Council Briefing Agenda

Date:	20 July, 2021
Time:	9:00 am
Location:	Council Chamber Forum North, Rust Avenue Whangarei
Elected Members:	Her Worship the Mayor Sheryl Mai (Chairperson) Cr Gavin Benney Cr Vince Cocurullo Cr Nicholas Connop Cr Ken Couper Cr Tricia Cutforth Cr Shelley Deeming Cr Jayne Golightly Cr Phil Halse Cr Greg Innes Cr Greg Martin Cr Anna Murphy Cr Carol Peters Cr Simon Reid

For any queries regarding this meeting please contact the Whangarei District Council on (09) 430-4200.

Pages

1. Apologies

2. Reports

2.1. Kainga Ora housing investment in Whangarei 1

2.2. Draft Natural and Built Environment Bill Exposure Draft 3

3. Closure of Meeting

2.1 Kāinga Ora housing investment in Whangarei

Meeting:	Council Briefing
Date of meeting:	20 July 2021
Reporting officer:	Tony Collins (Manager – District Development)

1 Purpose

Kāinga Ora staff will present on their housing plans for Whangarei and opportunities for partnership with Whangarei District Council.

2 Discussion

Kāinga Ora was established in 2019 and includes the KiwiBuild Unit, Housing New Zealand and its development subsidiary Hobsonville Land Company. Kāinga Ora has been set up to enable a more cohesive, joined-up approach to delivering the Government's priorities for housing and urban development in New Zealand. These priorities include addressing homelessness and making homes more affordable for New Zealanders.

Kāinga Ora has two key roles:

- public housing landlord
- partnering with the development community, Māori, local and central government on urban development projects of all sizes.

Further information can be found here: https://kaingaora.govt.nz

Kāinga Ora Chief Executive Andrew McKenzie and Northland Regional Director Jeff Murray will present to Council on the following:

- Background to Kāinga Ora and its aspirations and outcomes
- Regional Investment Plan for Northland
- Opportunities for partnership with Whangarei District Council

The outcome of this briefing is to seek support for Council staff to continue to work with Kāinga Ora and further investigate partnership opportunities for housing developments. These opportunities include potential Kāinga Ora public and affordable housing development on Council land within the city centre. Any housing opportunities will be brought back to Council for further consideration and decision making.

3 Attachments

A presentation will be provided in the meeting.

Whangarei District Council

2.2 Natural and Built Environments Bill Exposure Draft

Meeting:	Council Briefing
Date of meeting:	20 July 2021
Reporting officer:	Robert Burgoyne

1 Purpose

To update Elected Members on the Natural and Built Environments Bill exposure draft and present the key issues that could be covered in a submission.

2 Background

The Resource Management Act 1991 (RMA) is New Zealand's main law governing how people interact with natural resources. As well as managing air, soil, freshwater and the coastal marine area. The RMA regulates land use and the provision of infrastructure, which are integral components of our resource management system.

The RMA has recently received criticism for not delivering on its desired environmental or development outcomes, and for not consistently giving effect to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi (Te Tiriti/The Treaty). The current RMA processes have also been considered to be inefficient, too expensive, and inflexible.

In July 2019 the Government appointed the Resource Management Review Panel to carry out an expert review of the current resource management system, including a review of the Resource Management Act 1991 (RMA).

In February 2021, the Government announced it would repeal and replace the RMA, based on the recommendations of the Resource Management Review Panel. The three proposed Acts to replace the RMA were the:

- **Natural and Built Environments Act (NBA)** – to protect and restore the environment while better enabling development, as the primary replacement for the RMA
- **Strategic Planning Act (SPA)** – to help coordinate and integrate decisions made under relevant legislation, through requiring the development of long-term regional spatial strategies; and
- **Climate Adaptation Act (CAA)** – to address complex issues associated with managed retreat.

The Natural and Built Environments Bill (the Bill) is being progressed in a two-stage select committee process to repeal and replace the RMA. The first stage is the select committee inquiry into a partial draft of the Bill. The second stage will be a standard legislative process for the full Bill next year.

On 29 June 2021, The Minister for the Environment released the partial draft version of the bill along with a supporting document titled: The Natural and Built Environments Bill – Parliamentary paper on the exposure draft ("the exposure draft") – see Attachment 1. The exposure draft does not cover the full Bill, but provides an early look at key aspects, including:

- The purpose and related provisions;
- The National Planning Framework; and
- Natural and Built Environments plans.

The exposure draft focuses on the NBA and provides high level draft framework and objectives for the NBA. Under the exposure draft, the NBA would require a National Planning Framework (NPF) to be in place as early as possible. The NPF is proposed to be the tool for strategic and regulatory direction from central government on the use, protection and enhancement of the natural and built environments. The NPF would then inform the regional NBA plans (which would be replacing the current district plan).

The exposure draft does not include specific details of the SPA or the CAA. However, the SPA and CAA policy direction is signalled to provide context about the reform as a whole.

The final date for submissions on the exposure draft is **4 August 2021**.

3 Discussion

Overview of the Exposure Draft

The exposure draft highlights the following key objectives of the RMA reform:

- Protect and where necessary restore the natural environment, including its capacity to provide for the well-being of present and future generations.
- Better enable development within environmental biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure.
- Give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori.
- Better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change.
- Improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input.

In general, these objectives are considered to address key issues identified by Government Some of the key outcomes of the NBA outlined in the exposure draft include:

- **Consolidating Plans** – The exposure draft proposes that there be one NBA plan per region. The intention is to consolidate over 100 RMA policy statements and regional and district plans into under 20 plans, simplifying and improving integration of the system. This would result in the Northland Regional Policy Statement and Regional Plan and the Kaipara, Far North and Whangārei District Plans being combined into one NBA plan.
- **Plan Making Process** – The exposure draft proposes NBA plans be prepared by a plan committee comprising representatives from local government (regional and territorial), central government (Minister of Conservation), and mana whenua. Limited information is provided on how this process will work in practice, but this would likely result in a more limited role for elected members in the plan making process.
- **Environmental limits** – The Minister for the Environment would be required to set mandatory environmental limits for aspects of the natural environment. These limits would be framed as a minimum acceptable state of an aspect of the environment, or a maximum amount of harm that can be caused to that state. Territorial authorities could set more stringent environmental limits within their NBA plans.
- **Recognition of te ao Māori and Te Tiriti o Waitangi** – To better recognise te ao Māori, Te Oranga o te Taiao is proposed to be included in the NBA's purpose.

Decision-makers would also be required ‘to give effect to’ the principles of Te Tiriti, replacing the current RMA requirement to ‘take into account’ those principles.

- **Clear National Direction** – The proposed NPF would provide strategic and regulatory direction from central government on implementing the new system. This is intended to be more comprehensive and integrated than the RMA required. Where possible, it is intended that the NPF would resolve conflicts, or give direction on resolving conflicts across the system.
- **Positive outcomes** – The RMA has been criticised for focusing too much on managing adverse effects on the environment, and not enough on promoting positive outcomes across all aspects of well-being. The NBA seeks to specify a range of outcomes that decision-makers will be required to promote for natural and built environments, including a stronger focus on positive outcomes.
- **Provision of housing and infrastructure** – The NPF is intended to improve certainty for developers, local government, infrastructure providers and the community. It aims to provide strategic and regulatory direction and guidance (e.g. on infrastructure or zoning rules), increasing the consistency of plans.

Issues to Address in Council Submission

Several issues have been identified in the analysis of the exposure draft. In brief these are:

- The exposure draft only contains high level information making it difficult to submit on.
- There will be severe logistical implications of consolidating regional and district plans.
- There are potential issues with the proposed shift away from localised decision to more mandatory policy and regulatory directions from central government.
- Consideration needs to be given to the implications of the interactions between the RMA and other legislations such as the Local Government Act 2002.
- The high-level approach to resource management appears to have conflicting principles in the exposure draft which will need to be addressed and clarified.
- There are potential issues with the implementation of environmental limits.
- Guidance and direction are needed as to how amenity values will be managed under the NBA.
- The approach to simplify and streamline planning regulation is great in theory but will require careful consideration of implementation to work in practice.
- The significant changes could require resourcing and guidance from Central Government to implement efficiently and effectively.
- There needs to be clear processes in place for compliance, monitoring and review to ensure NBA plans are achieving their intended outcome efficiently and effectively.

Council staff will prepare a submission on the exposure draft based on the above and any further discussions at the Council briefing. Given the timeframes for comment this will need to be signed off under delegation.

4 Attachment

1. Natural and Built Environments Bill – Parliamentary paper on the exposure draft

Reforming our Resource Management System

Natural and Built Environments Bill

Parliamentary paper on the exposure draft

UPDATED

Flourishing environment, thriving communities | Ka ora te Taiao, ka ora Tātou

New Zealand Government

Contents

PART A: Explanatory material to the exposure draft of the Natural and Built Environments Bill **3**

1. Introduction and background **6**

2. A blueprint for reform **12**

2.1 Natural and Built Environments Act 15

2.2 Strategic Planning Act 18

2.3 Climate Adaptation Act 20

2.4 Next steps for the NBA, SPA and CAA 21

2.5 Planning for new system 23

3. Explanation of the exposure draft **24**

3.1 What does the exposure draft cover? 25

3.2 Policy intent behind the exposure draft content 26

Contents of the Bill 27

Part 1 Preliminary provisions 27

Part 2 Purpose and related provisions 28

Part 3 National planning framework 36

Part 4 Natural and built environments plans 47

PART B: Exposure draft of the Natural and Built Environments Bill **56**

PART C: Appendices **78**

Appendix 1: Terms of Reference for the Select Committee Inquiry **80**

Appendix 2: Examples of system efficiencies **81**

Appendix 3: Governance processes for reform **83**

Appendix 4: Summary of how Panel recommendations have been addressed **85**

Appendix 5: Abbreviations and key terms **87**

Part A:

Explanatory material to the exposure draft of the Natural and Built Environments Bill

1. Introduction and background

1. Introduction and background

1 The Resource Management Act 1991 (RMA) is New Zealand's main law governing how people interact with natural resources. As well as managing air, soil, freshwater and the coastal marine area, the RMA regulates land use and the provision of infrastructure, which are integral components of our resource management system. People can use natural resources if doing so is allowed under the RMA or permitted by a resource consent.

2 The RMA has not delivered on its desired environmental or development outcomes, nor have RMA decisions consistently given effect to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi (Te Tiriti/The Treaty). Current processes take too long, cost too much and will not address the many new challenges facing our environment and our communities.

3 Aotearoa New Zealand needs a resource management (RM) system that will manage these challenges more effectively for current and future generations. The RM system needs to transform our relationship with the environment and better enable development and infrastructure. The design of the new RM system needs to learn from the past and produce better results.

4 In February 2021, the Government announced it would repeal and replace the RMA, based on the recommendations of the Resource Management Review Panel (the Panel, as described in paragraph 6 below). The three proposed Acts are the:

- Natural and Built Environments Act (NBA), to protect and restore the environment while better enabling development, as the primary replacement for the RMA
- Strategic Planning Act (SPA), to help coordinate and integrate decisions made under relevant legislation, through requiring the development of long-term regional spatial strategies; and
- Climate Adaptation Act (CAA), to address complex issues associated with managed retreat.

Now is the time for transformative change

5 Various groups have called for comprehensive RM reform. There have been numerous reviews of the RM system, including by the Environmental Defence Society, central and local government, commissions, non-governmental organisations and Māori groups.[1]

6 In response, in July 2019 the Government appointed the Resource Management Review Panel to carry out an expert review of the current RM system, including a review of the RMA.

7 The Panel undertook the most significant, comprehensive, and inclusive review of the RM system since the RMA was enacted. It was chaired by former Court of Appeal Judge, Hon Tony Randerson QC, and its other members were Rachel Brooking, Dean Kimpton, Amelia Linzey, Raewyn Peart and Kevin Prime.

8 The Panel's thinking was informed by consultation with Te Tiriti partners, experts and stakeholders. It built on previous reviews and reports as noted above.

9 The Panel's report *New Directions for Resource Management in New Zealand* was released in July 2020 and is available online.[2] It identified systemic issues in resource management and made comprehensive recommendations for reform.

10 The Panel's report is guiding the next steps in this transformative change.

Objectives for reform

11 The Government's reform objectives are listed in the table below, which maps issues with the RMA against these objectives. Meeting the objectives will be achieved through all three proposed Acts, which will work together as a package.

12 For more information about issues with the RMA, see the interim regulatory impact statement for the NBA exposure draft.

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[1] For a list of relevant reviews and reports, see page 510 of the Panel's report. Since that report, a collation of Waitangi Tribunal findings on the RMA has been republished. Other groups calling for reform include the Federation of Māori Authorities, the New Zealand Māori Council, and Kāhui Wai Māori; and (supporting the Environmental Defence Society) Property Council New Zealand, Infrastructure New Zealand, and Employers and Manufacturers Association (Northern).

[2] The summary and the full Panel report, as well as more information about the members and the review process, are on the Ministry for the Environment's website.

