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17 February 2022

Environment Committee
Parliament Buildings
Wellington

Email submission to: environment@parliament.govt.nz

Dear Sir/Madam

Submission on Natural and Built Environment Bill and Spatial Planning Bill

Thank you for the opportunity to make a submission on the Natural and Built Environment (NBE) Bill and Spatial Planning (SP) Bill.

Joint Submission

Please find a joint submission from the West Coast Regional Council (WCRC), Buller District Council (BDC), and Grey District Council (GDC) on both the NBE and SP Bills attached. The submission is supported by Westland District Council (WDC) and Development West Coast (DWC) and focuses on the implications of the NBE and SP Bill for the West Coast region.

Request to Present Oral Submission

The West Coast Regional Council wish to be heard at an oral hearing before the Environment Committee; and to be able to make oral submissions as the process continues. The Buller District Council has registered an interest in making an oral submission.

Mana Whakahono ā Rohe - Iwi Participation Arrangement

In developing this submission, WCRC engaged with its partners, Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (of Poutini Ngāi Tahu or PNT), who are mana whenua on the West Coast/Tai Poutini.

West Coast Regional Council Engagement on Resource Management Reform

The West Coast Regional Council has been actively engaged throughout the Resource Management (RM) reform process. It submitted its position on the exposure draft of the NBE Bill and Parliamentary Paper to Parliament's Environment Committee in August 2021; and it submitted to the Ministry for the Environment (MfE) on MfE's resource management reform discussion document, "Our future resource management system – materials for discussion" in March 2022.

Submission Overview

The West Coast Councils are pleased that some of the suggestions made in their earlier submissions have been picked up and reflected in the NBE and SP Bills, but many concerns previously (and repeatedly) raised by the West Coast Regional Council, particularly concerning the opportunity for genuine engagement and consultation; consistency with the Local Government Act (LGA) and the Local Government (Rating) Act (LGRA); making funding reforms and ratepayers part of the conversation; resolving funding issues for local government; reducing burdens on local and regional ratepayers throughout the West Coast to fund resource reforms and making the resource management system more stream-lined and cost-effective for them; and making sufficient provision for a local voice, have not been addressed. The Councils are disappointed that these concerns remain to be addressed, and that they are having to be raised again.

Due to the high workload of the small West Coast Council teams [the 'Councils'], and tight timeframes, the Councils have not been able to respond to all aspects concerning the two Bills.

The Councils do, however, have additional questions and concerns about parts of the proposed new resource management system. These questions and concerns relate, amongst other, to the undermining of Local Government's mandate; and the rapid turnaround reform of New Zealand's entire resource management system, unprecedented in 30 years, without a full consideration of the costs and benefits to local communities; whether there are any net benefits to ratepayers, and in particular to ratepayers on the West Coast; and whether during a cost of living crisis homeowners are able to pay significantly more district and regional council rates, or cover the cost of debt servicing for local authorities to administer and implement the reforms.

To comply with the Local Government Act (LGA), regional and district councils have the duty to "promote the accountability of local authorities to their communities" and "to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach." The NBE and SP Bills undermine this duty. The West Coast Councils, for example, have concerns about the costs of the transition, which are expected to be exorbitant, being transferred to local government; the deficiency in providing for regional and local differences; and the erosion of local democratic input.

The West Coast Councils also have further concerns about whether the reforms will result in a 'net benefit' for local ratepayers; and they want to see Central Government substantiate with evidence that the resource management reforms will result in a 'net benefit' for the West Coast. In this regard, and of particular concern, is that MfE's Cost Benefit Analysis (CBA) is partial, incomplete, and that there is no scenario analysis. In some parts MfE's CBA attempts to 'monetise' the environment as a benefit, but 'monetisation' of the environment is unrealistic and cannot be recuperated through rates from West Coast ratepayers. Furthermore, many significant costs have not been included or accounted for in MfE's CBA. For example, many costs of the transition, which are expected to be exorbitant and are intended to be paid for by local government, are not provided for in MfE's Cost Benefit Analysis (CBA).

In brief, this submission outlines many local government concerns, critically around the purpose of local government and finding the right balance between environmental, social, economic and cultural well-being; the regional and local voice; and funding.

The West Coast Councils also suggest that one single act (a combined NBE and SP Bill), and one integrated resource management system, which optimises reforms and retains local authorities' roles under the LGA and LGRA as decision makers and plan makers, would best contribute to achieving the Resource Management reform objectives of stream-lined processes, cost effectiveness, and efficiency.

Our contact details for service are:

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The West Coast Councils value this additional opportunity to have input into the reform of New Zealand's entire resource management system, and would be grateful if you would acknowledge receipt, and engage with us, on our written submission.

Yours faithfully



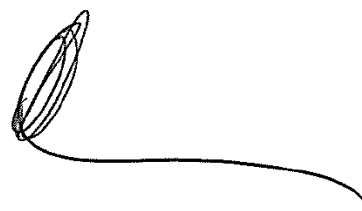
Heather Mabin

Chief Executive Officer
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Chief Executive
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**West Coast Regional Council, Buller District Council, and Grey District Council:
Joint Submission on the Natural & Built Environment and Spatial Planning Bills**

**Key List of
Abbreviations**

ADR	Alternative Dispute Resolution (for example, mediation and conciliation)
BDC	Buller District Council
CBA	Cost Benefit Analysis
CME	Compliance, Monitoring, and Enforcement
DC	District Council
DoC	Department of Conservation
DSM	Dispute Settlement Mechanism (how the DSU functions)
DSU	Dispute Settlement Understanding (dispute settlement agreement)
DWC	Development West Coast
EMF	Effects Management Framework
EMH	Effects Management Hierarchy
EPA	Environmental Protection Authority
GDC	Grey District Council
GDP	Gross Domestic Product
HVBA	Highly Vulnerable Biodiversity Areas
IHP	Independent Hearing Panel
LGA	Local Government Act
LGRA	Local Government (Rating) Act
LINZ	Land Information New Zealand
MfE	Ministry for the Environment
NBE	Natural and Built Environment
NBEA	Natural and Built Environment Act (proposed)
NES	National Environmental Standard
NPF	National Planning Framework
NPS	National Policy Statement
NPSIB	National Policy Statement Indigenous Biodiversity
NPV	Net Present Value (difference between the present value of cash inflows and the present value of cash outflows over a period of time)
NZCPS	New Zealand Coastal Policy Statement
PCE	Parliamentary Commissioner for the Environment
PCL	Public Conservation Land
PNT	Poutini Ngāi Tahu
PV	Present Value (current value of a future sum of money or stream of cash flows given a specified rate of return)
RM	Resource Management
RMA	Resource Management Act
RMG	Resource Management Group
RMC	West Coast Regional Council's Resource Management Committee
RPC	Regional Planning Committee
RPS	Regional Policy Statement
RSS	Regional Spatial Strategy (Defined as strategic direction, vision, and objectives for the region)
SAR	Supplementary Analysis Report (includes MfE's partial estimates of the Costs and Benefits of the new resource management system)
SCO	Statements of Community Outcomes to be prepared by a territorial or unitary authority at the authority's discretion

SNA	Significant Natural Area
SP	Spatial Planning (The former 'Strategic' Planning Bill has been redefined as the 'Spatial Planning Bill')
SPA	Spatial Planning Act (proposed)
SREO	Statements of Regional Environmental Outcomes to be prepared by a regional council or unitary authority at the discretion of the regional council or unitary authority
TA	Territorial Authority
TTPP	Te Tai o Poutini Plan
WCRC	West Coast Regional Council
WDC	Westland District Council

Summary List of Feedback and Recommendations

Recommendation 1:

- a) That Parliament slows down the reform process; and directs an independent and impartial inquiry in conjunction with the West Coast Councils and other local authorities to carry out a thorough assessment of the costs, benefits, 'economic value add', and implications of reform scenarios, including a 'status quo' scenario, for local and regional councils, as well as their respective ratepayers at a local authority level, and makes these findings public before proceeding further;
- b) That in addition to the written and oral submissions process, Parliament, and Central Government, engage in meaningful consultation with local government, the West Coast Councils, and local communities through a process of transparent dialogue and conversation, which heeds 'the West Coast Councils' input, advice, and opinion; and is funded by the Crown;
- c) That a clear process is worked through in consultation, conversation, and dialogue with local authorities, including the West Coast Councils, to develop a single integrated resource management system governed by one Act;
- d) If the reforms proposed under the Natural and Built Environment (NBE) Bill and Spatial Planning (SP) Bill proceed, that a new Order in Council provide for central government to fund the West Coast Councils to undertake the required resource management reforms by covering all costs incurred, and to be incurred, by the West Coast Councils, including costs for implementing and administering the Natural and Built Environment Act (NBEA) and Spatial Planning Act (SPA), and that these costs include, but are not limited to, capital and operational expenses, transitional costs, consultation and hearings for the Te Tai o Poutini Plan (TTPP) and NBE Plan, and ensuring that the local West Coast Councils retain a place in decision making and plan making and not be relegated simply to delivery, implementation, and collecting rates.

Recommendation 2:

That a full analysis, including a Cost Benefit Analysis (CBA) and 'ratepayer value-add analysis', of implementing the new Resource Management (RM) Bills nationally, regionally, and at a district-wide level, be done by an independent auditing body, or by Treasury acting independently and impartially, in collaboration with local authorities, including the West Coast Councils.

Recommendation 3:

That the NBE and SP Bills be modified to be consistent with the Local Government Act (LGA) and the Local Government (Rating) Act.

Recommendation 4:

That the role of the Regional Policy Statement (RPS) is retained and provision for its retention is made clear in the NBE Bill.

Recommendation 5:

- a) That provision to support system outcomes is made 'in principle' only;
- b) That system outcomes are not put into a hierarchy;
- c) That "regional economic wellbeing", "climate change mitigation" and "climate change adaptation" are added to the systems outcomes provided for in the Bill (reference clause 5 of the NBE Bill), and ensure that the outcomes are consistent with the LGA, responses to natural hazards, and climate change legislation.

Recommendation 6:

That provisions for public access to information, public participation in decision making, and access to justice are improved. (Recommendations with respect to these improvements are embedded throughout this submission).

Recommendation 7:

That the Purpose of the NBE Bill be redrafted for clarity, and to minimise uncertainty and legal risk. (Suggested drafting is provided for below in submission point 12).

Recommendation 8:

That the 'Purpose Clause' of the Natural and Built Environment Act (reference clause 3 of the NBE Bill) should make provisions for both the Natural and Built Environments; and social, cultural, and economic well-being and rights as consistent with the Local Government Act.

Recommendation 9:

That meaning and clarity should be given to the newly introduced term, "Te Oranga o te Taiao", in the Purpose clause of the Bill.

Recommendation 10:

That the Environment Committee should satisfy itself about what the intrinsic relationship between "Te Oranga o te Taiao" and all New Zealanders, present and future generations, may imply for the use, protection, and development of the environment and its restoration and enhancement, including enhancing aesthetics within the built environment space. For example, tourists visiting the West Coast should also have a responsibility to uphold "Te Oranga o te Taiao" by their careful use, enjoyment, and protection of the environment.

Recommendation 11:

Because they all link together, that the obligations for "Te Oranga o te Taiao" and "Te Mana o te Wai" be considered holistically, and not as a hierarchy.

Recommendation 12:

That the Environment Committee redraft the Purpose Clause of the Natural and Built Environment Bill based on the guidelines suggested, and sample drafting provided, in this submission; and that the Environment Committee realign the NBE Bill, and provisions within the NBE, to the purpose of local government as provided for in local government legislation, including the Local Government Act (LGA) and Local Government (Rating) Act (LGRA).

Recommendation 13:

- a) That there is a thorough review of the Interpretation clause (reference clause 7 of the NBE Bill); that the Interpretation clause be kept as self-contained as possible with fewer cross-references; and that 'plain English' is used throughout;
- b) That common terms are defined commonly in both Bills to avoid them being contested in court;
- c) That a comprehensive interpretation section is included and applied consistently within the NBE and SP Bills and across a single Act that integrates both the NBE and SP Bills;
- d) That the review of the NBE Bill's Interpretation clause should include, amongst other, either a definition in the NBE Bill, or guidance on, the definition of 'trivial effect'; and definitions in the NBE Bill for the 'natural environment' and the 'built environment' that are applied consistently throughout the NBE Bill (and SP Bill);
- e) That the intent expressed in the Explanatory Note to both the NBE and SP Bills is consistent with provisions in the substantive body of the respective Bills.

Recommendation 14:

That the wording of the Tiriti o Waitangi clause (reference clause 4 of the NBE Bill) is extended to reflect Cabinet's agreed objective, as expressed in the Explanatory Note to the NBE Bill, and thereby provide that "All persons exercising powers and performing functions and duties under this Act must give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of Te Ao Māori, including Mātauranga Māori".

Recommendation 15:

- a) That the "Paetae Kotahitanga ki Te Tai Poutini Partnership Protocol, Whakahono ā Rohe Resource Management Act Iwi Participation Agreement; A Protocol and Arrangement between Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, Te Rūnanga o Ngāi Tahu and the West Coast Regional Council of October 2020" is retained in the new law;
- b) That 'Mana Whakahono ā Rohe' is defined in the NBE Bill as per the Resource Management Act (RMA) definition, that is, Mana Whakahono ā Rohe means an iwi participation arrangement entered into under this subpart...;
- c) That other relevant Mana Whakahono ā Rohe definitions from the RMA are retained. For example, define 'iwi participation legislation' in the NBEA in the same way as it is defined in the RMA;
- d) That Central Government contributes to the funding and resourcing of Mana Whakahono ā Rohe to enable planning committees to comply with their obligations and to ensure iwi and hapū aspirations and expectations are met. Funding support from Central Government would also support the Crown's commitment to its Treaty partnership.

Recommendation 16:

That a primary production, and rural, sector-specific cost benefit analysis of transition to the new system at the regional and local district levels be carried out.

Feedback 1:

- a) The Councils oppose the Regional Planning Committees (RPCs) having policy formulation, plan-making, and decision-making roles for developing regional strategies, long-term plans, regional resource use plans, and the one region-wide NBE Plan as proposed in the NBE and SP Bills, because the delegation of these decision making powers creates a disconnect with councils powers to set rates based on transparent consultation, informed decision-making and ratepayers ability to pay;
- b) If the provisions for RPCs are retained in the NBE Act, the Councils support RPCs having a minimum of 6 members (with a minimum of 2 iwi members).

Recommendation 17:

As to the responsibilities and operations of the RPC, if the provisions for the establishment of RPCs are retained in the NBE Act, that:

- a) Plan making is not delegated to the RPC;
- b) All RPC members should be remunerated by central government;
- c) The Spatial Planning Act (SPA) provides for the RPC to design its own Regional Spatial Strategy (RSS) development process and to make provision for a local engagement process;
- d) The voting process within the RPC be based on unanimity;
- e) Resources and reasonable timeframes are allocated to ensure informed decision making and plan making based on the evidence. For example, in the case of the West Coast, resources and adequate timeframes are required to make planning provisions for natural hazards.

Recommendation 18:

If the provisions for Regional Planning Committees (RPCs) are retained in the NBE Act, that provision is made for the following, either in the NBE Act or in an Order in Council:

- a) That the intent of the Explanatory Note be carried forward into the body of the Act, or Order in Council, insofar that “RPCs will be established as committees of all councils in the region”; and that a minimum of two members per council be appointed. One of these members from each council should be an elected member;
- b) That representation on the RPC is reflective of iwi as the Treaty Partner within their respective takiwā, with there being a minimum of two iwi members on the RPC. Subject to agreed guidelines, mana whenua will appoint mana whenua representatives;
- c) That the appointment of the RPC Chair is subject to a transparent process, and a unanimous vote with 100% of all councils and iwi in the region voting in the affirmative;
- d) That there is no Central Government or Department of Conservation (DoC) representative on the RPC under the NBEA or SPA, which means no DoC representative on the RPC for Regional Spatial Strategies (RSSs);
- e) That the RPC is supported by an expert advisory panel funded by Central Government to provide advice to the Committee on respective matters as and when needed. A DoC representative may be included on the expert advisory panel if the matter relates to the Coastal Marine Area.

Recommendation 19:

- a) That Parliament provides clarity on the role of the Ministry for the Environment in relation to the new Bills;
- b) That Parliament also provides clarity on the rationale for central government setting up yet another new regulator (‘NBE regulators’); and
- c) That Parliament also clarifies responsibilities, operational, financial, process, and funding considerations and provisions for NBE Regulator’s new and intended roles.

Recommendation 20:

That the RPC does not have legislated authority to mount a legal challenge against local authorities; fine local authorities; or commence legal proceedings against local authorities if they do not abide by national directives, RSSs, or NBE Plans.

Recommendation 21:

That Councils be protected from legal proceedings insofar that no action should lie against any member of the Councils, or their Governance Committees, for anything they say, do, or omit to say or do while acting in good faith in the performance of their duties.

Recommendation 22:

- a) That the terms used in the Effects Management Framework (EMF), and in the Effects Management Hierarchy (EMH), are consistent throughout the Bill (this does not mean that the EMF and the ‘Effects Management Hierarchy’ are the same);
- b) That offsetting and compensation are provided for in the Natural and Built Environments Act (NBEA), as part of the Effects Management Hierarchy and the Effects Management Framework.

Recommendation 23:

That Central Government provides clarification on what will be in the National Planning Framework (NPF) as soon as possible.

Recommendation 24:

That limits and targets, including limits and targets for housing affordability and supply of affordable housing, be provided for the built environment.

Feedback 2:

The Councils support the use of qualitative and quantitative methods to set environmental limits and the use of mātauranga Māori to set limits. Regional limits must be set in partnership with iwi.

Recommendation 25:

- a) That regional differences are provided for when setting environmental limits to protect the natural environment and provide for current and future generation's wellbeing. These limits must be set in partnership with iwi;
- b) That the prescribed environmental limits, and environmental outcomes, must include mahinga kai;
- c) That indigenous biodiversity limits set at the national level are flexible enough to allow for regionally appropriate limits;
- d) That MfE provides more and sufficient information to the Councils so that the Councils may consider and comment on how the proposed exemption from an environmental limit mechanism will function and be implemented;
- e) That the Councils proposed changes to the exemption clauses are extended to give effect to special and differential treatment for the West Coast.

Recommendation 26:

- a) That the National Planning Framework (NPF) includes a process to allow local priorities to be set and local decision-making to resolve environmental conflicts;
- b) That there are provisions in the NBEA for good local governance and representation in plan-making and decision-making processes.

Recommendation 27:

That a collaborative co-design process is made available for the Councils to participate in the development of the National Planning Framework.

Recommendation 28:

That Central Government clarifies the relationship between 'Engagement Agreements' and 'Mana Whakahono ā Rohe Participation Arrangements' in the NBE Bill. Central government must clearly communicate its intentions re the terms arrangement versus agreement to avoid any confusion or ambiguity. (If provisions are already incorporated in Mana Whakahono ā Rohe Participation Arrangements, then the Parties should not have to develop a secondary arrangement unless they want to do so).

Recommendation 29:

That a process link is made between regional strategies, councils' long term plan process and consenting, compliance, monitoring and enforcement and provided for in the Bills; and central government must clearly communicate its intentions re the terms arrangement versus agreement to avoid any confusion or ambiguity.

Recommendation 30:

- a) That guidelines and conditions for making determinations on consent applications under the amended activity categories be developed;
- b) That the two-year timeframe for developing NBE plans is extended to allow sufficient time to change activity categories, so they are consistent with the NBEA categories.

Recommendation 31:

That the Permitted Activity Notice provisions are removed from the NBE Bill.

Recommendation 32:

That the new Controlled Activity category is defined clearly in the NBE Bill; and that Council work on the new Controlled Activity category must be funded by Central Government and not incur extra costs for the Councils.

Recommendation 33:

That the new provision in the NBE Bill enabling Councils to assess a consent applicant's prior record of managing their resource use activity is retained.

Recommendation 34:

That Clauses giving the National Planning Framework the power to direct how consent applications for resource use will be allocated are removed from the NBE Bill and the Acts (reference, for example, clauses 87 and 88 of the NBE Bill).

Feedback 3:

Both the NBE and SP Bills are process-heavy with the potential for reduced system efficiency.

Recommendation 35:

That the requirement for NBE plans to set notification statuses at the time of plan development is removed.

Recommendation 36:

That provision is made for an exemption from the 10-year consent duration for critical council infrastructure or functions, such as, flood engineering and biosecurity.

Recommendation 37:

That provisions are made for compensation to support landowners transition to more sustainable land use.

Feedback 4:

Subject to guidance being provided as to how the terms "deemed", "temporary" and "marginal" are to be defined; and that cost recovery and funding is provided by Central Government; and that local governments have the capacity to deliver and avoid being subject to more frequent legal challenges, the Councils support provisions under clause 157 in the NBE Bill, which is entitled 'Consent authority may permit activity by waiving compliance with certain requirements, conditions, or permissions' (reference clause 157 of the NBE Bill).

Recommendation 38:

That in order to retain and strengthen the link between plan making and implementation, Councils must retain a key role in decision making and plan making.

Recommendation 39:

- a) That the NBE Bill is amended so that a fair and reasonable 'grace period' for all current permits and consents issued under the RMA is determined in consultation with councils; and
- b) That all permits and consents issued under the RMA remain current until a fair and reasonable transition date is set.

Recommendation 40:

- a) That provisions relating to Areas of Highly Vulnerable Biodiversity be removed from the NBE Bill until the Department of Conservation (DoC) undertakes consultation with private landowners about rare or critically threatened or endangered species on their private land; these consultations must include consideration of options for DoC to purchase the land at market value, provide compensation for loss of economic value of the land at market rates, or move the habitat to another site on public land (reference clauses 562-567 of the NBE Bill).
- b) That Schedule 3 'Principles for biodiversity offsetting' and Schedule 4 'Principles for biodiversity redress' be removed from the NBE Bill until the matters in clause a) of this Recommendation are resolved, and the provisions of the National Policy Statement Indigenous Biodiversity (NPSIB) are known and consulted on.

