13 February 2026

Committee Secretariat
Environment Committee
Parliament Buildings
Wellington
Via email: en.legislation@parliament.govt.nz

Dear Chair and members of the Environment Committee

Submission from the Manawatū District Council on the Planning Bill 2025

The Manawatū District Council (MDC) thanks the Environment Committee for the opportunity to make a submission on the Planning Bill 2025 ('the Bill'). The preparation of the Bill constitutes the most significant change to the New Zealand planning and resource management system since 1991, with considerable impacts on the lives of every New Zealander and many billions of dollars in public and private investment for years to come. We ask the Committee to look beyond the immediate issues of today and carefully consider the long-term benefits and costs the provisions of the Bill will confer, particularly on future generations.

This submission comprises two principal parts. The first part of the submission consists of a brief overview of the Manawatū District and general submission points on the Bill. The second part of the submission, presented in tabular form, contains points on specific subject matter areas and provisions of the Bill.

Manawatū District Council also supports many of the points raised in the submissions by Local Government New Zealand and Taituarā - Local Government Professionals Aotearoa.

An overview of the Manawatū District

The Manawatū District has a population of approximately 33,700 people and covers nearly 2,600 square kilometres. It incorporates the full or partial catchment of several rivers (the Manawatū, Rangitīkei and Oroua) stretching from the boundary with Palmerston North City and the Ruahine Ranges in the east to twelve kilometres of Tasman Sea coastline in the west. Towards the coast, much of the District consists of flood plains and extensive areas of highly productive land.

Much of the land in Manawatū District is used for primary production purposes (e.g. sheep farming, dairy and cattle farming, and some horticultural and forestry uses). Areas of indigenous vegetation and reserves make up less than 13 per cent of land area (the largest areas being the Ruahine Forest Park and coastal dunelands).

Contained within, or crossing, the Manawatū District are numerous infrastructure assets of national and regional importance. These include State Highways 1, 3, 54 and 56, the North Island Main Trunk Railway and Palmerston North to Gisborne Railway, Ohakea Airbase,

multiple national electricity grid lines, fibre broadband backbone cables, and the national gas distribution pipelines.

Our largest town, Feilding, has a population of 17,500, with a compact, central, business area containing around 600 businesses. The town is surrounded by highly productive land to the north, south and east, and has experienced multiple significant flood events over its history. These latter features play a key role in determining where future urban growth areas can be located.

Feilding has 42 listed heritage buildings in its town centre. While these buildings give the town centre a distinct, attractive, late-Victorian/early-Edwardian character, many are also classified as earthquake prone. Striking an appropriate balance between protecting the character of the town centre and complying with earthquake-prone-building regulatory requirements to strengthen or demolish these buildings has been a particular challenge for both the Council and building owners.

It is estimated the Manawatū District will require capacity for an additional 4,345 houses over the next 30 years to meet housing capacity targets under the current National Policy Statement on Urban Development (NPS-UD). The Manawatū District has zoned land, and deferred zoning (i.e. 'future residential' zoning), capacity for more than 7,500 houses in our urban areas alone.

MDC does not consider the Manawatū District to have a shortage of zoned and developable land, but we remain mindful of the ongoing need to ensure the District continues to have sufficient developable land available to meet future growth. We also remain mindful of the need to fund infrastructure to enable development (around 80 percent of our budget goes to pay for infrastructure), and of balancing overall Council funding needs with managing the burden on ratepayers.

We are of the view that the Manawatū District Plan is pragmatic in approach and generally enabling of development. Compared to larger local authorities, we have few controls on the design or layout of buildings in residential areas. In part, this pragmatism has been brought about through necessity. Being a smaller rural council, Manawatū District Council has access to fewer specialists and experts to help us meet our obligations. This is a limitation which is often overlooked by government and non-governmental organisations based in the main centres.

The addition of national direction and regulations as part of the overall proposed planning framework is supported, but there have been examples where these have tended to complicate, rather than assist, the interpretation of our district plan.

MDC has included this context as a reminder that we are one of many smaller districts with characteristics, issues and planning approaches which are different to the main centres and growth areas of New Zealand (e.g. Auckland, Hamilton, Tauranga, Wellington, Christchurch, Selwyn, Queenstown, and Dunedin). It is therefore important that the future planning system does not take a 'one-size-fits-all' approach whereby detailed and costly requirements intended to address issues seen in the larger centres are unnecessarily imposed on smaller rural councils with much smaller ratepayer and funding bases.

General Themes

Support for Resource Management reform

The Manawatū District Council recognises and supports the need to replace the Resource Management Act 1991 (RMA) with more modern legislation which better recognises and manages the issues facing New Zealand today.

Over many years the RMA has failed to keep pace with changes in the natural and built environments, and best practice planning approaches for managing those environments. Despite many amendments intended to address its shortcomings, the RMA became, simultaneously, more complex, and less cohesive as more issue (or circumstance) specific work-around processes and requirements were added.

Under the RMA, key natural environmental health indicators have frequently shown worsening outcomes, while urban planning has become increasingly litigious, and detail heavy.

Repeated amendments to the RMA, and the subsequent enactment of the Fast Track Approvals Act has demonstrated RMA processes are also not efficient for large scale infrastructure and urban development projects. However, the response to those inefficiencies should not need to have been a separate piece of legislation (with its own separate purpose). It is preferable that appropriately designed, considered and enduring planning processes (including for nationally and regionally significant infrastructure) be contained wholly within the principal planning legislation itself.

The proposed greater use of regulations and national instruments

Both the Planning Bill and Natural Environment Bill contain extensive references to various national instruments and regulations.

Drafts of these instruments and regulations, or detailed supplementary material providing guidance on their content, were not available at the time this submission was prepared. This has made making an informed submission on their effect difficult. It has also made it difficult for local authorities to understand or anticipate how issues which may be about to be addressed through national instruments proposed under this Bill intersect with other regulatory changes. For example, of key interest to the Manawatū District is whether national instruments may be prepared under the Planning Bill which address conflicting requirements to protect heritage buildings, and requirements under Earthquake Prone Building legislation to strengthen or demolish earthquake prone buildings (some of which may be heritage listed). The Manawatū District Council requests the Environment Committee give urgent consideration how national instruments can resolve such conflicts.

MDC supports, in-principle, a degree of standardisation of plan formats, provisions, and processes where:

- There is no justifiable reason for plan provisions to differ from one plan to another.
- The standardisation provisions improves overall system efficiencies – for example in the preparation of plans, plan interpretation, and plan administration.

MDC also understands that having such provisions in regulations and national instruments reduces complexity of the primary legislation and may enable a greater degree of regulatory agility to adapt to changing circumstances.

However, MDC is concerned the overreliance and intended proliferation of such instruments across two different Acts will:

- Do little to make the replacement planning system simpler for the public to understand.
- Reduce certainty for local authorities, consent applicants and the general public as regulations and national instruments can be changed swiftly, and without the scrutiny of the full select committee process.

It is noted that significant and broad planning system implementation difficulties and vulnerabilities will be created if all the required instruments and regulations do not come into force, and are not available to local authorities to use, in a timely manner. MDC urges the government:

- To ensure government departments responsible for the preparation of the instruments and regulations are fully resourced to undertake the work required.
- To involve local authorities in the preparation of draft instruments to ensure there are no perverse or unintended consequences.

The need for more careful implementation sequencing and timing

Building on the matter above, Manawatū District Council urges the Environment Committee to pay close attention to the proposed sequencing and timing of implementation requirements in the Bill and key instruments under it.

Manawatū District Council considers further work is required to achieve a more logical and realistic sequencing of the preparation of national policy direction and instruments, regional spatial plans, natural environment plans, and land use plans.

As currently written the Planning and Natural Environment Bills (and in particular, the commencement and Schedule 1 transitional provisions) requires local authorities to commence preparation of regional spatial plans before much of the national policy direction, national standards, environmental limits and other regulations (which the spatial plan must comply with) will be in place. There is also a circularity in the preparation of regional spatial plans, natural environment plans, and land use plans.[1] The Bill appears to require regional spatial plans to incorporate information from natural environment plans (particularly in respect to environmental limits) and land use plans. However, natural environment plans and land use plans are to implement the regional spatial plan and be notified after the regional spatial plan is decided.