	Status Quo	Reform Objectives
1	Natural environment under significant pressure and degraded through unsustainable use, eg 4000 native species under threat	Protect and where necessary restore the natural environment, including its capacity to provide for the well-being of present and future generations
2	Planning and infrastructure constraints to development contribute to high costs of land and housing relative to median incomes. National Policy Statement on Urban Development yet to be implemented	Better enable development within environmental biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure
3	The RMA Treaty clause is to 'take into account' the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)	Give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori
4	Despite increasing extreme events development is still occurring in high-risk places, with uncertainty about cost and who pays for adaptation, and ad hoc decisions about retreat	Better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change
5	Estimated costs of $100m per annum borne by resource users and councils. Councils make most decisions, subject to some national direction and Environment Court appeals. Low participation; submissions and appeals focus on site specific impacts; Māori, women, younger people, and renters are under-represented	Improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input

About this parliamentary paper and the inquiry process

13 To deliver the NBA, the Natural and Built Environments Bill (the Bill) is being progressed in a two-stage select committee process. The first stage is the select committee inquiry into a partial draft of the Bill, ie the exposure draft. The second stage will be a standard legislative process for the full Bill next year.

14 More information on the policy intent behind the changes proposed in the Bill is provided in the rest of Part A of this paper, **explanatory material**, along with the wider context for the reform. This material has been prepared to help people better engage with the exposure draft.

15 Part B of this paper presents the **exposure draft**. The exposure draft does not cover the full Bill, but provides an early look at key aspects, including:

- the purpose and related provisions
- the National Planning Framework; and
- Natural and Built Environments plans.

16 The exposure draft is the main focus of the select committee inquiry. The select committee will examine the draft with reference to the reform objectives, and seek feedback on the exposure draft from the public. The scope of the inquiry is set out in the Terms of Reference (Appendix 1).

17 The Terms of Reference also invite the select committee to consider ideas for reducing the complexity of the RM system – as the reform will only be successful if it results in a more efficient system. A list of ideas for increasing efficiency and reducing complexity, partially based on ideas received via the Panel's review, is attached as Appendix 2 to help prompt thinking.

18 At the end of the inquiry, the select committee will publish a report. The Government will then consider the report and the feedback from submitters.

19 For information on the submission period for the inquiry and how to submit, see environment.govt.nz.

The scope of the reform, and relationships to other Government work

20 The Panel considered the interactions between the RMA, Local Government Act 2002, Land Transport Management Act 2003, and Climate Change Response Act 2002. These other acts are key parts of the RM system, but there are also other relevant pieces of legislation, such as the Conservation Act 1987 and Building Act 2004. Substantive changes to these other Acts are not proposed as part of this reform.

21 RM reform links into many other Government programmes. For example, this reform will influence, and be influenced by, current Government work on three waters, freshwater allocation reform and addressing Māori rights and interests in freshwater, climate change, biodiversity, housing and social infrastructure, and the future for local government.

Upholding Treaty settlement legislation and agreements with iwi and hapū

22 Treaty settlements have led to many RM arrangements that recognise the unique relationships between tangata whenua and te taiao (the environment), and help councils meet their responsibilities to iwi and hapū.

23 The RMA interfaces with over 70 Acts and their associated deeds of settlement. Engagement with those iwi and hapū who have settlements or other RM arrangements will be important to ensure reform will both avoid unintended consequences for Treaty settlements, and uphold the integrity of Treaty settlements and agreements under the RMA between councils and Māori; as well as for:

- rights recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019
- natural resource arrangements agreed by Māori and local government under existing provisions of the RMA.

24 Treaty settlement negotiations linked to the RMA will continue while the NBA is developed. The local and specific nature of these arrangements means duplication of NBA provisions is unlikely. The Government will continue to consider how arrangements under negotiation can be transitioned into the new system.

25 The exposure draft does not preclude any options for addressing freshwater rights and interests and their consideration as part of the ongoing discussions with iwi, hapū, and Māori.

26 See Appendix 3 for more information on engagement with iwi, hapū, and Māori groups.

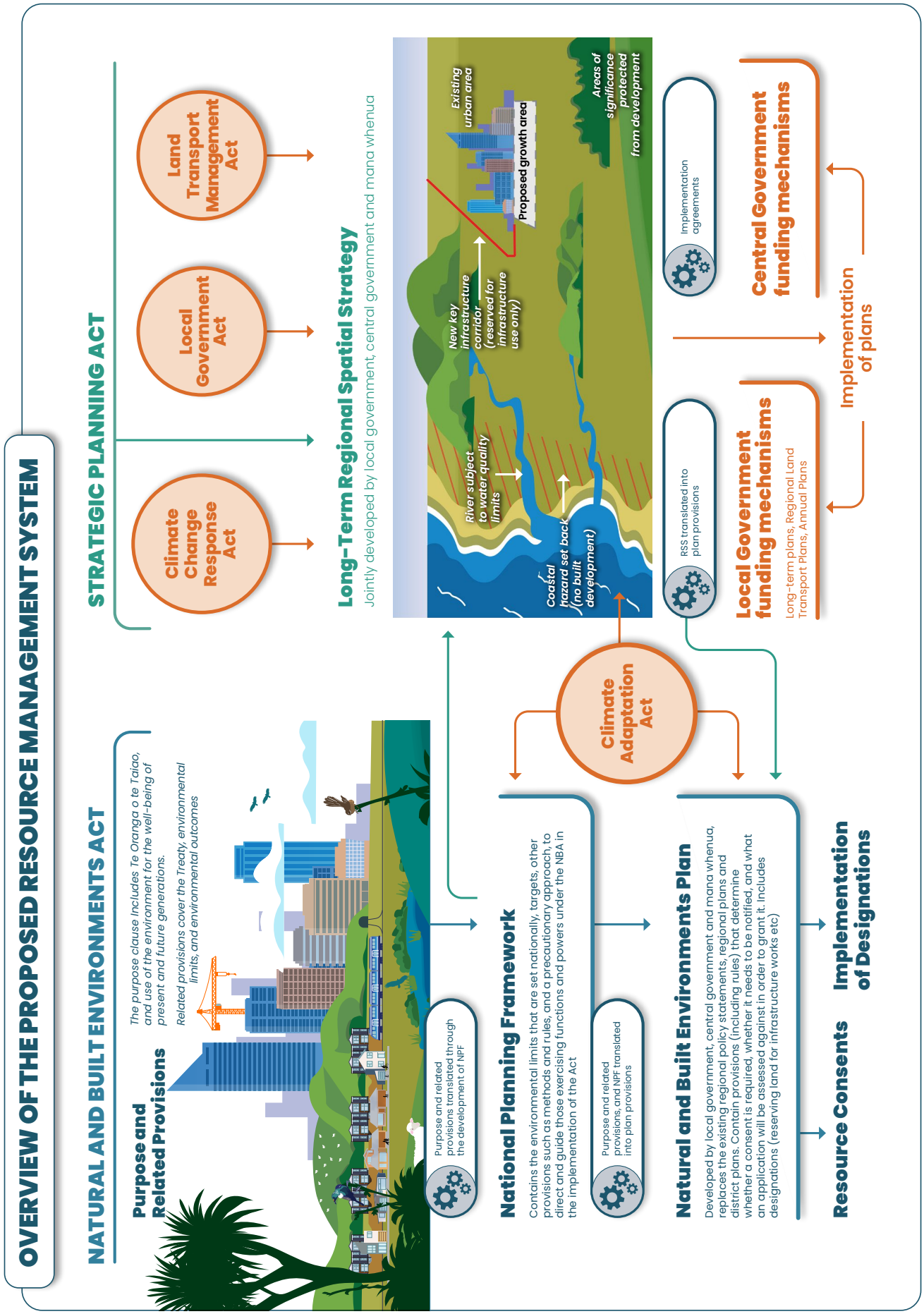
2. A blueprint for reform

2. A blueprint for reform

27 This section sets out more information on the proposed legislation to replace the RMA. It draws heavily on the Panel's report, which recommended repealing the RMA and replacing it with the NBA, SPA and CAA.

28 Appendix 4 provides a summary of the Panel's recommendations on topics covered in the exposure draft of the NBA, and describes whether and how the exposure draft differs from the recommendations.

29 Although this paper does not present an exposure draft of the SPA or the CAA, their policy direction is signalled to provide context about the reform as a whole. The following diagram provides an overview of the new RM system.


OVERVIEW OF THE PROPOSED RESOURCE MANAGEMENT SYSTEM
NATURAL AND BUILT ENVIRONMENTS ACT
Purpose and Related Provisions
The purpose clause includes Te Oranga o te Taiao, and use of the environment for the well-being of present and future generations.
Related provisions cover the Treaty, environmental limits, and environmental outcomes
Purpose and related provisions translated through the development of NPF
National Planning Framework
Contains the environmental limits that are set nationally, targets, other provisions such as methods and rules, and a precautionary approach, to direct and guide those exercising functions and powers under the NBA in the implementation of the Act
Purpose and related provisions, and NPF translated into plan provisions
Natural and Built Environments Plan
Developed by local government, central government and mana whenua, replaces the existing regional policy statements, regional plans and district plans. Contain provisions (including rules) that determine whether a consent is required, whether it needs to be notified, and what an application will be assessed against in order to grant it. Includes designations (reserving land for infrastructure works etc)
Resource Consents
Implementation of Designations
Climate Adaptation Act
STRATEGIC PLANNING ACT
Climate Change Response Act
Local Government Act
Land Transport Management Act
Long-Term Regional Spatial Strategy
Jointly developed by local government, central government and mana whenua
River subject to water quality limits
New key infrastructure corridor (reserved for infrastructure use only)
Existing urban area
Proposed growth area
Areas of significance protected from development
Coastal hazard set back (no built development)
RSS translated into plan provisions
Implementation agreements
Local Government funding mechanisms
Long-term plans, Regional Land Transport Plans, Annual Plans
Central Government funding mechanisms
Implementation of plans

2.1 Natural and Built Environments Act

30 As the primary replacement for the RMA, the NBA will address the most significant weaknesses in the current RM system. Like the RMA, the NBA will be an integrated statute for environmental protection and land use. The NBA will work in tandem with the proposed Strategic Planning Act (SPA).

31 The Panel considered a split approach, with one statute governing environmental protection and outcomes, and the other for planning, land use and development – but this was not favoured by the Panel. Although the RMA has not brought desired outcomes, an integrated approach is not the problem, and the case for integration remains strong.

Strengthening limits for the natural environment

32 A major criticism of the RMA is that it has not adequately protected the natural environment. One reason is that national and local RM policy and plans have not always set controls that are strong and comprehensive enough, such as environmental bottom lines.

33 The NBA will include a mandatory requirement for the Minister for the Environment to set **environmental limits** for aspects of the natural environment, to protect its ecological integrity and human health. These limits will be framed as a minimum acceptable state of an aspect of the environment, or a maximum amount of harm that can be caused to that state. Timing and transitional arrangements will be taken into account in setting limits.

Achieving positive outcomes

34 Another criticism of the RMA is that it focuses too much on managing adverse effects on the environment, and not enough on promoting positive outcomes across all aspects of well-being. The NBA will specify a range of outcomes that decision-makers will be required to promote for natural and built environments.

35 Outcomes specified in the exposure draft include environmental protection, iwi and hapū interests, cultural heritage, protection of customary rights, housing, rural development, infrastructure provision, and climate change mitigation and adaptation.

36 Outcomes will also guide regional spatial strategies under the SPA.

Managing environmental effects

37 The NBA will carry over the RMA's requirement to **'avoid, remedy, or mitigate'** adverse effects of activities on the environment. This will ensure a management framework exists for all adverse effects, including those not covered by limits or outcomes.

38 The NBA will also ensure that measures to avoid, remedy or mitigate effects do not place unreasonable costs on development and resource use. Although the NBA will intentionally curtail subjective amenity values, this will not be at the expense of quality urban design, including appropriate urban tree cover.

Te Tiriti o Waitangi and te ao Māori in the system

39 The NBA intends to improve recognition of te ao Māori and Te Tiriti o Waitangi.

40 To better recognise te ao Māori, Te Oranga o te Taiao will be included in the Act's purpose. This concept is intended to encapsulate the intergenerational importance of the health and well-being of the natural environment. See paragraph 97 below for what Te Oranga o Te Taiao incorporates.

41 Decision-makers would be required **'to give effect to'** the principles of Te Tiriti, replacing the current RMA requirement to 'take into account' those principles.

Providing clear national direction

42 Under the NBA, the new National Planning Framework (NPF) will provide strategic and regulatory direction from central government on implementing the new system. This will be much more comprehensive and integrated than the RMA required.

43 The NPF will play a critical strategic role, setting limits and outcomes for natural and built environments, and ways to enhance the well-being of present and future generations. Where possible, the NPF will resolve conflicts, or give direction on resolving conflicts across the system.

Consolidating plans

44 The exposure draft has adopted the Panel's proposal to develop one NBA plan per region, prepared by a plan committee comprising representatives from local government (regional and territorial), central government (Minister of Conservation), and mana whenua.

The Government is still considering the best approach to NBA plan preparation and decision-making, and feedback received from the select committee inquiry will provide valuable input into this.

45 The intention is to consolidate over 100 RMA policy statements and regional and district plans into under 20 plans, simplifying and improving integration of the system.

Improving provision of housing and infrastructure

46 It is important that the reformed RM system supports environments where people can choose to live close to employment, education, health and recreation, and the opportunities they provide. This will allow communities to develop in ways that support the prosperity and well-being of their people, enable social and cultural connections, and minimise environmental impact.

47 Through a more constructive and coherent influence on regional spatial strategies and NBA plans, the NPF will improve certainty for developers, local government, infrastructure providers and the community. It will provide strategic and regulatory direction and guidance (eg on infrastructure or zoning rules), increasing the consistency of plans.