Recommendation 41:

- a) That further work is done on the function and structure of the Regional Planning Committee (RPC) (this is essential);
- b) That the NBE Bill provides directly for local and regional council representation on the RPC and that the RPC adopts a voting structure, which ensures each Council's independent voice is heard and taken into account;
- c) That decision making and plan making powers, including powers to make the NBE Plan, remain with the Councils;
- d) That practice and process between governance and operations, and between the RPC and Councils, are improved; and with respect to resolving conflicts of interest that a Code of Ethics and Professional Guidelines are put in place.

Feedback 5:

The West Coast Councils request it be recorded that they do not support placing the RPC's mandate under the Local Government Act (LGA) rather than under the Natural and Built Environment Act (NBEA).

Recommendation 42:

The West Coast Councils request it be recorded that, in their view, provision should be made for Consenting, Compliance, Monitoring and Enforcement (CME) to remain a council responsibility.

Recommendation 43:

That provisions be made for improved policy effectiveness by councils by linking monitoring provisions to science and local values.

Recommendation 44:

That the requirement for a Compliance, Monitoring and Enforcement (CME) strategy be removed on the basis that MfE's Annual National Monitoring System reporting on CME can address the 'perceived bias' problem.

Recommendation 45:

That setting of fixed fees or charges, and a schedule for cost recovery, needs further analysis, dialogue, and consultation with the West Coast Councils before the NBE and SP Bills are further developed.

Recommendation 46:

Emergency works and power to take preventive or remedial action should remain with councils and not go through the RPC. For example, in an emergency situation like a cyclone or flood councils have to respond as a matter of urgency. Furthermore, such plans for 'Emergency works and powers to take preventive or remedial action' should be easily and readily accessible, and extractable, from the proposed one NBE Plan.

Recommendation 47:

That enforcement provisions do not start immediately after the NBE Bill is given Royal Assent. Rather than spring new and unknown enforcement measures on people, it is recommended to start with an educative approach, and once the new laws are embedded in take enforcement steps if needed.

Recommendation 48:

That the current practice for cost recovery, under Section 342 of the RMA (Fines to be paid to the local authority instituting prosecution), is added to the new NBE Act.

Recommendation 49:

That provision is made for abatement and infringement notices under the RMA to continue until new regulations are in place.

Feedback 6:

The Councils are in agreement with Te Uru Kahika's draft submission point, which provides that it is critical that any regulations required to regulate enforcement are amended at the same time as the principal legislation as this will ensure that enforcement tools can be used subject to the 'grace' period sought in our Recommendation 47 above.

Recommendation 50:

That the penalty for obstruction of an enforcement officer should be increased to align with the maximum penalty under the Hazardous Substances and New Organisms Act 1996 (HSNO legislation), which is \$5,000 (reference section 114(3) of the Hazardous Substances and New Organisms Act 1996).

Recommendation 51:

- a) That an equivalent to the RMA's 'Water Shortage Direction' (reference Section 329 of the RMA) is retained in the NBE Bill; and that a breach of a Water Shortage Direction remains an offence under the new legislation.
- b) That all provisions relating to water shortage management are collated together in the NBE Bill.

Recommendation 52:

That public consultation on a draft NBE Plan is made optional.

Recommendation 53:

That provisions for enduring submissions are removed from the NBE Bill.

Recommendation 54:

- a) That there is a coherent approach, process, and consistency throughout the National Planning Framework (NPF) and NBEA in terms of plan monitoring and maintenance, plan changes, and plan review;
- b) That there be no provision in the NBE or SP Bills for central government to require councils to undertake plan changes. However, if such a provision is carried over into the NBE or SP Bill, then criteria or reasons for when a plan change may be required by central government must be added to the respective Bill; and the respective council must agree that a plan change is necessary and affordable to ratepayers.

Recommendation 55:

That Central Government develop a 'single integrated' 'resource management system' and integrates the NBE and SP Bills into one Act for the Natural and Built Environment.

Recommendation 56:

- a) That transitional provisions are made clear and that there is coherency in transiting from existing processes and timeframes to future implementation processes and timeframes;
- b) That the timeframe for transiting from the RMA to the NBEA is a minimum of 10 years;
- c) To enable councils to prepare annual and long-term budgets, Central Government must give councils plenty of prior notice as to which reform tranche they will be in under the NBE Bill and when it will commence.

Recommendation 57:

That Central Government reconsiders the role of 'Major Regional Policy Issues'; and having Major Regional Policy Issues' disconnected from Regional Strategies (RSS) and Regional NBEA plans.

Recommendation 58:

That the system of selecting Hearing Commissioners for Independent Hearing Panels (IHPs) under the RMA be carried forward to the new resource management system and maintained; and that councils have input into selecting the Panel Chair and Hearing Commissioners.

Recommendation 59:

In the appointment of Hearing Commissioners to the Independent Hearing Panel, that the NBE Act provide for a fair and independent panel recruitment process; and that this process be agreed by councils; and governed by procedural and practice guidelines.

Recommendation 60:

That the mandatory training programme, and continuing professional development, for Hearing Commissioners under the RMA be carried forward to the new resource management system and maintained.

Recommendation 61:

In terms of appeals, including appeals on the NBEA Plan and Plan Changes, the Councils support making provision for an appeals process in the NBEA; and that where the Regional Planning Committee (RPC) accepts a recommendation from an Independent Hearing Panel (IHP) that appeals be limited to appeals on points of law in the High Court; and that where the Regional Planning Committee (RPC) rejects a recommendation from an Independent Hearing Panel (IHP) that merit-based appeals can be made to the Environment Court.

Recommendation 62:

That provision be made in the NBEA for a Dispute Settlement Understanding (DSU), i.e., a common dispute settlement agreement, which upholds the rule of law, sets out a transparent and clear process for settling disputes, incorporates a transparent hearing process, including a hearing process with respect to resource consents and making decisions on plan-making, and provides for the right to a fair and timely hearing on the NBEA and SPA.

Recommendation 63:

That the DSU makes provision to retain relevant caselaw, including caselaw developed under the RMA.

Recommendation 64:

That the DSU makes provisions for:

- a) Consultation as a priority first step in the dispute settlement process;
- b) Alternative Dispute Resolution (ADR), including but not limited to 'Good Offices', voluntary mediation, and voluntary conciliation;
- c) Arbitration;
- d) Due process through the courts; and
- e) An appeals process.

Recommendation 65:

That the DSU should be provided for in the substantive part of the NBE Act (and supported by a separate schedule, which is not confounded by substantive and procedural provisions for regulatory environmental standards).

Recommendation 66:

That procedures and practice guidelines governing rules and guidelines for dispute settlement, including consultations, are established.

Recommendation 67:

That implementation of the Dispute Settlement Understanding (DSU) and use of Dispute Settlement Mechanisms (DSM) be funded by the Crown.

Recommendation 68:

- a) Add to Clause 16 (1) (a) of the SP Bill that the vision, strategic objectives, and strategic direction reflects local community aspirations;
- b) Place Clause 16 (1) (c) of the SP Bill before Clause 16 (1) (b) insofar that strategic direction should come before setting priority actions (the current Bill puts 'actions' before the 'strategy', which is incoherent);
- c) Under 'contents of RSSs', Clause 17, of the SP Bill, add vision, strategic objectives and strategic direction that reflects local community aspirations at the top of the list.
- d) Distinguish between Clause 17 'key matters' and Clause 18 'other matters of sufficient significance' [underlining for emphasis] of the SP Bill so that the difference between 'key matters' and 'other matters' is understood.

Recommendation 69:

That the requirements for implementation plans be removed from the Spatial Planning Bill (reference Clauses 52-56 of the SP Bill).

Recommendation 70:

That Central Government representatives provide advice in an advisory capacity but not be members of the RPC.

Recommendation 71:

That both the NBE and SP Bills are amended to maintain the King Salmon case law principle whereby higher order strategic objectives, policies, and strategic direction frame subordinate RSS actions and NBE plan rules.

Recommendation 72:

- a) Amend Clause 32 of the Spatial Planning Bill to give local and regional councils a fundamental role in the preparation of Regional Spatial Strategies.
- b) Amend Schedule 4, Clause 1 (f), of the SP Bill to include regional and district councils as 'interested parties' in the preparation of a Regional Strategy (RSS).

Recommendation 73:

That provision be made within the regional strategic planning process (the RSS process) for regional councils to set priorities within the context of their respective regions; and provide for councils to make their own plan-making decisions about adapting to the regional and local context, rather than empowering the RPC to make independent decisions about the natural and built environment.

Recommendation 74:

To enable councils to prepare annual and long-term budgets, Central Government must give councils plenty of prior notice as to which reform tranche they will be in under the SP Bill and when it will commence.

Executive Summary

The Councils are concerned that the proposed Resource Management (RM) reforms to be governed by the Natural and Built Environment Act (NBEA) and the Spatial Planning Act (SPA) will not achieve the intended reform objectives of stream-lined processes (defined as 'a single integrated system to govern resource management'), cost effectiveness (good value for the amount of money paid for doing the right things) and efficiency (doing things right).

Some parts of the Natural and Built Environment Bill (NBE Bill) are similar to provisions in the Resource Management Act (RMA) and would be considered consistent with the Local Government Act (LGA). Other parts of the NBE Bill and the Spatial Planning Bill (SP Bill) are inconsistent with local government duties to "promote the accountability of local authorities to their communities"; "to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach"; and to set 'rates'.

The NBE and SP Bills place a significant burden on regional and district councils, for example, by:

- Increasing their costs and resourcing obligations;
- Taking away Council's strategic and operational plan making and decision-making powers but requiring Councils to fund others, including the Regional Planning Committee (RPC), to do strategic and operational plan making and decision-making for them while making the RPC a de facto regulator of transport infrastructure, community infrastructure, and the council's assets;
- Taking away Council's plan making powers but requiring Councils to 'administer and implement' plans while, by proxy, still holding Councils liable for decision making and plan making;
- Reducing 'subsidiarity'¹ and accountability of local authorities to their communities by removing them from local engagement and decision making; and
- Opening the possibility for 'independent' RPCs to commence legal proceedings against local authorities, which have staffed the RPCs.

As a result of these proposed reforms, responsibilities for local governance and the ability to uphold obligations for local accountability are eroded.

Conversely, and from the West Coast Councils' perspective, RM reforms should be consistent with the Local Government Act (LGA) and with the Local Government (Rating) Act. Council's submission makes recommendations in this regard. For example, in terms of proposed governance changes for the Councils, increasing Council responsibility for establishing and operating the proposed Regional Planning Committee (RPC) should be more fully explored.

According to the Explanatory Notes to the NBE and SP Bills, the Bills are intended to 'work in tandem'; but there is no clear indication as to how they will 'work in tandem' within the substantive parts of the Bills. The purpose of the SP Bill is "to provide for regional spatial strategies (RSS) that assist in achieving the purpose of the NBE." [Regional Spatial

¹ Subsidiarity means that decision making is made as close to local communities as possible. In this sense, central government has a subsidiary function, performing only those tasks that cannot be performed at a regional or more local level. Central government intervention is thereby ruled out when regional and district councils can deal with a matter more effectively through regional policy and rules; and local government also retains a degree of independence in relation to central government while sharing certain powers.

Strategies, RSSs, are defined as strategic direction, visions, and objectives for the region and are not to be confused with 'spatial planning']. In Council's view, this directive is well-intentioned but without a coherent governance framework, resource management reforms will be fragmented, confusing, complex, and costly, and the intended 'single integrated system' will not emerge of its own accord. The unintended result of the proposed reforms will be to 'silo' and fragment resource management laws, policies, and rules as shown in Figure 1 below.

The Councils are not convinced that governing resource management by two separate pieces of legislation is the best answer to deliver a 'single integrated system to govern resource management', and suggest that the NBE and SP Bills be combined as a single Bill, which maintains a coherent strategic and long-term planning process. Council's submission makes recommendations in this regard, and includes a diagram of how this 'system' would work in Figure 2.

The NBE Bill provides that a National Planning Framework (NPF) is to be developed and made as regulations; provides for combined regional and district plans for the natural and built environment (called 'NBE Plans'); integrates a broad number of national policy statements, for example with respect to heritage, freshwater, coastal matters and biodiversity; provides for varying effects management hierarchies to manage negative externalities and makes provision to promote outcomes presumably as a means to advance positive externalities; and provides for a variety of miscellaneous provisions and schedules; for example, it makes provision for some quality and control measures in a Schedule to the NBE Bill rather than in National Environmental Standards.

The SP Bill provides for developing Regional Spatial Strategies (RSS), which are defined within the context of setting a 30-year Long Term Plan (strategic direction, vision, and objectives) for the respective region. However, there is no clear link to local government responsibility or to the Parliamentary Commissioner for the Environment (PCE), who could provide guidance beyond the 3-year electoral term as to the effectiveness of environmental planning and management. In setting up such a fragmented framework under the NBE and SP Bills, the planning hierarchy built up over 30 years of practice under the Resource Management Act (RMA), and consistent with the Supreme Court Decision held in *King Salmon*,² is lost. The magnitude of this loss has not been calculated.

At the operational level, and concerning duties and obligations, the Councils agree with managing both positive and negative environmental externalities and support in principle the introduction of 'outcomes', provided they are appropriate and sustainable for the West Coast Region. As to managing adverse effects, the Councils suggest that the 'effects management framework' and its accompanying hierarchy be consistent. This does not mean they should be the same.

The NBE Bill also provides for resource consenting, Compliance, Monitoring and Enforcement (CME). The Councils support some provisions for consenting and CME but have a broad number of concerns, including concerns about resourcing and incremental cost issues, and have suggested changes.

² *Genesis Power Limited v Franklin District Council* [2005] NZRMA 541 (EnvC) at [55], and *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited* [2014] NZSC 38, [2014] 1 NZLR 593.

In addition, rather than providing for spurious parts to be embedded throughout different parts of the Bills, the NBEA should provide for a cohesive Dispute Settlement Understanding (DSU). DSU provisions should be incorporated all together in a self-contained part of the Bill; give priority to engagement and consultation; and provide for Alternative Dispute Resolution (ADR) like mediation, within reasonable timeframes.

As to achieving the reform objectives of stream-lined processes ('a single integrated system to govern resource management'), cost effectiveness (good value for money paid for doing the right things) and efficiency (doing things right), there needs to be a thorough review (perhaps done by Treasury but certainly done by an independent and impartial body in collaboration with local authorities, including the West Coast Councils). The review should use traditional tools, such as, a cost benefit analysis, financial analysis and an economic and ratepayer value-added analysis. Without thorough analysis, taking away local government responsibility and outsourcing it to others, but still holding local authorities accountable for administration and implementation, is no sure way to stream-line processes or improve efficiency and effectiveness in resource management or in local plan making and delivery. Furthermore, there must be authentic accountability to the local voice, and in the Councils view, local authorities are best enabled to facilitate these engagements.

Parliament's Proposed Resource Management Framework

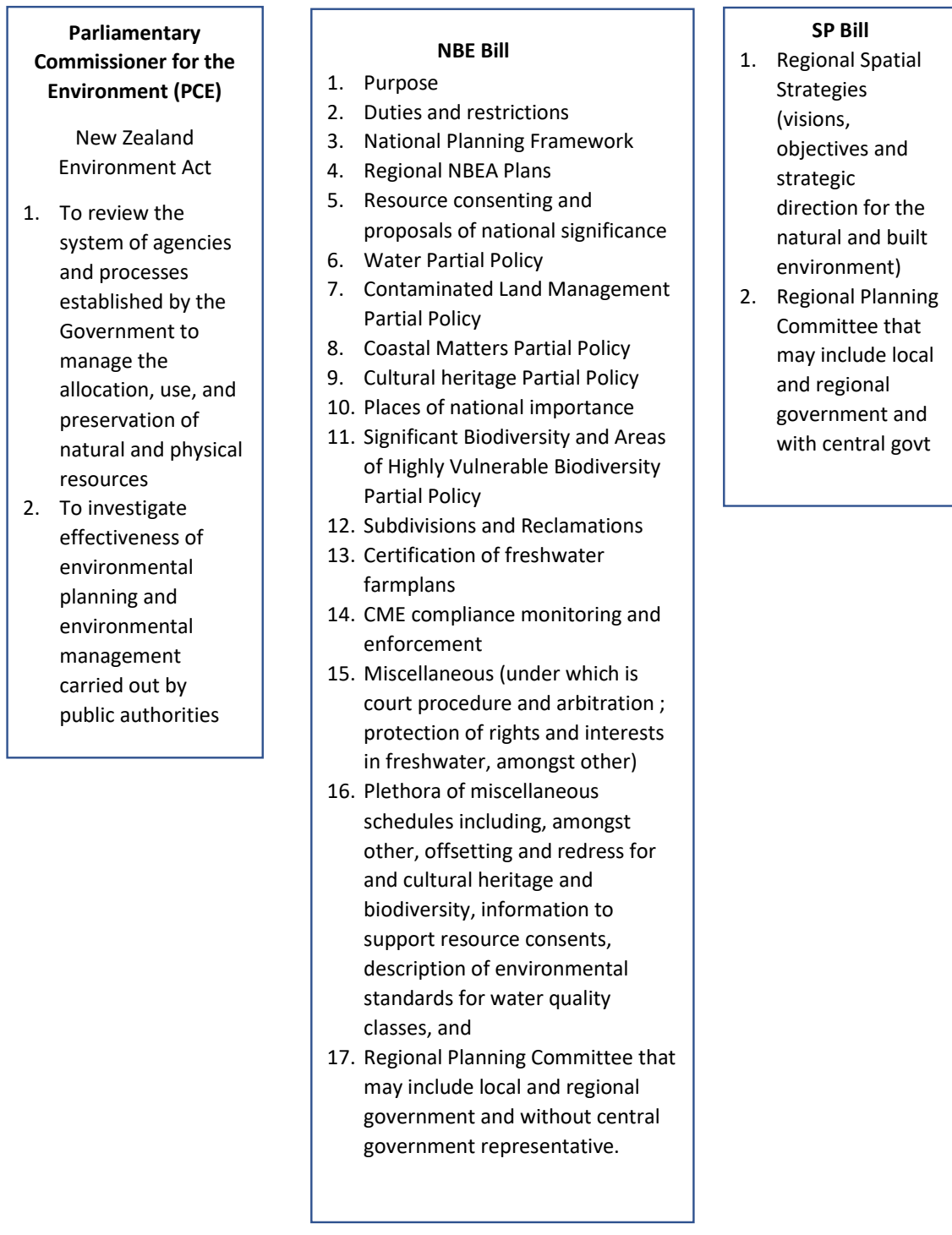


Figure 1. Parliament's Proposed RM Framework with the NBE and SP Bills operating in silos, inconsistent with local government accountabilities, incorporating bits and pieces of national policy and environmental standards, and with no link to the Parliamentary Commission for the Environment (PCE), who could provide independent planning guidance beyond the electoral term.

West Coast Council's Suggested Resource Management System

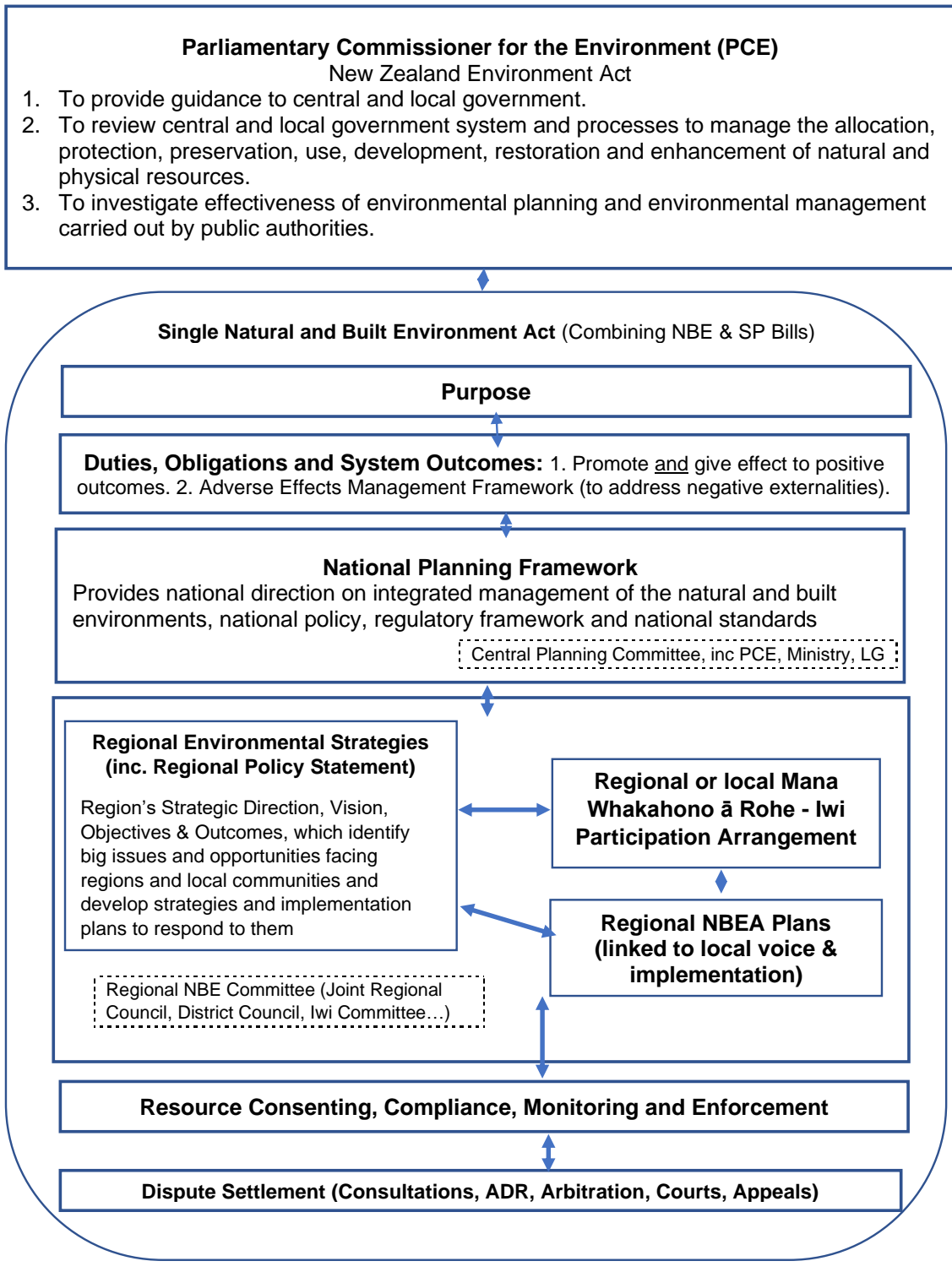


Figure 2. West Coast Council's Suggested Resource Management Reform System Showing a Sample of a 'Single Integrated System', operating under a 'Single Natural and Built Environment Act', which incorporates local government as a decision maker; links strategic, operational and functional parts; and provides an extended role for the PCE.

