflicts with the mandatory obligations under the PB are to be resolved
- The PB should clarify whether an SPC may be delegated functions beyond those expressly listed in the PB, and if so, set parameters for when and how this may occur
- If the PB prescribes SPC membership or structure, it should also:
  - require corresponding delegations of authority to SPC members; and
  - ensure SPCs are empowered to make substantive decisions rather than operating as advisory bodies only.
- Guidance should be developed to support a model framework for SPC establishment, membership, and delegations

Consultation on draft regional spatial plan

An SPC is required to prepare a draft RSP in accordance with, among other matters, "the consultation requirements applicable to joint committees under the [LGA]" (PB, Sch 2, cl 9(1)(c)).

This could benefit from clarification. The LGA does not impose express "consultation requirements" on joint committees. Instead, a joint committee would consult under the LGA where:

- the decision engages mandatory consultation; or
- in the absence of a statutory requirement to consult, the joint committee decides to consult and does so "in accordance" with the relevant requirements of Part 6 of the LGA

As the PB is currently worded the SPC is not required to publicly consult on a draft RSP. That reflects that there are no "consultation requirements" applicable to joint

committees under the LGA, although it would be open to an SPC to consult on a draft RSP if it wished.

The current wording used in the PB could give rise to a risk that a decision not to consult on a draft RSP may lead to judicial review proceedings, alleging that consultation was, in fact, required. This would complicate, and potentially delay, the decision of an SPC to recommend the draft RSP for notification. The purpose of consultation on a draft RSP is also not clear, as the RSP will be publicly notified and members of the public will have the opportunity to make submissions on its content.

Recommendation

LGA/PB requirements to consult on a draft RSP

- Amend the wording in the PB so it is crystal clear there is no requirement to consult on a draft RSP

Role and weighting of RSPs in other legislated LG processes

Taituarā wholeheartedly supports the role that RSPs are intended to have in the new resource management regime. Specifically, clause 67 of the PB provides that RSPs are intended to have a significant role in the new RMA regime. They are intended to "set the strategic direction for development and public investment priorities in the region for a time frame not less than 30 years", "support a co-ordinated approach to infrastructure funding and investment by central government, local authorities and other infrastructure providers" and "promote integration of development planning with infrastructure planning and investment."

In order to ensure that RSPs can deliver on these objectives, the other plans and policies adopted by local authorities and other key stakeholders, including those that allocate funding for network infrastructure and other community and recreational facilities, will be critical inputs.

Two key provisions in the PB seek to achieve the required integration between different documents, being:

- Clause 68 of the PB, which explains how RSPs will "promote integration", but which notes that a RSP will have effect "to the extent provided for in that legislation"; and
- Clause 5 of Schedule 2 of the PB, which prescribes a range of considerations that the SCP must "have regard to" when preparing a draft RSP and when the independent hearings panel makes recommendations on the draft RSP.

Of those two provisions, clause 68 provides the opportunity to provide stronger direction or clarification relative to the weight of the RSP for other documents. At present, it does not do so, as it is framed against a "promote integration" backdrop, with subclause (2) noting that "This section is a guide only to the general scheme and effect of legislation that provides for the effect of regional spatial plans".

Taituarā submits that there is an opportunity to improve these provisions by placing a significant amount of weight on the RSPs so that they (once adopted) will drive subsequent decision-making. For example, at present a softer direction is set for land transport and LGA documentation, ranging from “must be consistent” to “take into account” and “set out steps to implement or progress”.

Of particular note, there is no reference in clause 68 to the Local Government (Water Services) Act 2025 (LGWSA), or the Water Services Strategies (WSSs) that will be adopted by all water service providers. While an SPC must “have regard to” such documents under clause 5 of Schedule 2, it would be preferable for WSS to form part of the package of documents that will need to work together (in clause 68). We note, for completeness, that one of the objectives in section 17 of the LGWSA is to “support housing growth and, if applicable, urban development in its service area”, with the WSS being a key document that will explain how that will be achieved.

In terms of the content of RSPs, they are required to “identify and provide for” the matters listed in clause 3 of Schedule 2, which includes:

- “priority areas for public investment in the short, medium and long-term”;
- “existing and future key infrastructure”; and
- “other infrastructure services that may be needed to serve future urban areas”.

There is some uncertainty as to the level of influence that local authorities will have over *how* those matters are provided for in the RSP. For example, there is no explicit direction that the infrastructure provided for in the RSP should be either planned or funded, by either the relevant local authority or the Crown.

Instead, clause 5 of Schedule 2 of the PB prescribes a range of considerations that the SCP must “have regard to” when preparing the draft RSP and when the independent hearings panel makes recommendations on the draft RSP. These include:

- any long-term plan, including the infrastructure and financial strategies prepared under the LGA; and
- “any other statutory strategy, policy or plan related to infrastructure or another mandatory matter under clause 3 [of Schedule 2]”, including a WSS prepared under the LGWSA.

As the LTP and WSS are both statements of policy intentions which are reviewed at 3-yearly intervals (and can be changed at any time), reference to or drawing on these other documents will not ensure that there is certainty for the delivery of infrastructure.

Further, other community infrastructure, such as reserves and recreational facilities, are not required to be “identified and provided for” in the RSP. The extent to which those matters are considered by the SPC, will be related to where they relate to one

of the mandatory matters in clause 3 of Schedule 2 or to the extent that they are included in the LTP.

In terms of the weight of the relevant matters, the Courts have held that the requirement to “have regard to” a matter requires the decision maker to “give genuine attention and thought” to the matter, but that the matter “must not necessarily be accepted.” As a consequence, the decisions made by the SPC could result in RSPs that will either act to direct future planning decisions, or which will be unsupported by funding due to distinct council decision-making processes. No amendments have been proposed to the LGA to align with the requirement to prepare RSPs so we are concerned there will be a risk to integrated decision-making if the weighting of RSPs is not addressed.

Mandatory spatial planning and spatial plans with weight, have been sought by local government for well over a decade. For spatial plans to achieve their intended purpose, alignment between the RSP and planned or funded infrastructure (including in the LTP) is crucial, as the feasibility of infrastructure delivery to support growth is a core consideration for spatial planning.

In terms of alignment of timing with LTPs, under the transitional provisions in the PB, RSPs are required to be notified shortly after the commencement of the 2027-37 LTP. In preparing their 2027-37 LTPs, local authorities will need to be aware that their LTPs will be considered as part of preparing the RSP, and that the 2027-37 LTP will serve as a key opportunity to influence the contents of the RSPs. Given the timing, (ie preparation of LTPs is already underway and visibility of the details of the new RM system has been limited), councils will need to set a realistic LTP (and WSS), rather than one which is a “best case” scenario.