48 Infrastructure is recognised in the purpose and related provisions of the exposure draft, as a mandatory topic in the NPF, and for consideration in NBA plans. The integration of decisions on land-use planning with the delivery of infrastructure and its funding is a key reason for the SPA as described below. Policy work will continue while the select committee is conducting its inquiry.

2.2 Strategic Planning Act

49 The proposed Strategic Planning Act (SPA) is a critical part of the reform, and will be a new addition to the RM system. The SPA will mandate strategic spatial planning and bring together outcomes and functions across several statutes to achieve a longer-term and integrated approach to land use and infrastructure provision, environmental protection and climate change matters. This would extend into the coastal marine area.

Purpose of the SPA

50 The Panel proposed that the purpose of the SPA should be "to promote the social, economic, environmental and cultural well-being of present and future generations through the long-term strategic integration of functions exercised under specified legislation".[3]

51 The Panel also proposed that the SPA include a Te Tiriti o Waitangi clause, based on the clause agreed for the NBA.

Regional spatial strategies

52 Regional spatial strageies (RSSs) were recommended by the Panel. They will be a key mechanism in the RM system requiring local government, central government and iwi, hapū and Māori, and to take a joined-up strategic vision of the future. This is about identifying the big issues and opportunities facing a region and identifying how it will grow and change over the next 30 plus years. RSSs will provide a clear strategic direction to decision-makers.

53 RSSs will be high-level and strategic and focus on the major issues and opportunities for a region. If too detailed, they would duplicate NBA plans and add complexity to the system.

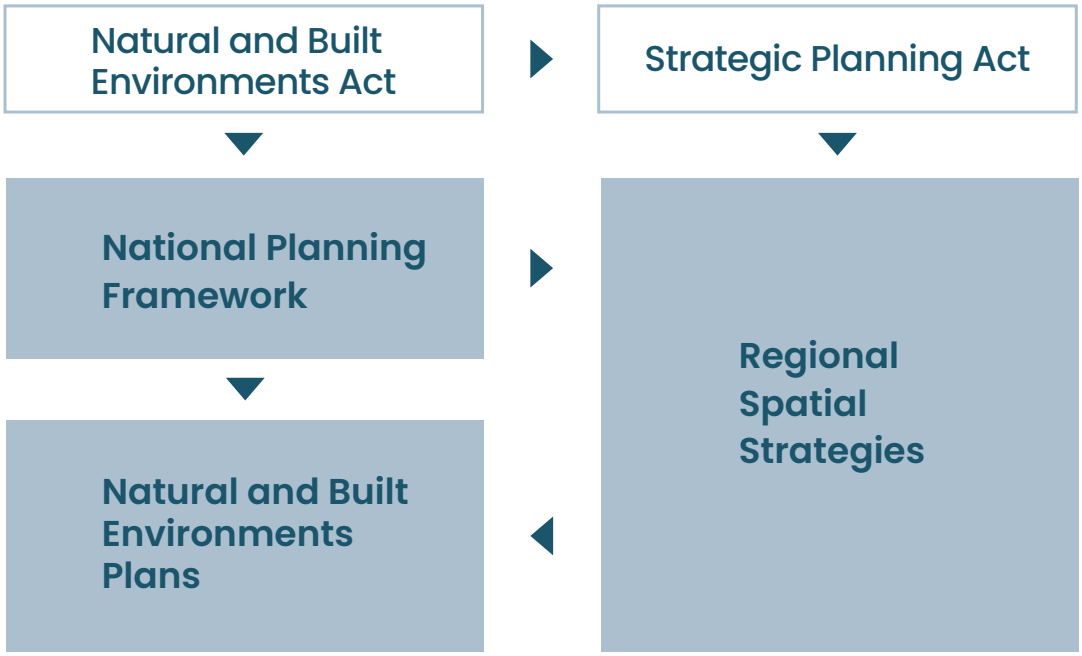
[3] New Directions for Resource Management in New Zealand, page 490.

54 RSSs will:

- set long-term objectives for urban growth and land-use change
- help ensure development and infrastructure is provided in the right places and in a coordinated way
- help identify areas to be protected from inappropriate development or change, such as areas where there are highly productive soils, or significant natural areas
- support development capacity and infrastructure provision, including by identifying indicative future infrastructure corridors, or sites to improve housing supply, affordability and choice; and
- support climate change mitigation and adaptation, and natural hazard risk reduction.

55 RSSs will need to be informed by robust information and evidence, including mātauranga Māori, that is proportionate to the level of detail required. RSSs will also need to uphold relevant Treaty settlements and customary rights.

56 RSSs will need to integrate with other relevant documents. For example, they will need to translate national-level direction, such as that contained in the NPF, into a regional context and provide strategic direction for NBA Plans and local authority funding plans. This will be covered in the Strategic Planning Bill, together with governance and decision-making on RSSs. The Bill will be introduced to Parliament with the full Natural and Built Environments Bill.



2.3 Climate Adaptation Act

57 Aotearoa New Zealand's communities, assets, infrastructure and taonga are increasingly exposed to the risks and impacts of natural hazards and climate change. Development has occurred in areas where there is, or is likely to be, high risk to life or property. Pressure is growing for new development in at-risk areas. If nothing is done, the number and likelihood of these risks and the costs to address them will continue to increase.

58 The Panel proposed the Climate Adaptation Act (CAA) as specific climate change adaptation legislation to address the complex legal and technical issues associated with managed retreat and funding and financing of adaptation. A central goal of the CAA will be to incentivise action now, to reduce future cost and distress.

Managed retreat

59 The Panel noted that managed retreat is particularly challenging. It is a risk management response option for climate change adaptation and natural hazard risks. Managed retreat enables people, where possible, to relocate assets, activities, and taonga away from hazardous locations (eg areas at risk from coastal flooding). The aim is to enable retreat away from areas where the effects of climate change or other natural hazard risks are likely to be so severe that withdrawal is the preferred option.

Other tools for risk reduction, climate change response, and adaptation

60 Apart from managed retreat, the wider RM system (including the NBA and SPA) and the National Adaptation Plan under the Climate Change Response Act (CCRA) offer other tools for adaptive responses to natural hazards and climate change impacts. Some examples include:

- powers under the NBA to modify existing uses, to reduce the risk to communities from natural hazards; and
- under the SPA, identifying in RSSs areas at risk of natural hazards and climate change impacts, and climate resilient locations for future development.

61 As the CAA, NBA and SPA are further developed, consideration will need to be given to clear roles and responsibilities across the three pieces of legislation to enable effective adaptation and risk management responses.

2.4 Next steps for the NBA, SPA and CAA

62 The outcome of the select committee inquiry will feed into our work on the NBA, and inform the other Bills. After the three Bills are introduced to Parliament, there will be an opportunity to submit on them through the usual select committee process.

63 The intention is for the NBA and the SPA to be introduced to Parliament in early 2022, follow the standard legislative process , and be passed before the end of the current Parliamentary term.[4]

64 The core policy to be included in the CAA will be consulted on in early 2022 alongside consultation on the National Adaptation Plan under the Climate Change Response Act. This will allow for policy coherence across the response to the National Climate Change Risk Assessment, as well as coherence with the NBA and SPA. The CAA will be developed after considering the results of consultation, with the intention that legislation will be introduced to Parliament in early 2023.

65 See the timeline below for indicative dates for the reform programme.

[4] Including three readings in the House and a standard select committee bill process.

INDICATIVE TIMELINE FOR THE PROPOSED RESOURCE MANAGEMENT REFORMS

2021

THIRD QUARTER

- Select committee inquiry into the partial Natural and Built Environments Act (exposure draft)
- Public invited to make submissions on exposure draft
- Inquiry expected to last around three months

FOURTH QUARTER

2022

FIRST QUARTER

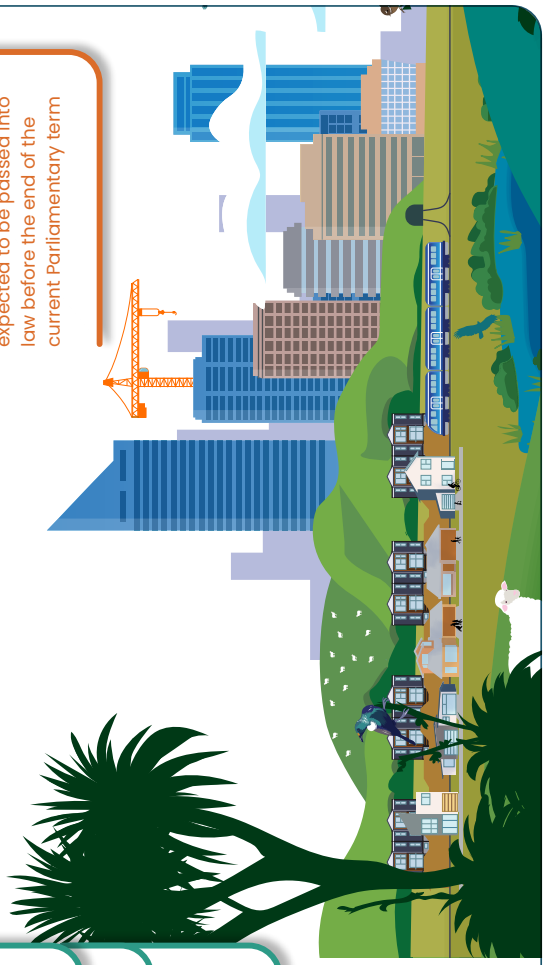
- Select committee processes examine full Natural and Built Environments Act and Strategic Planning Act
- Public invited to make submissions on the full Bills

SECOND QUARTER

THIRD QUARTER

FOURTH QUARTER

- Natural and Built Environments Act and Strategic Planning Act expected to be passed into law before the end of the current Parliamentary term



2.5 Planning for the new system

66 A well-planned and well-executed establishment of the new system is essential. We have learned important lessons from how poor implementation of the RMA has contributed to poor environmental and urban development outcomes.

67 For the new RM system to have the best chance of working well, key elements such as the NPF must be in place as early as possible. Innovation and digital technologies will also be integral to transforming the system (eg planning, centralised data platforms, and web portals). Central government will also need to play a greater role in the new system.

68 All levels and all players in the system will need to have in place the capability and capacity to deliver the reform objectives. Culture change will be essential to the transformation required.

69 The Government will work with local government and Te Tiriti partners ahead of and during the transition, to establish enduring relationships and ensure support is in place, particularly as the new NBA plans and RSSs are developed. The Government is providing substantial funding for implementing the reform and establishing a well-functioning new system, including the guidance, processes, and tools required.

70 In the meantime, momentum must be maintained in addressing current environmental and planning challenges. The Government expects councils to continue working on the requirements of the RMA and current national direction. The development of the NPF is intended to capture the policy intent of existing national direction, align it with the new legislation, and determine how to fill in gaps.

71 Providing as much certainty about how the legislation will work in practice is critical to the success of the reform. It is important that management decisions are made with a clear understanding of the values and associations that different people hold in relation to the environment, and how these are relevant to particular decisions under consideration (including for plans and consents). It may be helpful to clarify this in the legislation.

72 The NBA will include transitional provisions that take account of existing processes, but these are not included as part of the exposure draft.

3. Explanation of the exposure draft

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3.1 What does the exposure draft cover?

73 The exposure draft of the NBA contains key elements of the Bill to test with the public. This section explains the clauses in the exposure draft, and notes key elements that are still to come. Feedback on the exposure draft will help shape the full Bill.

74 The table below summarises what is in the exposure draft, and therefore the focus of the select committee inquiry. It also notes matters that are not included in the exposure draft, but will be in the full Bill.

Included in the exposure draft	Not Included*
• preliminary provisions (eg definitions) • purpose and related provisions (Including the concept of Te Oranga o te Taiao) • Te Tiriti o Waitangi clause • environmental limits • environmental outcomes • National Planning Framework (NPF): key clauses, but not the process to develop the NPF • Natural and Built Environments Plans (NBA plans): key clauses, but not all	• process to develop the NPF • consenting • existing use rights • allocation of resources and economic instruments • compliance, monitoring and enforcement • water conservation orders • heritage orders • designations • subdivision • transitional provisions • provision for urban design, including urban tree cover • the function and roles of Ministers and agencies, as well as regional councils and territorial authorities in the system *This is not a complete list and does not represent what these matters may be called in the new system.

Placeholders

75 Placeholders are used in the exposure draft to signal clauses that can be expected in the full Bill and where they might fit. For example, clause 17 is a placeholder for the links between the CCRA and the NBA. How best to create those links is still being decided, and will be explored alongside work on emissions budgets, the Emissions Reduction Plan, and National Adaptation Plan. Also, clause 17 is a placeholder for the role of the Minister of Conservation in relation to the National Planning Framework (NPF). Under the RMA, that Minister takes the lead in preparing the New Zealand Coastal Policy Statement.

3.2 Policy intent behind the exposure draft content

76 This section explains each clause (or related group of clauses) in the exposure draft. It also notes what is not included in the exposure draft, in relation to each part of the draft.

Contents of the Bill

Clause 1: Title

77 Clause 1 is the Title clause.

Clause 2: Commencement

78 Clause 2 provides for the Act coming into force. Parts of the Act may come into force at different times.

Part 1 Preliminary provisions

79 These preliminary provisions include the Act's key definitions (the 'interpretation' section), and a placeholder for how the Act will bind the Crown.

Clause 3: Interpretation

80 Clause 3 provides definitions for terms used in the Bill.

81 Clause 3 only includes the definitions used in the exposure draft. The full Bill will have a wider set of definitions for terms used elsewhere.