Although appreciative of the need to reform New Zealand's planning and resource management systems at pace, Manawatū District Council is also concerned that timeframes for preparing national direction, regional spatial plans, natural environment plans, and land use plans are overly optimistic. We agree with the Taituarā assessment that it would be better if regional spatial plans be notified within 24 months of enactment and further

[1] See Planning Bill sections 68 and s80(2), the commencement provisions under cl5 of Schedule 1, and clauses 3, 5 and 6 of Schedule 2 (which relate to the context and content of regional spatial plans). See also s51 of the Natural Environment Bill (which relate to setting of ecological environmental limits in natural environment plans) .

consideration be given to more realistic timeframes for natural environment plans and land use plans. Such timeframes would better reflect:

- The additional process steps and more complex interdependencies and governance arrangements associated with the first generation of instruments and plans under the new Bills.
- The risk of key inputs to plans not being in place in time (e.g. the government's national flood map is not proposed for release until some time in 2027).
- The realities of preparing new types of plans under new legislation, including a much reduced ability to rely on previous legal interpretations and precedents (which, when the RMA was enacted, was a contributor to the first generation of RMA plans taking several years to complete).
- The complexity of implementing large scale change while the government is making wider changes to the local government system (including rates caps which may limit the resourcing needed to implement change), and to the structure and roles of central government departments responsible for overseeing the passage and implementation of the Bills.

Key features of the Planning Bill MDC support

Notwithstanding specific matters of detail outlined in the tabulated sections to this submission, MDC supports the following general features of the Bill:

1. A clear set of goals which outline what all persons exercising functions, powers or duties must seek to achieve.
2. Clearer and simpler drafting of provisions which involve key statutory tests for decision making around matters (such as the notification of planning consents).
3. A clear explanation of the hierarchy of the respective national direction and planning instruments and how these are intended to relate to each other.
4. The introduction of regional spatial plans, prepared collaboratively by all the councils in a region, which sets the strategic direction for development and investment within the region, and which are intended to enable integrated decision-making and development planning.
5. The introduction of a lower-cost appeals body (the Planning Tribunal) to determine objections and appeals on administrative and lower-order policy matters which do not warrant the scrutiny of the Environment Court or a higher court.
6. The broader range of enforcement and compliance options and powers (such as adverse publicity, pecuniary penalty, or monetary benefit orders) available to the Environmental Protection Authority and local authorities.

Key features of the Planning Bill MDC do not support or has concerns about

Although supportive of the need to replace the RMA, and many of the goals in the Bill, Council has concerns about a number of general features of the Bill which may detract from its efficient and effective implementation in the long-term. We also have concerns about the overall impact on accountability, local democracy, and financial implications for smaller councils and their communities. Principal amongst our concerns are the following:

1. **A purpose and goals which fail to explicitly acknowledge future generations**

Submission

With the omission of a reference to sustainable management (as used in the purpose of RMA), the Planning Bill no longer refers to the use of land or resources being managed to benefit future generations.

The absence of consideration of explicit benefits for (or impacts on) future generations inadvertently places an emphasis on addressing the issues of today at the expense of the long-term future. MDC submits that this is not in the greater interests of New Zealand, and appears to be at odds with:

- The intent that regional spatial plans provide for timeframes greater than 30 years.
- The rationale for setting environmental limits to safeguard the life supporting capacity of air, water soil, and ecosystems.

Relief sought

The purpose of the Natural Environment Bill and Planning Bill should both refer to the proposed frameworks in each Bill existing to achieve the goals in section 11, and for the benefit of both current and future generations.

2. **Regulatory relief provisions**

The Bill proposes the imposition of a regulatory relief regime which includes financial compensation from councils when the reasonable use of land is significantly impacted. We consider these provisions are likely to set an unwelcome precedent and will be problematic in effect and implementation. The proposed regime is particularly problematic where the regulation of the use and development of land, or the protection of heritage and various natural features is mandatory under the Bill.

The imposition of the regulatory relief regime:

- Appears to apply inconsistently, in so far that the regulatory relief appears to only apply to the provisions in local authority plans, and not regulations, national instruments, standards or national rules set by central government.
- May place local authorities in a 'no-win' situation where legislation both requires local authorities to regulate certain activities, but then also compensate or offset the impact on affected landowners.
- Sets an unwelcome precedent by opening the door to financial compensation for losses of private rights imposed to achieve a broader range of public goods beyond the scope of the Natural Environment Bill and Planning Bill (e.g. restrictions on the use of land for public health and safety reasons).
- Where it entails additional expenditure by local authorities, the proposal is inconsistent with government objectives to reduce cost of living pressures, including requiring local authorities to rein in spending and rates increases.

Other provisions of the Bill already provide sufficient opportunity to challenge provisions which render land incapable of reasonable use (see section 105, and the ability to make submissions on plans, for example). Consideration could also be given to imposing a stronger duty on central government and local authorities to consider the impact of provisions on the reasonable use of private property when preparing national instruments and plans.

Relief sought:

a) The deletion of the regulatory relief provisions in Part 4 of Schedule 3 of the Planning Bill, and associated cross-references to it in the Natural Environment Bill.

b) Those provisions relating to the preparation of national instruments, standards, and national rules and rules in plans all be required to include explicit consideration as to whether the proposed instrument or rules will render land incapable of reasonable use.

c) Retention of proposed section 105 (without the reference to regulatory relief), which enables a person to apply to the Environment Court to have a provision deleted or modified if it severely impairs the reasonable use of land.

3. Increased scope of Ministerial powers and the weakening of local democracy

Submission

Greater national direction and guidance is useful and supported where it will assist interpretation and consistent administration of the Bill. However, MDC is concerned that the combination of a high degree of Ministerial say over plan content (by multiple Ministers in the case of environment plans), ministerial appointments to regional spatial plan committees and hearings panels, prescription of operational processes and Ministerial-directive-type powers:

- Weakens local democracy and the application of the principle of subsidiarity[2].
- Appears contrary to previous government statements around restoring local decision-making.
- Moves closer to treating all local authorities the same and creating levels of central government intervention, complexity and cost which are disproportionate to the scale, characteristics and nature of issues found in smaller local authorities such as the Manawatū District.
- Risks frequent and rapid changes in national and local policy settings in such a way as to undermine the creation of a stable, enduring, consistent

[2] Expressed as, for example: 'the principle that a central authority should have a subsidiary function, performing only those tasks which cannot be performed at a more local level' (The Oxford Dictionary), or 'decisions are taken at the most appropriate level; for example by those most directly affected, by those best informed and by those best placed to deal with any consequences' (*Subsidiarity: Implications for New Zealand*, New Zealand Treasury Working Paper Series 02/03).

land development and environmental management system which provides confidence and certainty for all.

Relief sought

a) The provisions of the Bill be amended to provide greater specificity regarding the circumstances Ministerial directions and appointments will be made, including the Minister having regard to the necessity and proportionality of their actions, upholding the principle of subsidiarity, and Ministers being required to consider impact on the integrity of local democratic decision-making.

b) Ministers and the chief executive of the department responsible for administering the Planning Act must have particular regard to the scale and characteristics of the local authorities to which provisions of a national instrument or regulation will apply to, and whether there is a need to those provisions to apply universally to all local authorities.

4. Few requirements to engage with local authorities when preparing national instruments, direction, and regulations

Submission

MDC is concerned that in several parts of the Bill, there is no explicit requirement to notify, consult with or engage with local authorities when preparing a national instrument, direction, standards, or regulations. At best, the provisions provide a discretion for the Minister to consult persons who may have an interest, or to notify the public generally. The situation is compounded by the ability of Ministers to amend instruments (e.g. National Standards) without a full process or any requirement to invite comment from any party including local authorities (see, for example, proposed section 62).

MDC submits the preparation of sound and effective policy is dependent on input from those who have the greatest experience of its application and will have to implement it. In this case it is local authorities which will be responsible for the implementation and enforcement of national instruments and compliance with regulations. Local authorities can advise on the practicality of what is proposed and help avoid unintended consequences.

We are also concerned that there are no fixed minimum timeframes relating to consultation or submission periods relating to various national instruments, even though minimum timeframes are specified for local authority plans.

Experience has found some government consultation periods too short to enable meaningful input. The provisions of the Bill leave this issue unaddressed. Short (or non-existent) consultation periods:

- Are inconsistent with the principles of natural justice (those affected should have an appropriate opportunity to have a say in proposals which affect them).
- Are inconsistent with the principles of good consultation (as expressed by the High Court in *Air New Zealand Ltd v Wellington Airport Ltd* HC Wellington, CP 403/91) and the principles of

consultation placed on local authorities (s82 of the Local Government Act 2002 for example).