Recommendations

Role and weighting of RSPs

- Amend the PB so that, once adopted, RSPs have clear and directive weight in subsequent planning, infrastructure, and funding decisions, rather than merely "promoting integration".
- Provide clearer direction in clause 68 about how RSPs are to relate to, and be given effect through, LGA plans, land transport documents, and other statutory strategies.
- Amend clause 68 to explicitly include the LGWSA and Water Services Strategies (WSSs) as part of the integrated planning framework alongside RSPs.
- Require RSPs to be prepared in a way that is clearly aligned with infrastructure that is planned and realistically capable of being funded, including through Long Term Plans and WSSs.
- Provide clearer direction on whether infrastructure identified in an RSP is expected to be planned, funded, or delivered by local authorities, central government, or other providers.
- Strengthen the current "have regard to" tests so that key funding and infrastructure strategies cannot be easily departed from without clear justification.
- Consider requiring RSPs to identify and provide for key community and recreational infrastructure, where this is necessary to support growth and long-term wellbeing.
- Address the lack of alignment between the PB and the LGA to reduce the risk of inconsistent or fragmented planning and investment decisions.

Funding for RPSs, NEPs and LUPs by local authorities

Local authorities are required under the PB (Sch 4, cl 8(1)) to fund all costs incurred by "an independent hearings panel… assigned to the instruments of more than 1 local authority", which will include the SPC and independent hearings panels that hear submissions on natural environment plans under the NEA and land use plans under the PB. In addition, local authorities will be required to fund the preparation of those plans. Without new funding mechanisms, funding will come from rates.

The timeline as it stands requires RSPs to be notified in September 2027, and decisions are required to be made on RSPs by March 2028. Natural environment and land use plans are required to be notified in December 2028, with decisions made on the land use plans by December 2029.

Councils will therefore need to allocate funding in advance, likely in their 2026 Annual Plans, in order to ensure that RSPs can be prepared by the September 2027 date. Additional funding will be required in the 2027-2037 LTPs to provide for the process associated with the preparation of RSPs, as well as funding for land use or natural environment plan preparations. The Bills do not provide any exemptions from the LGA requirements to:

- state in the revenue and financing policy, in respect of funded activities, the community outcomes to which the activity primarily contributes; or
- identify in a local authority's annual report in relation to each group of activities the community outcomes to which the group of activities primarily contributes

Visibility of the new planning system has been tightly held and this, when taken together with the Government's current desired implementation timeline, means that councils are on the backfoot when it comes to identifying likely budgets for the activities indicated above. Of critical importance is this needs to happen very soon.

We reiterate the point made earlier, the best scenario is the timeline for implementation is revised and a realistic one developed. Irrespective of the revision of the timeline, officials need to get around the table with councils as soon as possible, to develop some funding scenarios to assist with allocating funding in 2026 Annual Plans and in 2027-2037 LTPs. We also reiterate the point made earlier in this submission about the substantial costs associated with this process and the compounding effects of multiple new reforms which will inevitably impact the ability to fund.

Recommendations

Funding

- Revise the timeline for implementation as per previous recommendations so it is realistic
- Recommend that the Government allocate implementation funding directly to local government for the development of each RSP, NEP and LUP
- That officials work closely (and soon) with local government to develop funding scenarios to assist with allocating funding in 2026 Annual Plans and in 2027-2037 LTPs

Consideration of LG documents under NEB and PB

Local government planning documents can be considered while preparing a draft RSP, but they are not expressly identified as relevant considerations for the preparation of natural environment or land use plans or decision-making on planning consents. This is a departure from the RMA, which requires territorial authorities to have regard to "management plans and strategies prepared under other Acts" when preparing or changing a district plan; section 75(2) of the RMA, which allows territorial authorities to include in a district plan "*any other information* required for the purpose of the territorial authority's functions, powers and duties under this Act" (which can include material developed under the LGA); and section 104(1)(c) of the RMA, which allows a consent authority to, when considering an application for a resource consent, have regard to "*any other matter* the consent authority considers relevant and reasonably necessary to determine the application".

Because the Bills prescribe an exclusive list of matters that can be considered when preparing a natural environment or land use plan, or when deciding planning consent applications, there is arguably no discretion to consider other relevant local government planning and strategy documents. Limiting the permissible considerations reflects the intention that the resource management system "will operate like a funnel", with the matters that can be considered narrowing at each subsequent stage.

We consider this limitation will exclude documents that should be included (as an option) in the preparation of NEPs and LUPs.

Recommendations

Consideration of LG documents under NEB and PB

- Provide the ability to consider local government planning documents in the preparation of a NEB and a PB

Role of RSPs and LG decision-making

RSPs are intended to "promote integration", with section 69 of the PB summarising the relationship between RSPs and other local authority functions, decisions and plans. In particular:

- local authorities' LTPs are required to set out the steps to implement or progress the actions "for which the local authority is the lead under this Part" (PB, cl 68(1)(e)). It is unclear what this means. Although SPCs are required to prepare and adopt a co-ordination document for its RSP (PB, Sch 2, cl 36), and are under a separate obligation to monitor and report annually on their co-ordination documents, (PB, Sch 2, cl 38) neither Part 3 nor Schedule 2 refers to RSPs identifying actions for which particular local authorities are "a lead". Amendments should be made to clarify the intent behind the "lead" role, and how that will be determined;
- local authorities' annual reports are required to include certain statements regarding the implementation of "actions identified in the relevant [RSP] for which the local authority is a lead;"
- the PB amends the Land Transport Management Act 2003 (LTMA) to insert a requirement for RLTPs to "be consistent with the relevant [RSP]". That may have implications for the projects that the relevant regional transport committee decides to include in a RLTP. The intention of the LTMA amendment is to ensure that land transport planning is consistent with the direction provided for in the RSP.

Taituarā agrees that RSPs should provide strategic direction to decision-making for the planning decisions that local authorities are required to make. These matters intersect and overlap, and ought to be considered in an integrated manner. However,

the current proposals in the PB as to how RSPs are considered in the course of preparing a LTP need refinement.

With regard to the LGWSA, no substantive amendments are proposed to the LGWSA. As a result, water service providers will not be required to have regard to RSPs when preparing a WSS. Given the objectives set for water service providers under the LGWSA, this seems to be an omission that water services planning and delivery is isolated from other infrastructure-related decision-making.

Last but by no means least, we are concerned that the different timeframes for planning under the PB, as compared with other local government planning documents, may have implications for the ability to achieve integration across all forms of strategic planning by local authorities. For example, RSPs are required to be reviewed at least every 10 years, or sooner if they are required to do so by a national instrument. However, local authorities are required to prepare new LTPs triennially, as are water services providers, for WSSs. The requirement for those documents to be prepared with regard to the RSP may make it **more** difficult for decision-making under the LGA (or LTMA in respect of RLTPs or the LGWSA in respect of WSSs, assuming the LGWSA is also amended to require WSSs to be prepared with reference to the relevant RSP) to be responsive to changing circumstances.

While the Bills will operate largely independently of the LGA and the Local Government (Water Services) Act 2025 (**LGWSA**), as these regimes require the preparation of strategic planning documents at regular intervals, we are concerned to ensure the different regimes interact in a workable manner. This will be important to achieve the stated objectives of regional spatial plans (**RSP**), which includes supporting a “co-ordinated approach to infrastructure funding and investment” and to “promote integration of development planning.”

There is some uncertainty as to the level of influence that local authorities will have over how the decisions that they make about the funding of infrastructure for development will be provided for in the RSP (eg the weight to be applied to the RSP, or vice versa, the LTP). If the RSP is to deliver on its expressed purpose, it should be afforded substantial weight to influence and direct other strategic plan and policy making under the LGA.