Clause 4: How Act binds the Crown

82 Clause 4 is a placeholder for how the Act will bind the Crown.

What's not included in Part 1 of the exposure draft?

83 The intent of clause 4 is that the new Act will bind the Crown. Decisions on any specific exceptions to this, such as those in sections 4(2) to 4(12) of the RMA in relation to specific entities or activities, will come in the full Bill.

Part 2 Purpose and related provisions

84 The purpose and related provisions of the NBA include:

- the purpose of the NBA, including Te Oranga o te Taiao
- duties to give effect to the principles of Te Tiriti o Waitangi
- requirements of the Minister for the Environment to set clear and effective protections for aspects of the environment (called environmental limits); and
- a list of environmental outcomes that decision-makers must work towards achieving.

85 These provisions will be located at the front of the Act, to set the context and key direction for the provisions that follow.

86 On a site-by-site basis, environmental protection and development goals are sometimes at odds. An important role for the system is to enable people and communities to weigh competing objectives and make decisions.

87 Good planning can raise environmental standards as well as ensure there is sufficient housing and infrastructure to service a growing population. The system needs to recognise and encourage synergies between development and environmental protection. For example, more renewable electricity generation requires new infrastructure such as wind farms.

88 A key consideration for the NBA will be how much active planning is needed to achieve outcomes for the natural and built environments. The main focus of the RMA was (at least in practice) primarily on managing adverse effects. The NBA is designed to give central government and councils, with iwi, hapū and Māori, a larger role in promoting activities and uses to achieve positive outcomes.

Clause 5: Purpose of this Act

89 Clause 5 sets out the purpose of the NBA, which is to enable:

(a) Te Oranga o te Taiao to be upheld, including by protecting and enhancing the natural environment (see paragraph 97 for what Te Oranga o te Taiao incorporates); and

(b) people and communities to use the environment in a way that supports the well-being of present generations without compromising the well-being of future generations. (Well-being is defined in clause 3 as the social, economic, environmental, and cultural well-being of people and communities, and includes their health and safety).

90 To achieve the purpose:

- use of the environment must comply with environmental limits;
- outcomes for the benefit of the environment must be promoted; and
- any adverse effects on the environment of its use must be avoided, remedied, or mitigated.

Explanation – comparison with the RMA

91 The purpose of the NBA aims to improve on the RMA in two key ways:

- by being much more explicit about having to comply with environmental limits to protect ecological integrity and human health; and
- through setting up a framework of outcomes for restoring, enhancing or improving the natural environment, as well as promoting specific development and cultural outcomes that support the well-being of present generations, without compromising the well-being of future generations.

92 Upholding Te Oranga o te Taiao and being more explicit about the intrinsic relationship between iwi, hapū, and te Taiao also better reflects te ao Māori within the system.

Explanation – Te Oranga o te Taiao

93 The Panel proposed recognition of the concept of Te Mana o te Taiao, as part of the purpose statement. The Panel proposed that this concept outline the core aspects of the natural environment that must be maintained to sustain life.

94 The inclusion of a concept that draws on te ao Māori contributes to the reform objective to "give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori", as well as contributingto other reform objectives, including the objective to "protect and where necessary restore the natural environment, including its capacity to provide for the well-being of present and future generations".

95 The Government has explored whether 'Te Mana o te Taiao' was the tika (right/correct) concept to use, whether 'recognise the concept' was the right statutory weighting to use, and whether the definition of Te Mana o te Taiao as suggested by the Panel was appropriate. Various alternatives that addressed these questions were presented to Ministers.

96 Te Oranga o te Taiao was suggested by the Freshwater Iwi Leaders Group (FILG) and Te Wai Māori Trust (TWMT)[5]. In their view, Te Oranga o te Taiao more appropriately reflected a te ao Māori approach and encapsulated the intergenerational importance of the health and well-being of the natural environment. FILG and TWMT felt that 'Te Mana o Te Taiao', as articulated and defined by the Panel, did not adequately reflect or embrace a te ao Māori view, including the innate whakapapa-based relationship between iwi, hapū, Māori and te Taiao.

97 For the purpose of the NBA, the definition of Te Oranga o te Taiao incorporates:

- the health of the natural environment
- the intrinsic relationship between iwi and hapū, and te Taiao
- the interconnectedness of the natural environment; and
- the essential relationship between the health of the natural environment and its capacity to sustain all life.

[5] These are two of the Māori groups the Government has engaged with (see Appendix 3 for more information).

98 Importantly, Te Oranga o te Taiao is not being advanced as a standalone proposition within the purpose of the NBA. As with the 'Te Mana o te Taiao', it is intended to be connected to, and supported within, other NBA provisions that provide for the better alignment of the RM system to Te Tiriti o Waitangi and te ao Māori. This includes environmental outcomes and implementation principles.

99 Feedback is sought on Te Oranga o te Taiao through the select committee inquiry process. Officials will also continue to work on the concept and its implementation with iwi, hapū and Māori groups (and on any modifications or alternatives advanced).

Explanation – Outcomes for the benefit of the environment

100 The term 'outcomes for the benefit of the environment' includes, but is not limited to, 'environmental outcomes' listed in clause 8.

Clause 6: Te Tiriti o Waitangi

101 Clause 6 provides that all persons exercising powers and performing functions and duties under the NBA must give effect to the principles of te Tiriti o Waitangi.

Explanation

102 This will be a 'general effect' Treaty clause.

103 The requirement to 'give effect to' the principles of Te Tiriti reflects the importance of the environment to Māori, the Crown's obligations under Te Tiriti to iwi and hapū in relation to the environment, and the importance of the Treaty partnership in resource management.

104 Compared to the RMA's 'take into account' Treaty clause, those with powers and functions under the NBA will have a stronger and more active duty to give effect to the principles of Te Tiriti.

105 The requirement to give effect to Te Tiriti will be realised in the new system through mechanisms like participatory rights in preparing NBA plans and RSSs, and the expectation that iwi management plans are used in the preparation of NBA plans. Decision-making is expected to be consistent with the principles of Te Tiriti.

106 'Te Tiriti o Waitangi' will be defined (consistent with the RMA and the Panel's recommendation) to mean the same as 'Treaty' in the Treaty of Waitangi Act 1975, where Treaty means the Treaty of Waitangi as set out in both English and in Māori in Schedule 1 of that Act.

Consequently both the English and Māori texts are referenced in this clause. As the Panel noted, referring solely to Te Tiriti o Waitangi in the NBA "will not affect the legal application of the term" but is "an important symbolic step"[6].

Clause 7: Environmental limits

107 Clause 7 states that environmental limits must be prescribed through the National Planning Framework (NPF), or in NBA plans in accordance with any requirements set out in the NPF. The purpose of these limits is to protect the ecological integrity of the natural environment and human health.

108 Environmental limits may be formulated as either:

- the minimum biophysical state of the natural environment (or a specified part of that environment); or
- the maximum amount of harm or stress that may be permitted on the natural environment (or specified part of that environment).

109 Environmental limits must be prescribed for at least these matters:

- air
- biodiversity, including habitats and ecosystems.
- coastal waters
- estuaries
- freshwater; and
- soil

Explanation

110 The requirement to prescribe environmental limits through the NPF is pivotal to achieving the purpose of the Act. These limits will make a key contribution to protecting the ecological integrity of the listed matters and human health.

111 There will be discretion to prescribe limits for other natural environment matters outside of those listed.

[6] New Directions for Resource Management in New Zealand, page 76 (paragraph 119), page 101 (paragraph 68).

112 Limits could be set in two forms, describing:

- a maximum/minimum acceptable state of an aspect of the environment (eg the maximum concentration of nitrogen in a lake); and/or
- a maximum amount of harm or stress that can be caused to that state (eg the maximum amount of nitrogen discharged into a water body, or the maximum amount of water taken from it).

113 Limits will need a degree of sophistication drawing on a range of knowledge sources (including mātauranga Māori), some of which may have imperfect data or are not easy to quantify. The Bill will therefore provide for limits to be qualitative (descriptive) as well as quantitative (set using numbers). Limits will take a precautionary approach (and therefore incomplete or uncertain data should not be a barrier to setting limits).

Clause 8: Environmental outcomes

114 Clause 8 states that the NPF and all plans must promote environmental outcomes on the following topics:

- the quality of air, freshwater, coastal waters, estuaries, and soils
- ecological integrity
- outstanding natural features and landscapes
- areas of significant indigenous vegetation and significant habitats of indigenous fauna
- the natural character of, and public access to, the coast, lakes, rivers, wetlands and their margins
- the relationship of iwi and hapū, and their tikanga and traditions, with ancestral lands, water, sites, wāhi tapu, and other taonga
- the mana and mauri of the natural environment
- cultural heritage, including cultural landscapes
- protected customary rights
- greenhouse gas emissions
- well-functioning urban areas and urban form
- housing supply and affordability (including Māori housing aims)
- development in rural areas enabling a range of economic, social and cultural activities
- sustainable use of the marine environment
- infrastructure services including renewable energy; and
- natural hazards and climate change, and improved resilience to these.

Explanation – why an outcomes approach?

115 An outcomes-based approach works for both protecting resources (eg biodiversity) and enabling activities (eg housing and infrastructure) and responds directly to the needs of communities in each region to resolve tensions. An outcomes-based approach founded in Part 2 of the NBA will require planning practice to shift from solely focusing on managing adverse effects.

116 The NBA outcomes are to be long-term and enduring. The detail on how this will be achieved will be set out in the NPF and NBA plans. This includes development of targets, use of regulation, and other tools, like economic instruments (environmental taxes and charges).

117 It is a significant shift to focus on outcomes, and providing for these in the NPF and NBA plans. Being clear about outcome delivery should improve the performance of the regulatory system and the accountability of decision-makers for its results.

118 The NBA will promote the well-being of both urban and rural areas. In relation to rural areas, an outcome (clause 8(m)) is for development to be pursued that:

- enables a range of economic, social, and cultural activities
- contributes to the development of adaptable and economically resilient communities; and
- promotes the protection of highly productive land from inappropriate subdivision, use, and development.

119 The role of the environmental outcomes in guiding decision-making about resource consents, designations and other approvals under the NBA is yet to be decided and is not addressed in the exposure draft.

Explanation – resolving conflicts

120 An important role for the resource management system is managing conflicts between competing objectives, particularly between the use and protection of the environment.

121 The exposure draft has the following measures to clarify how to resolve potential conflicts.

- it echoes the hierarchy in the King Salmon decision of the Supreme Court, whereby Part 2 (of the RMA) is implemented through national direction, and plans in turn give effect to national direction;[7] and
- resolving conflicts is a key role for the NPF and NBA plans.

122 The strong emphasis on setting environmental limits, and the mandatory content required in the NPF, will help resolve potential conflicts. More comprehensive plans will also help address conflicts between different outcomes; for example, classifying more activities as either 'permitted', or 'prohibited' in NBA plans or national direction.

123 Conflicts between outcomes will inevitably arise in consenting decisions, including in ways that plans do not cover. It will not be feasible for the NPF and NBA plans to foresee and conclusively resolve all tensions in advance, but the full Bill will provide mechanisms for decision-makers to resolve conflicts at the consenting stage.

Explanation – general duties for the Minister regarding limits and outcomes

124 The Panel proposed a number of duties on the Minister for the Environment to give national direction on limits and outcomes. Most of these duties are now reflected in mandatory requirements for the content of the NPF. An important exception is the Panel's proposal for national direction on how to give effect to the principles of Te Tiriti. It is instead intended that guidance and direction on this will be contained in further provisions of the NBA.

What's not included in Part 2 of the exposure draft?

125 Part 2 does not define targets, or what they will be set for, or how they will be applied to different places and circumstances. These matters will be determined through the process of developing the NPF.

126 While the NBA outcomes include the reduction of greenhouse gas emissions, further work is underway to explore how the NBA can be used to make progress towards achieving Aotearoa New Zealand's emissions reduction goals under the CCRA.

[7] Environmental Defence Society Inc v The New Zealand King Salmon Company Ltd [2014] NZSC 38

Part 3 National planning framework

127 The National Planning Framework (NPF) will be the tool under the NBA for strategic and regulatory direction from central government on the use, protection and enhancement of the natural and built environments in the interests of all New Zealanders. The NPF will:

- guide the future system and influence the content and outcomes of RSSs and NBA plans
- include a strategic component that sets out the vision, direction and priorities for the integrated management of the environment and how the well-being of present and future generations is to be provided for within environmental limits; and
- give effect to Te Tiriti principles and reflect te ao Māori.[8]

Requirement for national planning framework

Clause 9: National planning framework

128 Clause 9 establishes that there must at all times be an NPF. The Minister for the Environment must prepare and maintain the NPF in the manner described in Schedule 1. The Bill will contain transitional provisions to address how this requirement applies to the preparation of the first NPF.

Clause 10: Purpose of national planning framework

129 Clause 10 states that the purpose of the NPF is to help achieve the purpose of the NBA, by providing integrated direction on matters of national significance or matters where national or sub-national consistency is desirable.

Explanation

130 The RMA largely devolves decision-making about resource management and land use to local authorities. However, central government can give policy direction, set standards and methods, and prescribe regulatory plan content. Under the RMA, this is done using various instruments including: national policy statements, national environmental standards, national planning standards, and other regulations.

[8] Further policy consideration will be given to how Te Tiriti partnership is reflected in and through the NPF.