Introduction to the Submission

The policy intent of the proposed resource management reforms is to address alleged deficiencies in the Resource Management Act (RMA). Claims have been made that the RMA is not adequately protecting our natural environment or enabling development where needed; that processes take too long and cost too much; and that current local government processes do not address current challenges facing our environment and communities, such as, the impacts of flooding or climate change.

Despite removing councils' decision and plan-making responsibility, the Natural and Built Environment (NBE) and Spatial Planning (SP) Bill require local and regional councils to fund, deliver, and administer new regional strategies (referred to as Regional Spatial Strategies, RSSs) and new NBE plans. The current provisions in the NBE and SP Bills provide little clarity about local governments' relationships with the proposed Regional Planning Committees (RPC), their secretariats or council's ability to influence RPC budgets or their outsourcing and procurement processes. If Parliament wants to remove local government from the plan-making process by developing more layers of policy setting and decision-making, then it should make provision for central government to fund the plan development, rather than allow funding to fall on the excluded local and regional councils' and their respective local communities.

Creating one large plan, and presumably reducing the number of existing plans into chapters within that plan, will not necessarily protect our natural and built environments any better. Nor will it necessarily drive the reform objectives of stream-lined processes, cost effectiveness, or efficiency. The NBE and SP Bills add significant complexities, unnecessary length to the statutory framework, and expensive governance, plan making and implementation processes,³ which do not consider the view of local communities and ratepayers or make budgetary provisions for them. The focus of reform should not be on the number of plans, but on simplicity, efficiency, and effectiveness, including cost effectiveness that considers taxpayers and local ratepayers 'willingness to pay', while providing strong opportunities for local engagement. We are yet to see evidence of how the proposed Resource Management (RM) reforms will stream-line the current processing system or make resource management in the natural and built environment more efficient or more cost effective. It is hard to see the benefits when we are unable to see the evidence supporting stream-lined processes, cost effectiveness, and efficiency.

Consistent with the mandate of local government, any reform of the Resource Management system should provide strong opportunities for promoting local community engagement; accountability of local authorities to their communities; and provision for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities taking a sustainable development approach consistent with the Local

³ According to MfE's partial analysis of the impacts, Central government and local government costs would increase when compared to the current [resource management] system, by 112 per cent and 11 per cent respectively. Ref: page 7 Supplementary Analysis Report: The New Resource Management System; date finalized 21 September 2022; date issued 22 November 2022; corporate author: Ministry for the Environment; <https://www.treasury.govt.nz/publications/risa/supplementary-analysis-report-new-resource-management-system>; <https://www.treasury.govt.nz/sites/default/files/2022-11/ria-mfe-nrms-sep22.pdf>; last viewed 16 February 2023. Note Cabinet's impact analysis requirements reflect an expectation that agencies provide robust analysis and advice to Ministers before decisions are taken on regulatory change. This analysis usually takes the form of a Regulatory Impact Statement (RIS). Where there is no RIS provided at the time Cabinet makes substantive policy decisions involving regulatory proposals, the responsible Minister must provide Cabinet with a Supplementary Analysis Report (SAR).

Government Act (LGA) and Sustainable Development Goals. There are also genuine concerns about how local authority funding of new mechanisms, such as the Regional Planning Committee (RPC), secretariat, and 'outsourcers' for plan development fit with current funding processes consistent with the Local Government Act and Council's Long Term Plan. This is a critical issue.

In addition, the Councils are concerned that under the proposed legislative requirements, local and regional councils will be funding the strengthened role of iwi and hapū in the system. Central government is the direct Treaty Partner. Central government must therefore ensure that iwi, hapū and all others that are part of local communities are properly resourced to participate in the new system, rather than passing that cost to local communities and local government. Central government must contribute.

The Explanatory Notes embedded within the NBE Bill, and the SP Bill, intend to explain certain provisions within the Bills and should be consistent with the Bill's substantive provisions. Many are not. Examples of the Bills' Explanatory Notes, which are inconsistent with the Bill's substantive provisions, are referred to in this submission.

In developing this submission, the Councils consulted with their iwi partners Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (of Poutini Ngāi Tahu or PNT). Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (of Poutini Ngāi Tahu or PNT) are mana whenua on the West Coast/Te Tai o Poutini.

By an 'Order in Council' on 17 June 2019⁴ the West Coast Regional Council was given the role of preparing, notifying, adopting, periodically amending and reviewing a combined District Plan, named the Te Tai o Poutini Plan or TTPP, for the West Coast. The Order in Council involves delegating certain Council obligations to a joint committee (the 'Tai Poutini Plan Committee'). Given experience with independent joint committees and their processes, the Councils do not support giving up governance, decision-making and plan making responsibilities to the Regional Planning Committee as proposed under the NBE and SP Bills.

Due to the high workload of the small West Coast Council teams, and tight timeframes, the Councils have not been able to respond to all aspects concerning the NBE and SP Bills. There may be parts of the two Bills that may affect the West Coast Councils but are not raised in this submission.

⁴ The Local Government Reorganisation Scheme (West Coast Region) Order 2019; <https://gazette.govt.nz/notice/id/2019-go2872>; last viewed 16 February 2023. [This Order in Council is a form of secondary legislation signed by the Governor General on 17 June 2019 acting by and with the advice of the Executive Council and at the request of the Local Government Commission].

About the Submitters

The West Coast Regional Council (WCRC) is the local authority for a region covering a vast area with a sparse population. The distance from Kahurangi Point in the north to Awarua Point in the south is the approximate distance from Auckland to Wellington.



The West Coast region stretches the equivalent distance of that between Auckland and Wellington

Figure 3. Map of New Zealand to highlight the 600km length of the West Coast Region compared to the distance between Auckland and Wellington.

The West Coast Regional Council works closely with the regions' three territorial authorities (the Buller, Grey, and Westland District Councils). The main towns are Westport, Greymouth, Reefton, and Hokitika. The region's relatively low population of approximately 32,600 is spread across small towns, settlements and rural communities.

Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (of Poutini Ngāi Tahu – PNT) are mana whenua of Te Tai o Poutini (the West Coast). The 'Paetae Kotahitanga ki Te Tai Poutini Partnership Protocol, Whakahono ā Rohe Resource Management Act Iwi Participation Agreement; A Protocol and Arrangement between Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, Te Rūnanga o Ngāi Tahu and the West Coast Regional Council of October 2020' captures the intent of WCRC and its partners to progress our relationship in accordance with the Treaty of Waitangi partnership between iwi and the Crown.

The West Coast is predominantly rural.

The Conservation Estate comprises 84.17% of the West Coast land area, with an additional 1.55% administered by Land Information New Zealand (LINZ). This leaves 14.28% of land available for private ownership. The land in the Conservation estate and Crown ownership is not rateable by local authorities.

As to the structure of the West Coast Region's Economy, and according to Infometrics 'Filled jobs by 54 industry categories list' as at 2022, the percentage contribution of various sectors to the regional economy was:

- Health Care and Social Assistance - 11.1%;
- Accommodation and Food Services - 9%;
- Dairy Cattle Farming - 6.1%;
- Education and Training - 6.1%; and
- Construction Services - 4.4%.⁵

Infometrics 'Contribution to employment by broad sector, 2022' data shows the following sectors contribution to the West Coast Region's economy:

- 'Other services' accounted for 40%;
- 'High value services' 23.2%;
- 'Goods-producing industries' 22.1%; and
- 'Primary industries' made a 14.8% contribution.

⁵ Structure of West Coast Region's Economy; Source Infometrics at <https://ecoprofile.infometrics.co.nz/West%20Coast%20Region/Employment/Structure>, last viewed 16 February 2023.

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Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
Initial Matters of Concern to the West Coast (Part 1, NBE Bill)		
<p>1. The new resource management reforms do not evidence achieving the reform objectives of stream-lined processes, cost effectiveness and efficiency; and will entail significant additional costs to local ratepayers (the threshold of which is unknown as cost and value add analysis has not been completed): the reform process should be slowed down to assess the implications and get this once in 30-year reform process right.</p>	<p>According to a consistent pattern of impact analysis reports released by central government, the impacts of resource management (RM) reform on the West Coast Councils are certain to be high but the threshold is unknown as many of the suggested benefits are questionable and costs for local authorities are yet to be added up. Whether local ratepayers and local communities are willing ('or able') to pay for the incremental cost of these reforms has not been assessed.</p> <p>The Ministry for the Environment's Supplementary Analysis Report (SAR) of September 2022, issued on 22 November 2022, which is after the NBE and SP Bills were introduced to Parliament on 15 November 2022, includes a partial Cost Benefit Analysis (CBA), which estimates that central government and local government costs will increase when compared to the current system, by 112 per cent and 11 per cent respectively.⁶ But these cost assessments are incomplete and do not include the high cost of transition or resourcing implications for the local authorities. Expected costs for the Councils will therefore be much higher than the quoted 11 per cent.</p> <p>In addition to the already identified 11 per cent estimated cost increase for local government, the SAR also states that one off establishment costs of \$864m are expected to be incurred mainly by central and local government over 10 years. These extra costs along with the additional structural and institutional costs, and incremental operational expenses, which are yet to be considered, do not give the Councils confidence that the reform objective of 'cost-effectiveness' will be achieved. Additional costs not considered in the SAR released in November 2022, but not all expected costs, are identified throughout this submission.</p> <p>In the absence of Cost Benefit Analysis (CBA), and value add analysis, being completed at the national level, it could be envisaged under one West Coast Council scenario that costs for local and regional</p>	

⁶ Supplementary Analysis Report: The New Resource Management System; date finalized 21 September 2022; date issued 22 November 2022; corporate author: Ministry for the Environment; <https://www.treasury.govt.nz/publications/risa/supplementary-analysis-report-new-resource-management-system>; <https://www.treasury.govt.nz/sites/default/files/2022-11/ria-mfe-nrms-sep22.pdf>; last viewed 16 February 2023.

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>councils could be as high, if not higher, than 50 per cent. The threshold is simply not known.</p> <p>If cost recovery is spread out evenly across all ratepayers, many of whom may not receive an individual net benefit, it is questioned whether ratepayers and local communities are in a position to pay for the proposed reforms especially during a cost-of-living crisis.</p> <p>Further concerns could be voiced because the proposed reforms do not evidence stream-lined processes (defined as ‘a single integrated system to govern resource management’), cost effectiveness (good value for the amount of money paid for doing the right things) or efficiency gains (for doing things right). The Bills, for instance, do not consider process, process re-design, or process reform, so there is no way of knowing how processes are being ‘stream-lined’. Assumptions therefore must be made about how the new resource management system may or may not work, and every submitter has different assumptions. ‘Cost-effectiveness’ and ‘consumer surplus’ (whether there is a net gain to the West Coast ratepayer) also remains to be analysed or evidenced.</p> <p>Councils are concerned that a major overhaul of the country’s entire resource management system, unprecedented in thirty years, is being made in the absence of completing a cost-benefit and value-add analysis. (There is, for example, no ratepayer benefit or ‘willingness to pay’ analysis; or if there is one it hasn’t been shared with them).</p> <p>At the time of the Natural and Built Environment Bill (NBE Bill) and the Spatial Planning Bill (SP Bill) being introduced to Parliament on 15 November 2022, central government had not completed its analytical work and the Ministry for the Environment (MfE) was only able to release a partial and incomplete Cost Benefit Analysis (CBA) later on 22 November 2022. This CBA evidenced no net gain to ratepayers. (Indeed, there was no mention as to how much local authority rates will have to increase by to cover the proposed resource management reforms).</p> <p>Still, and even by virtue of central government analysis done to date, local and regional rates will have to skyrocket to cover the cost of these reforms and yet the proposed Regional Planning Committee (RPC) has no direct authority to set a rate. The Councils are therefore exposed to significant risk.</p>	

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	<p>At a Ministry for the Environment (MfE) workshop on 22 November 2022, MfE advised the West Coast Regional Council that there will be central government funding for Māori participation on the proposed Regional Planning Committees (RPC). However, excepting central government funding its proposed central government representative on the RPC for developing the Regional Spatial Strategy, and funding Māori representation on RPCs, there will be no other funding made available to the West Coast Councils to fund the Regional Planning Committees or the resource management reform process. The costs for funding a 'Host Authority' will be significant and include, amongst other, staffing a secretariat and administering finance.</p> <p>Ratepayers on the West Coast are already paying heavily for the cost of change imposed through the Order in Council for a Te Tai o Poutini Plan (TTPP) to be finalised prior to the new Resource Management framework coming into effect.⁷ It is expected that a budget will be presented to WCRC Councillors and the WCRC will have to fund the 10-year TTPP period by increasing debt, increasing rates, or finding an alternative funding mechanism. The West Coast Councils are very concerned about the spiralling future costs of completing the TTPP. The WCRC has no control over these matters (it has had to delegate its obligations to a joint committee with an independent chair); and its input into the TTPP reform process, for example with respect to natural hazards, has not been put into effect.</p> <p>From experience with independent joint committees and their processes, reconciling and combining the TTPP and WCRC plans will be long, challenging, and costly. The idea of creating a more efficient system is welcomed; but the Bills in their current form do not evidence how they will achieve this objective or the other two reform objectives of stream-lined processes and cost-effectiveness.</p> <p>The NBE and SP Bills provide no opportunity for co-design by the Councils and Central Government. The Council's submission is likely to be one of hundreds that need to be read, reviewed, and considered by a small team, for a full report to be prepared for the Environment Committee; and for the Environment Committee's report to be back to Parliament on both the NBE and SP Bills</p>	

⁷ The Local Government Reorganisation Scheme (West Coast Region) Order 2019; <https://gazette.govt.nz/notice/id/2019-go2872>; last viewed 16 February 2023.

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	<p>by the 22 May 2023 so that the Environment Committee can make decisions on unprecedented reform of the country's entire resource management system in the last 30 years.</p> <p>The majority of the risk with implementing and administering the NBE and SP Bills, however, will sit with local government, including the West Coast Councils. Local government, including the West Coast Councils, run the risk of having to put people's personal lives and assets at risk by funding a reform process over which they have no control and no governance oversight.</p> <p>The Councils understand that the Ministry for the Environment (MfE) has used the TTPP process to observe how a joint regional committee for a combined district plan could work. In practice, the TTPP Committee has implications for rate setting but the Committee is not legally a rate-setter. The Local Government (Rating) Act gives councils the role of setting rates subject to certain conditions.</p> <p>Notwithstanding, West Coast ratepayers will have to bear rate increases to pay for this new TTPP process and implementation of the TTPP. On top of this, the NBE Plan and Spatial Planning processes will introduce new planning processes. The new plans will require implementation, and costs will increase for consents, compliance, monitoring and enforcement (CME), amongst other. West Coast ratepayers will have to bear these incremental costs as well as the incremental costs of the TTPP. For example, the NBE Plan will go beyond integration of district plans to include integration of regional and district plans along with new strategies, visions, objectives, policies and rules and a new National Planning Framework. In other words, resource management reform, RM reform, is not about simply 'rejinging' the TTPP structure and process. An Order in Council, over which the Councils had no control, directed the TTPP Parties, including the Councils, to create the TTPP. The current central government thereby changed the landscape, and local ratepayers will be called on for millions of dollars' worth of funding to fund the TTPP. Central Government should therefore fund the West Coast's transition under the NBE and SP Bills.</p> <p>Understanding the future of the TTPP Committee also remains a very important matter.</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Examples of additional costs to West Coast ratepayers arising from implementing the provisions of the NBE Bill that the Councils have identified so far, and which have not been included in MfE’s supplementary Cost Benefit Analysis (released November 2022), include funding the Regional Planning Committee (RPC) and its processes; processing dispute settlement; contracting consultants and panel members including an Environment Court Judge as a hearing panel Chair; and additional resource consenting, monitoring and reporting costs. As another example, there will be additional 3-yearly reporting of NBEA plan implementation to the RPC. Additional implementation costs for small councils, including the West Coast Councils, above their current RMA implementation costs, must be funded by central government.</p> <p>Recommendation 1:</p> <ul style="list-style-type: none"> a) That Parliament slows down the reform process and directs an independent and impartial inquiry, in conjunction with the West Coast Councils and other local authorities, to carry out a thorough assessment of the costs, benefits, ‘economic value add’, and implications of reform scenarios, including a ‘status quo’ scenario, for local and regional councils, as well as their respective ratepayers at a local authority level, and makes these findings public before proceeding further; b) That in addition to the submissions process, Parliament, and Central Government, engage in meaningful consultation with local government, the West Coast Councils, and local communities through a process of transparent dialogue and conversation, which heeds ‘the West Coast Councils’ input, advice, and opinion; and is funded by the Crown; c) That a clear process is worked through in consultation, conversation, and dialogue with local authorities, including the West Coast Councils, to develop a single integrated resource management system governed by one Act; d) If the reforms proposed under the Natural and Built Environment (NBE) Bill and Spatial Planning (SP) Bill proceed, that a new Order in Council provide for central government to fund the West Coast Councils to undertake the required resource management reforms by covering all costs incurred, and to be incurred, by the West Coast Councils in implementing and administering the Natural and Built Environment Act (NBEA) and Spatial Planning Act (SPA), and that these costs include, but are not limited to, capital and operational expenses, transitional costs, consultation and hearings for the Te Tai o Poutini Plan (TTPP) and 	

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	<p>NBE Plan, incremental resource consenting costs, and ensuring that the local West Coast Councils retain a place in decision making and plan making and not be relegated simply to delivery, implementation, and collecting rates.</p>	
<p>2. Work on assessing the net benefit of the reforms to local ratepayers has not been done; and Cost Benefit Analysis is at the partial work in progress stage: analysis needs to be completed before the reforms proceed any further</p>	<p>According to the ‘Supplementary Analysis Report (SAR): The New Resource Management System’, issued 22 November 2022, MfE “anticipates that impacts for the primary sector and rural economies are likely to be wide ranging”, which means that impacts for the West Coast are likely to be wide ranging; but “the SAR does not include sector specific evaluation of the cost and benefits of transition to the new system, nor sector specific analysis of the costs of doing business under the new system”.⁸</p> <p>In brief, this means that the costs for the West Coast Councils to develop, implement, administer, and monitor the new system including providing new “environmental” and “economic” instruments, and administering national direction under the National Planning Framework (NPF), are yet to be assessed. Ratepayer cost analysis, ratepayer net benefit analysis, ratepayer value add analysis, and qualitative and quantitative evidence of improving effective implementation across the West Coast region, are also not included in MfE’s Cost-Benefit Analysis (CBA) and are yet to be assessed.</p> <p>MfE recognises, however, that “local government is [already] financially stretched”.⁹ Local government is financially stretched: Many councils face difficulties in raising the revenue required to fund the delivery of priorities, such as infrastructure, adapting to flooding and natural hazards, and undertaking the increased responsibilities given to them by central government. The proposed RM reforms could make financial pressures worse for some councils, particularly Councils in rural areas, those with disproportionately lower value-add services than the rest of New Zealand; and those with disproportionately higher rural sectors and primary industries than the rest of New Zealand; i.e., the West</p>	

⁸ Supplementary Analysis Report: The New Resource Management System; date finalized 21 September 2022; date issued 22 November 2022; corporate author: Ministry for the Environment; <https://www.treasury.govt.nz/publications/risa/supplementary-analysis-report-new-resource-management-system>; <https://www.treasury.govt.nz/sites/default/files/2022-11/ria-mfe-nrms-sep22.pdf>; last viewed 16 February 2023.

⁹ Supplementary Analysis Report: The New Resource Management System; date finalized 21 September 2022; date issued 22 November 2022; corporate author: Ministry for the Environment; <https://www.treasury.govt.nz/publications/risa/supplementary-analysis-report-new-resource-management-system>; <https://www.treasury.govt.nz/sites/default/files/2022-11/ria-mfe-nrms-sep22.pdf>; last viewed 16 February 2023.