- Will work against an intent to have quality, responsible and enduring regulation (including the intent inherent in the purpose and principles of the Regulatory Standards Act 2025).

The importance of local authority input is further underlined by proposals in the Bill which may limit broader community participation. In these cases, it often falls to local authorities to represent the views of their communities.

Relief sought

a) The following provisions should make specific reference to affected local authorities being consulted, and being given the opportunity to submit or comment on, the preparation of draft regulations, national instruments, or directions:

   i. Provisions relating to the preparation of national instruments (proposed sections 46 - 52).

   ii. Provisions relating to preparation of the National Policy Direction (proposed sections 53 – 57).

   iii. Provisions relating to National Standards (proposed sections 58 – 60).

   iv. Regulations made under proposed sections, 281, 282 and 283 which relate to matters including, the preparation of spatial plans, esplanade strips, fees, the application and categorisation of rules in plans, monitoring by local authorities, timeframes and procedures, and levies.

   The provisions could take a form similar to proposed section 305 Emergency Response Regulations, including the pre-circulation of drafts (similar to section 58D of the Resource Management Act), or both.

b) The minimum timeframe of consultation and submissions or feedback on proposed regulations, national instruments or directions be set at 20 working days.

5. Unclear, onerous, and potentially costly permitted activity provisions

Submission

MDC is concerned that the provisions relating to permitted activities and permitted activity rules (proposed sections 30, 38, 177 and 180) are confusing, and likely to be onerous on those undertaking permitted activities.

Under the Resource Management Act 1991, permitted activities are those which do not require a consent, and there is no requirement for a person undertaking such activities to register them formally with the council (nor for the council to have discretion to set additional conditions on them).

The Planning Bill proposes a permitted activity registration process (if an activity is subject to a permitted activity rule), a local authority determination, and for the person who is undertaking the activity to undertake tasks such as

seeking affected party approvals or reports from experts. Those persons may also be required to pay a fee, or a permitted activity levy to the government. This is significantly more onerous and expensive than most permitted activities under the Resource Management Act.

If there is supposed to be a distinction between permitted activities which need to be registered, and those which do not need to be registered and which can be undertaken without having to approach a local authority, then this needs much more explicit clarification in the Bill. This could be done by calling permitted activities which are required to be registered by a different name.

Relief sought

a) Having a clear separation between genuinely permitted activities (where no planning consent is required and a landowner or operator is not required register their activity) and activities which are required to be registered and may be subject to conditions.

b) Renaming permitted activities which are required to be registered and which may be subject to conditions by another name (for example 'registered activity' or 'controlled activity').

6. Narrowed application of Treaty principles and inconsistent Māori engagement provisions

Submission

Recognition of the importance of Māori participation and Te Tiriti o Waitangi / Treaty of Waitangi and its principles in planning and resource management precedes the RMA. Such recognition can be found in multiple reports from past governments, non-governmental organisations, and academia.[3]

Section 8 of the Bill summarises provisions in other parts of the Bill which recognise the Crown's responsibilities in relation to Te Tiriti o Waitangi / Treaty of Waitangi. However, section 8 represents a significant narrowing of the application of the principles of the Treaty and omits a broader duty for all persons acting under the Bill to take into account the principles of the Treaty (as provided for under section 8 of the RMA). The Crown's responsibilities are further watered down by proposed section 9(3), under which the obligations of the Crown to work with post-settlement governance entities to transition redress arrangements to the new legislation automatically expire after two years.

The Bill does provide for some participation by Māori (which is consistent with the principles of Te Tiriti o Waitangi / Treaty of Waitangi). However, the

[3] For example:

- Parliamentary Commissioner for the Environment. (1998). *Kaitiakitanga and local government : tangata whenua participation in environmental management*. Wellington: Parliamentary Commissioner for the Environment
- Cheyne, C. M. & Tawhai, V. M. H. (2007). *He wharemoa te rakau, ka mahue. Māori engagement with local government : knowledge, experiences, and recommendations.* A research project supported by the Royal Society of New Zealand Marsden Fund (MAU-039)
-

terminology used to describe various Māori entities is used inconsistently (e.g. Māori, iwi, iwi authorities, post-settlement government entities, customary rights groups, and just a couple of references to hapū). The effect of this is to lock some Māori groups with legitimate rights and interests out of participation in key planning and consenting processes.

The difference in terminology described above is particularly important to the Manawatū District where resident Māori comprise a mix of iwi with Treaty settlements in place, iwi who have yet to have claims resolved, and various marae or hapū collectives who are not in themselves iwi, iwi authorities, or post settlement governance entities.

The inconsistent referencing means the rights, sites of significance, and interests of various Māori groups are unlikely to be protected or provided for as intended under section 11 and past injustices (including those which are still the subject of Treaty Claims) may be perpetuated.

Although the general intent of 'Māori interests' goal in section 11 is supported, it is also noted that its emphasis on participation is weakened by the absence of an ability for iwi and hapū to enter into joint management agreements and initiate Mana Whakahono ā Rohe participation arrangements. Such agreements were provided for in the RMA.

Relief sought

a) Replace section 8 of the Planning Bill with wording which has the same or similar effect to section 8 of the Resource Management Act (duty to take into account the principles of the Treaty of Waitangi).

b) Provisions which refer to engagement or consultation with Māori should refer to both iwi and hapū (where appropriate).

c) The Bill should make provision for iwi and hapū to participate in and initiate joint management agreements and Mana Whakahono ā Rohe participation arrangements.

Conclusion

Thank you again for the opportunity to provide feedback on the Planning Bill 2025.

The Manawatū District Council wishes to be heard in support of this submission.

Yours sincerely

Michael Ford
Mayor

MDC Submission on Specific Provisions of the Planning Bill 2025

Part 1: Preliminary Provisions		
Provision(s)	**MDC Position**	**Submission**
Section 3 *Interpretation*	**Partly Support**	**<u>Submission – Specified Topic</u>** This definition exists solely to support the proposed regulatory relief framework to which Manawatū District Council is opposed (as outlined in other parts of this submission). **<u>Relief sought</u>** i. Delete the definition of Specified Topic.
Section 4 *Purpose*	**Partly Support**	**<u>Submission</u>** The purpose of the Planning Bill conveys the impression that the Bill exists to create a framework for planning and regulation the use and development of land (as though that is the desired end point). A greater sense of purpose would be achieved by linking the purpose to the goals in proposed section 11 (which effectively talk to the outcomes sought through planning and regulation). MDC also notes that with the dropping of any concept of sustainability, sustainable development or sustainable management the purpose and goals in the Bill inadvertently create a focus on the short-term and makes no explicit reference to benefits for future generations (who could be shut out by a focus on current issues, or face unreasonable costs as a result of decisions taken to address the issues of today). **<u>Relief Sought</u>** i. Add '<u>in order to achieve the goals contained in section 11 for the benefit of current and future generations</u>' or words to similar effect.
Section 8	**Opposed**	**<u>Submission</u>**

Part 1: Preliminary Provisions		
Provision(s)	**MDC Position**	**Submission**
		Section 8 purports to recognise the Crown's responsibilities under the Treaty of Waitangi / Te Tiriti o Waitangi by paraphrasing provisions contained in other parts of the Bill. In so doing, the section (in conjunction with others it links to): • Narrows the application of Treaty Principles (be they those espoused by the Waitangi Tribunal or the Court of Appeal). • Imposes unclear and inconsistent duties on parties exercising duties and powers under the Bill (noting in particular that those which relate to local authorities are different to those on various Ministers when the latter are exercising some of their powers). • Effectively fixes the status of Treaty Settlements to a particular point in time (it is unclear what happens with iwi or hapū who have yet to have their claims heard). • Prioritises iwi and iwi authorities without equal, explicit consideration of hapū (not all hapū who hold tangata whenua or mana whenua status hold views which are completely aligned with the iwi in their area). The circumstances above are suggestive of provisions which do not meet the spirit of the Treaty and its principles and which may give rise to further contemporary Treaty claims. MDC submits that the committee give consideration to how the principles of Te Tiriti can be better reflected in the Bill holistically. MDC also recommends that guidance for upholding Te Tiriti principles is sought by the committee from iwi and hapū. **Relief Sought** i. Replace section 8 with a provision similar in form and effect to section 8 of the RMA. ii. The Committee seek guidance from iwi and hapū as to who the Bill, as a whole, could better uphold Crown obligations under the Treaty / Te Tiriti.
Section 9 *Crown to seek*	**Partly Supported**	**Submission** Manawatū District Council supports the intent that the Crown work with post-settlement governance entities (if