131 Under the RMA, national policy statements are able to include content such as 'development capacity' requirements in the National Policy Statement on Urban Development or the national target in the National Policy Statement for Freshwater Management 2020 that 90% of specified rivers and lakes are suitable for primary contact by 2040.

132 The Panel recognised the important role of direction from central government on matters of national importance, and recommended that the set of national direction be integrated, with conflicts between instruments resolved. This latter point is key, as one criticism of the RMA is that limited, and sometimes apparently conflicting, national direction has led to inconsistent policy in RMA plans, and unresolved conflict between national priorities.

133 The NPF will provide:

- integrated and cohesive regulation consolidated in one coherent set
- direction on matters of national significance, or where national or sub-national consistency is desirable to achieve the purpose of the NBA – recognising that what is considered to be of national significance will change over time
- direction on the priorities, pressures and opportunities for the environment
- direction on how to facilitate and reconcile across competing outcomes.

134 The NPF will also provide direction on resource management matters that must be consistent throughout the system. This may include methods, standards and guidance to support spatial strategy and plan-making processes. It should also make planning and consenting faster and more efficient.

Clause 11: National planning framework to be made as regulations

135 Clause 11 states that the NPF will have the effect of regulations. The regulations that make up the NPF may apply throughout New Zealand or to specific locations, specific classes of people, and specific periods. The regulations may set directions, policies, goals, or methods; or provide criteria, targets, or definitions.

Explanation

136 The NPF will be made as regulations. It will be secondary legislation under the NBA, and will be a disallowable instrument. A disallowable instrument is a type of secondary legislation that is subject to review by the Regulations Review Committee (a select committee with proportional representation from across the House). Parliament has the power to 'disallow' an instrument, so that it will cease to have effect, where certain criteria apply.

137 Secondary legislation allows direction to be updated over time as the state of the environment changes, and as new and unforeseen issues arise.

Contents of national planning framework

Clause 12: Environmental limits

138 Clause 12 provides that the NPF may set limits directly or may prescribe a process for planning committees to determine limits.

139 Environmental limits may be prescribed:
- qualitatively or quantitatively; and
- at different levels for different circumstances or locations.

Explanation

140 The NPF is the main vehicle for setting environmental limits. It will be mandatory for the NPF to set limits on the matters set out in clause 7 (eg air, biodiversity, coastal waters, estuaries, freshwater and soil).

141 The Minister for the Environment would be responsible for setting NPF limits and processes.

142 The provision allows for flexibility, which acknowledges that limits will need to provide different levels of environmental protection to different circumstances and locations.

143 There should be strong links between limits and other instruments in the NPF and plans that would manage harmful activities. For example, between a limit and the planning controls that restrict land use or development causing unacceptable harm; or economic instruments that could help allocate scarce resources.

Clause 13: Topics that the national planning framework must include

144 Clause 13 sets out the topics that the NPF must include:

- the quality of air, freshwater, coastal waters, estuaries, and soils
- ecological integrity
- outstanding natural features and landscapes
- areas of significant indigenous vegetation and significant habitats of indigenous animals
- greenhouse gas emissions
- urban areas
- housing supply
- infrastructure services; and
- natural hazards and climate change.

145 The NPF may also include provisions on other topics outside this list if they accord with the purpose of the NPF.

146 In addition, the NPF must include provisions to help resolve conflicts relating to the environment, including between environmental outcomes.

Explanation

147 This section sets out mandatory topics on which the Minister must provide direction through the NPF.

148 Under the RMA, the only mandatory requirements for national direction are for the New Zealand Coastal Policy Statement and the minimum requirements for national planning standards.

149 The Panel recommended (pages 76-79 of its report) a broader suite of mandatory national direction in the NBA, on 21 matters including:

- Te Tiriti
- limits
- targets
- the quality of the natural and built environment
- natural hazards and climate change; and
- many other natural matters, including the coast.

150 The list in clause 13 for mandatory direction in the NPF is intended to ensure the development of central government direction is prioritised for matters that are critical to achieving the NBA's purpose, and matters for which direction is most needed to support timely development of RSSs and NBA plans. In addition, the policy intent of existing national direction instruments will be consolidated and integrated with the NPF. The Minister will also have discretion to provide direction in the NPF on topics outside this mandatory list that accord with the purpose of the NPF.

151 The Panel recommended mandatory national direction on Te Tiriti. Instead, it is intended to provide direction and guidance in the legislation itself on how to implement clause 6 (Te Tiriti).

152 In a new outcomes-focused system, central government direction must be more active in setting priorities and helping to manage conflicts across outcomes. The NPF must therefore give direction as priorities, pressures and opportunities change over time. The NPF should provide more considered direction for regional decision-makers who need to reconcile and prioritise competing matters in their communities. The NPF should also integrate with RSSs and NBA plans to ensure system efficiency and achievement of the outcomes sought under both.

Clause 14: Strategic directions to be included

153 Clause 14 states that the NPF must include strategic goals such as:

- the vision, direction and priorities for the integrated management of the environment within environmental limits; and
- how the well-being of present and future generations is to be provided for within the relevant environmental limits.

Explanation

154 The scope and contents of national direction under the RMA differs between the various instruments (ie national policy statements, national environmental standards, national planning standards, and regulations). Current instruments are issued separately. Best practice is to consider how new national direction aligns with existing direction when it is prepared. However, the variety of individually issued instruments under the current legal framework can inhibit integrated management.

155 This will be remedied through the proposal to combine and integrate national direction instruments in the NPF.

Clause 15: Implementation of national planning framework

156 Clause 15 sets out how the NPF provisions will be put into practice.

157 The NPF may direct that certain provisions:

- must be given effect through NBA plans or regional spatial strategies; or
- have direct legal effect without being incorporated into a plan or a regional spatial strategy (similar to national environmental standards under the RMA, which do not need to be incorporated into RMA plans).

158 The NPF may direct local authorities to amend NBA plans to give effect to regulations, either through a public plan change process, or (if directed) without this process.

Explanation

159 The NPF will give clear, practical and measurable direction for local authorities and communities. A subsequent process at a regional level may or may not be needed to integrate this direction into a plan in any given case. This approach strikes a balance between enabling central government to efficiently respond to emerging environmental issues, and allowing local input.

Clause 16: Application of the precautionary approach

160 Clause 16 states that in setting environmental limits, the Minister for the Environment must apply a precautionary approach.

Explanation

161 The precautionary approach (defined in clause 3) applies where effects on the environment are uncertain or unknown but could cause potentially serious or irreversible harm to the environment. The precautionary approach favours taking action to prevent those adverse effects rather than postponing action because there is a lack of full scientific certainty.

Clause 17: Placeholders

162 Clause 17 is a placeholder for further matters to come. These include:

- the role of the Minister of Conservation in relation to the NPF; and
- the links between the NBA and the CCRA.

Clause 18: Implementation principles

163 Clause 18 is a placeholder for implementation principles, with placeholders within it. The clause proposes that relevant persons must:

- promote the integrated management of the environment
- recognise and provide for the application, in relation to te taiao, of kawa, tikanga (including kaitiakitanga), and mātauranga Māori
- ensure appropriate public participation in processes undertaken under this Act, to the extent that is important to good governance and proportionate to the significance of the matters at issue
- promote appropriate mechanisms for effective participation by iwi and hapū in processes undertaken under this Act
- recognise and provide for the authority and responsibility of each iwi and hapū to protect and sustain the health and well-being of te taiao
- have particular regard to any cumulative effects of the use and development of environment; and
- take a precautionary approach.

Explanation

164 The Panel developed a number of implementation principles that it recommended be included in Part 2 of the NBA.

165 Clause 18 provides an example of what general implementation principles could look like. While they would be applied differently depending on the decision in question, having the principles as general requirements would ensure they could always be drawn on when useful in decision-making.

166 Alternatively, the implementation principles could be incorporated as part of specific substantive and procedural decision-making requirements. This would ensure what was required of decision-makers was clear in different circumstances. The table below sets out how the implementation principles have been incorporated into the exposure draft.

167 Further consideration is being given to how the implementation principles can be clearly expressed to best support decision-making in the new system.

Implementation principle	How principles are reflected in exposure draft
Promote the integrated management of the environment	• Reflected as a general principle (clause 18) • Reflected in the purpose and goals of the NPF and plans (clauses 10, 14 and 20)
Recognise and provide for the application, in relation to te taiao, of kawa, tikanga (including kaitiakitanga) and mātauranga Māori	• Reflected as a general principle (clause 18)
Ensure appropriate public participation in processes undertaken under this Act, to the extent that is important to good governance and proportionate to the significance of the matters at issue	• Reflected as a general principle (clause 18) • To be reflected in processes for NPF and plans (not yet in exposure draft)
Promote appropriate mechanisms for effective participation by iwi and hapū in processes undertaken under this Act	• Reflected as a general principle (clause 18) • To be reflected in processes for NPF and plans (not yet drafted)
Recognise and provide for the authority and responsibility of each iwi and hapū to protect and sustain the health and well-being of te taiao	• Reflected as a general principle (clause 18)

Implementation principle	How principles are reflected in exposure draft
Have particular regard to any cumulative effects of the use and development of the environment	• Reflected as a general principle (clause 18) • Reflected in the procedural requirements of the NPF (not yet drafted) and plans (clause 24)
Take a precautionary approach	• Reflected as a general principle (clause 18) • Reflected in the process for setting environmental limits (clause 16) • Reflected in procedural requirements of plans (clause 24)

Schedule 1: Preparation of National Planning Framework

Schedule 1 (referred to in clause 9 of the Bill) is a placeholder for the process to develop the NPF. The process will be included in the full Bill.

Explanation

168 The process to develop the NPF should provide for direction in all forms, ranging from significant national policy to administrative standards and regulations. This could include using a board of inquiry or independent panel and designing a simplified process for less significant matters.

169 There could be a standing independent body (such as a permanent board of inquiry) that could convene at different times to maintain consistency and integration across different topics in the NPF.

170 The process is intended to provide for:

- a role for iwi, hapū and Māori that gives effect to the principles of Te Tiriti
- effective and proportionate public consultation – each process track must allow reasonable time and opportunity for input
- appropriate evidence and technical expertise including mātauranga Māori, and independent advice to inform decisions at various stages in the process
- opportunities for early engagement with decision-makers, including local government, on spatial strategies and NBA plans – this could include requirements for consultation on policy intent and draft content in the NPF
- robust evaluation and analysis built into decision points – for example, requirements similar to section 32 of the RMA; and
- consideration of the precautionary approach, integrated management, cumulative effects, and the purpose of the Act, before developing and recommending direction for the NPF – this could include a national significance threshold test.

171 Further work is needed to determine the role for iwi, hapū and Māori in the process and substance of the NPF – in order to give effect to the principles of Te Tiriti and provide greater recognition of te ao Māori, including mātauranga Māori, in the RM system.

What's not included in Part 3 of the exposure draft?

172 Further aspects not yet provided for in Part 3 include:

- how to monitor and review the NPF's effectiveness; and the tools for the Minister for the Environment to ensure implementation
- the legal relationship between the NPF, SPA and NBA plans, although the NPF will influence both regional spatial strategies and NBA plans
- the role of the Minister of Conservation and other Ministers/ agencies in developing and amending the NPF
- the process for setting and changing limits and targets through the NPF, including how the Minister would work with iwi, hapū and Māori and be informed by mātauranga Māori, and the role of any independent bodies (such as a board of inquiry)
- exactly how limits and targets would be implemented via RSSs and NBA plans; and
- the relationship between the NPF and consents, existing uses and activities, designations and water conservation orders.

173 These matters will form part of the full Bill (and the Strategic Planning Bill regarding RSSs).

Part 4 Natural and built environments plans

174 Part 4 describes, at a high level, what planning will be like under the NBA. It addresses the role of NBA plans in the system, their relationship to the NPF and regional spatial strategies (RSSs), and what they must achieve.

175 The exposure draft has adopted the Panel's proposal to develop one plan per region, prepared by a plan committee.

Requirement for natural and built environments plans

Clause 19: Natural and built environments plans

176 Clause 19 states that there must be at all times a natural and built environments plan for each region.

Explanation

177 NBA plans will further the purpose of the Act by providing a framework of policies, rules, objectives and processes for managing the environment within a region or district. An NBA plan will translate high-level direction from the Act, the NPF and the RSS into local application, to guide decisions on resource use.

178 The existing system of both regional and district plans under the RMA has planning functions split across regional councils and territorial authorities, and has resulted in poorly integrated management across various parts of the environment. This has led to complexity, unacceptable cumulative effects and poor environmental outcomes.

179 One plan per region that covers resource use, allocation and land use management will support integrated management and reduce conflicting policies.

180 This is a significant change as it will require a different model for plan-making and local authority working arrangements, including working with mana whenua. In contrast to the RMA, decisions relating to plan-making and development, including the approval or rejection of submissions, will be made by the planning committee for the region rather than solely by local authorities.

181 The Panel considered that this approach would create better outcomes for the environment and shift away from plans that lock in land and resource management approaches, protecting the status quo – and would create plans that better respond to environmental pressures and address environmental or social issues, such as housing supply.

Clause 20: Purpose of NBA plans

182 Clause 20 states that the purpose of an NBA plan is to further the purpose of the Act by providing a framework for the integrated management of a region's environment.

Clause 21: How plans are prepared, notified, and made

183 Clause 21 provides for how NBA plans must be prepared. A planning committee is responsible for preparing the NBA plan in each region, following a specified process, which is not included in the exposure draft. Clause 21 refers to Schedule 2, Preparation of natural and built environments plans, which is a placeholder for the planning process.