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	<p>Coast, by increasing existing debt levels with a flow through to increased rates and increased social and economic burdens on local communities.</p> <p>The proposed reforms will ‘financially stretch’ the West Coast Councils, ratepayers, and local communities even further. In reference to the SAR (and MfE’s Cost Benefit Analysis), increasing the reduction in net new consents but ‘relabelling’ some consents as ‘notices’ and increasing consenting processing costs, including for instance processing Permitted Activity Notices, will not necessarily lead to a “net efficiency gain” for the West Coast or a positive Present Value (PV) for the West Coast.</p> <p>The SAR refers to “a corresponding PV [present value] increase of \$3.35 billion attributed to ongoing [consent] process cost savings for regulated parties” being a key benefit; but there is no substantiated evidence as to where and how these cost savings will be made.</p> <p>Amongst MfE’s other major alleged benefits resulting from its partial Cost Benefit Analysis (CBA), but unsubstantiated for the West Coast or any other region, is that the “SPA/RSS” (Spatial Planning Act and Regional Spatial Strategies) will result in a “welfare gain [beneficial impact of central government policy]: Increasing the total benefits derived from the contribution of the SPA and RSS [regional strategies, visions, and objectives for a regional long term plan] to enhanced infrastructure and planning outcomes from PV \$257 million to PV \$642 million”.</p> <p>Another anomaly concerns the proposed “housing supply benefits”. According to MfE, the NBEA and SPA will “increase housing supply benefits over the next 30 years from PV \$2.2 billion to PV\$7.5 billion (due to more competitive land markets, improved housing supply elasticity, improved transparency in consenting processes, and improved clarity and consistency in national direction)”. However, these benefits are not directly provided for by either the NBE or SP Bill and are yet to be drafted into the Bills. Creating one big resource management plan is no guarantee that land markets will be more competitive or that housing supply will keep pace with demand. It is also questioned whether such benefits, if they do occur, will flow proportionately through to the West Coast.</p> <p>Sensitivities to the discount rate for Net Present Value (NPV) calculations, inflation, the cost of living crisis, natural hazards (such as, cyclones, coastal erosion, and</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>flooding) and another pandemic, which have not been considered, all need careful consideration and must reflect implications for local councils and their respective ratepayers.</p> <p>In addition, costs would be even higher for the West Coast Councils if MfE’s CBA analysis considered the Council’s additional responsibilities and costs for administering and implementing the Bills into perpetuity rather than for simply the first 10 years.</p> <p>Recommendation 2: That a full analysis, including Cost Benefit Analysis (CBA) and ‘ratepayer value-add analysis’, of implementing the new Resource Management (RM) Bills nationally, regionally, and at a district-wide level, be done by an independent auditing body, or by Treasury acting independently and impartially, in collaboration with local authorities, including the West Coast Councils.</p>	
<p>3. The NBE Bill is out of sync with the Local Government Act (LGA), for example, social and economic well-being are being sacrificed in favour of protecting the natural environment</p>	<p>The Councils consider that the proposed resource management framework is out of sync with the Local Government Act (LGA); and that under this new framework social and economic well-being are being sacrificed in favour of protecting the natural environment. These exclusions are shown by the environment limits proposed in the NBE Bill, and those that will be provided for in the pending National Planning Framework, which are limited to the natural environment and human health. An emphasis on the natural environment may be appropriate for regions with a high level of development, and a higher loss of the natural environment, than that on the West Coast. For example, many other regions have suffered a high loss of indigenous biodiversity, loss of high freshwater quality, and have significant issues with freshwater quantity. However, in comparison, the West Coast is the converse as it has a relatively high level of remaining indigenous biodiversity and habitats, and plentiful freshwater resources.</p> <p>The lack of reference to social and economic well-being, and social and economic rights, in the Purpose of the Bill is out of sync with the Local Government Act (LGA) insofar that councils must also implement the LGA, which requires councils to “promote the accountability of local authorities to their communities” and “to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach”.</p>	<p>3 38-43</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 3: That the NBE and SP Bills be modified to be consistent with the Local Government Act (LGA) and the Local Government (Rating) Act.</p>	
<p>4. The new reforms are complex, time consuming, expensive and escalate funding and resourcing stresses for local government and local communities</p>	<p>The proposed Resource Management Bills appear longer and more complicated than the RMA. The NBE Bill is some 807 pages, and the Spatial Planning Bill is 46 pages. And the Climate Change Adaptation Bill, which is also considered to form part of the RM reforms, is to be added on top.</p> <p>Hon. David Parker said at the first reading of the NBE Bill on 22 November 2022 that “We need a faster, cheaper, and better resource management system. It is undisputed that the RMA is not working as was intended. It takes far too long, costs far too much, and it's no exaggeration to say it's broken.... With fewer plans and faster processes, local communities will continue to have a strong voice, including through statements of community outcomes,” which the RPC must have regard to but may not necessarily take into account.</p> <p>However, based on the evidence, the new NBE process seems far more complicated, time consuming and expensive than plan making under the RMA. Large unwieldy plans, presumably with revised land, water, air quality, coastal, natural hazards plans, and so on, as ‘chapters’ therein, are likely to slow down processes, exacerbate existing funding and resource constraints for regional councils that have to implement them, and make it difficult for local communities to have a say. But rather than argue about the size of the plan right now, the question the West Coast Councils is asking is whether the reform objectives of stream-lined processes, cost-effectiveness and efficiency will be met; and where is the evidence that a net benefit will flow through to local ratepayers on the West Coast.</p> <p>As another example of incremental costs, the newly proposed “Enduring submissions” will also occupy staff time and require further staff, or consultants, to process them.</p> <p>Other examples of extra costs for the regional council, and potentially district councils, are referred to throughout this submission, and include:</p> <ul style="list-style-type: none"> • increasing consents and consenting processes, e.g., by changing controlled activity status to include discretion to decline, and removing restricted discretionary activity status; 	<p>35 427</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<ul style="list-style-type: none"> • increasing processing costs for ‘notices’, e.g., by requiring the processing of Permitted Activity Notices for permitted activities; • increasing costs for taking on ‘Host council’ responsibilities – if agreement can’t be reached between local authorities on who the “host” council should be, this role defaults to the regional council; and • increasing costs to the Environmental Protection Authority (EPA). Provisions within the Bill enable the EPA to recover costs from local authorities when it is unable to recover them from a polluter of contaminated land. <p>Refer to the Recommendations above, which also apply to this submission point.</p>	
<p>5. There are oversights in the Planning Hierarchy; example, in relation to the role of the RPS</p>	<p>Regional Policy Statements (RPSs) are the principal strategic local authority planning document that have enabled regional councils to ensure that <u>sustainable</u> development and management, consistent with the Local Government Act (LGA) and Resource Management Act (RMA), occurs in a strategic and co-ordinated manner. It is important that the role of the RPS remains, otherwise a loss of planning hierarchy between overlapping strategies, policies and objectives and the National Planning Framework is highly likely to lead to poorer regional environmental outcomes and poorer local outcomes. In practice, the process of plan making, and decision making, should be an iterative process involving Local Government.</p> <p>Recommendation 4: That the role of the Regional Policy Statement (RPS) is retained and provision for its retention is made clear in the NBE Bill.</p>	<p>Explanatory Note</p> <p>Clauses 107 645</p> <p>Sch 7, Part 1, 14 ‘identification of major regional policy issues’</p>
<p>6. There are Governance and Planning oversights in putting System Outcomes into a Hierarchy</p>	<p>The system outcomes in clause 5 of the Bill focus on the “protection or, if degraded, restoration” of the natural environment, and some social outcomes. The Councils are not opposed to these outcomes in principle, but regional economic outcomes for rural community wellbeing are not clearly provided for in clause 5 of the Bill. They may be inferred in clause 5(c)(i) in terms of the use and development of land for business use and primary production, for “well functioning urban and rural areas”. Clause 5(c)(iv) provides an outcome for: “....an adaptable and resilient urban form with good accessibility for people and communities to social, economic, and cultural opportunities;....” . The latter clause limits economic opportunities to urban areas, and alternative rural land uses such as mineral mining will be</p>	<p>5</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>further limited by the identification of, and restrictions in, the use of Highly Productive Land classes 1-3, as referred to in clause 5(d).</p> <p>Having the economic opportunity for diversity of land use in rural areas is an important issue for the West Coast, and it should be better recognised in the systems outcomes.</p> <p>In addition to climate change mitigation (reducing the harm of Green House Gas emissions, e.g., putting in a protective 'sea-wall'), climate change adaptation and adaptive pathways, e.g., moving away from a hazard like flooding or coastal erosion, is not identified as a 'system outcome'. There is a risk that communities will not prioritise adaptation, such as responses to natural hazards, and this will have potential impacts for social, cultural, and economic well-being, as well as risk management, e.g., managing risks associated with stranded assets.</p> <p>Furthermore, in Council's view, system outcomes are <i>sui generis</i>, which means they depend on the situation at hand, and priorities are likely to differ from region to region. For example, an outcome to support a small and vulnerable rural school open to coastal erosion fundamentally differs to an outcome that measures increased urban housing supply. As another example, Auckland needs to reduce its transport emissions but may simply not do so due to other 'system outcomes' being given priority, such as, providing for a flow of traffic to work. This clash of 'system outcomes' may be referred to as a 'conflict of norms' or a 'conflict of laws' and resolution will be necessary. Resolution of a decision-making process may need to take place on a case by case basis. For example, Government may need to balance its national framework for energy security and food security rather than rely on imports or inflation (escalating food costs). The Councils do not, therefore, agree with establishing a hierarchy of system outcomes in the NBEA.</p> <p>Furthermore, a "one-size fits all" approach is likely to be more detrimental to our region than most others given its uniqueness. For example, the outcome of enhanced public access to the coastal marine area, lakes and rivers may mean putting in new transportation infrastructure and the very manufacture of materials for roads has an impact on emissions, i.e., one outcome of the Bill is achieved but another is not. As another example, ensuring energy security for local communities may be a local priority over a central government priority</p>	

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	<p>to facilitate pleasure for the occasional wealthy holidaymaker being able to kayak our rivers.</p> <p>As illustrated, stipulating a “one size fits all” hierarchy of system outcomes and norms is not the solution. Other case by case solutions will therefore need to be found to make decisions, such as, around the provision of infrastructure versus the reduction of emissions, which both support community well-being. Responses to urban flooding, for example, will increase infrastructure and emission costs; but in urban areas putting in new infrastructure is likely to take the priority over climate change, managed retreat, and leaving the environment in its natural state.</p> <p>Furthermore, the Councils have concerns about the lack of economic wellbeing outcomes relevant to the West Coast.</p> <p>The Councils therefore only support the proposed system outcomes in principle. If system outcomes are to remain in the NBE Bill, then any analysis of them should involve an iterative process taking into account social, cultural and economic outcomes, and well-being, consistent with the LGA and based on the NBEA’s fundamental purpose as revised in this submission. For this to be achieved, the NBE Bill requires a clear and coherent purpose consistent with the Local Government Act (LGA).</p> <p>Recommendation 5:</p> <ul style="list-style-type: none"> a) Make provision to support system outcomes in principle only; b) Do not put system outcomes into a hierarchy; c) Add “regional economic wellbeing”, “climate change mitigation” and “climate change adaptation” to the systems outcomes (reference clause 5 NBE Bill), to ensure that the outcomes are consistent with the LGA, responses to natural hazards, and climate change legislation. 	
<p>7. Important provisions like access to information, public participation in decision making, and access to justice in</p>	<p>The NBE Bill lacks appropriate provisions for public access to information, local authority and public participation in decision making, and access to justice. The Councils believe that provisions for procedural equity (public access to information, public participation in decision making, and access to justice) are essential to the reform process.</p> <p>Many of the frustrations that have plagued the RMA are procedural and linked to insufficient resourcing of local government. These concerns are not addressed by the</p>	

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<p>environmental matters are omitted or eroded; and local authorities need resources</p>	<p>NBE or SP Bills. The fact that the reform process does not address these issues means that they are likely to arise again under the new legislation. If Central Government wants to make these wide reaching and costly reforms to local authorities, then it must match its directions with resources.</p> <p>Further, in terms of substantive equity, which should be reflected in the Purpose of the NBE Bill, councils with low rating bases should not face the same burden in terms of cost recovery as bigger councils.</p> <p>Inequities are further compounded in regions where internet coverage is limited. Moving to e-Plans and internet-based communication that are not available to remote rural communities as a whole are also another form of inequity.</p> <p>Disconnecting communities through the use of IT is exclusive, as opposed to inclusive, and does not align with the mandate of the Local Government Act.</p> <p>The erosion of transparent public plan making processes, alternative dispute resolution and the right to a fair public hearing, erodes the rule of law.</p> <p>Neither the NBE nor SP Bill provide an adequate Dispute Settlement Understanding (DSU) or Dispute Settlement Mechanism (DSM). Suggestions are made in this regard below. Councils support, for instance, timely consultations and ADR (Alternative Dispute Resolution), a fair and transparent appointment process to the Independent Hearing Panel, and an affordable and timely appeals process.</p> <p>Recommendation 6: Improve provisions for public access to information, public participation in decision making and access to justice. (Recommendations with respect to these improvements are embedded throughout this submission).</p>	
<p>8. The Bill requires a clear and coherent 'Purpose Clause'</p>	<p>The NBE Bill's definition of the word 'environment' is all-encompassing of the natural, built, social, economic, and cultural environments; and then the Bill proceeds to provide for the natural environment while undermining social, economic and cultural well-being and rights. This approach is not supported; and to rectify it, the Bill requires, amongst other, a clear and coherent purpose.</p> <p>To appreciate Councils' requested changes, the table below first compares the 'purposes' of the RMA and NBE Bill:</p>	<p>3</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>RMA Purpose & Principles 5(1) The purpose of this Act is to promote the sustainable management of natural and physical resources. (2) In this Act, sustainable management means managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while— (a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and (b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and (c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.</p> <p>The Councils agree with the Resource Management Group (RMG) Reform Group draft submission point, that the NBE Bill needs a clear and coherent purpose. Particular care and attention must be taken in drafting the Bill’s Purpose because powers and functions that exist under the Act must be exercised in accordance with the Act’s statutory purpose.</p> <p>Besides other matters highlighted below, Cabinet’s agreed objectives to enhance and restore the natural environment are not fully reflected in the Bill’s purpose.</p> <p>Council also suggests that "te Oranga o te Taiao" be elevated in the Bill’s purpose.</p> <p>Recommendation 7: That the ‘Purpose’ clause of the NBE Bill be redrafted for clarity, and to minimise uncertainty and legal risk. (Suggested drafting is provided for below in submission point 12).</p>	<p>NBE Bill Purpose 3 Purpose of this Act The purpose of this Act is to— (a) enable the use, development, and protection of the environment in a way that— (i) supports the well-being of present generations without compromising the well-being of future generations; and (ii) promotes outcomes for the benefit of the environment; and (iii) complies with environmental limits and their associated targets; and (iv) manages adverse effects; and (b) recognise and uphold te Oranga o te Taiao.</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
9. Better enable development in the Bills' Purpose	<p>Unlike the RMA, the current Purpose of the NBE Bill is limited to a merged blending to “enable the use, development and protection of the environment” in the absence of economic and social objectives.</p> <p>While the NBE Bill intends to govern the natural and ‘built’ environment, development objectives for the built environment are unclear and provision for affordable housing is not provided for in the Bill or the Bill’s Purpose. If it is not provided for, it is unlikely to be achieved as a result of the reform process; and MfE’s Cost Benefit Analysis will have to be modified accordingly.</p> <p>The Councils support Cabinet’s agreed objective as reported on by MfE, to “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”; and suggest that this objective be reflected in the Bill’s purpose.¹⁰ They also suggest that the word ‘economic’ be added.</p> <p>Recommendation 8: That the ‘Purpose Clause’ of the Natural and Built Environment Act (reference clause 3 of the NBE Bill) should make provisions for both the Natural and Built Environments; and social, cultural, and economic well-being and rights as consistent with the Local Government Act.</p>	3
10. Undermining of a ‘kaupapa’ approach undermines Te Oranga o te Taiao	<p>The Purpose section of the Act will be used to interpret the Act. It is therefore important that the scope and purpose should be clearly understood in relationship to core first principles, such as kaitiakitanga (as defined under the RMA to include stewardship).</p> <p>To mitigate the possibility of costly litigation, and arguments about the meaning of to ‘recognise and uphold’ Te Oranga o te Taiao, Te Oranga o te Taiao should be defined and elevated in priority in the Purpose of the Act, thus forming the ‘first principle’ or ‘kaupapa’ of the new Act. As currently drafted, and contrary to King Salmon, Te Oranga o te Taiao is of lesser value than ‘limits’.</p>	4 3 7

¹⁰ Supplementary Analysis Report: The New Resource Management System; date finalized 21 September 2022; date issued 22 November 2022; corporate author: Ministry for the Environment; <https://www.treasury.govt.nz/publications/risa/supplementary-analysis-report-new-resource-management-system>; <https://www.treasury.govt.nz/sites/default/files/2022-11/ria-mfe-nrms-sep22.pdf>; last viewed 16 February 2023.

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 9: Meaning and clarity should be given to the newly introduced term, “Te Oranga o te Taiao”, in the Purpose clause of the Bill.</p> <p>Recommendation 10: The Select Committee should satisfy itself about what the intrinsic relationship between “Te Oranga o te Taiao” and all New Zealanders, present and future generations, may imply for the use, protection and development of the environment and its restoration and enhancement, including aesthetics within the built environment space. For example, tourists visiting the West Coast should also have a responsibility to uphold ‘Te Oranga o te Taiao’ by their careful use, enjoyment, and protection of the environment.</p>	
<p>11. The obligations for Te Oranga o te Taiao and Te Mana o te Wai all link together and should therefore be considered holistically, and not as a hierarchy</p>	<p>The question also arises as to how will ‘Te Oranga o te Taiao’ fit with ‘Te Mana o te Wai’ and whether there should be a hierarchy of obligations in Te Oranga o te Taiao similar to the hierarchy of obligations in Te Mana o te Wai, under the National Policy Statement (NPS) for Freshwater of September 2020. Answering this question is particularly important when considering the Council’s Long Term Plan; Regional Spatial Strategies (RSS); and developing long-term visions, strategic objectives, policies and methods, which may prioritise:</p> <ul style="list-style-type: none"> (a) first, the health and well-being of Mother Earth, Papatūānuku, and the natural environment; (b) second, the health and well-being needs of people (such as drinking water); and (c) third, the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future. <p>Rather than prioritise fundamental rights, it is suggested that all of these obligations are important; and that they should all be considered holistically and collectively as a whole because they all link together.</p> <p>There should therefore be no hierarchy of obligations in Te Oranga o te Taiao when developing long-term visions, strategic objectives, policies and methods; and there should be no prioritisation of the health and well-being of Mother Earth, Papatūānuku, and the natural environment over the health and well-being needs of people; and the ability of people and communities to provide for their social, economic, and cultural well-being, now and in the future.</p> <p>Instead, the proposed approach should be circular and iterative. This sort of system of linking norms together</p>	<p>4 3 7</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>and considering them holistically is referred to as a 'heterachy of obligations' as opposed to a 'hierarchy'. In other words, one part cannot exist without the other; and a form of planning strategies, policy, and rules need to be governed by other policy or rules, or to interface with them in certain ways, depending on the circumstances. Hence, no one norm dominates. The relationship between interdependent environmental, social, economic, and cultural rights and their inter-relationships are critical to enhance environmental, social, economic, and cultural well-being; and are characterised by multiple intricate links that create circular iterative paths rather than hierarchical ones.</p> <p>Recommendation 11: Because they all link together, that the obligations for "Te Oranga o te Taiao" and "Te Mana o te Wai" be considered holistically, and not as a hierarchy.</p>	
<p>12. That the 'Purpose Clause' be redrafted for clarity and legal consistency</p>	<p>Regarding the recommended special and differential treatment clause 3(4) below, it is proposed to be added to the Purpose section of the Act because special and differential treatment is a fundamental tenet of natural resource, development and climate change law agreed by New Zealand to be introduced into its national laws. When embedded in secondary parts of legislation or regulations, it has a lesser standing.</p> <p>Recommendation 12: That the Select Committee redraft the Purpose of the Natural and Built Environment Bill based on the guidelines above and below; and realign the NBE, and provisions within the NBE, to the purpose of local government under local government legislation, including the LGA and LGRA (strikethrough reflects text to be deleted, text to be added is shown with underline).</p> <p>NBE Bill current Purpose: 3 Purpose of this Act The purpose of this Act is to— (a) enable the use, development, and protection of the environment in a way that— (i) supports the well-being of present generations without compromising the well-being of future generations; and (ii) promotes outcomes for the benefit of the environment; and (iii) complies with environmental limits and their associated targets; and (iv) manages adverse effects; and (b) recognise and uphold te Oranga o te Taiao.</p> <p>Sample Proposed Purpose clause redrafted for dialogue, conversation, and consultation:</p>	<p>3 7</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>3 Purposes of this Act</p> <p>(1) The purposes of this Act are to—</p> <ul style="list-style-type: none"> a) <u>recognise and uphold the fundamental principle of te Oranga o te Taiao in a way that provides for the well-being of present and future generations of humankind, including their economic and social well-being, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities;</u> b) <u>subject to recognising and upholding te Oranga o te Taiao, to enable people and communities, to protect, preserve, use, develop, and where possible, to restore and enhance the ecological integrity of the natural environment;</u> c) <u>subject to recognising and upholding te Oranga o te Taiao, to enable people and communities, to protect, preserve, use, develop, restore and enhance the built environment that they create; and better enable development within environmental biophysical limits demonstrating a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure;</u> d) <u>better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change; and</u> e) <u>improve system efficiency and effectiveness and reduce complexity, while retaining local democratic input.</u> <p><u>(2) To achieve these purposes in a coherent manner, the Act—</u></p> <ul style="list-style-type: none"> a) <u>promotes and provides for outcomes for the benefit of the natural environment;</u> b) <u>promotes and provides for outcomes for the benefit of the built environment;</u> c) <u>requires that any adverse effects on the natural or built environment or biota resulting from using the environment must be avoided, minimised, remedied, offset, or redressed; and</u> d) <u>provides for environmental limits and their associated targets.</u> <p><u>(3) In this Act, Te Oranga o te Taiao means—</u></p> <ul style="list-style-type: none"> a) <u>the interconnectedness between all parts of the natural and built environment;</u> b) <u>the intrinsically good relationship between all people and the natural and built environment;</u> c) <u>the health, well-being and betterment of the natural environment;</u> 	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>d) <u>the health, well-being and enhanced aesthetics of the built environment;</u></p> <p>e) <u>the intrinsically good relationship between the health and well-being of the natural and built environments and their capacity to sustain life.</u></p> <p><u>(4) In their actions to achieve the purpose of this Act, the specific needs and special circumstances of regions that would have to bear a disproportionate or abnormal burden under this Act, should be given full consideration.</u></p>	
<p>13. Interpretation and drafting consistency needs significant work</p>	<p>Many of the definitions under the 'Interpretation' clause (clause 7 in the Bill) are untidy and loose. There is a concern that omissions and poor drafting will lead to the need for legal advice and challenges in Court. By using loose terms, and at times conflicting terms, which may lead to interpretation by mediators or by the Courts complicates process and adds cost. The Councils simply do not have the resources or funding to deal with interpretation challenges.</p> <p>Cross-referencing is excessive, resulting in having to search other documents to find the applicable meaning. At other times, cross references are made on cross references. This type of approach to drafting can be confusing, time-consuming, and increase processing costs if one of these cross references becomes redundant.</p> <p>There are several inconsistencies between the interpretation clause and the body of the Bill and these inconsistencies need correction. There are many interpretative errors throughout the Bills; but only a few examples are given below to illustrate where change is required.</p> <p>Several definitions are unclear. For example, when referring to an 'adverse effect', that 'does not include a trivial effect', it is unclear what 'trivial' means. Whereas 'adverse effects on the environment' may mean 'changes in the natural or built environment resulting from use, development or protection of the natural or built environment, which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and well-being'. The latter definition is clearer and contained but it still needs work.</p> <p>The term 'built environment' is used throughout the Bill but not defined: it should be defined.</p>	<p>7</p> <p>Entire NBE & SP Bills</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>'Environment' and 'natural environment' are used interchangeably to refer to the 'natural environment' in some parts of the Bill. This is confusing when 'Environment' is defined to include 'social, economic and cultural environments'. Whereas, it would seem that the 'natural environment' excludes social, economic and cultural environments'. Consistent with the Local Government Act, 'Natural environment' and 'built environment' should both be defined and remain distinct from, but related to, social, economic, and cultural well-being.</p> <p>As well as keeping things clear and easy to understand, another reason for keeping social, economic, cultural, and environmental rights identifiable is so we can make <i>lex specialis</i>, i.e., 'special laws', or provisions and relevant laws, policies, objectives, and rules, related directly to social, economic, cultural, and environmental well-being.</p> <p>Definitions are required for the 'natural environment' and the 'built environment', which are consistent with their application within the Bill. Consistency is beneficial and will help to achieve the intended objectives and provisions provided for in the Explanatory Note to the Bill.</p> <p>Recommendation 13:</p> <ol style="list-style-type: none"> a) Concerning the Interpretation clause (clause 7 of the NBE Bill), a thorough review is needed, keeping the Interpretation clause as self-contained as possible with fewer cross-references, and using 'plain English'. b) Define common terms commonly to avoid them being contested in court. c) Include a comprehensive interpretation section and apply it consistently across a single Act that integrates both the NBE and SP Bills. d) The review of the Interpretation clause should include, amongst other, either a definition in the Bill or guidance on, the definition of 'trivial effect'; and definitions in the Bill for the 'natural environment' and the 'built environment' that are consistent with their application within the Bill. e) Ensure that the intent expressed in the Explanatory Note to both the NBE and SP Bills is consistent with the substantive body of the respective Bills. 	
14. Strengthening of Te Tiriti o Waitangi	The Councils support ' <i>giving effect</i> ' to the principles of the Treaty of Waitangi rather than only 'taking them into account'.	4