Recommendations

Role of RSPs and LG decision-making

- Clarify the intent behind the "lead" role, and how that will be determined
- Refine the proposals in the PB as to how RSPs are considered in the course of preparing a LTP
- Amend the LGWSA to require WSS to have regard to RSPs when preparing a WSS
- Align the planning under the PB with other local government planning documents, including timing
- Redraft the provisions to afford clear and strong weighting to RSPs so they direct other strategic plans and policy making under the LGA

11.2 Relationship between the PB and the NEB

Application of 'environment'

The Bills are designed to address and apply to separate domains. The PB is focused on land use and enabling development, while the NEB is focused on the use, protection and enhancement of natural resources. Goals apply to each Bill and provisions within each Bill apply to differently defined 'environments.'

How the planning documents required by the Bills, and decision-making under the two Bills, will be balanced, and the coherence of the interactions between the two Bills is achieved, will fundamentally be driven by the development of National Policy Direction.

Our legal advice notes that the Bills do provide for some limited prioritisation between themselves. More specifically, the NEB expressly provides for National Standards to establish separate consenting pathways for significant infrastructure activities that breach or are likely to breach environmental limits. While still reliant on National Standards being produced, this provision provides an example of the Bills acknowledging that the goals of the PB may be prioritised over those of the NEB.

The 'environment' that each Bill considers and the attempt to define distinct subsets of the broader 'environment' is likely to create significant workability issues in practice, and potential for legal challenge. While a split between the type of activities managed by the two Bills is workable (and is already largely the case in district and regional plans), splitting the effects that can be managed associated with those activities is not.

Our legal advice sets out why:

In many cases activities might cause effects outside of the narrowly defined 'environment' envisaged (and regulated) by one of the Bills. However, it may not necessarily require a consent under the other Bill, and as a result some environmental effects would not be assessed at all. There could be the potential for those effects to be significant, and directly relevant to the goals of the Bills. For example, local authorities will be unable to consider adverse effects arising from land use consent applications that are on the natural environment and biodiversity – as

this is (arguably) not in the 'built environment'. This is despite indigenous biodiversity being one of the goals under the PB.

In addition, there are differences in how effects assessments are carried out... For example, consideration of effects regulated under the PB is prohibited when exercising or performing functions, duties or powers under the NEB. However, the PB does not clearly contain the same restriction. Instead, persons exercising or performing functions, duties or powers under the PB cannot consider "any matter where the land use effects of an activity are dealt with under other legislation". The potential exclusion of effects considered under either the PB or NEB is a potentially significant issue particularly where there is an overlap – such as natural hazards.

This would appear to be a fundamental issue with the construction of the new legislation. Significant environmental effects may not be able to be managed. Another issue for local government is that it is councils who will have to bear the cost of the litigation that will ensue as the new regime beds in and some of these matters are settled. Taituarā urges the select committee to listen in particular to the legal submissions on this Bill and address these critical matters that go to the heart of how the new legislation is constructed.

Recommendations

Relationship between the PB and the NEB

- Do not divide the environment and environmental effects into separate statutory subsets, as it is not necessary or workable.
- If retained, ensure definitions are sufficiently broad and integrated to reflect real-world environmental interactions
- Amend both Bills to ensure that all significant environmental effects of an activity can be assessed, even where those effects fall outside the narrowly defined "environment" of a single Bill.
- Ensure there are no regulatory gaps where effects are excluded from consideration under both Bills
- Provide transitional guidance and support for local authorities to implement the new regime, recognising the legal and financial risks they face during the bedding-in period

Cross-referencing between the Bills

The Bills contain frequent cross-references to each other. In particular, the NEB often cross-references to processes in the Schedules to the PB, for example, the process required to include ecosystem health limits in a proposed natural environment plan, where the NEB requires regional councils to follow the process set out in Schedule 3 to the PB.

However, at times these cross-references do not adequately describe how the schedules are to operate. For example, in relation to regulatory relief, the NEB simply refers to the process contained within Part 4 of Schedule 3 to the PB. However, the NEB

contains different definitions for specified topics (which determine when the regulatory relief regime applies), and even what a ‘plan’ is. While these issues may not necessarily prevent the framework operating as intended, the Bills would benefit from drafting clarity. This could be provided by clauses making clear that where processes contained within one Bill apply to the other, those provisions apply with all necessary modifications (including by utilising definitions contained with the other).

In addition to frequent cross-references, the Bills are often repetitive, containing identical (or very similar) clauses. The frequent use of cross-references and duplicated provisions between the Bills reflects that while the Bills are intended to deal with different domains, they largely do so within similar structures and with similar procedures. This begs the questions as to whether it is necessary or desirable to have the overall regime split into two bills instead of combining them into one.

A good example of this repetition is with clause 13 of each Bill. Clause 13 sets out the procedural principles for persons exercising or performing functions under each Bill. The principles in each Bill are exactly the same, and, somewhat ironically, include taking all practicable steps to “avoid unnecessary repetition in key instruments”.

Recommendations

Cross-referencing

- Consider whether it is necessary, better and workable to have two Bills rather than one
- Review and improve the clarity of drafting. Make it clear that where processes contained within one Bill apply to the other, those provisions apply with all necessary modifications (including by utilising definitions contained with the other)

Climate adaptation and natural hazards

Taituarā supports a planning system that provides the tools and mechanisms to assess risk on a consistent basis, respond to the impacts of natural hazards and climate change, and increase our resilience.

Climate adaptation

There do not appear to be any clear links in the Bills to a future Climate Adaptation Bill. There are also limited links to the Government’s recently announced National Adaptation Framework and the CCRA. The National Climate Adaptation Framework includes a commitment to amend the CCRA to require local government to prepare adaptation plans for certain priority areas. It was announced at that time that the

identification of priority areas would occur through the regime replacing the RMA (we assume this will be through RSPs).

Once adaptation plans have been prepared, the Bills require them to be considered by:

- SPCs, when preparing RSPs, with those plans to identify and provide for "priority locations for adaptation plans prepared under the [CCRA]";
- territorial authorities, "to the extent that it has a bearing on land use activities in the district and is within the territorial authority's responsibilities" when preparing land use plans; and
- regional councils, "to the extent that it has a bearing on activities in the region and is within the regional council's responsibilities," when preparing natural environment plans

The current RMA requirement to have regard to any emissions reduction plan made in accordance with section 5ZI of the CCRA when making regional and district plans has not been incorporated into the Bills.

The Bills deal with natural hazards (defined to include the effects of climate change) by placing various obligations on, and giving various powers to, local authorities.