Explanation

184 Planning committees will have responsibility for preparing and changing plans in their regions. More detail on the nature and makeup of planning committees is included in Schedule 3, including the role of constituent local authorities. The process should provide for the evaluation of policy direction and content, and include pre-notification participation and consultation with relevant parties.

185 Effective public participation can be achieved by undertaking engagement early in the process, and seeking a diverse range of views and targeting different communities of interest. Improved tools, including greater use of digital platforms, could enable a greater reach so everyone has access to the process.

186 The status of plans as secondary legislation (and the applicable requirements under the Legislation Act 2019 and/or the Local Government Act 2002) has not yet been determined, but will be once final decisions have been made relating to responsibility for plan-making.

Contents of plans

Clause 22: Contents of plans (and explanations)

187 Clause 22 sets out the content that NBA plans must contain, and the manner in which plans will provide for that content.

188 Clause 22(1) states that a plan must include provide for the matters specified in its sub-clauses.

Clause 22(1)(a): Environmental limits

189 This sub-clause requires that a plan state the environmental limits that apply in the region, whether set by the NPF, or by a planning committee under clause 25.

190 NBA plans will play an important role in ensuring that the environment is managed within the environmental limits prescribed under clause 7.

Clause 22(1)(b): Give effect to the NPF

191 This sub-clause requires that a plan must give effect to the NPF in the region as the NPF directs.

192 The NPF will provide NBA plans with a foundation for achieving integrated management in a way that is both consistent nationally and recognises regional differences.

193 Note that clause 24(4)[9] below specifies that the planning committee must assume that the NPF furthers the purpose of the Act, and need not independently make that assessment when giving effect to the NPF. This is consistent with the approach in the King Salmon decision.

Clause 22(1)(c): Promote environmental outcomes subject to direction in the NPF

194 This sub-clause requires a plan to promote the environmental outcomes specified in clause 8 subject to any direction given in the NPF.

195 The 'subject to' requirement is also consistent with the King Salmon decision.

Clause 22(1)(d): Be consistent with the regional spatial strategy

196 This sub-clause proposes that a plan be consistent with the RSS. The intention is that key strategic decisions made through the RSS are not to be revisited when preparing a plan.

Clause 22(1)(e): Identify matters significant to a region or district

197 This sub-clause requires a plan to identify and provide for matters that are significant to a region, and for the districts within the region.

198 Each region will have different priorities for its natural and built environments. For example, in some regions the development of certain infrastructure may be a priority.

[9] King Salmon (SC), above note 7

199 Some significant matters will be the same across the region, but geographical spread, various economic and social circumstances, and different communities may mean there are matters that may only be significant to one district within a region.

Clause 22(1)(f): Management of the environment

200 This is currently a placeholder sub-clause, however the intention of this clause is to signal that plans will still need to regulate the topics that are currently described as local authority functions under the RMA (ie both land use and resource allocation functions will need to be translated and described as plan content to ensure that the environment is managed in an integrated way).

Clause 22(1)(g): Resolving conflicts relating to the environment

201 This sub-clause requires a plan to help resolve conflicts relating to the environment in the region, including any potential conflicts between environmental outcomes described in clause 8. The plan should give plan users more certainty, leaving fewer matters to resolve at the permissions and approval stage, compared to the RMA.

202 However, it is impossible for policies and rules in plans to predict every possible scenario around resource use, so permissions and approvals will still be required in the new system. Plans will set up the regulatory framework for granting these if needed.

Clause 22(1)(h): Placeholder for additional specified plan contents

203 Because clause 22(1) may not provide a complete list of the matters a plan should contain, additional contents may be added in the full Bill.

Clause 22(1)(i): Including anything else that is necessary

204 This sub-clause states that a plan may include anything else that is necessary for the plan to achieve its purpose.

Clause 22(2): What an NBA plan may do

205 Clause 22(2) states that a plan may:

- set objectives, rules, processes, policies, or methods
- identify any land or type of land in the region for which a stated use, development or protection is a priority; and
- include any other provision.

Planning Committees

Clause 23: Planning Committees

206 Clause 23 states that a planning committee must be appointed for each region:

- to make and maintain the plan for a region using the process set out in Schedule 2
- to approve or reject recommendations made by an independent hearings panel (IHP) after it considers submissions on the plan; and
- to set any environmental limits for the region that the NPF authorises the committee to set.

Explanation

207 The exposure draft has adopted the Panel's proposal to develop one plan per region, prepared by a planning committee. The key functions for a planning committee are to make and maintain a plan, approve or reject submissions from an IHP and set environmental limits, where authorised by the NPF.

208 Policy is still in progress on the matters covered by clause 23, and it is expected that a planning committee will have additional functions in the full Bill.

Schedule 3 Planning Committees

209 Schedule 3 (referred to in clause 23 of the Bill) outlines the membership and support that will be required for a planning committee, and contains placeholders for matters that still require policy development. Clauses 1 to 4 of the Schedule deal with Membership, and clauses 5 to 6 with Support.

Explanation

210 The Panel recommended that a committee be made up of the local authorities and mana whenua of a region and a representative of the Minister of Conservation. (This is to reflect that Minister's role with regard to the coastal marine area under the RMA. However, the Minister's role in the planning committee is not limited to matters within the coastal marine area).

211 The Panel's approach included a secretariat function to provide advice and administrative support to the planning committee and assist it in carrying out its functions under the NBA.

212 While the exposure draft adopts the Panel's proposal for planning committees, there are matters still under consideration, including options around the:

- size and scope of the committees (eg whether all councils are represented, whether the size of the committee varies by region, proportionality of membership between central and local government and mana whenua, and whether there is an optimal size for efficiency)
- local authority membership (eg whether there are elected members, experts or officials, and the selection method)
- mana whenua membership (eg selection method and the approach to representation)
- split between local authorities and mana whenua (eg whether the same in all regions for all issues)
- how the planning committee secretariat will be funded (noting the Panel's recommended approach was for local authorities to fund the secretariat); and
- legal status of planning committees.

Clause 24: Considerations relevant to planning committee decisions

213 Clause 24 sets out the matters that the planning committee must have regard to when making decision on an NBA plan, including:

- any cumulative effects of the use and development of the environment
- any technical evidence and advice, including on mātauranga Māori, that the committee considers appropriate
- whether the implementation of the plan could have significant or irreversible adverse consequences for the natural environment; and
- the extent to which it is appropriate for conflicts to be resolved generally by the plan, or on a case-by-case basis by resource consents or designations.

214 Additionally, the committee must apply the precautionary approach Clause 24(4) states that the committee is entitled to assume that the NPF furthers the purpose of the NBA, and must not independently make that assessment when giving effect to the NPF.

Explanation

215 The intention of this clause is to ensure that a planning committee appropriately considers the effects that the proposed plan will have on the environment. This would include whether unintended cumulative effects could be created.

216 Clause 24(4) codifies aspects of the Supreme Court's King Salmon decision, particularly relating to the hierarchy between planning documents. Specifically, by 'giving effect' to the NPF, a planning committee is necessarily furthering the purpose of the Act, as this is a requirement of the preparation of the NPF. The implication of this is that when a planning committee implements the NPF into its plan, it must not refer back to the purpose of the Act to interpret how the NPF is to be provided for in the plan.

217 NBA plans will be an important mechanism to reflect te ao Māori perspectives on the environment and manage resources in a way that actively protects iwi, hapū and Māori interests. They are also a key mechanism for giving effect to the principles of Te Tiriti.

218 Clause 24 is not a complete list of the matters that a plan decision-maker will need to consider. It is anticipated that additional matters will be required as the development of the full Bill progresses.

Clause 25: Power to set environmental limits for a region

219 Clause 25 provides the planning committee with the power to set an environmental limit for the region in the plan where directed by the NPF, and following the process set out in the NPF.

Explanation

220 Environmental limits will be set in the NPF, but in some instances it may be desirable for environmental limits be set by planning committees in NBA plans to account for local variation, especially between ecosystems.

221 It is expected that additional provisions specifying how a planning committee undertakes this function will be provided in the full Bill.

What's not included in Part 4 of the exposure draft?

222 A comprehensive outline of the plan-making process is not included in the exposure draft including:

- plan evaluation and analysis of the plan provisions
- public engagement and consultation, and a role for public and key stakeholders
- what giving effect to the principles of Te Tiriti looks like for the plan development process
- what appropriate evidence and technical expertise would be, including mātauranga Māori and independent advice to inform decision-making
- the role for local authorities
- the independent hearings panel process including appointment of members
- the submission and hearing process after notifying a plan; and
- the application of the Legislation Act 2019 to plans.

223 Matters not included in the exposure draft in relation to plan governance and decision-making include:

- how decisions are made by planning committees
- dispute resolution in plan-making
- how current and future Te Tiriti settlements are maintained but not diminished in their effect, and the interface with existing bodies
- funding of the planning committee
- how the secretariat supporting the committee will function; and
- a planning committee's ability to direct local authorities to undertake work on its behalf.

BEACHHOUSE

Part B:

Exposure draft of the Natural and Built Environments Bill

DRAFT FOR CONSULTATION

Natural and Built Environments Bill

Government Bill

Hon David Parker

Natural and Built Environments Bill

Government Bill

Contents

		Page
1	Title	2
2	Commencement	2
	Part 1 **Preliminary provisions**	
3	Interpretation	2
4	How Act binds the Crown	6
	Part 2 **Purpose and related provisions**	
5	Purpose of this Act	6
6	Te Tiriti o Waitangi	7
7	Environmental limits	7
8	Environmental outcomes	7
	Part 3 **National planning framework**	
	Requirement for national planning framework	
9	National planning framework	9
10	Purpose of national planning framework	9
11	National planning framework to be made as regulations	9
	Contents of national planning framework	
12	Environmental limits	10
13	Topics that national planning framework must include	10
14	Strategic directions to be included	11
15	Implementation of national planning framework	11
16	Application of precautionary approach	11

17 [Placeholders] 11
18 Implementation principles 12

Part 4
Natural and built environments plans

Requirement for natural and built environments plans

19 Natural and built environments plans 12
20 Purpose of plans 12
21 How plans are prepared, notified, and made 12

Contents of plans

22 Contents of plans 13

Planning committees

23 Planning committees 13
24 Considerations relevant to planning committee decisions 14
25 Power to set environmental limits for region 14

Schedule 1 15
Preparation of national planning framework

Schedule 2 16
Preparation of natural and built environments plans

Schedule 3 17
Planning committees

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Natural and Built Environments Act **2021**.

2 Commencement

This Act comes into force on X.

Part 1
Preliminary provisions

3 Interpretation

In this Act, unless the context otherwise requires,—

abiotic means non-living parts of the environment

biotic means living parts of the environment

coastal water means seawater within the outer limits of the territorial sea and includes—

(a) seawater with a substantial freshwater component; and

(b) seawater in estuaries, fiords, inlets, harbours, or embayments

cultural heritage—

(a) means those aspects of the environment that contribute to an understanding and appreciation of New Zealand's history and cultures, deriving from any of the following qualities:

(i) archaeological:

(ii) architectural:

(iii) cultural:

(iv) historic:

(v) scientific:

(vi) technological; and

(b) includes—

(i) historic sites, structures, places, and areas; and

(ii) archaeological sites; and

(iii) sites of significance to Māori, including wāhi tapu; and

(iv) surroundings associated with those sites

district, in relation to a territorial authority, means the district of the territorial authority as determined in accordance with the Local Government Act 2002

ecological integrity means the ability of an ecosystem to support and maintain—

(a) its composition: the natural diversity of indigenous species, habitats, and communities that make up the ecosystem; and

(b) its structure: the biotic and abiotic physical features of an ecosystem; and

(c) its functions: the ecological and physical functions and processes of an ecosystem; and

(d) its resilience to the adverse impacts of natural or human disturbances

ecosystem means a system of organisms interacting with their physical environment and with each other

environment means, as the context requires,—

(a) the natural environment:

(b) people and communities and the built environment that they create:

(c) the social, economic, and cultural conditions that affect the matters stated in **paragraphs (a) and (b)** or that are affected by those matters

environmental limits means the limits required by **section 7** and set under **section 12 or 25**

environmental outcomes means the outcomes provided for in **section 8**

freshwater means all water except coastal water and geothermal water

geothermal water—

(a) means water heated within the earth by natural phenomena to a temperature of 30 degrees Celsius or more; and

(b) includes all steam, water, and water vapour, and every mixture of all or any of them that has been heated by natural phenomena

infrastructure [placeholder]

infrastructure services [placeholder]

lake means a body of freshwater that is entirely or nearly surrounded by land

land—

(a) includes land covered by water and the airspace above land; and

(b) includes the surface of water

mineral has the same meaning as in section 2(1) of the Crown Minerals Act 1991

Minister means the Minister of the Crown who, under any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Minister of Conservation means the Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Conservation Act 1987

mitigate, in the phrase "avoid, remedy, or mitigate", includes to offset or provide compensation if that is enabled—

(a) by a provision in the national planning framework or in a plan; or

(b) as a consent condition proposed by the applicant for the consent

national planning framework means the national planning framework made by Order in Council under **section 11**

natural environment means—

(a) the resources of land, water, air, soil, minerals, energy, and all forms of plants, animals, and other living organisms (whether native to New Zealand or introduced) and their habitats; and