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
<p>provision supported</p>	<p>The Explanatory Note reads, “[to] give effect to the principles of te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori”, and reflects Cabinet’s agreed objectives. In contrast, the relevant provision in clause 4 of the NBE Bill provision reads, “All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi.”</p> <p>Council’s iwi partners, Poutini Ngāi Tahu (PNT), want to reflect the objective from the Explanatory Note in the Purpose of the NBE Act, by extending giving effect to the principles of the Treaty of Waitangi to also include ‘greater recognition of te ao Māori, including mātauranga Māori’.</p> <p>Recommendation 14: That the wording of the Tiriti o Waitangi clause (reference clause 4 of the NBE Bill) is extended to reflect Cabinet’s agreed objective, and the objective stated in the Explanatory Note to the NBE Bill, and thereby provide that “All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi and provide greater recognition of Te Ao Māori, including Mātauranga Māori”.</p>	
<p>15. For the West Coast Mana Whakahono ā Rohe Iwi Participation Agreement to remain intact</p>	<p>Rather than rendering their Whakahono ā Rohe Iwi Participation Agreement void, the West Coast Councils and iwi partners support retaining their Whakahono ā Rohe Iwi Participation Agreement under the new Act(s).</p> <p>The Councils and iwi partners also support structuring a separate subpart for Mana Whakahono ā Rohe iwi participation agreements within the NBE Act. This subpart should be consistent with the RMA’s provisions for Whakahono ā Rohe because the West Coast’s Mana Whakahono ā Rohe is consistent with them.</p> <p>A lot of time, resources, and effort went into preparing the Mana Whakahono ā Rohe Partnership Protocol for the West Coast and the West Coast Regional Council, Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, and Te Rūnanga o Ngāi Tahu would like their existing Mana Whakahono ā Rohe agreement of October 2020 to remain intact. The Regional Council Councillors and iwi partners are reluctant to make changes after only three years. The Mana Whakahono ā Rohe is a form of contract we would like to continue to recognise and uphold.</p>	<p>Part 10, subpart 6</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 15:</p> <ul style="list-style-type: none"> a) That the “Paetae Kotahitanga ki Te Tai Poutini Partnership Protocol, Whakahono ā Rohe Resource Management Act Iwi Participation Agreement; A Protocol and Arrangement between Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, Te Rūnanga o Ngāi Tahu and the West Coast Regional Council of October 2020” is retained in the new law; b) That ‘Mana Whakahono ā Rohe’ is defined in the NBE Bill as per the Resource Management Act (RMA) definition, that is, Mana Whakahono ā Rohe means an iwi participation arrangement entered into under this subpart...; c) That other relevant Mana Whakahono ā Rohe definitions from the RMA are retained. For example, define ‘iwi participation legislation’ in the NBEA in the same way as it is defined in the RMA; d) That Central Government contributes to the funding and resourcing of Mana Whakahono ā Rohe to enable planning committees to comply with their obligations and to ensure iwi and hapū aspirations and expectations are met. Funding support from Central Government would also support the Crown’s commitment to its Treaty partnership. 	
<p>16. Rural activities are treated inequitably</p>	<p>The Resource Management Group (RMG) Reform Group has suggested that examples of inequitable treatment of rural and urban activities proliferate the Bill. In general, they say rural activities are required to internalise effects while urban activities are subject to broad exemptions.</p> <p>This issue is also raised in MfE’s SAR, which considers that the impacts for the primary sector and rural economies are likely to be wide ranging due to the objectives of the reform process being to improve environmental outcomes. (The associated costs and benefits are yet to be assessed).</p> <p>Some of these aforementioned concerns are already obvious in the freshwater and indigenous biodiversity protection policies and regulations under the Bill. And while some provisions may be further developed under the National Planning Framework, serious concerns remain with respect to the Bill.</p> <p>Councils, for example, are extremely concerned about the implications for the West Coast of new policy provisions in the NBE Bill related to Highly Vulnerable Biodiversity Areas (HVBA). The Councils are not aware of previous consultation on these provisions in earlier consultation documents on the Bill, and have not had the opportunity to provide earlier feedback on them.</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>The Councils are also very concerned about the reform process exacerbating inequities and imposing disproportionate burdens on the West Coast. Disproportionate burdens are especially concerning given that the West Coast is mainly a rural region. A substantial proportion of West Coast rural landowners, for example, will bear the costs of implementing reformed policies and regulations, and administering the NBE and SP Bills; but due to their larger rating base, these reforms will not affect people living in larger urban environments to the same extent.</p> <p>As another example of inequity, those living in urban areas which were once significant wetlands but are now lost or degraded are not required to contribute (financially) to wetland restoration or reinstatement, either in a communal space in the city, in their back yards, or on the West Coast. However, those living in rural areas with a wetland remaining on their land must bear the lost opportunity cost of retaining their wetland (unless the Government provides economic incentives for maintaining wetlands, for example, as carbon sinks).</p> <p>Recommendation 16: A primary production, and rural, sector-specific cost benefit analysis of transition to the new system at the regional and local district levels is required.</p>	
<p>17. Governance and accountability by local authorities is eroded while local authorities are burdened with funding new governance structures (including RPCs)</p>	<p>Under the proposed legislation, responsibilities for preparing plans will transfer from councils to a Regional Planning Committee (RPC). RPCs will be responsible for preparing a Regional Spatial Strategy (RSS) [regional strategic direction] and the Natural and Built Environment (NBE) plan.</p> <p>The West Coast Councils will no longer prepare plans for the natural and built environment; but they will be responsible for implementing and administering NBE plans.</p> <p>With responsibility shifting to the RPCs for decision making and planning purposes, it is highly likely that there will be a loss of regional and local accountability and local community voice, insofar that councils and local communities will have a reduced influence over critical decision-making about their unique place.</p>	<p>Explanatory Note</p> <p>3</p> <p>107</p> <p>643(1)(b)</p> <p>647</p> <p>Schedule 8</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>In addition, developing an all powerful and influential RPC that may become the de facto regulator of the natural and built environment, regional transport infrastructure, community infrastructure, and the council's assets, may mean that the RPC itself decides on the allocation of Council's funds without giving effect to the interests of local communities or ratepayers; or going through a more meaningful investment and 'sustainable development' process through the LGA process. As a result, there would be broad inconsistencies with the Sustainable Development Goals, the LGA, and local authority mandates.</p> <p>Regional councils have a proxy ability to contribute to decision making, and the plan making process, through the development of Statements of Regional Environmental Outcomes (SREOs) [and the District Councils may contribute Statements of Community Outcomes (SCOs)]. The RPC must have 'particular regard to' these SREOs and SCOs in developing the content of NBE Plans, but from a West Coast Council perspective 'particular regard to' this input is insufficient for it to manage risk exposure, minimise variance, or offset financial and investment losses.</p> <p>The Councils support the SREOs being optional under clause 643(1)(b) of the NBE Bill.</p> <p>The Councils suggest there should be an elevated role for local authorities in the planning process, which includes policy formulation and decision-making, particularly in the development of RSSs and NBE Plans. Maintaining their responsibility for policy formulation; "ensuring that rates are set in accordance with decisions that are made in a transparent and consultative manner"; and "providing for processes and information to enable ratepayers to identify and understand their liability for rates", is also consistent with the purpose of the Local Government Act (LGA) and the Local Government (Rating) Act (LGRA). Councils must have an adequate input to this reform process if they are to implement and administer it.</p> <p>Despite RSSs and NBE plans being developed at 'arm's length' from the Councils, possibly by teams of expensive consultants and contractors, the Councils will still have to continue to follow through the plan development process; implement and administer the plans; commit to new provisions for consenting and compliance, monitoring and enforcement; and find incremental funds to implement core parts of the new system.</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Regional and district councils bring different skillsets and expertise, and a strategic local view must be accounted for in the representation model for Regional Planning Committees (RPCs).</p> <p>The Councils support RPCs having a minimum of 6 members (with a minimum of 2 iwi members).</p> <p>The Councils suggest that the RPC be supported by an expert advisory panel that can provide advice to the Committee on respective matters as and when needed. The advisory panel should include a Department of Conservation (DoC) representative if the matter relates to the coastal marine area.</p> <p>The SP Bill does not clearly outline the composition of an RPC for developing a RSS. This should be made clear in the Bill, and the Council's suggest a single composition arrangement for this.</p> <p>There is also no provision for the RPC to design its own RSS development and engagement process.</p> <p>RPCs are not rate-setting authorities under the Local Government (Rating) Act (LGRA), and by virtue of the LGRA, RPCs have no authority over local authorities with regards to setting rates to cover the costs of the RM reform process or the RPC process. The LGRA is specific as to who can set a rate. Notwithstanding, both the NBE and SP Bills are doing precisely this: they are indirectly setting a rate because they are increasing costs for local authorities.</p> <p>By virtue of the NBE and SP Bills, a RPC may direct where the local authority has responsibilities and by proxy set the rate. This will establish a dangerous precedent by increasing risk exposure for local authorities, local ratepayers, and West Coast communities, especially if councils are not adequately represented or heard on the RPC; or not represented at all.</p> <p>Feedback 1:</p> <p>a) The Councils oppose the Regional Planning Committees (RPCs) having policy formulation, plan-making, and decision-making roles for developing regional strategies, long-term plans, regional resource use plans, and the one region-wide NBE Plan as proposed in the NBE and SP Bills, because the delegation of these decision making powers creates a disconnect with councils powers to set</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>rates based on transparent consultation, informed decision-making and ratepayers ability to pay;</p> <p>b) If the provisions for RPCs are retained in the NBE Act, the Councils support RPCs having a minimum of 6 members (with a minimum of 2 iwi members).</p> <p>Recommendations are given throughout the submission with respect to the structure of the RPCs.</p> <p>Recommendation 17: As to the responsibilities and operations of the RPC, if the provisions for the establishment of RPCs are retained in the NBE Act, that:</p> <p>a) Plan making is not delegated to the RPC;</p> <p>b) All RPC members should be remunerated by central government;</p> <p>c) The Spatial Planning Act (SPA) provides for the RPC to design its own Regional Spatial Strategy (RSS) development process and to make provision for a local engagement process;</p> <p>d) The voting process within the RPC be based on unanimity; and</p> <p>e) Resources and reasonable timeframes are allocated to ensure informed decision making and plan making based on the evidence. For example, in the case of the West Coast, resources and adequate timeframes are required to make planning provisions for natural hazards.</p>	
<p>18. Council strongly suggests an alternative structure for the proposed RPC</p>	<p>The West Coast Councils strongly suggest an alternative structure for the proposed RPC.</p> <p>Regarding representation on RPC's: Any committee making decisions or setting directions that impact District Councils, and their districts, needs representation from all Councils. With the West Coast being a large land area there are different things that work and don't work for each of Grey, Westland and Buller communities and district representation is key.</p> <p>The Councils oppose central government membership on the RPC for the development of a RSS for the West Coast. If the central government representative is from a central government department which regularly submits on the WCRC's Regional Policy Statement (RPS) and regional plans, for example, the Department of Conservation (DoC), there will be a clear breach of professional conduct. Due to the obvious conflict of interests, it is inappropriate and unjust for DoC to be both a submitter and creator of the RPS or NBE Plan by virtue of being a member of the RPC.</p>	<p>Explanatory Note</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 18: If the provisions for Regional Planning Committees (RPCs) are retained in the NBE Act, that provision is made for the following, either in the NBE Act or in an Order in Council:</p> <ul style="list-style-type: none"> a) That the intent of the Explanatory Note be carried forward into the body of the bill insofar that “RPCs will be established as committees of all councils in the region”; and that a minimum of two members per council be appointed. One of these members from each council should be an elected member; b) That representation is reflective of iwi as the Treaty Partner within their respective takiwā, with there being a minimum of two iwi members on the RPC. Subject to agreed guidelines, mana whenua will appoint mana whenua representatives; c) That the appointment of the RPC Chair is subject to a transparent process, and a unanimous vote with 100% of all councils and iwi in the region voting in the affirmative; d) That there is no Central Government or Department of Conservation (DoC) representative on the RPC under the NBEA or SPA, which means no DoC representative on the RPC for Regional Spatial Strategies (RSSs); e) That the RPC is supported by an expert advisory panel funded by Central Government to provide advice to the Committee on respective matters as and when needed. A DoC representative may be included on the expert advisory panel if the matter relates to the Coastal Marine Area. 	
<p>19. Clarity required on the future role for the Ministry for the Environment and NBE Regulators</p>	<p>While the Ministry for the Environment (MfE) was responsible for “administering” the RMA, no such provision is provided for in the NBE and SP Bills. The Bill provides that Councils will become an ‘administrator’ and ‘implementer’.</p> <p>The Explanatory Note to the NBE Bill refers to the Ministry as an ‘auditor’ of NBE Plans, and under ‘functions, duties and powers of Ministry’, the Ministry is to prepare and issue guidance to assist NBE regulators. Clarity is required as to who will administer the Act(s).</p> <p>Various parts of the Bills give the yet-to-be-designated Minister specific responsibilities, for example, to direct the content of the National Planning Framework, and to consider requests for exemptions from meeting environmental limits. These responsibilities, and the processes involved, need to be clearly articulated and well understood.</p>	<p>694</p> <p>723</p> <p>741-744</p> <p>786</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Clarity is also required on the establishment of the new 'NBE Regulators'. There is a need to understand their function, responsibilities, and processes involved, at the enactment of the Bills and into the future, and who is going to fund them.</p> <p>Recommendation 19:</p> <ul style="list-style-type: none"> a) That Parliament provides clarity on the role of the Ministry for the Environment in relation to the new Bills; b) That Parliament also provides clarity on the rationale for central government setting up yet another new regulator ('NBE regulators'); and c) That Parliament also clarifies responsibilities, operational, financial, process, and funding considerations and provisions for NBE Regulator's new and intended roles. 	
<p>20. Provision for RPC to be able to legally challenge local authorities; fine local authorities; or commence or be a party to legal proceedings against local authorities, is not supported</p>	<p>Whether the RPC will have legislated authority to fine or sue council's is an important question. The Bill, for instance, extends powers to the RPC to 'act independently' of councils; and gives the RPC 'separate legal standing'. Clause 100 (3) provides that "A regional planning committee must, in performing or exercising its functions, duties, and powers under this Act and under the Spatial Planning Act 2022, <u>act independently</u> of the host local authority and other local authorities in its region, in accordance with the local authority within which the planning committee operates (host local authority)" [underlining for emphasis]. Clause 100 (4) provides that "A regional planning committee has <u>separate legal standing</u> from its constituent authorities and organisations for the purpose of commencing, or being a party to, or being heard in legal proceedings" [underlining for emphasis].</p> <p>In essence, by creating the RPC as a separate legal entity and delegating powers of decision making and plan making from councils to the RPC; and creating new powers of implementation and administration for councils, opens the door to whether an RPC will be able to fine local authorities; or commence or be a party to legal proceedings against councils.</p> <p>The Councils strongly oppose being open to legal challenges and legal proceedings for decisions over which they have little to no control. Such practice is not 'good practice'. Nor is it consistent with using consultations or alternative dispute resolution processes, such as, mediation, to try and resolve differences and conflicts.</p>	<p>100 (3) NBE Bill</p> <p>100 (4) NBE Bill</p>

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	<p>Specific problems may arise, for example, where national direction is very impracticable to implement in a district or region. The probability of this problem arising is high, especially when a 'one size fits all' approach is taken in the national direction with little to no consideration of local or regional variations. Rather than mounting a legal challenge, there are other tools available if a local authority contravenes a national direction for no good reason.</p> <p>In the absence of due regulatory process, another messy business could arise if one NBE Regulator (the RPC for instance) were to take action against another NBE Regulator (such as, the Councils) on regulatory process matters.</p> <p>Rather than stream-lining processes, these examples further illustrate how, in their current form, the proposed reforms add complicated and costly processes to resource management. In their current form, the Bill's relevant provisions covering these matters are likely to increase cost-ineffectiveness and inefficiencies. What is done in haste is sometimes done carelessly. The reform process should therefore slow down and take a methodical approach to introducing and managing change.</p> <p>Recommendation 20: The RPC should not have legislated authority to mount a legal challenge against local authorities; fine local authorities; or commence legal proceedings against local authorities if they do not abide by national directives, the RSS or NBE Plans.</p> <p>Recommendation 21: That councils be protected from legal proceedings insofar that no action should lie against any member of the Council, or its Governance Committees, for anything they say, do, or omit to say or do while acting in good faith in the performance of their duties.</p>	
Duties and Restrictions (Part 2, NBE Bill)		
21. Clarification is needed between the Effects Management Framework (managing negative externalities), and the	<p>Managing adverse effects will remain an important feature of the new resource management system, but it is unclear how managing adverse effects will sit with the system outcomes. It is also unclear what happens when adverse effects are contrary to outcomes or stated limits.</p> <p>Managing negative externalities through an Effects Management Framework (EMF) was one key contributor to sustainable management under the RMA's Part 2 Principles and Purpose. But we should not assume that</p>	5 14 61 62