Part 1: Preliminary Provisions		
Provision(s)	**MDC Position**	**Submission**
to enter agreements to uphold Treaty settlement redress		they so wish) to seek agreement on how their Treaty settlement redress or arrangements will operate with the same or equivalent effect under the Bill. However, Manawatū District Council does not support section 9(3) which repeals the obligation to work with post-settlement governance entities after two years from enactment and appears to make continuation of discussions and further work to transition settlement arrangements at the discretion of the Crown. Section 9(4) appears to continue the discretion for the Crown to continue working with entities, but the effect of this provision would be trumped by the sunset clause in 9(3). Given the number of Treaty Settlements (more than 60) and the complexity Māori and the Crown will likely have in negotiating amendments to these, the expiry of the Crown obligation within two years appears to impose an unrealistic time constraint. It is Council's view that the Planning Bill is not the appropriate legislative space to dictate terms and timeframes on treaty settlement processes. **Relief Sought** **i.** Delete s9(3) and 9(4).
Section 10 *Treaty Redress or arrangements to be given same effect*	**Opposed**	**Submission** The intent to retain and uphold existing Treaty settlements and give them the same effect as under the RMA is supported, but MDC does not support the link to section 9 in so far that subsection 9(3) ensures section 9 will expire after two years. Additionally, MDC does not support the wording of section 10(3) in so far that it appears to mean the Crown may disregard statutory acknowledgements in performing its duties (while local authorities must fulfil their duties – such as under section 189 and Schedule 2). Statutory acknowledgments are areas of Crown land when Māori interests have been formally recognised through a schedule in a Treaty settlement act. Often these include natural features with cultural significance such as rivers, lakes, wetlands, and small offshore islands. MDC has concerns about how subsection 3 is expected to be applied: i. The opportunity for iwi to be involved in an activity which affects a statutory acknowledgement area is at the consenting stage. If, as signalled by the messaging around the release of the Bill, many activities

Part 1: Preliminary Provisions

Provision(s)	MDC Position	Submission
		(such as mineral extraction and quarrying) may be classed as permitted activities, then no planning consent is required. Kaitiaki of areas covered by statutory acknowledgements will not be able to have a say if the activity is listed as permitted in the relevant plan. ii. Local authorities may only engage kaitiaki in the context of statutory acknowledgement areas where they are an affected person in a planning consent, and in the development of the rules within the land use plan. If secondary legislation is released that permits certain activities with a significant environmental impact to occur then kaitiaki of statutory acknowledgement which may be affected areas will not be consulted. **Relief Sought** i. Delete section 10(1) and 10(3).

Part 2: Foundations

Provision(s)	MDC Position	Submission
Section 11 *Goals*	**Partly Support**	**Submission- Chapeau to s11** The chapeau to s11 states those exercising functions, duties and powers under the Act must 'seek to achieve' the goals. The use of 'seek' appears to be a weak test (the Cambridge Dictionary definition is '*to try and find or get something'*) and suggestive of a lack of confidence in the achievement of the goals. The RMA section 6 wording of 'recognise and provide for' (which relates to matters of national importance) provides a greater sense of direction, and enables some of the case law from the RMA to be reused (rather than introduce a new concept, whose interpretation will likely have to be tested through the Courts before its meaning is fully understood). **Relief Sought**

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		i. Replace the words 'seek to achieve' with 'recognise and provide for' ii. Reword s11(a)-(i) to ensure grammatical correctness as a result of the change to the chapeau **Submission – s11 Missing Goal** Although the Explanatory Note and several provisions of the Bill refer to adapting to the effects of climate change (such as in the context of reducing the risk from natural hazards and as a mandatory matter in regional spatial plans) there is nothing in the goals that refers to climate adaptation as being a goal. As demonstrated by recent adverse weather events, the need to plan for effects of climate change (such as drought or more frequent heavy rainfall events) is necessary to avoid further loss to life or property. **Relief Sought** iii. **EITHER** modify goal (h) (relating to safeguarding communities from the effects of natural hazards) to include a reference to adapting to the effects of climate change, **OR** iv. Include a new goal which specifically relates to planning for, and regulating the use and development of, land to avoid or mitigate the effects of climate change. **Submission – s11(1)(a)** The construct of s11(1)(a) could be read as implying that the separation of incompatible land uses may unreasonably affect others. It is also unclear as to what constitutes 'unreasonable' in reference to affecting others. **Relief Sought** v. Reword section 11(1)(a) to state "to ensure, including through the separation of incompatible land uses, land uses to not unreasonably affect others" vi. Provide a definition of 'unreasonably affect' in section 3, or through the proposed National Policy Direction.

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		Submission – s11(1)(c) While the concept of 'well-functioning urban areas' is well traversed through existing RMA national direction and supported by the other goals in s11(b),(d) and (e) it the concept of a 'well-functioning rural area' is vague and subjective without further clarification or qualification. Further, grouping rural and urban areas together into the same goal does little to assist clarity as both have distinctively different characteristics. **Relief Sought** vii. If 'well-functioning' is to retained as wording related to rural areas then it should be a separate goal to having a 'well-functioning urban area' viii. Provide additional wording which clarifies the qualities of a well functioning rural area (e.g. if it relates to some definable and desirable qualities of the rural environment such as the availability of land for primary industries or the protection of highly productive land, for example). **Submission – s11(1)(e)** Goal (e) currently uses the word 'demand,' presumably in the economic sense of the word. However, demand can relate to both the wants and needs of the consumer. Tying the provision of infrastructure to 'wants' rather than needs results in inefficiencies whereby infrastructure providers are being forced to provide and maintain infrastructure in excess of what is actually needed. This places additional costs on infrastructure providers, ratepayers and developers (which are then passed onto to landowners, building owners or occupiers in the form of higher prices, rents, or levies). **Relief Sought** ix. Replace the word 'demand' in s.11(e) with the word 'needs.' **Submission – s11(1)(f)** Goal (f) refers to maintaining public access to various water bodies. Use of the word 'maintain' implies the extent of

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		access to those water bodies is fixed at a point of time and further enhancement of access is not envisaged, even if compensation is paid where land is obtained to improve access. This seems at odds with what communities may need or want (e.g. when a settlement expands along a beach, lake, or river) and other provisions in the Bill which anticipate compensation being paid to landowners when land is taken for purposes such as improving access. **Relief Sought** x. Add after the word 'maintain' the words 'or enhance.' xi. Incorporate a definition of 'enhance' into section 3 (interpretation) which incorporates the concept of improvement. **Submission – s11(1)(g)** Goal (g) appears both vague and incomplete in its current form. 'Development' is not defined in the Bill, but 'use' is (but with the latter not being mentioned in the goal at all). MDC is also concerned there is a conflict of expectations in respect to the achievement of this goal (and the functions of territorial authorities in section 184), which requires protection of various natural features and landscapes, and the requirement for local authorities to provide regulatory relief for significant impacts on the reasonable use of land under Part 4 of Schedule 3. The latter requirement is likely to compromise the ability and willingness of local authorities to achieve the goal. If such protection is to be a mandatory national goal under the Bill, then compensation should not be payable by local authorities. If compensation is required, then it should be paid by the entity which first imposed the requirement for protection 'for the good of New Zealand' (i.e. central government). It is further noted that s11(1)(g)(iii) refers to the goal of protecting sites of significant historic heritage. Manawatū District Council is not opposed to the protection of such sites, but notes such protections (as under the RMA now) can create conflicts with other regulatory requirements (including those relating to Earthquake Prone Building Act requirements to demolish or strengthen earthquake-prone buildings). This is a particular concern in Feilding where there are 42 heritage buildings, many of which are earthquake prone. A number of these buildings are likely beyond the point of economic repair or strengthening. This leaves owners in a dilemma whereby they will, in coming years,