(b) ecosystems and their constituent parts

natural hazard means any atmospheric or earth- or water-related occurrence (including earthquake, tsunami, erosion, volcanic and geothermal activity, landslip, subsidence, sedimentation, wind, drought, fire, or flooding) the action of which adversely affects or may adversely affect human life, property, or other aspects of the environment

person includes—

(a) the Crown, a corporation sole, and a body of persons, whether corporate or unincorporate; and

(b) the successor of that person

plan—

(a) means a natural and built environments plan made in accordance with **section 21**; and

(b) includes a proposed natural and built environments plan, unless otherwise specified

planning committee means the planning committee appointed for a region for the purpose of **section 23**

precautionary approach is an approach that, in order to protect the natural environment if there are threats of serious or irreversible harm to the environment, favours taking action to prevent those adverse effects rather than postponing action on the ground that there is a lack of full scientific certainty

public plan change [placeholder]

region, in relation to a regional council, means the region of the regional council as determined in accordance with the Local Government Act 2002

regional council—

(a) has the same meaning as in section 5 of the Local Government Act 2002; and

(b) includes a unitary authority

regional spatial strategy, in relation to a region, means the spatial strategy that is made for the region under the **Strategic Planning Act 2021**

river—

(a) means a continually or intermittently flowing body of freshwater; and

(b) includes a stream and modified watercourse; but

(c) does not include an irrigation canal, a water supply race, a canal for the supply of water for electric power generation, a farm drainage canal, or any other artificial watercourse

structure—

(a) means any building, equipment, device, or other facility that is made by people and fixed to land; and

(b) includes any raft

territorial authority means a city council or a district council named in Part 2 of Schedule 2 of the Local Government Act 2002

territorial sea means the territorial sea of New Zealand as defined by section 3 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

te Tiriti o Waitangi has the same meaning as Treaty in section 2 of the Treaty of Waitangi Act 1975

unitary authority has the same meaning as in section 5(1) of the Local Government Act 2002

urban form means the physical characteristics that make up an urban area, including the shape, size, density, and configuration of the urban area

water—

(a) means water in all its physical forms, whether flowing or not and whether over or under the ground:

(b) includes freshwater, coastal water, and geothermal water:

(c) does not include water in any form while in any pipe, tank, or cistern

well-being means the social, economic, environmental, and cultural well-being of people and communities, and includes their health and safety.

4 How Act binds the Crown

[Placeholder.]

Part 2
Purpose and related provisions

5 Purpose of this Act

(1) The purpose of this Act is to enable—

(a) Te Oranga o te Taiao to be upheld, including by protecting and enhancing the natural environment; and

(b) people and communities to use the environment in a way that supports the well-being of present generations without compromising the well-being of future generations.

(2) To achieve the purpose of the Act,—

(a) use of the environment must comply with environmental limits; and

(b) outcomes for the benefit of the environment must be promoted; and

(c) any adverse effects on the environment of its use must be avoided, remedied, or mitigated.

(3) In this section, **Te Oranga o te Taiao** incorporates—

(a) the health of the natural environment; and

(b) the intrinsic relationship between iwi and hapū and te taiao; and

(c) the interconnectedness of all parts of the natural environment; and

(d) the essential relationship between the health of the natural environment and its capacity to sustain all life.

6 Te Tiriti o Waitangi

All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi.

7 Environmental limits

(1) The purpose of environmental limits is to protect either or both of the following:

(a) the ecological integrity of the natural environment:

(b) human health.

(2) Environmental limits must be prescribed—

(a) in the national planning framework (*see* **section 12**); or

(b) in plans, as prescribed in the national planning framework (*see* **section 25**).

(3) Environmental limits may be formulated as—

(a) the minimum biophysical state of the natural environment or of a specified part of that environment:

(b) the maximum amount of harm or stress that may be permitted on the natural environment or on a specified part of that environment.

(4) Environmental limits must be prescribed for the following matters:

(a) air:

(b) biodiversity, habitats, and ecosystems:

(c) coastal waters:

(d) estuaries:

(e) freshwater:

(f) soil.

(5) Environmental limits may also be prescribed for any other matter that accords with the purpose of the limits set out in **subsection (1)**.

(6) All persons using, protecting, or enhancing the environment must comply with environmental limits.

(7) In **subsection (3)(a)**, **biophysical** means biotic or abiotic physical features.

8 Environmental outcomes

To assist in achieving the purpose of the Act, the national planning framework and all plans must promote the following environmental outcomes:

(a) the quality of air, freshwater, coastal waters, estuaries, and soils is protected, restored, or improved:

(b) ecological integrity is protected, restored, or improved:

(c) outstanding natural features and landscapes are protected, restored, or improved:

(d) areas of significant indigenous vegetation and significant habitats of indigenous fauna are protected, restored, or improved:

(e) in respect of the coast, lakes, rivers, wetlands, and their margins,—

(i) public access to and along them is protected or enhanced; and

(ii) their natural character is preserved:

(f) the relationship of iwi and hapū, and their tikanga and traditions, with their ancestral lands, water, sites, wāhi tapu, and other taonga is restored and protected:

(g) the mana and mauri of the natural environment are protected and restored:

(h) cultural heritage, including cultural landscapes, is identified, protected, and sustained through active management that is proportionate to its cultural values:

(i) protected customary rights are recognised:

(j) greenhouse gas emissions are reduced and there is an increase in the removal of those gases from the atmosphere:

(k) urban areas that are well-functioning and responsive to growth and other changes, including by—

(i) enabling a range of economic, social, and cultural activities; and

(ii) ensuring a resilient urban form with good transport links within and beyond the urban area:

(l) a housing supply is developed to—

(i) provide choice to consumers; and

(ii) contribute to the affordability of housing; and

(iii) meet the diverse and changing needs of people and communities; and

(iv) support Māori housing aims:

(m) in relation to rural areas, development is pursued that—

(i) enables a range of economic, social, and cultural activities; and

(ii) contributes to the development of adaptable and economically resilient communities; and

(iii) promotes the protection of highly productive land from inappropriate subdivision, use, and development:

(n) the protection and sustainable use of the marine environment:

(o) the ongoing provision of infrastructure services to support the well-being of people and communities, including by supporting—

(i) the use of land for economic, social, and cultural activities:

(ii) an increase in the generation, storage, transmission, and use of renewable energy:

(p) in relation to natural hazards and climate change,—

(i) the significant risks of both are reduced; and

(ii) the resilience of the environment to natural hazards and the effects of climate change is improved.

Part 3
National planning framework

Requirement for national planning framework

9 National planning framework

(1) There must at all times be a national planning framework.

(2) The national planning framework—

(a) must be prepared and maintained by the Minister in the manner set out in **Schedule 1**; and

(b) has effect when it is made by the Governor-General by Order in Council under **section 11**.

10 Purpose of national planning framework

The purpose of the national planning framework is to further the purpose of this Act by providing integrated direction on—

(a) matters of national significance; or

(b) matters for which national consistency is desirable; or

(c) matters for which consistency is desirable in some, but not all, parts of New Zealand.

11 National planning framework to be made as regulations

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make the national planning framework in the form of regulations.

(2) The regulations may apply—

(a) to any specified region or district of a local authority; or

(b) to any specified part of New Zealand.

(3) The regulations may—

(a) set directions, policies, goals, rules, or methods:

(b) provide criteria, targets, or definitions.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Contents of national planning framework

12 Environmental limits

(1) Environmental limits—

(a) may be prescribed in the national planning framework; or

(b) may be made in plans if the national planning framework prescribes the requirements relevant to the setting of limits by planning committees.

(2) Environmental limits may be prescribed—

(a) qualitatively or quantitatively:

(b) at different levels for different circumstances and locations.

13 Topics that national planning framework must include

(1) The national planning framework must set out provisions directing the outcomes described in—

(a) **section 8(a)** (the quality of air, freshwater, coastal waters, estuaries, and soils); and

(b) **section 8(b)** (ecological integrity); and

(c) **section 8(c)** (outstanding natural features and landscapes); and

(d) **section 8(d)** (areas of significant indigenous vegetation and significant habitats of indigenous animals); and

(e) **section 8(j)** (greenhouse gas emissions); and

(f) **section 8(k)** (urban areas); and

(g) **section 8(l)** (housing supply); and

(h) **section 8(o)** (infrastructure services); and

(i) **section 8(p)** (natural hazards and climate change);.

(2) The national planning framework may also include provisions on any other matter that accords with the purpose of the national planning framework, including a matter relevant to an environmental outcome provided for in **section 8**.

(3) In addition, the national planning framework must include provisions to help resolve conflicts relating to the environment, including conflicts between or among any of the environmental outcomes described in **section 8**.

14 Strategic directions to be included

The provisions required by **sections 10, 12, and 13** must include strategic goals such as—

(a) the vision, direction, and priorities for the integrated management of the environment within the environmental limits; and

(b) how the well-being of present and future generations is to be provided for within the relevant environmental limits.

15 Implementation of national planning framework

(1) The national planning framework may direct that certain provisions in the framework—

(a) must be given effect to through the plans; or

(b) must be given effect to through regional spatial strategies; or

(c) have direct legal effect without being incorporated into a plan or provided for through a regional spatial strategy.

(2) If certain provisions of the national planning framework must be given effect to through plans, the national planning framework may direct that planning committees—

(a) make a public plan change; or

(b) insert that part of the framework directly into their plans without using the public plan change process; or

(c) amend their plans to give effect to that part of the framework, but without—

(i) inserting that part of the framework directly into their plans; or

(ii) using the public plan change process.

(3) Amendments required under this section must be made as soon as practicable within the time, if any, specified in the national planning framework.

16 Application of precautionary approach

In setting environmental limits, as required by **section 7**, the Minister must apply a precautionary approach.

17 [Placeholders]

[Placeholder for other matters to come, including—

(i) the role of the Minister of Conservation in relation to the national planning framework; and

(ii) the links between this Act and the Climate Change Response Act 2002.]

18 Implementation principles

[Placeholder for implementation principles. The drafting of this clause is at the indicative stage; the precise form of the principles and of the statutory functions they apply to are still to be determined. In paras (b) and (e), the terms in square brackets need to be clarified as to the scope of their meaning in this clause.]

[Relevant persons must]—

(a) promote the integrated management of the environment:

(b) recognise and provide for the application, in relation to [te taiao], of [kawa, tikanga (including kaitiakitanga), and mātauranga Māori]:

(c) ensure appropriate public participation in processes undertaken under this Act, to the extent that is important to good governance and proportionate to the significance of the matters at issue:

(d) promote appropriate mechanisms for effective participation by iwi and hapū in processes undertaken under this Act:

(e) recognise and provide for the authority and responsibility of each iwi and hapū to protect and sustain the health and well-being of [te taiao]:

(f) have particular regard to any cumulative effects of the use and development of the environment:

(g) take a precautionary approach.

Part 4
Natural and built environments plans

Requirement for natural and built environments plans

19 Natural and built environments plans

There must at all times be a natural and built environments plan (a **plan**) for each region.

20 Purpose of plans

The purpose of a plan is to further the purpose of the Act by providing a framework for the integrated management of the environment in the region that the plan relates to.

21 How plans are prepared, notified, and made

(1) The plan for a region, and any changes to it, must be made—

(a) by that region's planning committee; and

(b) using the process set out in **Schedule 2**.

(2) [Placeholder for status of plans as secondary legislation.]

Contents of plans

22 Contents of plans

(1) The plan for a region must—

(a) state the environmental limits that apply in the region, whether set by the national planning framework or under **section 25**; and

(b) give effect to the national planning framework in the region as the framework directs (*see* **section 15**); and

(c) promote the environmental outcomes specified in **section 8** subject to any direction given in the national planning framework; and

(d) [placeholder] be consistent with the regional spatial strategy; and

(e) identify and provide for—

(i) matters that are significant to the region; and

(ii) for each district within the region, matters that are significant to the district; and

(f) [placeholder: policy intent is that plans must generally manage the same parts of the environment, and generally control the same activities and effects, that local authorities manage and control in carrying out their functions under the Resource Management Act 1991 (*see* sections 30 and 31 of that Act)]; and

(g) help to resolve conflicts relating to the environment in the region, including conflicts between or among any of the environmental outcomes described in **section 8**; and

(h) [placeholder for additional specified plan contents]; and

(i) include anything else that is necessary for the plan to achieve its purpose (*see* **section 20**).

(2) A plan may—

(a) set objectives, rules, processes, policies, or methods:

(b) identify any land or type of land in the region for which a stated use, development, or protection is a priority:

(c) include any other provision.

Planning committees

23 Planning committees

(1) A planning committee must be appointed for each region.

(2) The committee's functions are—

(a) to make and maintain the plan for a region using the process set out in **Schedule 2**; and

(b) to approve or reject recommendations made by an independent hearings panel after it considers submissions on the plan; and

(c) to set any environmental limits for the region that the national planning framework authorises the committee to set (*see* **section 7**).

(3) Provisions on the membership and support of a planning committee are set out in **Schedule 3**.

24 Considerations relevant to planning committee decisions

(1) A planning committee must comply with this section when making decisions on a plan.

(2) The committee must have regard to—

(a) any cumulative effects of the use and development of the environment:

(b) any technical evidence and advice, including mātauranga Māori, that the committee considers appropriate:

(c) whether the implementation of the plan could have effects on the natural environment that have, or are known to have, significant or irreversible adverse consequences:

(d) the extent to which it is appropriate for conflicts to be resolved generally by the plan or on a case-by-case basis by resource consents or designations.

(3) The committee must apply the precautionary approach.