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
<p>Effects Management Hierarchy</p>	<p>requiring the promotion of a broad range of unprioritised, iterative 'plan outcomes' to 'system outcomes' is necessarily going to achieve these 'system outcomes' in and of themselves (an example of the implications is below). Instead, Parliament needs to reach broad agreement on the core principles, purpose, elements and framework of environmental protection and enhancement that must be put in place and limit the scope for Ministers to change them every three years; and underpinning provisions need to be consistent with the purpose and principles.</p> <p>The Effects Management Framework (EMF) provided for in clause 62 of the NBE Bill applies to adverse effects on significant biodiversity areas and specified cultural heritage. And provisions covering the National Planning Framework (NPF) direct that the EMF may apply to other areas. The Effects Management Framework also refers to managing adverse effects through duties (and it includes a different effects management hierarchy in relation to different duties). In some places, the Bill refers to "Avoid, minimise, remedy, offset, compensate"; in other places it refers to "avoid, remedy, mitigate, offset, redress"; and in others still it provides for "avoid, remedy, mitigate". Not only will the RPC be completely confused in making plans designed to achieve 'system outcomes' but so will any Independent Hearing Panel. Council suggests that references to the EMF should be clear and consistent throughout the Act. This does not mean that the effects management hierarchy should be made the same as the EMF, which is very restrictive.</p> <p>The Bill's provisions are hard to follow due to different hierarchies and conflicting duties; and these 'conflict of norms' will have a flow on effect to 'system outcomes'. This is also concerning when administering and implementing the Bills, for example, when trying to apply the EMF or the effects management hierarchy to assessing effects of activities affecting highly vulnerable biodiversity areas. In brief, inconsistencies in the Effects Management Hierarchy would be a recipe for disaster. There should be transparent and consistent hierarchy for management of adverse effects.</p> <p>Recommendation 22:</p> <p>a) The terms used in the Effects Management Framework (EMF), and in the Effects Management Hierarchy (EMH), should be consistent throughout the Bill (this does not mean that the EMF and the 'effects management hierarchy' are the same);</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	b) Ensure that offsetting and compensation are provided for in the Natural and Built Environments Act (NBEA), as part of the Effects Management Hierarchy and the Effects Management Framework.	
National Planning Framework (NPF) (Part 3, NBE Bill)		
22. National Planning Framework – clarification required	<p>The National Planning Framework (NPF) should provide clear direction to regional councils and territorial authorities (TAs) as to what their roles will be.</p> <p>The Councils cannot provide informed feedback on the National Planning Framework (NPF) until more information about its content is made available. It is not known how much the existing National Policy Statements (NPSs) and National Environmental Standards (NESs) will change to fit into the NPF. Since the NPF is not yet released, this makes it difficult to provide useful comments on the “environmental limits” provisions in the NBE Bill. The Government should provide more information at this stage, so councils can provide meaningful feedback on the environmental limits.</p> <p>Recommendation 23: That Central Government provides clarification on what will be in the NPF as soon as possible.</p>	
23. Ensure that iwi values and aspirations are recognised and mana whenua are engaged in developing the NPF	There will be a need to ensure that iwi values and aspirations are recognised and mana whenua are engaged in developing the NPF.	
24. Limits and targets should be provided for the built environment, including housing affordability limits and supply of affordable housing	<p>One of the core objectives of the NBE Bill as stipulated in the Explanatory Note, and therefore presumably intended to be provided for in the substantive part of the Bill, is to “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”. However, as drafted in its substantive provisions, the Bill does not require built environment limits, and it has no adequate limits to provide for the matters mentioned above.</p> <p>It is also not clear what happens if targets change, and who bears the additional cost of more stringent core objectives, limits, and targets.</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 24: That limits and targets, including limits and targets for housing affordability and supply of affordable housing, be provided for the built environment.</p>	
<p>25. Regionally appropriate limits needed</p>	<p>The Councils are concerned that the environmental limits in the National Planning Framework (NPF) will be appropriate in some regions but could have perverse outcomes in other regions. For example, the four West Coast Councils submitted on the National Policy Statement for Indigenous Biodiversity (NPSIB) Exposure Draft in July 2022 raising concerns about Part 3.16 of that draft, which refers to Maintaining indigenous biodiversity outside Significant Natural Areas (SNAs).</p> <p>By reference to that submission, Part 3.16 of the NPSIB Exposure Draft “<i>has wide application and requires that indigenous biodiversity (other than Significant Natural Areas, SNAs) must be maintained by the Councils. This will be a considerable undertaking on the West Coast and the very good condition overall of the indigenous biological diversity on the West Coast does not warrant this lower level of management to non-SNA, given the extent [of area] that is already protected in public conservation land (PCL), QEII covenant, and other protection mechanisms. These provisions are onerous for the West Coast as they will have the effect of treating non-SNA areas as if they are SNAs. Any adverse effects on an area of indigenous biodiversity not classified as an SNA will have to be managed applying the effects management hierarchy, and then it is caught by the ‘no net loss’ provision.</i></p> <p><i>Of note, the application of the effects management hierarchy applies regardless of the scale or significance of the adverse effects, which may be irreversible. There is no requirement for regions with minimal indigenous biodiversity to increase their indigenous vegetation cover and indigenous biodiversity habitat and ecosystems to approximately 90+% of their region, which is what Part 3.16, in tandem with other provisions, by implication, requires of the West Coast.”</i></p> <p>The Councils reiterate their concern that ‘one size does not fit all’. The environmental limits in the NPF must be flexible to provide for regional differences.</p> <p>A degree of flexibility could be achieved by amending clause 44 (exemptions from environmental limits may be directed) and clause 45 (essential features of exemption) of the NBE Bill. Under these provisions, the responsible Minister may direct an RPC’s request for an exemption from an environmental limit to ecological integrity; and</p>	<p>44-45</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>the responsible Minister must progress the direction as a change to the NPF. The Councils suggest that flexibility may be achieved were the responsible Minister to provide exemptions from meeting an environmental limit in the NPF that is not relevant to, or achievable on, the West Coast. This exception, and funding it through central government, would be consistent with Council's proposed changes to the NBEA's Purpose Clause and the insertion of a special and differential treatment clause.</p> <p>The Councils support in principle the option to obtain an exemption, subject to having more information on how this will be implemented, and the cost to the Councils.</p> <p>The Councils are aware that mahinga kai is fundamental to the identity and wellbeing of Ngāi Tahu whānui. The NPF limits need to be flexible enough to provide for mahinga kai in a way that is appropriate to the regions which are within the Ngāi Tahu takiwā.</p> <p>Feedback 2: The Councils support the use of qualitative and quantitative methods to set environmental limits and the use of mātauranga Māori to set limits. Regional limits must be set in partnership with iwi.</p> <p>Recommendation 25:</p> <ul style="list-style-type: none"> a) That regional differences are provided for when setting environmental limits to protect the natural environment and provide for current and future generation's wellbeing. These limits must be set in partnership with iwi; b) That the prescribed environmental limits, and environmental outcomes, must include mahinga kai; c) That indigenous biodiversity limits set at the national level will be flexible enough to allow for regionally appropriate limits; d) That MfE provides more and sufficient information to the Councils so that the Councils may consider and comment on how the proposed exemption from an environmental limit mechanism will function and be implemented; e) That the Councils proposed changes to the exemption clauses (reference, for example, clauses 44 and 45) are extended to give effect to special and differential treatment for the West Coast. 	
26. Provision required for local decision making	The Councils have concerns around what types and scale of environmental conflicts will be determined at the national level vis-à-vis the regional and local levels. The Councils seek to retain the ability to use local decision-making, including local decision-making about	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>community health and wellbeing, to resolve environmental conflicts. Councils could then lodge their respective resolutions to resolve environmental conflicts with the RPC.</p> <p>If National Policy Statements (NPSs) and National Environmental Standards (NESs) are within the proposed National Planning Framework (NPF), then some conflicts may be resolved at the national level already. There will, however, remain a need for local engagement, and to recognise and uphold the principle of subsidiarity, which means that decision making is made as close to local communities as possible. In this sense, central government has a subsidiary function, performing only those tasks which cannot be performed at a regional or more local level. Central government intervention is thereby ruled out when regional and district councils can deal with a matter more effectively through regional policy and rules. In turn, local government retains a degree of independence in relation to central government while sharing certain powers.</p> <p>Recommendation 26:</p> <p>a) That the NPF includes a process to allow local priorities to be set and local decision-making to resolve environmental conflicts.</p> <p>b) Ensure there are provisions in the NBEA for good local governance and representation in plan-making and decision-making processes.</p>	
<p>27. Councils seek to be engaged in a co-design process for developing the National Planning Framework</p>	<p>The Councils are concerned that there are limited opportunities for local authorities to be involved in the development of the National Planning Framework (NPF). The process for developing the NPF is not a collaborative or co-design process with local authorities. Collaboration and co-design would be the Councils preference, given the broad ambit of the NPF, and the significant implications that national direction has at the regional and local level.</p> <p>Recommendation 27: A collaborative, co-design process is made available for councils to participate in the development of the National Planning Framework.</p>	
<p>NBE Plans (Part 4, NBE Bill)</p>		
<p>28. Relationship between 'Engagement Agreements' and 'Mana Whakahono ā</p>	<p>According to the NBE Bill, a Regional Planning Committee (RPC) must initiate engagement agreements for developing its first NBEA plan. Clause 11 of Schedule 7 provides for the RPC to invite iwi authorities, hapū representatives and other mana whenua groups to enter into one or more engagement agreements. It is not clear, however, if an engagement agreement is required</p>	<p>Schedule 7, subpart 2</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
<p>Rohe Participation Arrangements ' to be clarified</p>	<p>where mana whenua representatives are already on the RPC, and if engagement agreements should only be with iwi and customary marine title owners. It is also unclear where the Mana Whakahono ā Rohe Participation Arrangement between the West Coast Regional Council and Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio, and Te Rūnanga o Ngāi Tahu sits in relation to the engagement agreement provisions.</p> <p>The WCRC's iwi partners, Poutini Ngāi Tahu (PNT), would not want two agreements if equivalent provisions are already in their Mana Whakahono ā Rohe Participation Arrangement; but they would like to have the flexibility to choose whether to enter into an engagement agreement as well as their Mana Whakahono ā Rohe Participation Arrangement. This decision will depend on what exactly an 'engagement agreement' is; and what the new processes will entail in terms of resources and funding. Before making any decision about this, PNT have requested to see what an engagement agreement would cover outside of a Mana Whakahono ā Rohe Participation Arrangement. If provisions are already incorporated in Te Tai Poutini/West Coast Mana Whakahono ā Rohe Participation Agreement, and PNT do not want an additional engagement agreement, then the parties should not have to develop a secondary arrangement. PNT were working on the Mana Whakahono ā Rohe arrangement from 2017 and, like WCRC, are very proud of what they have achieved with the Mana Whakahono ā Rohe Participation Arrangement.</p> <p>Recommendation 28: That Central Government clarifies the relationship between 'Engagement Agreements' and 'Mana Whakahono ā Rohe Participation Arrangements' in the NBE Bill. Central government must clearly communicate its intentions re the terms arrangement versus agreement to avoid any confusion or ambiguity. (If provisions are already incorporated in Mana Whakahono ā Rohe Participation Arrangements, then the Parties should not have to develop a secondary arrangement unless they want to do so).</p>	
Resource Consenting and Proposals of National Significance (Part 5, NBE Bill)		
<p>29. A link is required between regional strategies, Councils' long</p>	<p>Strategic direction for the region, vision, objectives provided for in the SP Bill, and policies provided for by virtue of both the NBE and SP Bills are disconnected from consenting. Furthermore, there are aspects of consenting, compliance, monitoring and enforcement, which are driven through councils' Long Term Plan</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
<p>term plan process, and consenting, compliance, monitoring and enforcement.</p>	<p>process, and which require a link between the NBEA and the Local Government Act (LGA).</p> <p>Recommendation 29: That a process link is made between regional strategies, councils' long term plan process and consenting, compliance, monitoring and enforcement and provided for in the Bills; and central government must clearly communicate its intentions re the terms arrangement versus agreement to avoid any confusion or ambiguity.</p>	
<p>30. Revised activity categories should be subject to guidelines</p>	<p>The Councils neither support or oppose categorising activities as permitted, controlled, discretionary and prohibited activities, and no longer having restricted discretionary or non-complying activities. However, guidelines and conditions for determination of applications should remain.</p> <p>Considerable work will be required of councils to decide whether a current restricted discretionary activity rule in their district or regional plan should become a controlled or discretionary activity, and then to change the plan rules accordingly. The Councils question whether the time needed to change rule categories for the NBE plan have been taken into account when setting the two-year timeframe to develop NBE plans.</p> <p>Recommendation 30:</p> <ul style="list-style-type: none"> a) Guidelines and conditions for making determinations on consent applications under the amended activity categories should be developed. b) Extend the two-year timeframe for developing NBE plans to allow sufficient time to change activity categories, so they are consistent with the NBEA categories. 	<p>153</p> <p>154</p>
<p>31. Processing Permitted Activity Notices would require additional resources and new processes, which would come at an extra cost, but implications unknown until implemented</p>	<p>The Councils oppose the provision requiring councils to issue Permitted Activity Notices for permitted activities. We agree with Te Uru Kahika's draft submission point: "Permitted Activity Notices add a new bureaucratic process for councils and is not likely to create efficiencies."</p> <p>Processing Permitted Activity Notices would add a new administrative layer for councils and require extra resources and funding; but councils will not really know the implications until they are implemented. The West Coast Councils have such a small staffing level they would need to find more staff.</p>	<p>302</p> <p>303</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
– remove from Bill	<p>Recommendation 31: Remove the Permitted Activity Notice provisions from the NBE Bill.</p>	
32. Processing redefined Controlled Activities will incur extra costs - a clear definition required and for the Councils not to incur extra costs	<p>The Councils note that Controlled Activities are defined differently under the RMA and NBE; and they are concerned with this difference given the extra resourcing and processing costs to be incurred by local government under the proposed RM reforms.</p> <p>Recommendation 32: That the new Controlled Activity category is defined clearly in the NBE Bill, and that Council work on the new Controlled Activity category must be funded by Central Government and not incur extra costs for the Councils.</p>	
33. The ability to assess an applicant's prior record is a positive step	<p>The Councils support the new provision that enables councils to assess a consent applicant's prior record of managing their resource use activity. Being able to assess an applicant's prior consent record is a positive step forward because this enables the broader context to be taken into account. For example, a cumulative number of abatement notices may demonstrate a pattern of poor operation. Conversely, a history of good practice with compliance, and with complying with their consent conditions, means less likelihood of needing compliance monitoring. These understandings will enable compliance staff to prioritise monitoring of poor practice with potentially larger adverse effects.</p> <p>Recommendation 33: Retain the new provision in the NBE Bill that enables councils to assess a consent applicant's prior record of managing their resource use activity.</p>	
34. Consenting allocations should be determined at a local level	<p>The West Coast Councils agree that there are delays in the current consenting process, especially concerning affected parties, and that inconsistencies across councils need to be addressed.</p> <p>For the most part, the RMA does not contain specific provisions to guide decision-making about resource consent allocation. Case law has developed to fill the void and developed the 'first-in, first-out' or 'first-in, first-served' principle. In other words, the first application for a resource consent received by councils must be heard and decided on first. The 'first-in, first-out' system has its advantages and disadvantages and should be considered as part of the reform process. For example, consent officers should be able to determine which consent applications should be addressed at a particular time subject to council agreed outcomes and local circumstances. Making things even across the board</p>	87 88

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>does not work as the regions are different and have different priorities for resource use activities.</p> <p>The NBE Bill proposes to have requirements in the National Planning Framework that will direct how consent applications for resource use will be allocated. However, consent officers should be able to determine which consent applications should be addressed at a particular time, subject to Council agreed outcomes and local circumstances.</p> <p>Recommendation 34: That Clauses 87 and 88 of the NBE Bill, giving the National Planning Framework the power to direct how consent applications for resource use will be allocated, are removed from the Bill and the Act.</p>	
<p>35. System Inefficiencies to be addressed (comment from RMG reform subgroup supported and examples as to how to improve efficiencies embedded throughout submission)</p>	<p>According to the Resource Management Group's Reform Subgroup, both Bills are process-heavy with the potential for reduced system efficiency. The Councils agree with this view; and have provided examples throughout this submission.</p> <p>Some proposals to standardise parts of the system could in fact reduce system efficiency. For example, requirements to publicly notify all discretionary activities, Permitted Activity Notices and Compliance, Monitoring and Enforcement strategies.</p> <p>Feedback 3: Both Bills are process-heavy with the potential for reduced system efficiency.</p>	
<p>36. Increased Consenting (including document processing of 'notices'), Notifications, and Authorisations increases processing times and costs and reduces system efficiency – these provisions are not supported</p>	<p>Clause 200 of the NBE Bill provides that the National Planning Framework or plans must set the notification status for a resource consent at the time the plan is developed. However, councils need to be able to make notification decisions on a case-by-case basis. If choice is not provided in the Bill for the West Coast Councils concerning the notification process, then the Councils may be faced with a lot more notifications and potentially more hearings. The West Coast Councils have limited need for notifications, but they do occur, for example, new green field mines and big hydro schemes would need to be notified; but if everything needs to be notified then the Councils do not have the capacity or resources to manage more hearings, especially where the Regional Council has to take the lead.</p> <p>Requiring plans to set notification statuses at the time of plan development risks a less effective and efficient system.</p>	<p>200</p> <p>275, 276</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Plans cannot anticipate all possible consent proposal scenarios, and applications for the same activity can have markedly different effects in terms of type, scale, and significance.</p> <p>A potential outcome of setting plan notifications at the same time as developing the plan is that plans will have a high proportion of discretionary activities, with public notification as the default status. This approach as provided for by the new resource management reforms will increase processing times and costs and reduce system efficiency.</p> <p>Recommendation 35: Remove the requirement for NBE plans to set notification statuses at the time of plan development.</p> <p><u>Consent Durations</u> Consent durations for critical council infrastructure or functions, for example, flood engineering and biosecurity, should be exempt from the 10-year consent durations.</p> <p>Recommendation 36: Provide an exemption from the 10-year consent duration for critical council infrastructure or functions, such as, flood engineering and biosecurity.</p> <p><u>Consent Reviews</u> The ability to review the duration of a consent is useful and will provide regional councils with another tool to respond to the adverse impacts of lawful activities. However, a far broader range of tools, for example, compensation, is needed to support landowners transition to more sustainable land uses.</p> <p>Recommendation 37: Make provisions for compensation to support landowners transition to more sustainable land use.</p>	
37. Consent authority may permit activity by waiving compliance with certain requirements, conditions, or permissions – marginal or temporary	The NBE Bill provides for councils to determine “temporary” and “marginal” non-compliance. These provisions will cost more money; and temporary and marginal non-compliance would need to be defined well in order for councils to give effect to clause 157 (reference ‘Consent authority may permit activity by waiving compliance with certain requirements, conditions, or permissions’), and avoid being subject to more frequent legal challenges.	157

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
non-compliance needs defining	<p>Feedback 4: Subject to guidance being provided on how the terms “deemed”, “temporary” and “marginal” are to be defined; and that cost recovery and funding is provided by Central Government; and that local governments have the capacity to deliver and avoid being subject to more frequent legal challenges, the Councils support provisions under clause 157 in the NBE Bill, which is entitled ‘Consent authority may permit activity by waiving compliance with certain requirements, conditions, or permissions’ (reference clause 157 of the NBE Bill).</p>	
38. Key links in planning and implementation cycle weakened	<p>The Councils agree with Te Uru Kahika’s draft submission point: “The disconnect between NBE plans being developed by RPCs and implementation being done by councils, is likely to mean that the feedback loop from compliance / consenting staff back to RPC will suffer under the proposed system. This creates a risk that the RPC process will be slow to address urgent emerging issues (which can currently be addressed via notified consenting processes) which in turn might increase RPC reliance on discretionary activities.” The end result is further delay and increased costs and inefficiencies.</p> <p>Recommendation 38: In order to retain and strengthen the link between plan making and implementation, Councils must retain a key role in decision making and plan making.</p>	
39. Maintain the integrity of current permits and consents issued under the RMA or consider a fair and reasonable ‘grace’ period	<p>The Councils are concerned that there does not appear to be a fair and reasonable ‘grace’ period for all current permits and consents issued under the RMA to expire after the NBE Act comes into force. The WCRC does not issue mandatory common expiry dates for water permits, discharge permits or land use consents and does not support these permits and consents expiring three years after the NBEA 2022 comes into force. If this provision is retained in the NBE Act, it will be a real issue. It is noted that provision is made in Schedule 15 of the NBE to amend Schedule 12 of the RMA by inserting Part 6 provisions relating to the NBEA 2022.</p> <p>The Councils do not support these provisions because they have significant resourcing issues for regional and unitary consent authorities, they do not stream-line processes, and are not cost effective or efficient. A more resource efficient method would be for NBE plans to specify a fair and reasonable transitional approach.</p>	Schedule 15

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 39:</p> <p>a) That the NBE Bill is amended so that a fair and reasonable ‘grace period’ for all current permits and consents issued under the RMA is determined in consultation with councils; and</p> <p>b) That all permits and consents issued under the RMA remain current until a fair and reasonable transition date is set.</p>	
Matters Relevant to NBE Plans – Designations, Heritage, Biodiversity (Part 8, NBE Bill)		
<p>40. Councils are extremely concerned about the implications of regulating Areas of Highly Vulnerable Biodiversity, and offsetting and redress principles, on the West Coast</p>	<p>The Councils are extremely concerned about the implications of this new part of the NBE Bill on Areas of highly vulnerable biodiversity, as it applies to the West Coast. The Councils are not aware of previous consultation on these provisions in earlier consultation documents on the Bill; and have not had the opportunity to provide earlier feedback on it.</p> <p>Clauses 562-567 outline criteria for identifying highly vulnerable biodiversity areas (HVBAs), limits to activities within HVBAs, limits to exemptions, and the Minister of Conservation’s power to declare critical habitat.</p> <p>It is unclear how these limits sit with the identification of terrestrial Significant Natural Areas (SNAs) and restrictions on activities within or affecting an SNA, in the upcoming National Policy Statement for Indigenous Biodiversity (NPSIB).</p> <p>It is also unclear how Schedule 3 Principles for biodiversity offsetting, and Schedule 4 Principles for biodiversity redress, sit in relation to the offsetting and compensation provisions of the NPSIB.</p> <p>Clause 567 is particularly concerning as it appears to give the Minister of Conservation almost unlimited powers to declare an area to be a critical habitat, regardless of whether it is on private or public land. There is no requirement in the Bill for the Minister to consult with the landowner about options, such as, DoC purchasing the land at market value, providing compensation for loss of economic value of the land at market rates, or discussing moving the habitat to another site on public land.</p> <p>The Bill’s provisions could potentially have perverse economic and social outcomes for the West Coast if rare or critically threatened or endangered species are located on private land.</p>	<p>Part 8 Matters relevant to natural and built environment plans</p> <p>562-567</p> <p>Schedule 3 Principles for biodiversity offsetting</p> <p>Schedule 4 Principles for biodiversity redress</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Given the higher proportion of indigenous vegetation cover on private land on the West Coast compared to other regions, there is a reasonable risk of rare or critically threatened or endangered species' habitat occurring on private land. The Bill's provisions could also be inconsistent with Council's recommended system outcome for improved rural economic well-being.</p> <p>It is also extremely unjust for individual landowners to bear the cost of protecting and maintaining rare or critically threatened or endangered species on their land, when this is a matter of national importance, and all New Zealanders should bear the cost.</p> <p>Recommendation 40:</p> <p>a) That provisions relating to Areas of Highly Vulnerable Biodiversity be removed from the NBE Bill until DoC undertakes consultation with private landowners about rare or critically threatened or endangered species on their private land; these consultations must include consideration of options for DoC to purchase the land at market value, provide compensation for loss of economic value of the land at market rates, or move the habitat to another site on public land (reference clauses 562-567 of the NBE Bill).</p> <p>b) That Schedule 3 'Principles for biodiversity offsetting' and Schedule 4 'Principles for biodiversity redress' be removed from the NBE Bill until the matters in clause a) of this Recommendation are resolved, and the provisions of the National Policy Statement Indigenous Biodiversity (NPSIB) are known and consulted on.</p>	
Exercise of Functions, Powers, and Duties Under the Act (Part 10, NBE Bill)		
41. Function and structure of Regional Planning Committees (RPCs) requires further work	The Councils agree with the Te Uru Kahika (Regional and Unitary Councils Aotearoa) regional sector draft submission point, that RPCs are very weakly accountable for the policy decisions they make under the proposed NBE Bill. Except via the optional SCO and SREO processes, and providing the RPC gives effect to SCOs and SREOs, which it is not obliged to do so, Councils, which are electorally accountable, may have little influence but will still be accountable for decisions made by the RPC and others. ¹¹ Weak accountability of RPCs also breaks administrative, operational, and functional accountability. With respect to functional accountability and agency problems, for example, a	

¹¹ Statements of Regional Environment Outcomes are to be prepared by Regional Councils (SREOs), and Statements of Community Outcomes prepared by territorial authorities (SCOs).