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		be forced strengthen or demolish a building under the Earthquake Prone Building Act, but may be restricted by a heritage listing in a plan from doing so. The owner would first have to go through an expensive and time consuming consenting process to get the necessary consents under the RMA (or, potentially, the Planning Act). As things stand, the process through which local authority could de-list buildings in their district plan (to make things easier for the building owner) can be equally time-consuming, expensive and uncertain. An example of how this conflict between public safety and protection of heritage can result in drawn-out, expensive and uncertain results was well demonstrated by what occurred with the Gordon Wilson Flats in Wellington (which eventually had to be resolved through legislative changes). We request the Committee either amend the Bill to provide an explicit means to de-list earthquake prone heritage buildings which are not considered to be of the highest significance to the local community, or recommend to Parliament that national policy direction on heritage, which includes a process and criteria for de-listing earthquake prone buildings, be made a priority. **Relief Sought** xii. Reword s11(1)(g) as 'to protect from inappropriate development and use…' xiii. Delete Part 4 of Schedule 3 to avoid any conflict with the achievement of goal s11(1)(g) and rely of other provisions in the Bill which enable a landowner to challenge a national rule or plan provision which renders their land incapable of reasonable use. **EITHER:** xiv. Include provisions in the Bill which qualify the obligations to protect significant historic heritage by allowing certain earthquake-prone buildings which are not considered to be of highest significance by their communities to be de-listed from district plans (during the transitional period of the Bill) and land use plans (once the transitional period is over). **OR:** xv. The Committee recommend to Parliament that priority be given to the preparation of a national instrument under s44, or national policy direction under s55, which covers the protection of sites of significant historic heritage. The instrument or direction should include a process and criteria for the de-listing of earthquake

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		prone heritage buildings. The criteria for the process should include those below (or criteria similar in nature or effect): • The building must not be one that has been identified by the local community as being of the highest significance or importance to them, and • The building has been evaluated as being beyond economical repair and strengthening (such that demolition may be the only option), or • The work required to strengthen the building would be of such a great extent as to significantly detract from the heritage value of the building.
Section 12 *Relationship between key instruments*	**Partly Support**	**Submission** Section 12 does not mention that the instruments exist for the purpose of achieving the goals. The intent should be for instruments to achieve the goals and for the goals to have primacy (with circumvention of having to achieve all goals, where goals conflict, being the exception). **Relief Sought** i. Insert into a s12(1) a reference to the instruments listed existing to achieve the goals in s.11. ii. Insert into s12(3) an additional subclause requiring consideration how goals relate to 'a matter'. iii. Reword s12(3)(c) to be less directive (i.e. 'need not consider a goal where achievement of the goal is …')
Section 13 *Procedural principles*	**Partly Support**	**Submission** The inclusion of section 13 appears to continue the themes contained in RMA s18A. In both cases the rationale behind the provisions appears to be codify good practice, but in doing so the sections appear only to add to the potential for legal challenges made on subjective (and potentially vexatious) grounds. Manawatū District Council is of the view that it would be preferable and more efficient for provisions of this nature to be placed in national planning standards or form part of the considerations which inform the making of regulations, plan rules, and consent (or permit) conditions.

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		The wording of proposed section 13 is directive, meaning that list of practicable steps must be applied in respect to every action taken under the Bill. However key terms that will be instrumental in determining compliance are left undefined. If not further defined, implementation of the provisions could lead to unnecessary and unintended costs, use of resources and time being spent on compliance. Of key concern are the subjective terms or phrases: • Acting in a 'cost effective manner' (cost effective for whom?) • Acting 'proportionately' (what is proportionate is subjective and likely to depend on the perspective of the parties involved) • 'Avoiding unnecessary repetition' (although desirable, this is both subjective and difficult to achieve given the repetition that already exists between the two Bills and the likely need [and requirements} for repetition of material between national instruments, regional spatial plans, and other plans). **Relief Sought** **EITHER:** i. Delete section 13 entirely, **OR** ii. Provide further provisions in the Bills which guide the application of phrases 'cost effective manner' and 'proportionate' and which include who those terms and phrases are to apply to. iii. Delete 13(f).
Section 14 *Effects outside the scope of this Act*	**Partly Support**	**Submission** The list of effects of set out in section 14 is neither insufficiently nuanced to reflect the variability and character of effects in the real world, nor does it recognise some plan provisions exist to manage multiple effects (not just those related to visual amenity). Parts of section 14 are supported to the extent they codify common planning practice, relate to matters which are more appropriately covered in other legislation, or relate to matters which have proven difficult (or unnecessary) to enforce. Into these categories fit the proposed exclusion of effects relating to the protection of private views, the

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		socio-economic status of residents, retail distribution effects, the financial viability of a project, and the economic effects of trade competition However, MDC submits that the effects that should still be within the scope of the Bill should include: • **Effects on landscape should be able to be considered where the landscape is identified as an outstanding natural landscape** (in some cases local businesses, such as those around Queenstown or Wanaka, are dependent on the natural aesthetic of an area, while in other cases some landscapes may have particular [and sensitive] historical or cultural associations, such as Mount Taranaki). • **The visual appearance of buildings within a heritage area or precinct** (e.g. some of Feilding's historic streets, Napier's Art Deco Streets, or the Oamaru Heritage Precinct) which give a town or location a distinct character and/or attracts visitors and tourist spending. • **The external layout of buildings where necessary to address environmental matters other than visual appearance** (e.g. to ensure access to sunlight or provide permeable surfaces to help manage stormwater runoff). • **Legitimate significant adverse environmental effects on the trade competitors of consent applicants** (for example, noise, vibration, dust, runoff, discharges, or traffic safety impacts which have the potential to damage land or buildings, or puts business operations or the health and safety of employees at risk). MDC submits that there is also a legitimate role for considering precedent effects where they play a role in promoting and efficient consenting processes. Considering each consent application on their merits de novo, without an ability to reflect on what approach had been used previously with similar applications, will result in extra time and expense for each new application. Not being able to consider precedents also makes managing cumulative effects (see the definition of 'effect' in section 3) difficult. MDC further submits that as worded currently, the relationship between s14(1) and (2) will result in confusion for applicants and those administering the consent process. Managing of the matters listed in 14(2) is difficult without having some regard to some of the effects 14(1) proposes to exclude. Finally, it is not entirely clear from the provisions of the Bill as to what is to happen with activities which, during the transition period which would normally trigger the need for a RMA resource consent (by virtue breaching an amenity-

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		based rule in a district plan) but to which section 14 may now apply. It would be appreciated if the Bill could (as part of transitional provisions) clarify whether these are to be treated as permitted activities (i.e. no application is required), whether the corresponding provisions of plans are to be removed without further formality, or whether such activities are still required to apply for a consent and the consent automatically be granted (which seems costly and inefficient for applicants and the consent authority). **Relief Sought** i. In 14(1)(a): delete the reference to the external layout of buildings on a site. ii. In 14(1)(b): insert the words '<u>economic or financial</u>' between 'negative' and 'effects'. iii. Qualify 14(1)(e) so that the ability to consider the visual appearance of a building in a heritage area or precinct is retained. iv. Modify 14(1)(h) so that it does not exclude the ability to consider the effects of buildings and activities on outstanding natural landscapes and features, or sites of significance to Māori. v. Delete 14(1)(i). vi. Make consequential amendments to 14(2) to give effect to the matters above.
Section 15 *Considering adverse effects of activities*	**Partly support**	**<u>Submission</u>** Use of the words 'where practicable' in s15(1)(a) weaken and undermine the duty of any party under the Bill to consider how adverse effects are to be avoided, minimised or remedied. Although possibly unintended, the words create the impression that a person can opt out if they are of the view such a consideration entails too much effort or expense. The wording in s15(1)(a) is able to function without the 'where practicable' qualification, particularly when other provisions of the Bill already incorporate principles relating to proportionality. **<u>Relief Sought</u>** i. Delete 'where practicable' from s15(1)(a).
Section 16	**Opposed**	**<u>Submission</u>**

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
Overview of reference to rules		The intended effect and location of this section is unclear, particularly as s16(2) states the section is 'only a guide'. **Relief Sought** Delete section 16 and move the material which defines and distinguishes between *national rules* and *rules* in environment plans to section 3 (interpretation).
Section 17 *Restrictions on land use*	**Partly Support**	**Submission** This sections use of the same or similar language to s9 of the Resource Management Act misses an opportunity to make it clearer that most everyday, common, activities are automatically able to be undertaken without the need for a planning consent and such a consent is only required where a rule in a plan requires a consent to be applied for or a condition of a permitted activity (where such conditions or terms exist) is not able to be complied with. **Relief Sought** i. Include a clause to the effect that any effect or activity which is not covered by provisions in a national standard or regional spatial plan or land use plan is deemed to be a permitted activity (of a type which does not need to be registered with a territorial authority).
Section 25 *Duty to avoid, minimise or remedy adverse effects*	**Partly Support**	**Submission** The RMA used the phrase, 'avoid, remedy, or mitigate' in respect to adverse effects. The Planning Bill, instead of referring to 'mitigate' proposes to use the term 'minimise.' It is unclear what 'minimise' is intended to mean in this context and the extent to which 'minimise' is to be qualified by reference to practicality or degree. For example, is 'minimise' intended to incorporate concepts of offsetting or compensation (and would those terms entail full or partial offsetting or compensation)? Without further clarification there is strong risk of the Courts being left to determine interpretation via case law (and such interpretations may be different to what the government intended). By contrast, there is much existing caselaw around the term 'mitigate' (as used in the RMA). If the term 'minimise' is difficult to define then Manawatū District Council suggests reverting back to 'mitigate.'