Taituarā supports stronger direction in the Bills regarding climate adaption. As set out previously (section 8), this must include an explicit goal relating to the effects of climate change and it is our submission this also needs to include:

- links to the Government's recently announced National Adaptation Framework and the CCRA
- references to the requirements on local government to prepare adaptation plans for certain priority areas
- regard to be had to any emissions reduction plan made in accordance with section 5ZI of the CCRA when making RSPs and NEPs and LUPs

Natural hazards

Taituarā seeks tools to reduce risk associated with natural hazards. The Bills have fewer tools than contained in the RMA. We agree with the New Zealand Planning Institute's analysis of this: an important way to reduce risk is for existing uses in hazard areas that are vulnerable to harm to be made less vulnerable/more resilient, or moved out of a hazard area completely. However, it is not possible to do this while the legislation provides protection for existing uses, which the Planning Bill does in clause 20. Clause 20 means that any rule to manage land use that is introduced to a district plan does not apply to an existing use, while the effects of the use remain the same in character, intensity and scale. On the ground, this means that if a house is damaged by flooding it can be built back in the same location without any need to consider resilience measures such as raised floor levels or relocating to higher ground within the site. A council could include a rule to require this consideration, but

that rule would only apply to houses built after the rule is put in place, and all existing houses are exempt if they are rebuilt like-for-like. Under the RMA, regional councils can impose rules of this nature that apply to existing as well as future uses, but this ability has been lost in the rearrangement of roles and responsibilities between the NEB and the PB. It is not clear if this was intentional or not.

Recommendations

Climate adaptation

- Link to the Government's recently announced National Adaptation Framework and the CCRA
- Include reference to the requirements on local government to prepare adaptation plans for certain priority areas
- Specify that regard must be had to any emissions reduction plan made in accordance with section 5ZI of the CCRA when making RSPs and NEPs and LUPs

Natural Hazards

- Provide the ability to manage existing uses for hazards and climate change matters in the PB and the NEB

13.0 Regional Spatial Plans – detailed comments

13.1 Preparation and review of regional spatial plan Schedule 2 Part 2

Clause 5 General considerations

Schedule 2 Part 2 clause 5 requires the SPC to have regard to a broad and unstructured list of strategies, plans, and instruments, with no hierarchy or weighting. No direction is provided on how to manage conflicts between documents or how priority should be determined. This increases legal risk, as committees may be exposed to challenge for failing to demonstrate regard to every listed input. The volume and breadth of required inputs also risks constraining the ability to produce a clear, strategic regional spatial plan.

To create a certain and focused system, amendments are required to remove the following matters to which the committee must have regard:

- Deleting *government policy statements* (as these are too broad and sit outside the planning framework. Likely to be addressing unrelated planning matters these documents are not national instruments in the context of this Bill or the Natural Environment Bill)

- Deleting *any instrument notified in the Gazette* (unless it is a national instrument provided for the Planning Act and the Natural Environment Act)
- Inserting reference to national instruments prepared in the context of this Bill and the Natural Environment Bill (as these are directly relevant to RSPs)

We support retention of the matters listed at clause 5(2)(a) relating to-

- Long term plan and related strategies
- Regional land transport plan
- Infrastructure strategies
- Land use plans and natural environment plans
- Iwi authority advice and planning documents
- Climate change response adaptation plans (once operative).

Recommendations

RSPs – general considerations (Schedule 2 clause 5 PB)

Amend Schedule 2 clause 5 PB to:

- Delete *government policy statements* from clause 5
- Delete *any instrument notified in the Gazette* (unless it is a national instrument provided for the Planning Act and the Natural Environment Act)
- Insert reference to national instruments prepared in the context of this Bill and the Natural Environment Bill (as these are directly relevant to RSPs)

Clause 6 Incorporation of information from land use and natural environment plans

Taituarā supports this clause in principle subclause (1) is cast too narrowly and needs to be widened to ensure the RSP is integrated with the subordinate regulatory plans. The incorporation of information is presently prevented, especially from natural environment plans. With reference to NEPs, only "*information about the state and characteristics of the environment, including information about infrastructure and other aspects of the built environment*" and "*environmental limits from a natural environment plan*" may be incorporated.

And subclause (3) which states that "*The information from the region's operative land use plan or natural environment plan may be incorporated by the local authorities when making decisions on the independent hearings panel's recommendations on the draft regional spatial plan*" should be extended to the review and amendment of an RSP.

Recommendations

Incorporation of information (Sch 2 cl 6 PB)

Amend Schedule 2 clause 6 to:

- Expand the scope of (6)(1)(a) to enable the RSP to incorporate information from the region's operative NEP
- Enable the incorporation of information from the region's operative LUP or NEP by the local authorities when making decisions on the independent hearings panel's recommendations on the review or amendment of an RSP.

Clause 7 Spatial plan committee to invite applications from designating authorities

As currently drafted, clause 7 means the RSP process will be inefficient. SPCs will be inundated by designating authorities seeking to rollover and propose designations for low-scale projects inappropriate for inclusion (or consideration for) a strategic RSP with a 30 year planning horizon. The opportunity for inclusion of any designation must be limited to those of strategic significance, taking a long-term view.

Presently, clause 7(3) is only an information requirement. The timeframe for RSP production is limited and as proposed elsewhere in the Bill, we are concerned to ensure a proportionate approach. Managing the volume and type of designation opportunity is necessary. We suggest clause 7 is amended to enable designating authorities to inform spatial planning committees of any operative RMA designation **and** any future or proposed designation that is of national or regional strategic importance (cl (2) and (3)) and must be supported by an evaluation to demonstrate the significance of the designation to regional spatial planning and its relationship to mandatory spatial plan content to warrant inclusion in an RSP. The mandatory matters should be specified in regulations.

We have also identified that Schedule 5 (Designations) does not come into force until the specified transition date, therefore clause 7(1)(b) of Schedule 2 will not apply at the time a SPC must communicate with designating authorities. Schedule 5 cannot apply to the first suite of RSPs. Other consequential changes may be required.

Recommendations

Inviting designating authorities (Sch 2 cl 7 PB)

- Amend Schedule 2 clause 7 to specify that the SPC must invite relevant designating authorities to inform SPCs:
  - of operative RMA designations
  - future or proposed designations for projects that are of strategic significance

And

- the designating authority must provide an evaluation report to demonstrate the significance of the designation to regional spatial planning and its relationship to mandatory spatial plan content;
- Develop regulations that specify the mandatory matters that must be included in the designating authority's evaluation report that accompanies;
- Delete 7(1)(b) as Scheule 5 cannot apply to the first suite of RSPs.

Clause 19 Minister may make decisions on recommendations relating to certain matters

Taituarā supports the outcomes of this reform, being an enduring resource management system with narrowed policy settings. We are concerned that the proposed Ministerial decision-making powers will create instability and time delays. It is contrary to the principles of natural justice to apply different and open-ended decision-making factors at the end of the process. The powers create uncertainty and unfairness to all system participants. Providing for Ministerial decision-making powers, and especially at the end of the process, creates procedural and outcome uncertainty which will affect how decisions are made, how disputes are resolved, how appeals are managed and how RSPs made operative.

The proposed planning system is already subject to the potential for change with a three-yearly national election cycle and, with this, potential change to national policy direction associated with a change in Minister. These provisions will create uncertainty and expensive implementation for any re-work required. The costs will inevitably cascade down through the system, with these costs falling to local authorities.

Government policy statements and other national plans or strategies that are unrelated to the planning system should not be included in clause 19(1)(b). Inclusion of these documents broadens rather than narrows the planning system and gives documents status that were prepared for different statutory – or non-statutory – purposes.