(4) The committee is entitled to assume that the national planning framework furthers the purpose of the Act, and must not independently make that assessment when giving effect to the framework.

(5) [Placeholder for additional matters to consider.]

(6) In **subsection (2)(d)**, **conflicts**—

(a) means conflicts relating to the environment; and

(b) includes conflicts between or among any of the environmental outcomes described in **section 8**.

25 Power to set environmental limits for region

(1) This section applies only if the national planning framework—

(a) specifies an environmental limit that must be set by the plan for a region, rather than by the framework; and

(b) prescribes how the region's planning committee must decide on the limit to set.

(2) The planning committee must—

(a) decide on the limit in accordance with the prescribed process; and

(b) set the limit by including it in the region's plan.

Schedule 1
Preparation of national planning framework

s 9

[placeholder]

Schedule 2
Preparation of natural and built environments plans

s 21

[placeholder]

Schedule 3
Planning committees

s 23

Contents

Page

Membership

1 Membership of planning committees 17
2 Appointment of member to represent Minister of Conservation 17
3 Appointment of mana whenua members 17
4 Appointment of planning committee chairperson 18

Support

5 Planning committee secretariat 18
6 Local authorities must fund secretariat 18

Membership

1 Membership of planning committees

(1) The members of a region's planning committee are—

(a) 1 person appointed under **clause 2** to represent the Minister of Conservation:

(b) mana whenua representatives appointed under **clause 3**:

(c) either—

(i) 1 person nominated by each local authority that is within or partly within the region; or

(ii) [placeholder for appropriate representation if the regional council is a unitary authority].

(2) Despite **subclause (1)(c)**, the same person may be nominated by more than 1 local authority for the purpose of that paragraph.

2 Appointment of member to represent Minister of Conservation

[Placeholder.]

3 Appointment of mana whenua members

[Placeholder] This section sets out—

(a) how many mana whenua representatives may be appointed to a planning committee; and

(b) how those representatives are selected and appointed.

4 Appointment of planning committee chairperson

[Placeholder.]

Support

5 Planning committee secretariat

(1) [Placeholder] Each planning committee must establish and maintain a secretariat.

(2) The function of the secretariat is to provide any advice and administrative support that the committee requires to help it carry out its functions under this Act, including, for example, to—

(a) provide policy advice:

(b) commission expert advice:

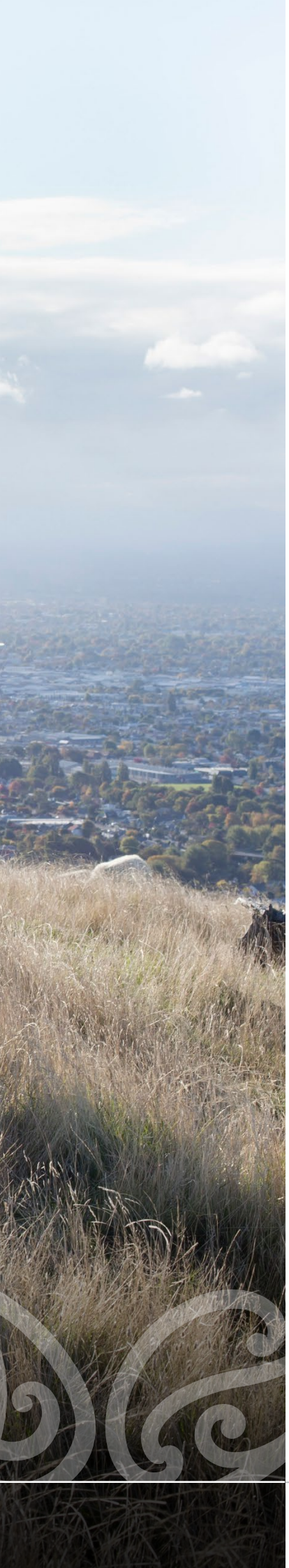
(c) draft plans and changes to plans:

(d) co-ordinate submissions.

(3) [Placeholder: policy intent is that local authorities support secretariat.]

6 Local authorities must fund secretariat

[Placeholder.]



Part C: Appendices

Appendix 1: Terms of Reference for the Select Committee Inquiry

1. The purpose of the inquiry is to provide feedback on the extent to which the provisions in the exposure draft of the Natural and Built Environments Bill will support the resource management reform objectives, to:
   a) protect and where necessary restore the natural environment, including its capacity to provide for the well-being of present and future generations
   b) better enable development within environmental biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure
   c) give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori
   d) better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change
   e) improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input.
2. The select committee is asked to pay particular attention to objective (e) when providing their feedback on point 1.
3. The select committee is also asked to collate a list of ideas (including considering the examples in the parliamentary paper) for making the new system more efficient, more proportionate to the scale and/or risks associated with given activities, more affordable for the end user, and less complex, compared to the current system.
4. For the avoidance of doubt, the scope of the inquiry is limited to the following:
   a) feedback on the exposure draft
   b) feedback on the material in the parliamentary paper that provides rationale for the clauses in the exposure draft
   c) collating a list of ideas for point 3 above.

Appendix 2: Examples of system efficiencies

List of examples to increase efficiency and reduce complexity in the resource management system

Increased central direction and tools, for example:

- greater accountability mechanism for councils in exercising governance of their planning functions
- centralised digital tools and platforms including providing national data sets, standardised methods and models (eg natural hazard data, water allocation)
- developing controls through national standards where these are more appropriate than bespoke planning controls (eg silt control for subdivisions and roads)
- developing template standards that are available for councils to adopt as appropriate
- standardised methods for assessing significance or determining technical matters (eg the interaction between natural character, indigenous biodiversity and outstanding natural landscapes).

Efficiency in NBA plan development and content, for example:

- streamlined and more flexible consultation requirements for plan development
- requiring written submissions rather than oral
- standardised templates for residential zones
- limiting detailed amenity/urban design rules such as centres policies and business zone restriction
- setting a minimum enabled development capacity within residential zones (eg under the National Policy Statement for Urban Development 2020)
- stricter controls on the use of expert evidence
- stricter controls on information requirements, including when (RMA section 37 equivalent) requests are used (eg request for further information and time waivers)
- robust processes for managing complaints
- greater accountability mechanism for councils in exercising governance of their planning functions.

Reframing the RMA definition of 'adverse effects', including strengthened proportionality requirements for obligations to avoid, remedy or mitigate adverse effects on the environment.

Enabling simplified resource consent processes, for example:

- limits on the information that can be requested in consent applications
- deemed permitted activities and less use of discretionary activity status
- national consenting pathways
- standardising consent conditions
- design guidelines and use of urban design panels for medium and high density developments
- pre-consented model or multiple-use house/townhouse designs
- enabling better evaluation of the national or regional opportunity costs.

Enabling more effective dispute resolution and participation, for example:

- reviewing the role and processes of the Environment Court and appeal rights in planning and consenting processes
- simplifying formal first instance processes such as Board of Inquiry, direct referral to Environment Court, and Freshwater Commissioners
- use of inquisitional rather than adversarial proceedings in forums
- effective support for iwi, hapū and Māori participation.

Measures to speed up the delivery of infrastructure, for example:

- removing statutory hurdles to designations and consents
- classifying specified infrastructure as a 'controlled' activity (eg for climate change mitigation and adaptation, to comply with health and safety requirements)
- streamlining the Public Works Act objections process and designations appeal processes
- alternative funding mechanisms for infrastructure (wider than evelopment contributions).

Appendix 3: Governance processes for reform

Ministerial Oversight Group

A Ministerial Oversight Group (MOG) was established in December 2020 and authorised by Cabinet to take policy decisions on reform, enabling the large-scale and fast-paced decision-making that is necessary. The MOG includes:

- Hon Grant Robertson, Minister of Finance (Chair)
- Hon David Parker, Minister for the Environment (Deputy Chair)
- Hon Kelvin Davis, Minister for Māori Crown Relations: Te Arawhiti
- Hon Dr Megan Woods, Minister of Housing
- Hon Nanaia Mahuta, Minister of Local Government
- Hon Poto Williams, Minister for Building and Construction
- Hon Damien O'Connor, Minister of Agriculture
- Hon Peeni Henare, Acting Associate Minister for Arts, Culture and Heritage
- Hon Willie Jackson, Minister for Māori Development
- Hon Michael Wood, Minister of Transport
- Hon Kiritapu Allan, Associate Minister for the Environment
- Hon Dr Ayesha Verrall, Acting Minister of Conservation
- Hon Phil Twyford, Associate Minister for the Environment; and
- Hon James Shaw, Minister of Climate Change.

The MOG has considered policy detail to progress the NBA exposure draft, and will continue to make decisions for all three pieces of legislation in the reform package.

Working with iwi, hapū and Māori groups

Engagement with iwi, hapū and Māori on the reform has three main streams (noted below), managed as separate but complementing approaches. The key focus across all three streams is to get feedback on key aspects of the reform that relate to iwi, hapū and Māori, in particular all recommendations from Chapter 3 of the Panel's report.

Specific focuses for each stream are:

- Post Settlement Governance Entities – direct engagement with officials on their specific settlement and how this will be carried through to the new system
- Wider Māori engagement – regionally focused engagement with iwi, hapū and Māori not affiliated with local iwi on region specific context important for the new system
- Māori groups being engaged collectively on key technical aspects of policy development:
  - New Zealand Māori Council, Federation of Māori Authorities, and Kāhui Wai Māori; and
  - Freshwater Iwi Leaders Group, and Te Wai Māori Trust.

Working with local government

Government officials have conducted targeted engagement with local government on policy proposals, including council experts, a local Government Chief Executives Forum, a small group of Mayors, Local Government New Zealand's Policy Advisory Group, and the Regional, Metropolitan, Rural and Provincial sector groups. The Minister for the Environment has participated in some of this engagement.

Ongoing engagement with local government on resource management reform will be critical to the reform's success, particularly on how central and local government will transition to and implement the new system. The Minister will be increasing engagement with local government on this, as well as working with Local Government New Zealand and Taituarā (the national membership organisation for local government professionals).

Appendix 4: Summary of how Panel Recommendations have been addressed

Policy issue	Panel proposal	Whether and how it has been reflected in the exposure draft
Purpose of NBA	• Enhance the quality of the environment to support the well-being of present and future generations and to recognise the concept of Te Mana o te Taiao	• Clearer articulation that the system is to enable use of the environment within limits • Te Oranga o Te Taiao has been adopted instead of Te Mana o Te Taiao after it was proposed by the FILG and TWMT, and agreed to by Ministers
Te Tiriti o Waitangi	• Give effect to the principles of Te Tiriti o Waitangi	• Adopted as recommended by the Panel
Environmental limits	• Requirement to set mandatory limits for core domains of the natural environment such as air, biodiversity, coastal waters, estuaries, freshwater and soil	• Purpose of limits refined (to protect ecological integrity and human health) • Clarified limits are to be framed as the minimum acceptable biophysical state or maximum amount of harm or stress that may be permitted • Requirement for a 'buffer' replaced with the more general 'precautionary approach'
Environmental outcomes	• Requirement to deliver 21 outcomes spanning environmental protection, heritage, te ao Māori, urban and regional development and infrastructure	• Outcome topics retained but refined

Policy issue	Panel proposal	Whether and how it has been reflected in the exposure draft
National Planning Framework	• Current forms of national direction should be retained (and roles clarified) • National direction should be brought together into a coherent combined set and any conflicts resolved • Purpose of national direction should be setting provisions in respect of matters of national significance to give effect to the purpose and principles of the NBA and to resolve any conflicts between these matters • Mandatory national direction required on a range of topics • Board of inquiry process required for national policy statements and national environmental standards, except for minor changes for which an alternative process can be adopted • National direction should be reviewed every nine years	• Consolidation of the functions and role of national regulatory instruments into a single National Planning Framework • Purpose of the NPF is to further the purpose of the NBA • New strategic component added to set out vision, direction and priorities, and assist in resolving conflicts • A more focused list of mandatory central government direction proposed, which prioritises areas where direction is most needed to support timely development of regional spatial strategies and NBA plans • Process to develop, amend, and review the NPF yet to be determined
Natural and Built Environments Plans	• Single combined plan recommended for each region • Decided by a joint committee involving local government, mana whenua, and a representative of the Minister of Conservation • Independent Hearing Panel process based on the Auckland Unitary Plan model	• Single regional plan concept retained • Governance and process issues yet to be addressed in detail

Appendix 5: Abbreviations and key terms

CAA – Proposed Climate Adaptation Act

CCRA – Climate Change Response Act 2002

Infrastructure – is not yet defined in the Bill (there is a placeholder in clause 2). However, the term typically refers to structures and facilities essential for society (eg buildings, roads, power supplies, housing, schools, hospitals, defence)

MOG – Ministerial Oversight Group

NBA – Proposed Natural and Built Environments Act

NPF – Proposed National Planning Framework

Reform – resource management reform

RMA – Resource Management Act 1991

RM – resource management (eg RM reform; RM system)

RM system – refers to the current and future system (as the context requires) and how it interacts with other statutes including the Local Government Act 2002, Land Transport Management Act 2003 and Climate Change Response Act 2002

RSS – Regional Spatial Strategy under the proposed Strategic Planning Act

SPA – Proposed Strategic Planning Act

Te Tiriti o Waitangi/The Treaty of Waitangi – New Zealand's founding document, an agreement made between the British Crown and about 540 Māori rangatira (chiefs) in 1840

The Panel – The Resource Management Review Panel