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		Relief Sought i. **EITHER:** That the Bill provide a definition which makes it clear as to how the term 'minimise' is intended to be interpreted ii. **OR:** Replace 'minimise' with 'mitigate'.
Section 27 *Key instruments*	**Support**	**Submission** Provides a useful overview of the type and purpose of key planning instruments in the Bill.
Section 29 *Application of objectives policies, rules, and methods*	**Support**	**Submission** MDC supports the intent of the provision but suggests the words 'specified activity' be replaced by 'particular activity' or 'individual activity' to lessen the confusion with the concept of a 'specified topic' or an activity which may be specified or listed in a schedule or provision of a planning instrument.
Sections 30 and 31 *Meaning of rule* and *Principles for classifying activities*	**Support**	**Submission** Putting aside whether the incorporation of principles adds unnecessary sections to the Bill, MDC supports the general approach the principles take to help determine (by way of the nature of effects) which activity class any activity fits under.
Section 32(2), Section 33, and Section 38 *Consequences*	**Opposed**	**Submission** The relationship between 32(2)(b) (which requires compliance with a permitted activity rule) and s38 appears to require all permitted activities to be registered or be associated with a condition of a planning consent under s151. Section 38 specifies that a person must not only register their permitted activity but must also obtain the written

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
of activity classifications and *Permitted activity rules*		approvals of all persons who may be directly affected by the activity, and/or obtain a certificate from a qualified person, and/or pay a fee or levy (see section 283). These requirements are more onerous (and costly) than what the RMA currently requires (where there is no general requirement in legislation for permitted activities to be registered, and those undertaking permitted activities generally do not need to approach a local authority). **Relief Sought** i. Amend section 32 to remove (or qualify) the requirement for all permitted activities to comply with the permitted activity rule requirements (s39), or make it clearer that s32(2)(b) must only be complied with if, and when, a national rule, regulations, standards, or a rule in a plan states compliance is required. ii. Consider renaming those permitted activities which are subject to the proposed permitted activity rule "registered activities" or "controlled activities" to better distinguish them from permitted activities which do not need to be registered. iii. Reword the chapeau of s38 to state that if a national rule, regulations, standards, or a plan rule so states, a permitted activity (or registered activity or controlled activity, if these terms are used) must be registered or relate to a matter in section 151 as though the condition for a planning consent were a condition for a permitted activity . iv. Clarify that a fee (under section 283) may only be payable where an activity is required to be registered.
Section 45 *Matters to consider when making national instrument*	**Partly Support**	**Submission** MDC is supportive of the Minister being subject to specific process requirements, including being required to consider particular matters, when preparing national instruments. However, missing from section 45 and section 46 is any explicit reference to the Minister having to have regard to, or seek advice on, the necessity for the national instrument, an evaluation of alternatives, and the costs and benefits associated with proposals (including any additional costs or savings that will be imposed on those administering or implementing the instrument). This is particularly important in that national instruments (including the standardised

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		plan provisions, and processes for setting limits) have primacy over natural environment plan provisions, and the Bill contains limited scope for such an evaluation to be carried our (or have much effect) at the regional council level. The cross reference to section 87 of the Bill appears to imply only limited scope for local authorities to give additional consideration to alternatives, costs or benefits. It is understood the government may, in the ordinary performance of its operations, assess options around the making of regulations and national instruments through a Regulatory Impact Statement (RIS), or Cost Recovery Impact Statement (CRIS) (where a regulation or instrument proposes the use of fees or levies). However, Cabinet can still agree to progress regulations without the completion of either form of assessment. This provides little confidence that the impact on those affected (and those who will have to administer or implement the instruments) will always be fully considered and understood. Statutory requirements to carry out an evaluation mitigate that risk. If there is a concern that the double up in effort between complying with statutory evaluation requirements and RIS and CRIS requirements, then it should be straight forward for Cabinet to waive the requirement for the latter when an evaluation under the Planning Act or Natural Environment Act has been prepared and attached to a Cabinet paper seeking approval for regulation or instrument. **Relief Sought** i. Amend either section 45 or section 46 to include a requirement for the Minister to evaluate, or have due regard to: a. The necessity for the instrument and any alternatives means of achieving the objectives of the instrument. b. The costs and benefits associated with the proposals in the instrument, including and additional costs or savings relating to the administration or implementation of the instrument.
Section 46 *Process for making national instrument*	**Opposed**	**Submission** Section 46(1) only requires the Minister to provide iwi authorities with a draft of a proposed national instrument and give them adequate time to consider the document and provide advice on it. The present wording of the section prioritises iwi and iwi authorities without equal, explicit consideration of hapū (not all hapū who hold tangata

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		whenua or mana whenua status hold views which are completely aligned with the iwi in their area). Despite local authorities having to comply with and implement national instruments, and having the best understanding as to how those instruments are likely to be applied locally (as well as what impact they may have), local authorities are also not given the opportunity to consider draft national instruments nor provide advice on them. Local authorities are instead treated the same as any other member of the public under s46(2)(a), i.e. that may be able to comment on a proposed document only. The discretion of the Minister to consult other persons at any time (s46(3)) does not provide certainty regarding local authority input at the draft national instrument stage. Similarly, the ministerial discretion to determine the adequacy of the timeframe for consultation fails to provide the necessary safeguards to ensure meaningful consultation. This is in direct contrast to requirements placed on local authorities (who are required to provide a submission period of at least 20 working days when preparing plans). **Relief Sought** i. References to 'iwi authorities' should be changed to recognised 'iwi and hapū.' ii. The following provisions should make specific reference to affected local authorities being consulted, and being given the opportunity to submit or comment on, the preparation of draft regulations, national instruments, or directions: • Provisions relating to the preparation of national instruments (proposed sections 46 - 52). • Provisions relating to preparation of the National Policy Direction (proposed sections 53 – 57). • Provisions relating to National Standards (proposed sections 58 – 60). • Regulations made under proposed sections, 281, 282 and 283 which relate to matters including, the preparation of spatial plans, esplanade strips, fees, the application and categorisation of rules in plans, monitoring by local authorities, timeframes and procedures, and levies. The provisions could take a form similar to that proposed for section 305 (Emergency Response Regulations), include the recirculation of drafts (similar to section 58D of the Resource Management Act), or both. iii. The minimum timeframe of consultation and submissions or feedback on proposed regulations, national

Part 2: Foundations		
Provision(s)	**MDC Position**	**Submission**
		instruments or directions be set at 20 working days. iv. Subsection 46(5)(d) should also refer to advice received from local authorities.