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>number of council staff will be employed by councils but will be working for, supporting, and reporting to an independent legal entity (the RPC), which may be making decisions, strategies, long-term plans, and rules, contrary to decisions made by their local or regional council employer.</p> <p>It is also unclear, following release of the RPC decisions on an NBEA plan (if it does make and release such decisions), as to who will act for the employer or agent; and as to who will fund legal proceedings, for example, if any appeals are lodged.</p> <p>The Councils are also concerned about councils having limited input to the RPC process but being accountable for nearly everything the RPC does. In their current form the NBE and SP Bills expose local authorities, including the West Coast Councils, to significant risk. (The Councils will be responsible for delivery and implementation of decisions that they may not necessarily make or agree with).</p> <p>Furthermore, the Councils do not support the option put forward in the Te Uru Kahika's draft submission, to make the secretariat of an RPC a central government agency. If the Secretariat includes providing planning advice and decision-making advice to the RPC, such advice from a central government secretariat is not likely to reflect the unique regional context of the West Coast. Furthermore, there would be a conflict of interests and a breach of professional conduct and ethics.</p> <p>Another way that the proposed structure of the RPCs is likely to undermine local government accountability is that local authorities may not be represented on the RPC or if they are represented, such as through a part-time contractor, that contractor may not have the requisite background in environmental law and policy, plan making, decision making or local issues. And even if they do have this background, they may not be able to influence the process if they are not fully engaged with the Councils and have no decision-making or voting powers.</p> <p>The transfer of a number of council's roles, beyond decision making processes and plan making processes, from councils to the RPC represents an additional major change to resource management. Certain powers will be transferred (or delegated) to the RPC, but the timeframes stipulated by RPCs for councils to undertake administration and implementation of NBEA plans, for example, may simply be unreasonable. Council</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>(ratepayers) will have to fund these incremental changes and as indicated by MfE's Impact Assessments, additional funding requirements are already significant and will be even higher when these extra costs are added.</p> <p>West Coast mana whenua Poutini Ngāi Tahu (PNT) have conveyed that taking responsibility away from the WCRC is not going to be a good thing for the Regional Council or its Resource Management Committee (RMC). PNT does not want plan making and decision making handed over to the RPC. According to PNT, the extra costs are disproportionate and a lot of functions, including planning, will have to be replicated. The Councils concur.</p> <p>The Councils are not convinced that a permanent move to this NBE-SP Bill model will be acceptable for a business-as-usual environment, where the public has expectations of electoral recourse for policy they deem unacceptable.</p> <p>Recommendation 41:</p> <ul style="list-style-type: none"> a) The function and structure of the RPC requires further work; b) The Bill should provide directly for local and regional council representation on the RPC and a voting structure that ensures each council's independent voice is heard and taken into account; c) That decision making and plan making powers, including powers to make the NBE Plan, remain with the Councils; d) That practice and process between governance and operations, and between the RPC and Councils, are improved; and, with respect to resolving conflicts of interest, that a Code of Ethics and Professional Guidelines are put in place. 	
42. Placing the RPC's mandate under the LGA rather than under the NBEA is not supported	<p>The Councils understand that the Taituarā submission seeks that RPCs be established under the Local Government Act (LGA). The West Coast Councils do not agree with this proposal. Simply placing the RPC's mandate under the LGA rather than under the NBEA will not resolve governance, structural, or operational issues either as all the decision-making powers would still remain with the RPC. Putting the RPC under the LGA could make matters worse. The LGA sets out reasons for Council's existence and setting the RPC under the LGA would give the RPC more power and diminish the local voice even further. Giving the RPC more power by putting it under the LGA would undermine local councils' responsibilities even further; and this is not supported.</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Feedback 5: The West Coast Councils request it be recorded that they do not support placing the RPC's mandate under the LGA rather than under the NBEA.</p>	
Compliance and Enforcement (Part 11, NBE Bill)		
<p>43. Councils' responsibilities for consenting, compliance, monitoring and enforcement should remain – Councils do not support creating a new regulator</p>	<p>The NBE Bill introduces a new role for a 'NBE regulator' in terms of compliance and enforcement. A 'NBE Regulator' is a new term and remains undefined under the interpretation clause 7, other than by a reference to clause 694 (Part 11 Compliance and Enforcement), which then proceeds to define a 'NBE regulator' to mean, amongst other, "a local authority, a regional planning committee, and the EPA (Environmental Protection Authority), when acting under the NBEA".</p> <p>Clauses 723-730 are dedicated to explaining "enforceable undertakings". Clause 723, for example, proceeds to provide that a NBE regulator may accept enforcement undertakings. An undertaking generally refers to a commitment made by a professional, for example, by a lawyer, to do something: there are serious repercussions if undertakings are not followed through. Duties may also be held by duty holders, such as by the councils or by this new NBE regulator.</p> <p>Amongst other, an undertaking may include requirements as to compensation or penalties; or otherwise to take action to avoid, remedy, or mitigate any actual or likely adverse effects arising from an actual or possible contravention or involvement in a contravention (clause 724).</p> <p>With the creation of a new regulator, the NBE regulator, there is a potential for compliance and enforcement undertakings to be moved outside of council responsibility to regional hubs (through the RPC) or to the EPA, further weakening local authority accountability and feedback to local communities. [There seems to be no direct reference to the "NBE Regulator" in the SP Bill; but the creation of this new institution, the NBE Regulator, will have implications for regional strategies, the Council's long term plan, and funding].</p> <p>Recommendation 42: The West Coast Councils request it be recorded that, in their view, provision should be made for Consenting, Compliance, Monitoring and Enforcement (CME) to remain a council responsibility.</p>	<p>7 694 723 724</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
<p>44. Improve policy effectiveness by linking monitoring provisions to science and local values</p>	<p>The absence of provisions for policy effectiveness through monitoring linked to science and local values breaks the linkage between consent monitoring and state of the environment monitoring; and it weakens the role of science and community engagement in the policy cycle. Regional council input to these processes is critical. Council activity at the regional level is not merely an exercise in measuring an activity or allocation against an environmental plan; or Statements of Regional Environmental Outcomes (SREOs), it also requires a strong science component and the reflection of local values.</p> <p>Recommendation 43: That provisions be made for improved policy effectiveness by councils by linking monitoring provisions to science and local values.</p>	<p>Explanatory Note</p> <p>Part 11, subpart 6</p> <p>783</p>
<p>45. Developing a new Compliance, Monitoring and Enforcement (CME) strategy (and strategy planning process) is not supported</p>	<p>The Councils agree with the Resource Managers Group reform subgroup’s comments insofar that in comparison to the RMA, increases in penalties for like offences committed under the NBE Act are positive and should help disincentivise poor practice.</p> <p>Requirements for local authorities to produce a Compliance Monitoring and Enforcement (CME) strategy in order to address ‘perceived bias’ may help address perceived biases in the system, but without results-based management, process, key performance indicators, and statutory weight, a strategy document may do little to drive improved environmental performance.</p> <p>MfE’s Annual National Monitoring System (NMS) information requirements for Compliance Monitoring and Enforcement show that the West Coast Regional Council performs well. This form of annual reporting should be sufficient to address perceived biases, rather than requiring a new CME strategy.</p> <p>Some matters to be addressed in a CME strategy will be challenging to implement in practice, and will require extra resource, for example, provisions that require local authorities to set out how they will respond to incidents or “address incidents of non-compliance” require additional expert resourcing.</p> <p>Effective CME does not adopt a ‘one size fits all’ approach, it requires responses that are tailored to the circumstances of offending.</p>	<p>649</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 44: Remove the requirement for a CME strategy on the basis that MfE’s Annual National Monitoring System reporting on CME can address the ‘perceived bias’ problem.</p>	
<p>46. The Bill’s Cost Recovery Provisions may open Councils to liability – they need to be carefully considered</p>	<p>Clause 781 provides for a cost recovery scheme for any reasonable costs incurred by a ‘NBE Regulator’ taking any action in connection with monitoring or enforcing a person’s compliance under the NBEA. Interestingly, the provision does not provide solely for cost recovery by ‘local authorities’. ‘NBE regulator’ is a new term and remains undefined under the interpretation clause 7 other than by a reference to clause 694, which then proceeds to define a ‘NBE regulator’ to mean, amongst other, ‘a local authority, a regional planning committee, and the EPA, when acting under the NBEA’. With the Regional Planning Committee being responsible for decision making and plan making, there is no certainty as to whether there will be a full cost recovery scheme for all functions that a local authority undertakes by virtue of clause 781.</p> <p>Local authorities will be responsible for implementing and administering the NBEA and the setting of administrative charges is provided for in clause 821 with obligations on both local authorities and the RPC to fix fees or charges (administrative charges) payable in respect of certain functions performed under the Act. For example, a ‘local authority must fix fees or charges for receiving, processing and granting consents; carrying out any inspection, monitoring, supervision or administration; and for issuing permitted activity notices’. And by virtue of clause 821(1)(i) ‘A local authority must fix fees or charges (administrative charges) payable in respect of ‘any other function that the local authority is required to perform’. Clause 821 therefore provides for a cost recovery scheme for virtually all functions that a local authority is required to undertake; but in doing so, the local authority will have to be particularly vigilant in ensuring consistency with the NBEA, the SPA, the National Planning Framework (NPF) and the NBE Plan.</p> <p>Moreover, without further resourcing, it is unlikely that the West Coast Councils can perform all new compliance, monitoring and enforcement functions under the Act. They don’t currently, for instance, have the resource to monitor all permitted activities; and it would be unjust to charge those who happen to be in the monitoring sample and not others.</p>	<p>Part 11 Part 12 694 781 821</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 45: Setting of fixed fees or charges and a schedule for cost recovery needs further analysis, dialogue, and consultation with the West Coast Councils before the NBE and SP Bills are further developed.</p>	
<p>47. Emergency works and power to take preventive or remedial action should remain with councils</p>	<p>The RMA's section 330 provisions for Emergency works and power to take preventive or remedial action allow things to happen quickly when they need to. For example, when Westport flooded in July 2021, the West Coast Councils simply had to get flood protection works done. Immediate measures were required. Emergency works and power to take preventive or remedial action should remain with councils and not go through a Regional Planning Committee, which would be less than ideal particularly in an emergency situation like a cyclone or flood where councils have to respond as a matter of urgency.</p> <p>Recommendation 46: Emergency works and power to take preventive or remedial action should remain with councils and not go through the RPC. For example, in an emergency situation like a cyclone or flood councils have to respond as a matter of urgency. Furthermore, such plans for 'Emergency works and powers to take preventive or remedial action' should be easily and readily accessible, and extractable, from the proposed one NBE Plan.</p>	<p>Part 11 751 753 Compare: section 330 RMA</p>
<p>48. New enforcement provisions should not start immediately after Royal Assent – start with an educative approach</p>	<p>The Councils do not agree with the Te Uru Kahika draft submission point suggesting that the commencement timeframe for the new Compliance, Monitoring and Enforcement provisions in the NBE Bill start immediately after Royal Assent. Te Uru Kahika's view is that if the new enforcement provisions are not 'live' on the same day, we would be in a perilous position of trying to apply enforcement provisions under one Act to achieve the purpose of a different Act. This, in their view, will not work. Whereas, it is a tenet of procedural equity, due process and a fair justice system that reasonable notice is given. Transitions should be provided for.</p> <p>Recommendation 47: Enforcement provisions should not start immediately after the NBE Bill is given Royal Assent. Rather than spring new and unknown enforcement measures on people, start with an educative approach, and once the new laws are embedded in, then take enforcement steps if needed.</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
49. Offences: Fines to be paid to local authority instituting proceedings – Cost recovery makes sense	<p>As to the scope of fines to be paid to the local authority instituting prosecution, cost recovery makes sense, but full costs may never be fully covered.</p> <p>The Councils agree with the Te Uru Kahika draft submission point regarding the ability for fines to be paid to the authority instituting the prosecution.</p> <p>The RMA's Section 342 (1) approach, which provides some degree of cost recovery, has been widely adopted in instituting proceedings under the RMA, with the judiciary recognising that the cost of investigation and prosecution has been borne by the respective agency (and in the case of local government, by their ratepayers). The Councils submit that the RMA's s342 practice should continue to be enabled through the new NBE Act.</p> <p>Recommendation 48: That the current practice for cost recovery, under Section 342 of the RMA (Fines to be paid to the local authority instituting prosecution), is added to the new NBE Act.</p>	
50. Abatement & Infringement Notices should be provided for in RM Reform regulation	<p>The Councils agree with Te Uru Kahika's draft submission point that regulations are needed to enable Abatement & Infringement Notices to be issued. Abatement and Infringement Notices are an essential regulatory tool for dealing with non-compliance under the RMA. They will be no less important under the new Act: it is essential that the regional sector is able to continue to use these notices from the date of assent, subject to an educative approach being taken first as per our submission point above (reference submission point number 48), and that a fair and reasonable transition period is given to the new system. In its current form, the NBE Bill does not include the necessary regulations to enable abatement or infringement notices to be issued.</p> <p>Whether Abatement and Infringement Notices are provided for in the Act or accompanying regulations is not a big issue for the Councils as long as they are provided.</p> <p>Recommendation 49: Make provision for abatement and infringement notices under the RMA to continue until new regulations are in place.</p>	710 771 775

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
51. Keep regulation and principal legislation in sync	<p>Feedback 6: The Councils agree with Te Uru Kahika’s draft submission point concerning keeping regulation and principal legislation in sync. It is critical that any required regulations regulating enforcement are amended at the same time as the principal legislation, as this will ensure that enforcement tools can be used, subject to the ‘grace’ period sought in our submission point above (reference submission point number 48).</p>	
52. Higher penalties will be a stronger deterrent for non-compliance	<p>The Councils agree with the Resource Managers Group reform subgroup’s comments, insofar that in comparison to the RMA, increases in penalties for like offences committed under the NBE Act are positive and should help disincentivise poor practice.</p> <p>Fines for penalties have been significantly increased, to set a stronger deterrent towards offending. Increased penalties will help to cover the cost of investigations, helicopters etc.</p> <p>Penalties for obstruction of an enforcement officer should also be increased. The proposed penalty (clause 765(4)) has been carried over from the RMA (s339(3)), and the Councils consider that a maximum of \$1,500 is too low to provide any meaningful deterrence.</p> <p>Recommendation 50: That the penalty for obstruction of an enforcement officer should be increased to align with the maximum penalty under the Hazardous Substances and New Organisms Act 1996 (HSNO legislation), which is \$5,000 (section 114(3) of that legislation).</p>	
53. Water shortage direction required	<p>The Bill appears to have omitted provisions relating to the management of water shortages and issuing water shortage directions as provided for under section 329 of the RMA. The only reference in the Bill to a water shortage direction appears to be under powers of entry, which provides for checking compliance with a Water Shortage Direction (clause 790). However, there seems to be no clauses providing for the issuing of water shortage directions, and the breach of a water shortage direction has been removed from the list of offences under the NBE. It is not clear whether this is an intentional omission or an oversight. Regardless, the ability to issue water shortage directions is an important tool for managing water abstraction and protecting instream values during periods of drought.</p>	790

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 51:</p> <p>a) That an equivalent to s329 of the RMA is retained in the NBE Bill, and a breach of a water shortage direction remains an offence under the new legislation.</p> <p>b) All provisions relating to water shortage management should be together in the Bill.</p>	
Public Consultation and Enduring Submissions		
54. Make Public Consultation on draft NBE plans optional	<p>Recommendation 52:</p> <p>That public consultation on a draft NBE Plan is made optional.</p>	Schedule 7 clause 22
55. Enduring submissions not supported	<p>An Explanatory Note to the NBE Bill reads, “A new process allows “enduring submissions” to be lodged before notification of plans and throughout the plan hearings process. This will reduce complexity and repetition for participants.”</p> <p>The Councils do not support the new provisions for “enduring submissions” and believe that engagement with councils should be classified differently. The call for submissions should have a defined opening and closing date and follow notification of the NBE plan.</p> <p>Where a submitter seeks something that is not feasible or appropriate, it appears that someone making an enduring submission can also make a submission and a further submission, so the enduring submission option may not necessarily reduce repetition for participants. Instead, it will simply complicate process, and increase costs and inefficiencies.</p> <p>Councils should still be able to receive regular enquiries, and do stakeholder engagement, throughout the plan development phase, but these services need not equate to a formal submission. Until a draft or proposed plan is available, there may be no text to comment on. The Councils agree that it is important to have stakeholders engaged, but ‘enduring submissions’ would increase complexity and confuse participants.</p> <p>Furthermore, extra pressures would be put on councils to provide more staff to process ‘enduring submissions’ and this would come at an extra cost to local ratepayers, if not funded by central government.</p> <p>Recommendation 53:</p> <p>Remove the provisions for enduring submissions from the NBE Bill.</p>	Schedule 7: Preparation, change and review of natural and built environment plans, clauses 20-21