Clause 19 gives an elevated status to infrastructure which conflicts with the clearly expressed scheme of the Bill at clauses 11, 12 and 45 that there is no hierarchy between goals. It is contrary to the design of the PB to elevate infrastructure above

all other system goals in allowing the Minister to intervene in the RSP decision-making process.

Lastly, clause 6 gives the Minister 12 months from the date the draft RSP is notified. This will inevitably blow out the already tight timeframes for the subsequent preparation of the regulatory NEPs and LUPs which get their direction from the RSP.

Recommendations

Ministerial decisions on recommendations Sch 2 cl 19 PB)

Amend Schedule 2 clause 19 to:

- ensure this clause is aligned with the design of the planning bill, with respect to infrastructure and a lack of hierarchy between national policy direction
- remove the ability for the Minister to make a decision on the RSP cl19(1)
- remove references to a government policy statement, or other national plan or strategy cl19(1)(b)

Clause 21 Local authorities to consider recommendations

Clause 21 sets out the process for local authorities to decide whether to accept or reject each recommendation of the IHP and, for each rejected recommendation, decide an alternative solution.

We are concerned that a minimum of 18 months is required to undertake: the submission (and further sub) period, preparation of any reports to the IHP, expert conferencing if necessary, hearings, deliberations, recommendation writing and the 40 working days for the council to make the decision.

Recommendation

LAs to consider recommendations (Sch 2 cl 21(3) PB)

- Amend Schedule 2 clause 21(3) to give local authorities **18 months** to decide whether to accept/reject each recommendation of the IHP etc.

14.0 National direction

Clause 46 PB Engagement on national direction

The Bills require engagement with iwi authorities during the preparation of a national instrument before it is publicly notified. There is no reference to a requirement to engage with local authorities during the preparation of a national instrument. We acknowledge and support the proposed requirements under clause 46 to consult with iwi authorities during the development of a national instrument. Given the role of local authorities in implementing national instruments, engaging with the relevant

local authorities during this time should also be required to ensure workability of provisions. While clause 46(4) states the Minister may establish technical advisory groups, these are at the Minister's discretion and there is no specified role for local authorities.

Recommendation

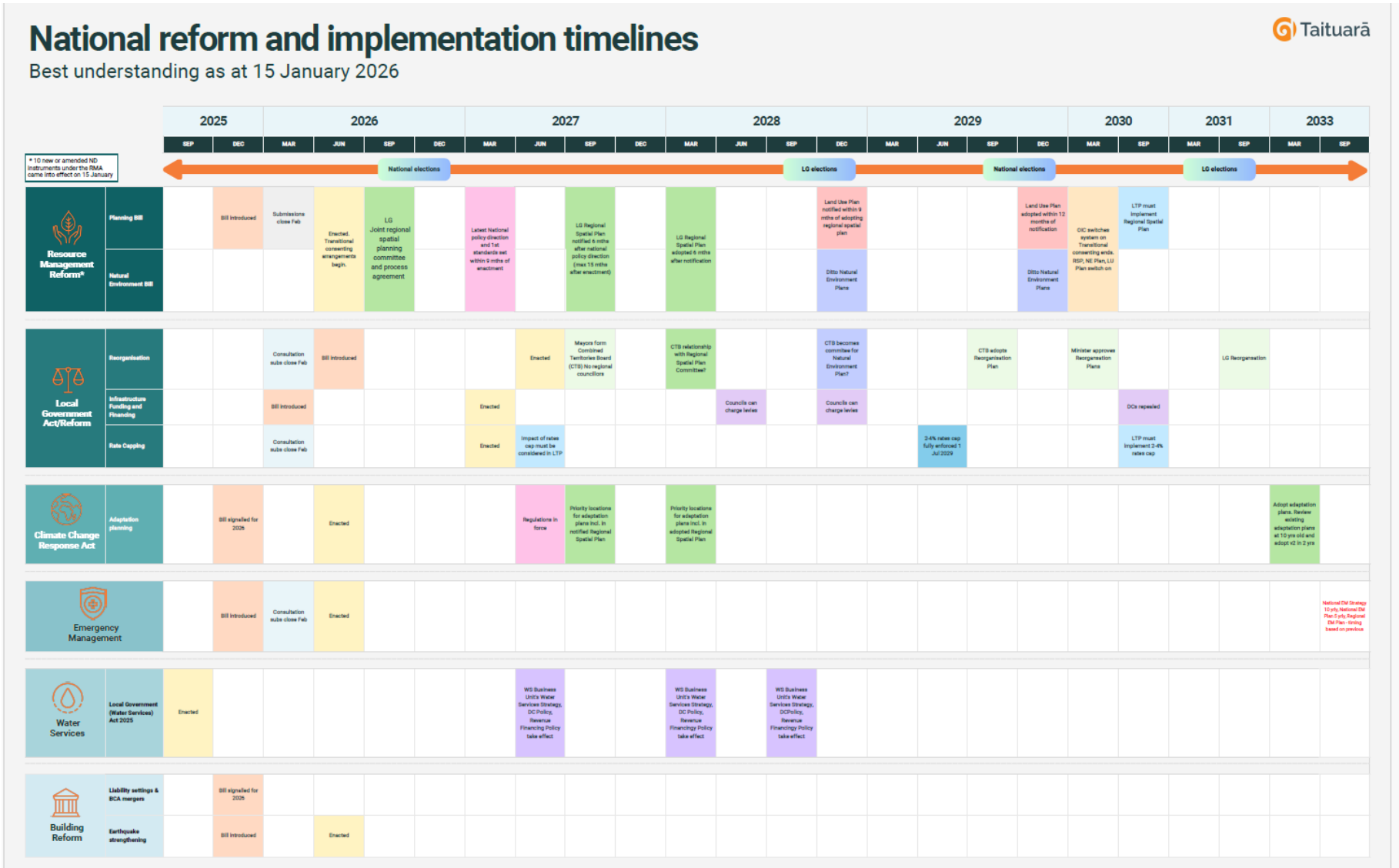
Engagement on national direction (Cl 46 PB)

Amend clause 46(1) as follows:

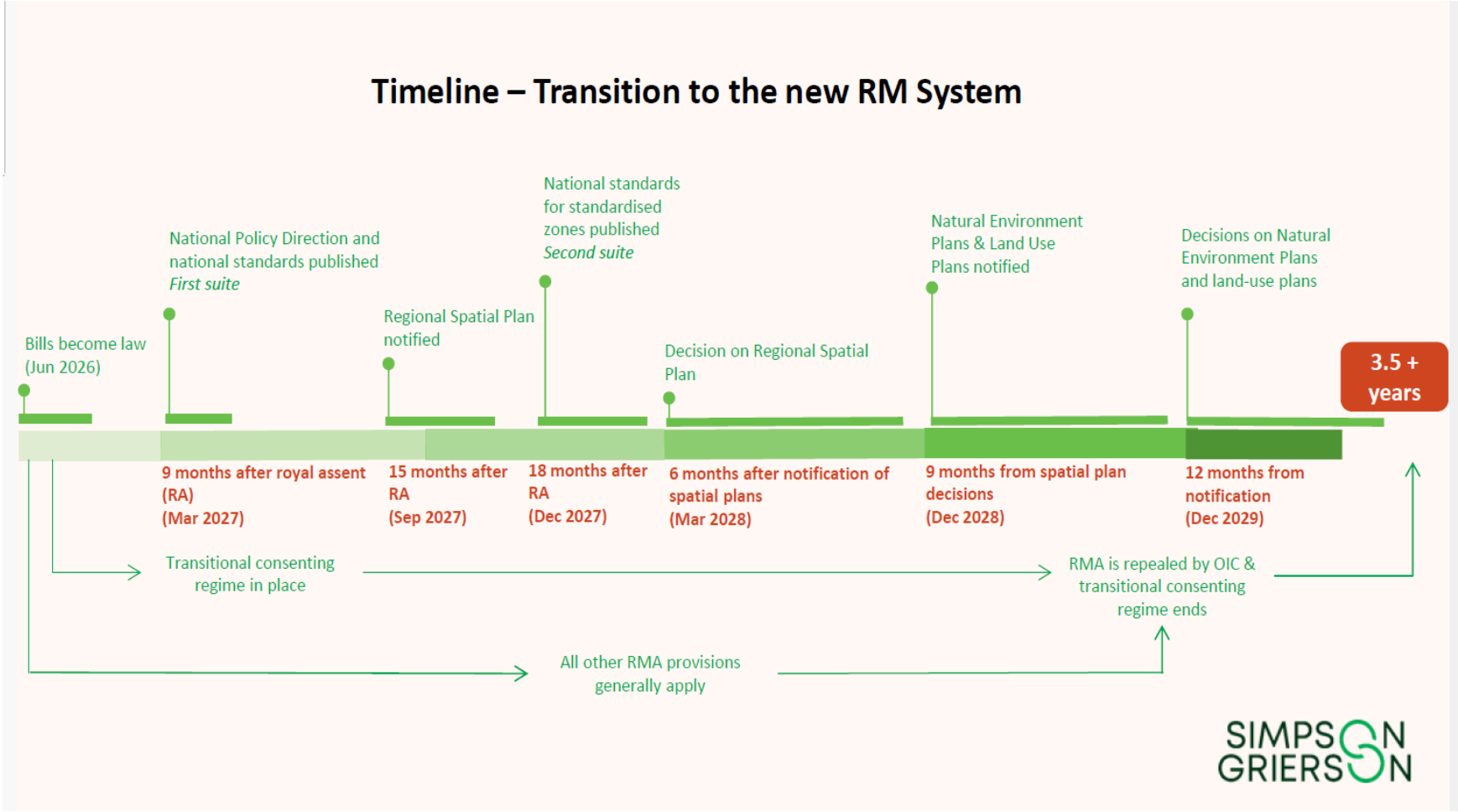
(1) Before the Minister publicly notifies a national instrument, the Minister must—

(a) provide iwi authorities and relevant local authorities …

Appendix 1 National reform and implementation timelines



Appendix 2 – Timeline – Transition to the new RM system



Appendix 3: LG timeline for preparation of Draft RSP

Provision	Requirements/tasks	LG timeframe - sequential
Spatial plan committee		
Process agreement		
Process agreement for preparation of RSP cl 69 (1) LAs must agree: • key geographical areas, issues, opportunities; • roles of each LA; how LAs will work & with CG etc • how the LAs will work with other LAs in adjacent regions • how each LA will meet obligations to iwi and how SPC will consult iwi • how the LAs will work with infrastructure providers, sector groups (3) LAs must: • agree the matters set out in subsection (1)(d) with the relevant local authorities of the adjacent regions • Set the matters in a document • Make document available to the public	Agreement by local authorities as to how to prepare cl69 agreement (who will hold the pen, what engagement is required etc) - potentially via a Mayoral Forum Develop draft process agreement to cover all the matters specified in cl 69 incl roles of each LA: -initial development: 6 weeks (including engagement with iwi, infrastructure, CG) -feedback/review management: 1 week -finalisation and pre-circulation for workshop: 1 week -seek feedback adjacent regions:1 week -Facilitated workshop(s) to resolve all matters with all LAs and update: 1-2 weeks (invite adjacent regions if req'd) -Process through formal Council meetings: 1 month (to allow for variations in schedules)	Best case scenario: Total time to develop process agreement, consult with iwi and make available: 12 weeks + contingency = 14 weeks

	Assumptions/Challenges/key risks Requires a decision from every local authority Lead time for a Council decision - 4 weeks (absolute minimum 2 weeks ... for report prep, internal CE approval, agenda release then meeting) Funding and resourcing considerations and decisions (2027-2037 LTP??) - in 2026 – Need budget information by ??	
Spatial plan committee set up		
Requirement to have a SPC cl 71 (1) LAs work together to develop ToR 71(1) • Appoint SPC in accordance with LGA/existing cttee 71(2) • Appoint chairperson and secretariat 71(3) (2) Ministerial appointment(s) 72	Decision framework for Ministerial appointment (timeframe unknown) Unknown: Will Minister need to know the makeup of the committee prior to making a decision. Report including ToR preparation: - Draft report 1 weeks - Management review: 1 week - Joint Workshop 1 week - Get through Councils 4 weeks Engagement with iwi: 1 month Initial engagement with iwi can be sequenced with development of options. Practically this step needs to also include time to discuss plan framework (rather than just notify)	Minister timeframe unknown Total time for this phase incl council decision: 10 weeks (assuming iwi engagement can start and run concurrent with previous step)
	Challenges/key risks	

	Lead time for a Council decision - 4 weeks (absolute minimum 2 weeks, for report preparation, internal CE approval, agenda release then meeting	
Set up Secretariat, Project Plan		
	Appoint project manager, develop a project plan, set up teams, ensure access to technical resources, identify aspects that require external input/procurement etc.	Potential for this step to be undertaken concurrently if high trust/early agreement in principle is achieved
	Challenges/key risks Potential for slippage re timeframe if trust not achieved and checking in required with the councils. Potential to affect next step ie preparation of the RSP. Working concurrently with previous steps is dependent on getting started early	
Preparation of Draft RSP Schedule 2		
Form of RSP (1) • As prescribed (if any) by national standards and regulations Contents of RSP (2)(3) • must identify and provide for mandatory matters and optional matters • be consistent with env limits; national instruments; WCOs • set out actions for implementation	<u>Research and options paper</u> Research and preparation of options paper. Develop regional consistency in background evidence (for example Hazard Information, HPL Mapping Etc <u>Consultation with iwi</u> Sequence engagement with iwi with development of options	Assume six months Includes gap analysis, agreeing minimum information requirements. Includes time to engage reports I month
	<u>Scenarios</u> Develop and agree scenarios for testing of options (Clause 9(2) Subpart 3 Schedule 2)) 1. Develop scenarios 2. Test with LAs	3 months