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
Plan sequencing Issues arising from section 68 and Schedule 2.	**Partly Support**	**<u>Submission</u>** MDC supports the concept of regional spatial plans, natural environment plans, and land use plans supporting each other, but considers there is a fundamental timing issue with the intended sequencing of plans and plan provisions across the Planning Bill and the Natural Environment Bill. The Natural Environment Bill establishes environmental limits as being a central concept (under a 'development within environmental limits' type approach). The Planning Bill places the timing of the preparation of the regional spatial plan ahead of the preparation of the environment plan. This is problematic in that a regional spatial plan committee must consider environmental limits and information from a natural environment plan (see Schedule 2, clause 6 of the Planning Bill) and must identify and provide for the spatial implications of environmental limits as a mandatory content matter in the regional spatial plan (clauses 2 and 3 of the Schedule 2 of the Planning Bill). However, environmental limits relating to ecological health are set through environmental plans which the Bills anticipate being prepared <u>after</u> decisions have been taken on the regional spatial plan (see section 68 of the Planning Bill). Transitional provisions of the Planning Bill need to allow existing RMA regional plans to serve as interim natural plans (and incorporate limits as appropriate) until such time as the first natural environment plans come into force. **<u>Relief Sought</u>** i. Incorporate transitional provisions into the Planning Bill which provide for existing RMA regional plans to

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
		act as interim natural environment plans, including containing environmental limits (or equivalent provisions within those plans until such time as environmental limits are set).
Sections 65 and 66 *Geographical boundaries of a regional spatial plan*	**Partly Support**	**Submission** Some local authorities which are small but adjoining unitary authorities may benefit from the ability to combine when preparing a regional spatial plan. The ability to jointly prepare a spatial plan in section 292, and it would be helpful for section 292 to be crossed referenced in this section (sections 65 and 66 otherwise read as though the existing regional boundaries the only boundaries which apply to a spatial plan). In other instances, some local authorities have land within the boundaries of two or more regions (e.g. Taupō District), which would mean those districts would be inefficiently duplicating their effort through being part of multiple regional spatial planning exercises. Despite some recognition of this situation in clause 5(6) of Schedule 1, it would be more efficient for those local authorities to only be required to participate in regional spatial plans of the region within which most of their land area is contained. Local authorities participating in regional spatial planning exercises can rely on the relationship anticipated in clause 8 of Schedule 2 to help manage issues or matters which cross regional boundaries. **Relief Sought** i. Amend section 65 to insert a cross reference to section 292 (which provides for the joint preparation of spatial plans). ii. Amend section 66 to provide for territorial authorities whose land area is within multiple regions with an ability to opt to only be part of a regional spatial plan which relates to the region within which most of the territorial authority's land is located. iii. Make consequential amendments to clause 8 of Schedule 1 and section 69 to accommodate the circumstances in 'ii' above.
Section 67 *Purpose of regional*	**Partly Support**	**Submission** Section 67 makes no reference to guiding or directing land use and infrastructure investment in such a way as to avoid or mitigate the risk of natural hazards (which may cross the boundaries of multiple districts and may become

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
spatial plans		more severe in future). This appears to be at odds with the likely reason for identifying such hazards as a constraint in the first place (as per Schedule 2 clauses 2 and 3). **Relief Sought** i. Amend section 67 to include a reference to coordinating and guiding land use and infrastructure planning and investment to avoid or mitigate the risks associated with natural hazards.
Section 68 *How regional spatial plans promote integration*	**Partly Support**	**Submission** MDC is concerned that the requirement for the Minster to 'take into account' any regional spatial plan when preparing and reviewing the Government Policy Statement on land transport is too weak to provide long-term certainty for development and infrastructure investment by other providers (local authorities and the private sector). A duty to 'take into account' does not necessarily equate to a requirement to action or to commit to investment. A more active and binding duty which maintains the confidence investors and of other parties involved in implementing spatial plans is recommended. We recommend substitution of 'take into account' with 'recognise and provide for". If there are concerns around a future government being bound by a stronger commitment, then safeguards for a future government exist in the words '*provide for'* not specifying the exact means of provision. The Minister being able to appoint representatives to the spatial plan committee and hearing panel, and the ability for spatial plans to be reviewed or changed as circumstances dictate (see Schedule 2), provide other opportunities for all parties to collectively discuss and review government commitments as and when needed. MDC is also concerned that section 68 is missing references to Ministers whose portfolio responsibilities cover other types of key infrastructure important to building and maintaining well-functioning communities (such as schools and health facilities). A commitment from such Ministers to participate in spatial planning and recognise and provide for the provisions of spatial plans in their plans is needed to provide certainty to local authorities in the preparation of their plans, and confidence to private sector to invest in a given area. **Relief Sought** i. Amend the requirement of the Minster to take into account regional spatial plans when preparing the government policy statement to 'recognise and provide for' the provisions of regional spatial plans.

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
		ii. Broaden the list of Ministers who need to recognise and provide for the provisions of regional spatial plans in their own planning documents (e.g. property management plans, Strategic Intensions, or other strategic documents) to include those responsible for education and health.
Section 69 *Process agreement for preparation of regional spatial plan*	**Partly support**	**<u>Submission</u>** Although section 69 sets out the matters which local authorities must agree on, the heading is misleading in so far that neither the process for the agreement, nor the form the agreement is to take, is described in the section (or the associated provisions in Schedule 2). As not all regions will have operational policies or agreements as to how they will work together on plans, beyond Local Government Act triennial agreements, the lack of specificity in these provisions may slow the initial stages of regional spatial plan preparation while the form and detail of agreements are negotiated. If it is intended the process is to be contained in regulations, then the relevant sections of the Bill should state this. It is noted that a secretariat to support the agreements does not formally exist under section 69 and does not appear to exist before the spatial plan committee appoints one. MDC submits that one of the matters local authorities should be agreeing through section 69 agreements is the establishment of the secretariat to support the development of the agreements and to support the establishment of the spatial plan committee. **<u>Relief Sought</u>** i. **EITHER:** o Provisions be incorporated into the Planning Bill which specify the form the regional spatial plan agreement is to take, and the minimum process agreement requirements (similar to sections 37 and 39), **OR** o Incorporate wording to the effect that the form, minimum content of, and process to be used to formulate the agreements must be consistent with regulations. ii. Amend section 69 (with a consequential amendment to section 71) so that one of the matters local authorities must agree to are the establishment of a secretariat to support the preparation of the other agreements under the section, and the setting up and administration of the regional spatial plan committee.

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
Section 70 *Consultation with iwi*	**Partly support**	**<u>Submission</u>** Section 70 only makes reference to iwi authorities and customary title groups. This prioritises iwi and iwi authorities without equal, explicit consideration of hapū (not all hapū who hold tangata whenua or mana whenua status hold views which are completely aligned with the iwi in their area). It is also noted that sections 70 (and also Schedules 2 and 3 of the Planning Bill) requires local authorities to engage iwi authorities and those holding Mana Whakahono ā Rohe and other types of partnership agreements on the development of regional spatial plans. MDC notes that no resourcing provisions are in place to facilitate iwi authorities or hapū to engage on regional spatial plans to help fulfil the statutory requirement. Not all iwi and hapū are the beneficiaries of Treaty settlements and therefore may have little to no resources to participate in consultation and engagement processes mandated under this Bill. This can capacity and ability of Māori groups to input (thus undermining the goal in the Bill to provide for Māori interests through participation). If it is to be assumed that, as in the case of Clause 6 of Schedule 3, local authorities are to consider how to foster iwi capacity, then this needs to be stated clearly. However, in doing so, the Environment Committee should recommend to Parliament that the costs of fostering iwi capacity be excluded from the calculations which underpin any formular which may be applied to capping of local authority rates. The requirement to consult on regional spatial plans is a government requirement, rather than something that was at the discretion of local authorities. **<u>Relief Sought</u>** i. Section 70 should refer to 'iwi and hapū' (or groups which represent them) in the region to which the spatial plan relates (the detail of how to best do this would then be determined as part of an amended section 69(1)(e)). ii. Provisions should be included in the Bill which provide clarity on how iwi and hapū may be resourced to provide input into, and participate in the preparation of, national instruments and planning documents.
Section 72 *Ministerial appointments*	**Partly Support**	**<u>Submission</u>** Section 72 is not clear on the circumstances under which the Minister may exercise their discretion, and whether 72(1)(b), in its current form, was intended to act as a form of local authority veto. There appears to be a

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
		typographical error in 72(1)(b) which should refer to two or more members. To avoid the potential for an unconstitutional override of local democracy, the default should be for the Ministerial appointees (who are unelected) to have no voting rights, and if voting rights are provided, the number of Ministerial appointees cannot exceed the number of local authority representatives. **Relief Sought** i. Amend section 72 to specify the circumstances or considerations which will determine whether the Minister will exercise their discretion to appoint one or more panel members and the extent of their voting powers. ii. Amend section 72(1)(b) to refer to two or more members and include wording to the effect that the number of Ministerial appointments must be fewer than the number of local authority representatives. iii. Reword section 72(2) so that the default is for Ministerial appointments to not have voting rights.
Section 79 *Plan may include bespoke provisions*	**Support**	**Submission** If there is to be greater standardisation of plans and plan content through national policy direction and other national planning instruments, then it is important that flexibility is incorporated to accommodate local circumstances which do not fit the nationally prescribed provisions. However, it is also recognised that having too many local variations in plans have contributed to unnecessary confusion and inefficiencies in the planning system, and there needs to be some restrictions on local provisions which differ from nationally standardised approaches without appropriate justification. That said MDC, notes that is it difficult to make further comment without the government providing more concrete examples of how the system will work.
Section 80	**Partly Support**	**Submission** It is noted that section 80 anticipates iwi having prepared planning documents. Not all iwi and hapū are the beneficiaries of Treaty settlements. Those that don't may have little to no resources to prepare planning documents of their own. This can the ability for Māori to have meaningful input into the planning process (thus undermining the goal in the Bill which seeks to provide for Māori interests through participation [section 11(1)(i)]).