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
Monitoring, Maintenance of Plans and Future Plan Changes		
<p>56. Monitoring, maintenance & review, and Plan Changes – consistency required</p>	<p>The NBE Bill provides for a variety of new reporting, reviewing and plan change mechanisms. For example, each local authority must report to its relevant RPC every three years in accordance with clause 51 of Schedule 7; and each RPC must undertake a review of its NBEA plan for the region at least every 9 years consistent with clause 54 of Schedule 7. The NBE Bill also provides for three main types of plan change processes by initiating a request to the RPC. These plan change processes entail a ‘standard’ process, a ‘proportionate’ process, or an ‘urgent’ process under clauses 6-7 of Schedule 7. Independent plan changes may also be requested by any person other than a local authority under clause 69 of Schedule 7.</p> <p>Interactions between the NPF and the NBE Plan need to be worked through in terms of reporting, undertaking the 9-yearly review, and making plan changes.</p> <p>In terms of plan changes, the respective local or regional Council should agree that a plan change is necessary.</p> <p>Further, the process for managing a plan change should differ from the application for a consent (Schedule 7, 72(1)(b)). There needs to be consistency throughout the planning process as to how plan changes are managed, and provision should be made for this in the Act.</p> <p>The Councils oppose central government requiring plan changes; and this is another reason why a central government representative should not be on the RPC. It is unclear what situations would justify central government issuing such a direction.</p> <p>Recommendation 54:</p> <p>a) Ensure a coherent approach, process, and consistency throughout the NPF and NBEA in terms of plan monitoring and maintenance, plan changes, and plan review.</p> <p>b) That there be no provision in the NBE or SP Bill for central government to require councils to undertake plan changes. If such a provision is carried over into the NBE or SP Bill, then criteria or reasons for when a plan change may be required by central government must be added to the respective Bill, and the respective council must agree that a plan change is necessary and affordable to ratepayers.</p>	<p>Schedule 7, clauses 6-7</p> <p>Schedule 7, clause 51</p> <p>Schedule 7, clause 54</p> <p>Schedule 7, clause 69</p> <p>Schedule 7, clause 72(1)(b)</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
Implementation Transitions		
<p>57. The Councils remain unconvinced that the NBE and SP Bills should remain as two separate bills operating out of sync; the Councils recommend a single NBEA</p>	<p>The Explanatory Notes to the NBE and SP Bills explain that the NBE Bill intends to work in tandem with the SP Bill as a 'single integrated system'; but the body of the NBE and SP Bills are conflicting and make no provision for developing or implementing a 'single integrated system' in a coherent manner. There is no precise iterative relationship between the national and regional planning frameworks within the substantive part of these two Bills, and little indication as to how they will work in tandem. Many organisations have therefore made wild assumptions about how to interpret the Bills as a 'system' by applying their own steer on how the reforms should unfold. Setting strategic direction, visions, and strategic objectives is done in isolation of the planning process and will lead to fragmented planning outcomes.</p> <p>The Councils remain unconvinced that the NBE and SP Bills should be two separate Bills with the NBE Bill governing national and regional planning and major regional policy issues and the SP Bill governing regional strategies. If the two Bills are to operate as a 'single integrated system' then they should be formed as a 'single integrated system' from the start. Drafted as they are, as two separate Bills with conflicting norms and agendas, is prone to a 'conflict of laws'. There is a further danger that by separating strategies and policies from promoting positive outcomes, or managing adverse effects, there will never be a link between RSSs and outcomes to manage positive and negative externalities.</p> <p>Recommendation 55: That Central Government develop a 'single integrated' 'resource management system' and integrates the NBE and SP Bills into one Act for the Natural and Built Environment.</p>	
<p>58. Transitional Provisions: coherent transition from existing processes, and timeframes for implementation required; and factored into funding provisions</p>	<p>Transitional arrangements for existing plans are not clear in the Bill.</p> <p>The Ministry for the Environment is proposing a system of tranches for councils to commence staggered development of their RSS and NBE plan. However, these provisions are not provided for directly in either the NBE or the SP Bill.</p> <p>In effect, an Order in Council may be issued, as it was for the West Coast TTPP, at any time.</p> <p>The SP Bill provides that each RPC must publicly notify a draft of its first Regional Spatial Strategy (RSS) by either the seventh anniversary of the date of Royal</p>	<p>Schedule 7, clause 2</p> <p>Schedule 1, Part 1, clause (1)(1)</p> <p>SP Bill; Schedule 1, Part 1, clause (1), (1)</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>assent to the SPA (estimated as end 2030 given current announcements); or the Governor General on recommendation from the Minister may set the date for a RPC to publicly notify a draft of its first RSS by an Order in Council (Spatial Planning Bill, Schedule 1, Part 1, clause (1)(1)).</p> <p>The proposed ‘tranching’ approach to transition, however, will not allow for sufficient time between tranches to share and take on board learnings from the new planning processes.</p> <p>The Councils request that the Government provides clear timeframes as soon as possible about which tranche councils will be in.</p> <p>The Councils will not know if this timeframe can be met for developing and adopting a RSS for the West Coast until we know which tranche we will be in, and when we can commence the RSS development process. Without sufficient prior notice, it will be difficult for the Councils to budget adequately for the RSS process.</p> <p>New reforms, and new changes, may lead to councils being sued, and ratepayers will bear this cost. Central government should support the regional councils in transition and in implementation.</p> <p>The Ministry for the Environment is anticipating that there will be a transition period of around 10 years after the NBEA and SPA are enacted until all new RSSs and NBE plans are in force.¹² However, the transition period could be shorter for councils in the first tranche. The West Coast Councils would find it difficult to meet timeframes for developing the RSS and NBE plan if the transition period is less than 10 years. Given the stages that the West Coast proposed TTPP and regional plans are at in the RMA planning cycle, the Councils would really need to go in the last tranche to get the most out of our current RMA plans.</p> <p>Recommendation 56:</p> <ol style="list-style-type: none"> a) Clearer transitional provisions, and coherent transition from existing processes and timeframes for implementation, are required; b) Ensure that the timeframe for transiting from the RMA to the NBEA is a minimum of 10 years; 	

¹² Ministry for the Environment. 2022. Our Future Resource Management System: Overview – Te Pūnaha Whakahaere Rauemi o Anamata: Tirowhānui. Wellington: Ministry for the Environment, at Pg 20.

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	c) To enable councils to prepare annual and long-term budgets, Central Government must give councils plenty of prior notice as to which tranche they are in and when it will commence.	
59. 'Major Regional Policy Issues' – clarity required	<p>The purpose of 'Major Regional Policy Issues' as provided for in Schedule 7 of the NBE Bill is not clear. Guidance will need to be issued as to where they sit in the new planning framework and in relation to regional strategies and long-term plans (RSSs).</p> <p>As major regional policy issues are provided for in Schedule 7 for the development, change and review of NBEA plans, it is assumed that they will be added to the NBE plans. But it is unclear whether they are intended to have priority or greater weight over other policies in the NBEA plan, or over the vision and objectives to be incorporated into RSSs, which are covered under a separate piece of legislation. It is also unclear whether it means that the NBEA plan will also need to provide for major regional objectives in order to form a cascade between higher order norms and lower order norms that are typically used in resource management planning.</p> <p>In addition, there seems to be a disconnect between having a regional vision and objectives in an RSS governed by the SPA, and the major regional policy issues in an NBE plan governed by the NBEA.</p> <p>If the intent is that the major regional policy issues will come from the council's existing Regional Policy Statement (RPS), or are the equivalent to RPS policies, then this should be clarified. The Government should reconsider how having major regional policy issues in NBEA plans will work in practice.</p> <p>Recommendation 57: That Central Government reconsiders the role of 'major regional policy issues' and having them disconnected from regional strategies (RSS) and regional NBEA plans.</p>	Schedule 7
Schedule 7 Independent Hearings Panels Processes and Dispute Resolution		
60. Concerns re 'bias' in the selection of the Independent Hearing Panel (IHP)	The NBE Bill makes new provisions for an Independent Hearing Panel (IHP) to be established for each region, and for the IHP's principal function being to hear submissions on a proposed plan. The IHP will comprise a chairperson appointed by the Chief Environment Court Judge; and 3 to 6 other members appointed by the Chief Environment Court Judge from a regional pool of IHP candidates; and up to two additional other members from the regional candidate pool to be approved by the Minister for the Environment and appointed by the Chief Environment Court Judge.	Schedule 7, (Preparation, change, and review of NBE Plans) Part 3 for IHP process

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>The Councils suggest that all IHP members serve as 'Hearing Commissioners' and that a transparent appointment process, and the right structure for an IHP, agreed with local authorities, is necessary for making practical but legally robust recommendations on the evidence.</p> <p>The Councils are concerned, however, about the Bill introducing bias into the dispute settlement process by virtue of its IHP appointment process. Bias is likely to distort dispute resolution, which would have a devastating impact on society and local communities and a negative influence on due process, and the credibility and integrity of resource management and environmental law and policy. The right of all parties to a fair hearing is a cardinal underpinning of the rule of law and yet the Bill undermines this very provision.</p> <p>For example, and in particular, 'confirmation' and 'cognitive' bias are likely to occur when a judge appoints one of his or her own profession or legal fraternity, or someone because he or she is known by him or her, to a hearings panel without due process. Indeed, by investing these significant powers in a single member of the judiciary, and in the absence of transparent procedural guidelines, the Bill introduces unacceptable bias in the appointment process; and a blurring of the executive (decision makers) and the judiciary (those who decide on the decision makers). There is only a need for a 'potential' tendency, or 'perceived' tendency, in these 'confirmation appointments' of Commissioners being appointed from legal practice rather than from the planning community or local community in order for there to be a breach of professional conduct and standards.</p> <p>Due to their knowledge and practical experience, the Councils believe it is beneficial for people with planning experience to still serve as Hearing Commissioners and that they should not be unduly biased against, whether that bias be actual or perceived, in the appointment process. Irrespective as to whether a submitter resides on the West Coast or elsewhere, they should be entitled to a fair and independent hearing.</p> <p>Fairness, of course, is a relative and protean concept. Its meaning may turn on the context and purpose. This said, a necessary element of fairness in the context of independent hearings is the requirement that decision makers are independent and impartial. That judges should stand just, fair and detached in appointing candidates who may be presented before them as Hearing Commissioners is as old as the rule of law.</p>	<p>Schedule 7, Part 3, subpart 6, Appeals</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>It is currently common practice for councils to collectively appoint an independent hearing commissioner as chair of a hearing panel, and other independent hearing commissioners with expertise in certain fields relevant to the planning document and issues raised in submissions. This practice should be provided for in the Bill.</p> <p>In addition, the provision for the Chief Environment Court Judge to appoint another Environment Judge (or person who meets requisite conditions) as Chairperson of the IHP may also substantially increase the costs for councils. Even retired Environment Court Judges, for example, charge considerably more per hour than a planning consultant or a lawyer. One Judge approached by the WCRC to be a hearing panel Chair had an hourly rate of \$400, which was outside the budget for our small council.</p> <p>The Councils are also concerned that there will be no candidates in the regional pool with local knowledge of the West Coast context. With a smaller population, there will be fewer suitable candidates from the West Coast. This could also apply to mana whenua-nominated candidates as the Councils understand that there is a shortage of experienced mana whenua on the West Coast who could fill this role.</p> <p>It is unlikely that an approved Hearing Commissioner who lives in the Bay of Plenty, for example, will have sufficient knowledge of the West Coast context to fulfil the role; and a one-day site visit prior to the hearing commencing is not sufficient time to get a full grasp of the policy and planning issues throughout the region, which covers a vast distance equidistant to that from Auckland to Wellington.</p> <p>Other concerns about the IHP selection process are that there is no accountability back to the policy process or back to democratically elected Councils. It is important that councils have input into the selection of the IHP Chair, and other Panel members.</p> <p>The Councils question how a Court Judge selecting a hearing panel fits with local democracy and accountability to the local community under the Local Government Act. The local voice must be represented.</p> <p>The Councils acknowledge the benefit of environmental law and policy skills in settling matters in dispute under legislation; but they are not the only skills required.</p>	

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>The Councils are also concerned about capacity issues amongst the pool of certified Hearing Commissioners.</p> <p>In addition, hearings on NBE plans could take weeks, or even months. Given the structure of the NBE and SP Bill, hearing periods will be lengthened as submitters will rely on the hearing stage to pursue their interests, in place of engagement and consultation. As a result, justice delayed will be justice denied and the system will be neither cost-effective nor efficient.</p> <p>Recommendation 58: That the system of selecting Hearing Commissioners for Independent Hearing Panels (IHPs) under the RMA be carried forward to the new resource management system; and that councils have input into selecting the Panel Chair and Hearing Commissioners.</p> <p>Recommendation 59: In the appointment of Hearing Commissioners to the Independent Hearing Panel, that the NBE Act provide for a fair and independent panel recruitment process to be governed by procedural and practice guidelines.</p> <p>Recommendation 60: That the mandatory training programme, and continuing professional development, for Hearing Commissioners under the RMA be carried forward to the new resource management system and maintained.</p>	
61. Note re Appeals on the NBEA Plan and Plan Changes	<p>The Councils recognise that an appeals process is a defining feature of an independent and impartial judiciary.</p> <p>Recommendation 61: In terms of appeals, including appeals on the NBEA Plan and Plan Changes, the Councils support making provision for an appeals process in the NBEA; and that where the Regional Planning Committee (RPC) accepts a recommendation from an Independent Hearing Panel (IHP) with respect to a plan that appeals be limited to appeals on points of law in the High Court; and that where the Regional Planning Committee (RPC) rejects a recommendation from an Independent Hearing Panel (IHP) with respect to a plan that merit-based appeals can be made to the Environment Court.</p>	Explanatory Note

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
<p>62. Dispute Settlement Understanding (DSU) and Dispute Settlement Mechanism (DSM) needed with a priority given to consultation</p>	<p>The Councils believe that a Dispute Settlement Understanding (DSU) is a central pillar to the resource management system. Without a means of settling disputes, the rules-based regulatory system would be less effective, and it is important that the system is secure and predictable. A DSU is not only needed with respect to ‘preparation, change and review of NBE Plans’; but with respect to the resource management system as a whole.</p> <p>Further, the priority of the Dispute Settlement Mechanism (DSM) should be to settle disputes through engagement and consultation, followed by Alternative Dispute Resolution, such as mediation. An appeals process is also an essential tenet of the rule of law.</p> <p>Dispute settlement processes should always be conducted in a timely manner with timeframes provided for in the DSU’s procedures and guidelines. For example, as a general rule, appeal proceedings shall not exceed 60 days from the date a party to the dispute formally notifies its decision to appeal to the date the Appeal Court circulates its report.</p> <p>Recommendation 62: That provision be made in the NBEA for a Dispute Settlement Understanding (DSU), i.e., a common dispute settlement agreement, which upholds the rule of law, sets out a transparent and clear process for settling disputes, incorporates a transparent hearing process, including a hearing process with respect to resource consents and making decisions on plan-making, and provides for the right to a fair and timely hearing on the NBEA and SPA.</p> <p>Recommendation 63: That the DSU makes provision to retain relevant caselaw, including caselaw developed under the RMA.</p> <p>Recommendation 64: That the DSU makes provisions for:</p> <ol style="list-style-type: none"> a) Consultation as a priority first step in the dispute settlement process; b) Alternative Dispute Resolution (ADR), including but not limited to ‘Good Offices’, voluntary mediation, and voluntary conciliation; c) Arbitration; d) Due process through the courts; and e) An appeals process. 	<p>Schedule 7: Preparation, change and review of natural and built environment plans, Part 3, Clause 108</p>

Submission Points on the NBE Bill	Issues and Council Recommendations	NBE Bill: Clause for reference
	<p>Recommendation 65: That the DSU should be provided for in the substantive part of the NBE Act (and supported by a separate schedule, which is not confounded by substantive and procedural provisions for regulatory environmental standards).</p> <p>Recommendation 66: Procedures and practice guidelines governing rules and guidelines for dispute settlement, including consultations, should be established.</p> <p>Recommendation 67: That implementation of the Dispute Settlement Understanding and Dispute Settlement Mechanism be funded by the Crown.</p>	

This ends our submission on the Natural and Built Environments Bill, which should be read in tandem with our submission on the Spatial Planning Bill.

Submission Points on the SP Bill	Issues and Council Recommendation	SP Bill: Clause for reference
Regional Spatial Strategies		
63. Content of Regional Spatial Strategies need provisions for local communities	<p>Regional Spatial Strategies (RSSs), which will comprise regional strategic direction, visions and strategic objectives, need to reflect local community aspirations as part of developing region-wide vision statements, but local community aspirations are not listed in the Bill as a matter that must be in the content of a RSS. Visions are referred to but not defined. If provision for local communities is not required in the content of an RSS, the RSS is highly likely to be beset by legal challenges, which will be a further sign of public opposition to them, and is likely to result in delay, added cost, uncertainty and the failure to provide a clear basis for planning and investment decisions.</p> <p>Recommendation 68:</p> <ul style="list-style-type: none"> a) Add to Clause 16 (1) (a) of the SP Bill and SP Act, that the vision, strategic objectives and strategic direction reflects local community aspirations. b) Place Clause 16 (1) (c) of the SP Bill before Clause 16 (1) (b) insofar that strategic direction should come before priority actions (the current Bill puts 'actions' before the 'strategy', which is incoherent). c) Under 'contents of RSSs', Clause 17, add vision, strategic objectives and strategic direction that reflects local community aspirations at the top of the list. d) Distinguish between Clause 17 '<u>key</u> matters' and Clause 18 '<u>other</u> matters of sufficient significance' [underlining for emphasis] insofar as discerning a difference between 'key matters' and 'other matters of sufficient significance'. 	SP Bill, Clauses 16-18
64. Role of implementation plans is confusing: remove requirements from SP Bill	<p>The Councils are concerned about the requirements for Regional Planning Committees (RPCs) to have an implementation plan outlining how each priority action in the RSS will be implemented, key steps to be taken, by whom, when, and progress monitored and reported on. This seems akin to a council's operational work programme, which is a voluntary internal document developed for managing workstreams and resources, based on the council's annual budget and targets.</p> <p>Work programmes can vary during a year or over several years, depending on a number of factors including unforeseen delays, changes in national direction, staff changes, environmental and economic changes, or natural hazard incidents. Such changes will make it difficult and impractical to formalise work programmes into implementation plans for the RPC,</p>	SP Bill, Clauses 52-56

Submission Points on the SP Bill	Issues and Council Recommendation	SP Bill: Clause for reference
	<p>given the likelihood of changes being needed more often than the three-year review. Changes to work programmes, and implementation plans, are highly likely during the period of transitioning from the RMA to the new NBEA and SPA.</p> <p>The purpose and benefits of requiring implementation plans are unclear and questionable. Councils must do quarterly and annual reporting on progress with achieving their Annual Plan (and Long-Term Plan) targets, as well as other monitoring and reporting requirements for their resource management science, biosecurity, biodiversity, and planning functions. If implementation plans duplicate other monitoring and reporting requirements under the new Bills and the NPF, the requirement for implementation plans will be contrary to the intent of the NBE and SP Bills, which is to simplify and speed up resource management processes.</p> <p>Furthermore, the requirement for an implementation plan is confusing in that the NBE plan is meant to give effect to, and implement, the RSS. It is therefore unclear what the relationship is between the implementation plan and the NBE plan. Implementation of the NBE plan requires monitoring and reporting.</p> <p>Recommendation 69: Remove the requirements for implementation plans in Clauses 52-56 from the Spatial Planning Bill.</p>	
65. Regional Planning Committee for RSS – no central government members	<p>The Explanatory Note to the Spatial Planning Bill refers to members of the Regional Planning Committee (RPC) being responsible for developing a Regional Spatial Strategy (RSS) for a region. The RPC will include a representative from central government when addressing regional strategies but not when addressing plans that unfold from those strategies. Including such a representative would be a conflict of interests if they are from a department or ministry that regularly submits on the Council's proposed plan reviews and changes. Further, even if appointed, how would one central government representative reflect the interest of a multitude of ministries and a whole of government interest. Central government representatives can provide advice in an advisory capacity.</p> <p>Recommendation 70: That Central Government representatives provide advice in an advisory capacity but not be members of the RPC.</p>	SP Bill, Explanatory note

Submission Points on the SP Bill	Issues and Council Recommendation	SP Bill: Clause for reference
66. Objectives, policies and strategic direction in RSS should frame plan rules	<p>The Councils suggest that the King Salmon case law principle should apply to the SP Bill insofar that decision-making should be from the general to the specific. In King Salmon, it was held that subordinate plans (regional and district plans) must implement the objectives and policies of the NZCPS (NZ Coastal Policy Statement). Similarly, a Regional Policy Statement (RPS) should give effect to obligatory provisions within a National Policy Statement (NPS) unless the NPS does not 'cover the field' or the issues being addressed are uncertain or conflicting. Likewise, it would be helpful if objectives and policies were to frame the actions underpinning a Regional Spatial Strategy, and the NBE rules.</p> <p>Recommendation 71: Amend both the NBE and SP Bills to maintain the King Salmon case law principle whereby higher order strategic objectives, policies and strategic direction frame subordinate RSS actions and NBE plan rules.</p>	SP Bill, Clauses 16-18
67. The RSS process excludes local and regional councils: change required	<p>Schedule 4 (Preparation of regional spatial strategies: key process steps) provides for the Regional Planning Committee (RPC) to prepare a draft RSS. The RPC 'must provide an opportunity for interested parties and the public to participate in determining the matters to be included in the draft strategy and their relative importance'; but local authorities are not considered 'interested parties'. Schedule 4, clause 1, (f), refers to interested parties including 'local authorities whose region or district is adjacent to the region'. Council suggests this be amended to 'local authorities whose region or district is within or adjacent to the region'.</p> <p>Clause 32 refers to a RSS 'process [that] must be designed to encourage participation'. However, clause 32 makes no provision for local and regional councils to participate in the RPC's process for preparing its RSS, although local authorities will be responsible for implementing and administering the RSS.</p> <p>Recommendation 72:</p> <ol style="list-style-type: none"> a) Amend Clause 32 of the Spatial Planning Bill to give local and regional councils a fundamental role in the preparation of regional spatial strategies. b) Amend Schedule 4, Clause 1 (f) to include regional and district councils as 'interested parties' in the preparation of a RSS. 	<p>SP Bill, Clause 32</p> <p>Schedule 4 Preparation of regional spatial strategies: key process steps</p> <p>Schedule 4, clause 1, (f),</p>

Submission Points on the SP Bill	Issues and Council Recommendation	SP Bill: Clause for reference
68. On adapting to regional and local context – provisions required	<p>Recommendation 73: That provision be made within the regional strategic planning process (the RSS process) for regional councils to set priorities within the context of their respective regions; and provide for councils to make their own plan-making decisions about adapting to the regional and local context, rather than empowering the RPC to make independent decisions about the natural and built environment.</p>	
69. Transition arrangements under the SP Bill to be developed together with, and approved by, local authorities	<p>As mentioned above with respect to the NBE Bill, transitional arrangements for existing plans are not clear in either the NBE or SP Bill. For example, the Ministry for the Environment is proposing a system of tranches for councils to commence development of their Regional Spatial Strategy and NBEA plans. However, this ‘tranche’ system is not provided for in either the NBE or SP Bills.</p> <p>Central government should support the regional councils in transition and in implementation.</p> <p>The Ministry for the Environment is anticipating that there will be a transition period of around 10 years after the NBEA and SPA are enacted until all new regional spatial strategies and natural and built environment plans are in force. There is also a staged approach anticipated, where three regions will begin the development of regional spatial strategies first.</p> <p>The timeframes in the Spatial Planning Bill, Schedule 1, Part 1, clause (1)(1), require that a RPC must publicly notify the draft of its first RSS within 7 years of the SP Bill securing Royal Assent; or by an Order in Council made by the Governor-General on recommendation of the Minister. The Councils will not know if this timeframe can be met for developing and adopting a RSS for the West Coast until we know which tranche we will be in, and when we can commence the RSS development process. This approach could make it difficult for the Councils to budget adequately for the RSS process without sufficient prior notice.</p> <p>Recommendation 74: To enable councils to prepare annual and long-term budgets, that Central Government gives councils plenty of prior notice as to which tranche they are in and when it will commence.</p>	Schedule 1, Part 1, clause (1)(1)

This ends our submission on the Spatial Planning Bill, which should be read in tandem with our submission on the Natural and Built Environment Bill.