General requirements (4) (1) prepare in accordance with requirements in national instruments or regs re methodology and data/other information Consultation with iwi (70) (1) SPC must consult iwi authorities in prep of draft RSP and any customary marine title group (2) Provide draft RSP to iwi authorities & customary marine title groups before public notification 70(2) (3) seeking iwi authority and customary marine title group views on the draft 70(3)	3. Workshop challenges and solutions 4. Agree and report identified options	
	<u>Framework</u> Agree Framework, Template etc	1 month
	<u>Drafting</u> Drafting and peer review	3 months (Assume two months drafting, one month peer review.)
	<u>Finalise</u> Final draft review, finalise GIS maps etc	1 month
	<u>Endorsement</u> Endorsement of Spatial Plan by Manawhenua	1 month
	<u>Minister audit 13(a)</u>	Unknown
	<u>Ratification by LAs cl11</u> SPC decides whether to recommend final draft RSP to LAs for approval for public notification. Likely to be requested by councils; LAs in region must decide whether to approve the public notification of the draft RSP	1 month
	<u>Engage IHP Schedule 4</u> IHP practically need to be engaged prior to notification to confirm potential conflicts of interest, decision making for procedural matters (accept/ reject submissions) and resource availability	Sequential – no timeline impact – Lead times – 1-3 mths – can be sequential
	<u>Make publicly available</u>	1 month

	Admin to notify; draft public notices and co-ordinate website wording, notices in paper, legal review. Time could be saved if Planning Committee notified rather than individual TAs (set up linkages from individual TA websites)	
	<u>Submissions</u> Secretariat receives submissions	20 working days
	Challenges/key risks/contingencies Assumes that budget already exists to undertake work in 25/26 Financial Year Various settlement agreements, mana whakahono etc will set out expectations, and perhaps timeframes for consulting/engaging that will need to be factored in – different in different districts and regions **CG contingencies:** 9 months after RA NPD expected: PB and NEB NPD PB National stds: national stds that set evidence base for combined plans: nationally set env limits relating to human health for the freshwater, coastal water, land and soil, and air domains; national stds needed for RSPs; indicative list of standardised zones and overlays Need to understand what will and what won't be available for first RSPs early. If NPD/stds not to be available need to explore template options based on the NPD still to come Need to understand the timing and scope of the digital platform – what will be available for first RSP	

	PB expectation: Secretariat notifies draft RSP 15 months after the Bills receive RA (or within 6 months after the first NPD is issued).	
Independent hearings panel Schedule 4		
Establish IHP clause 6 • LAs agree IHP members/process to appoint; remuneration and expenses; how LAs will support IHP; cost sharing cl 3	Lead time – 1-3 months – not sequential	IHP practically need to be engaged prior to notification (see above) to confirm potential conflicts of interest, decision making for procedural matters (accept/ reject submissions) and resource availability
RSP Hearings		
IHP holds hearing on draft RSP Schedule 2 (16) (1) IHP makes recs of draft RSP in report which incl rec changes to draft RSP to LAs, SPC, designating auths, Minister (2) IHP provides report 40 wd after close of hearings	Assumptions: • Hearing begins at least 3mth after submissions close (not set in leg) • SPC needs equivalent of a s.42A report	40 wd (after close of hearings)
IHP recommendations Schedule 2 Subpart 5 (3) SPC provide advice to LAs on IHP recs (4) Minister may make a decision on certain recs re infrastructure **(5)** Designating authority makes decision to accept/reject recs relating to proposed designation	Assumptions: Time to prepare LAs informally – workshops, resolving potential disputes early – allow 3 months SPC report to LAs lead time ~1 month	3 months 1 month (not sequential)

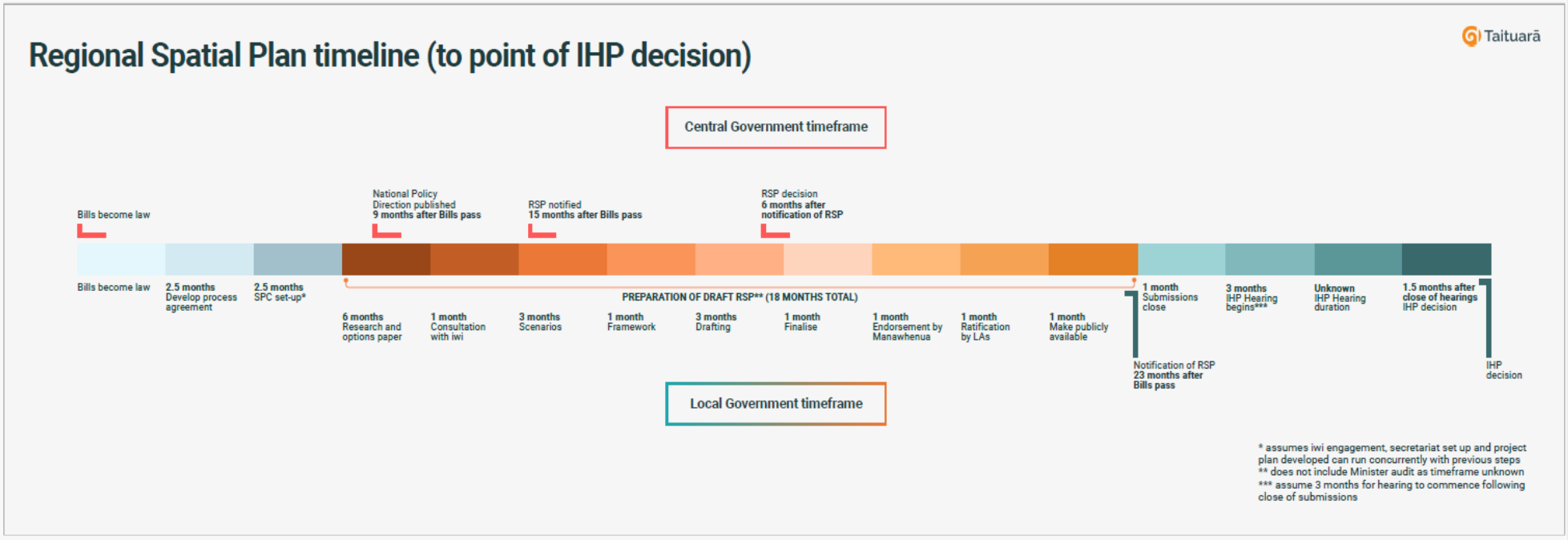
within 30 wd of receiving IHP recs		
Designating authority (DA) decisions on recommendations (20) (2) DA decides whether to accept or reject the recommendation		30 working days
LAs to consider recommendations (21) • LAs decide whether to accept/reject each IHP recommendation (1) • For rejected rec of IHP, develop alternative solution	LA must make decisions within 12 months of draft RSP being notified LAs publicly notify decisions within 40 working days of receiving report	LA decisions within 12 months of draft RSP being notified
	Challenges/key risks/contingencies	

*assumes iwi engagement, secretariat set up and project plan developed can run concurrently with previous steps

** does not include Minister audit as timeframe unknown

*** assume 3 months for hearing to commence following close of submissions

Appendix 4: LG timeline for preparation of Draft RSP



Appendix 5: Estimated costs to Local Government of the Blueprint package, based on the RIS

Detailed estimates of the establishment administrative costs of the Blueprint package to Local Government (Source RIS Table 3)		
Impact	**Key assumptions**	**Estimate**
Estimated establishment administrative costs of national policy direction and implementation		
Implement national direction	Assume the status quo national direction cost represents implementing 3 items of national direction per year. Therefore, a decrease to 2 new items of national direction decreases implementation cost by 33 per cent.	$87.9 million
Prepare part of the plan that relates to their district (nationally standardised zones)	The estimated cost to local authorities of plan-making under the RMA is $1.9 million per plan (MfE data).	$29.8 million
Prepare part of the plan that relates to their district (environmental limits)	Assumes this cost is a representative estimate for the cost of developing blueprint national standards and regulatory plans. Assumes the same costs are required to prepare chapters for nationally standardised zones and environmental limits.	$29.8 million
Estimated establishment administrative costs of spatial planning		
Developing regional spatial plans	Assumes Local Government meets 66 per cent of the costs. Given spatial plans are new functions, this will require a significant scale up of council FTE (assuming existing planning functions will continue as is). Assumes, therefore, that creating spatial plans will incur an increase to planning costs of 35 per cent	$62.4 million
Implementing regional spatial plans	16 regions = 16 plans Assumes an implementation plan is 33 per cent of total development cost. Assumes cost is split 50:50 between central and local government.	$5 million
Estimated establishment administrative costs of regional and district plan making and implementation		
New national e-portal	78 Local Authorities. Assumes it will cost each local authority $50,000 to integrate system.	$3.75 million
Developing a chapter for combined plan	Along with some existing resource, assumes there will be a scale up of resources at the local government level to create these plans.	$115.8 million
Natural environment plan	Assumes 27.5 per cent of status quo planning costs represents a reasonable estimate of what it will take for councils to develop and implement spatial plans. Assumes these costs will be the same for the combined plan and natural environment plan.	$115.8 million
Estimated establishment administrative costs of consenting, permitting, and designations		
Adjusting to new consenting system	Assumes one-off costs for Local Government to adjust to the new consenting system when established. Assumes this cost will occur following development of regulatory plans and is proportionate to 10 per cent of the status-quo annual ongoing consent costs.	$20.3 million

	Total	**$470.55 million**
Detailed estimates of the ongoing administrative costs of the Blueprint package to Local Government (Source RIS Table 4)		
Estimated ongoing administrative costs of national policy direction and implementation		
Supporting services to facilitate trading	Will require additional FTEs (and overhead cost) at regional councils. Some will require more than others. Assumes an average of 1.5 FTEs across all regional councils.	$63.7 million
Estimated ongoing administrative costs of spatial planning		
Planning act provides for spatial plans to be updated on regular basis. Coordination documents are required to be updated at least every three years	Assumes plans are updated annually. Assumes that updates will incur a cost that is 20 per cent of the status quo total cost of developing plans (based on ratio of review to development costs from MfE figures). Assumes coordination document will increase monitoring and enforcement costs by 5 per cent. This represents the cost of creating and regularly updating the coordination document.	$123.5 million
Estimated ongoing administrative costs of regional and district plan making and implementation		
Plan reviews and changes every 10 years	Based on 2020/21 Castalia estimates, plans cost $1.9m to develop, review costs $380,000 using the high end of the range (figures from MfE Impact Summary). Therefore, review is 20 per cent of development cost Castalia considers that the MfE estimate is too low. The regional spatial plans are major regulatory instruments and will be highly contentious. It is unreasonable to assume that the plans will last 10 years and only require a review costing $380,000 every 10 years. Castalia has assumed that the 10-yearly review costs as much as the initial plan-making cost of $1.9m.	$62 million
Ongoing administration of regional and local plans at Regional and Local councils	The Blueprint proposes significant standardisation but still provides discretion for regional and district councils to develop bespoke plan provisions. Regional and local councils will have reduced scope for plan making. Activity categories will be removed. Castalia has broadly estimated that plan-making costs will reduce for the following reasons, compared to the resource management system: - Staff and staff overhead costs will reduce by 25 per cent, due to greater regional and national standardisation. - Consultant costs will also reduce to 50 per cent of total FTE costs as standardisation reduces need for consultant advice. - Need for review time is incorporated into the on average 10-yearly review of the plans.	$1.16 billion
Estimated ongoing administrative costs of consenting, permitting, and designations		
Consent applications – land use, subdivision and combined	Assumes that Local Government planning officers will receive and process fewer consent and permit applications under the Blueprint proposals. This is because more activities are expressly permitted in plans, and presumptions of the right to use property. Assumes	$1.435 billion

land-use and subdivision	that land-use, sub-division, and combined land use and sub-divisions will have a greater cost reduction. This is because these can be more standardised, reducing the need for consent applications and reducing the number of consent and permit applications by a weighted percentage.	
Consent applications – water, coastal and discharge	Assumes that Local Government planning officers will receive and process fewer consent and permit applications under the blueprint reforms. This is because more activities are expressly permitted in plans, and presumptions of the right to use property. Assumes that water, coastal, and discharge applications will have a cost reduction, but this will not be as high a reduction as for land-use, subdivision, and combined land-use. This is because of the technical and varied nature of these types of consents that will require planning officers to review applications	$372 million
Taking prosecution action	Assumes 25 per cent reduction in decisions to prosecute due to a more permissive system and more tools for regulators besides prosecution. The reduction in the number of consent and permit applications will also reduce the number of situations where a decision to prosecute will arise	$502.7 million
Estimated ongoing administrative costs of compliance and enforcement		
Compliance and performance costs	Assumes a 50 per cent decrease in compliance and enforcement costs for Local Government due to national regulator delivering resource management compliance and enforcement activities. Assumes the number of consent and permit applications will decrease under the Blueprint proposals. This will further decrease the cost of compliance and enforcement matters local government undertakes, due to fewer consents to monitor and enforce compliance on	$979.3 million
Estimated ongoing administrative costs of system self-review		
Changes from independent review findings	Assumes this will cost the same as the cost of implementation agreements for regional spatial plans.	$5.4 million
Detailed estimates of the establishment compliance costs of the Blueprint package (Source RIS Table 7)		
Estimated establishment compliance costs of legislative framework		
Submissions and consultation on the development of the two proposed acts	50 per cent increase in submission costs compared to status quo amendment costs. Doubled submission costs – assumes that costs average out equally across the two acts.	$1.03 million
Estimated establishment compliance costs of national policy direction and implementation		
Submission and professional fees on new national direction	35 council submissions – average from National Policy Statement for Freshwater Management (NPS-FM) and National Policy Statement on Urban Development (NPS-UD). - $87.30 = council officer wage + overhead/hr (MfE consent information) - 80 hours per submission (Castalia assumption). Based on Castalia 2020/21 estimates.	$1.9 million
Detailed estimates of the ongoing compliance costs of the Blueprint package, with assumptions (Source RIS Table 8)		
Estimated ongoing compliance costs of legislative framework		

Submissions on amendments to the planning act and natural environment act	Assumes submissions will cost $500,000 per act. Assumes that amendments to each act will occur every 5 years.	$4.3 million
Estimated ongoing compliance costs of national policy direction and implementation		
Submissions on amendments to national direction	Assumes submissions will cost $500,000 for each item of national direction. Assumes that amendments to each item of national direction will occur every 5 years.	$4.3 million
Estimated ongoing compliance costs of compliance and enforcement		
State of environment monitoring and making data readily available	Assumes making environmental monitoring data will increase monitoring and enforcement costs by 5%. Representing greater staff time required to publish data and make it user friendly.	$117 million

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