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
		Relief Sought i. Provisions should be included in the Bill which provide clarity on how iwi and hapū may be resourced to participate in the preparation of national instruments and planning documents.(including through the preparation of planning documents of their own).
Section 81 *Provisions in land use plan*	**Partly Support**	**Submission** MDC supports the provisions of land use plans incorporating objectives, policies, and rules as mandatory content, and methods and designations as being optional. MDC is opposed to the regulatory relief provisions of the Bill in their current form. MDC's preference is for the Bill to rely on section 105 (without the references to regulatory relief) which allows for landowners to apply to the Environment Court to have overly onerous provisions struck out or modified. Such an approach would make the additional effort and expense of preparing a regulatory relief framework unnecessary. **Relief Sought** i. Delete s81(1)(b) – which refers to a regulatory relief framework.
Section 86 *Methods relating to incentives*	**Support**	**Submission** There has been a tendency of RMA plans to resort to regulation of activities with limited or no consideration of alternatives or complementary methods such as incentives. More explicit consideration of incentives as a method is supported. MDC also suggests more explicit consideration of non-regulatory methods should be incorporated into section 89 (requirements for justification reports) where a local authority is proposing bespoke provisions of a regulatory nature.
Section 92 *Obligations relating to*	**Opposed**	**Submission** MDC is opposed to the regulatory provisions of the Bill in their current form. MDC's preference is for the Bill to rely on section 105 (without the references to regulatory relief) which allows for landowners to apply to the

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
regulatory relief.		Environment Court to have overly onerous provisions struck out or modified. Such an approach would make the additional effort and expense of preparing a regulatory relief framework unnecessary. **<u>Relief Sought</u>** i. Delete section 92 – which refers to a regulatory relief framework.
Section 97 *Applying for a consent that authorises change to plan provisions*	**Partly support**	**<u>Submission</u>** The concept of providing a means to expedite a development or land use without having to go through both a resource consent and plan change process where the former process effectively changes the character of an area to the extent is resembles another zone, is supported from an efficiency point of view. However, the approach proposed: • Risks creating an ad hoc patchwork of zoning which is not necessarily consistent with the goal in s11(1)(a), • Could result in an inefficient use of infrastructure and may undermine business certainty as to which activities may locate where (and who their neighbours may be). This is not a positive outcome for local authorities or private companies who are looking to keep their costs under control. As worded, it is assumed that the intent behind section 97 relates to the appropriate zoning of land once a subdivision or land use consent which will significantly change the use of an area of land is granted. Manawatū District Council is of the view that a better approach would be to provide a similar mechanism within Parts 1 and 2 of Schedule 3 where a local authority may, without having to follow a full Schedule 3 process, change the zoning or rules which apply to a specified area of land to reflect a change of use authorised by a subdivision or land use consent. Before determining whether the rezoning is appropriate, the local authority must prepare a report which demonstrates: • The consent is, or will be, given effect to. • The zoning change is consistent with the achievement of the goals in section 11. • The plan change will be consistent with standardised plan provisions (and any bespoke provisions justified)

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
		and is consistent with the requirements of the relevant national instruments. • The zoning will be more appropriate than the current zoning of the land, and will not significantly undermine the broader intent, land use patterns, and infrastructure provisions set out in the relevant regional spatial plan. As with the provisions currently proposed, the zoning change would only apply to the land which was the subject of the original consent. **Relief Sought** **i.** Delete sections 97 and 98 and replace them with a similar 'fast track' rezoning plan change mechanism in Schedule 3 of the Bill. The fast track rezoning must only relate to the area of land to which a consent has been granted, and must consider whether the effect of the consent is consistent with the achievement of section 11 goals, standardised plan provisions, and the regional spatial plan.
Section 105 *Environment Court may give directions in respect to land subject to controls*	**Partly Support**	**Submission** MDC is supportive of the ability of the Environment Court to make various directions and notes the proposed section 105 largely mirrors the existing section 85 of the Resource Management Act. However, MDC is opposed to the regulatory relief provisions of the Bill in their current form and considers the alternative relief mechanisms (submissions and appeals on land use plans, and the ability of landowners to apply to the Court to modify, delete or replace plan provisions which impair the reasonable use of land) to be sufficient. **Relief Sought** i. Delete section 105(3)(c) and section 105(8) – which refer to the regulatory relief framework.
Schedule 2, Clause 3 *Contents of regional*	**Partly Support**	**Submission** Clause 3(1)(e) is worded too generally, and it is unclear to what level of granularity the 'other infrastructure' is to be identified and provided for. Other than key trunk, arterial, mains and headwork infrastructure, current practice is for most of the in-subdivision infrastructure to be provided by developers. Further, the location and layout of future development areas are planned in more detail at the planning consent stage. Additionally, some infrastructure

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
spatial plans		providers will not commit to providing infrastructure until such time as they know the development is going ahead, and the general layout is confirmed (which makes it hard to include in regional spatial plans before a consent application is well progressed). If only the key infrastructure is intended to be shown, then clause 3(1)(d) is sufficient. **Relief Sought** i. Delete clause 3(1)(e).
Schedule 2, Clauses 22 and 23. *Consensus Decision Making*	**Partly Support**	**Submission** MDC is supportive of the concept of consensus decision making, particularly where there are a diversity of local authorities (in terms of size and resources) and the issues being managed affect multiple local authorities. Consensus decision making lessens the risk of smaller local authorities being overruled or ignored by large local authorities (particularly if they have more representatives on a committee, such as when representation is proportional to population size)). MDC also supports the concept that, where there is a dispute which cannot be resolved by multiple local authorities, the matter go to an independent adjudicator for a decision. However, MDC considers that adjudication should not be by the Minister, especially if the Minister has appointed their own representative to the spatial plan committee. As an alternative, MDC suggests adjudication be by a suitably independent, qualified, and experienced person such as a Planning Tribunal member or senior lawyer with experience local government law. **Relief Sought** i. Replace references to the Minister in clause 23 with **EITHER:** 'a suitably qualified and experienced person agreed by the local authorities of the region' **OR:** 'The Planning Tribunal'.
Schedule 2, clauses 24-25 Appeals on points of law	**Support**	**Submission** The point of an independent, qualified, hearing panel is to make decisions on the merits of arguments made in submissions in a structured, quasi-judicial manner. Revisiting merits-based arguments will only add to the time and cost it takes to make a regional spatial plan operative (recognising too, that the regional spatial plan plays a more

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
and merit		limited role in how people can use their land compared to land use plans). Where a local authority has rejected a hearing panel decision, it would be unlikely that elected members of that local authority would have sat through all the hearings, and read all the information submitted on the spatial plan. It is therefore appropriate that a decision to reject a hearing panel decision is heard by a judge who has the appropriate skills and experience to consider and test the grounds for the decision.
Schedule 2, clause 26 *Appeals on decisions of a designating authority*	**Support**	**Submission** As proposed by the Bill, decisions on designations are to be taken by the designation authority in the first instance, and not the independent hearing panel. Because of this, and the inherent conflict of interest in a designating authority making a decision on its own designation, it is appropriate for merit-based appeals to be made on designations included in spatial plans.
Schedule 2, Clause 28 *Decisions of Environment Court may be appealed*	**Partly Support**	**Submission** MDC supports the potential to save cost and time in the further appeals processes by reducing the number of courts an appeal can be progressed through. However, it is questioned whether removing the High Court appeal stage will create a de facto barrier to justice if going to the Court of Appeal proves to be more expensive and only possible if leave is required to appeal to that Court. **Relief Sought** i. That the Environment Committee seek advice on the relative costs and time savings for all parties in having appeals go straight to the Court of Appeal and, if so, whether that represents a barrier to access to justice.
Schedule 3, Clauses 5 and 6 *Pre-*	**Partly Support**	**Submission** The references to tangata whenua in these clauses limits consultation to being through iwi authorities for whom the local authority has records. Not all iwi operate with iwi authorities, and not all hapū have iwi or iwi authorities which speak on their behalf.

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
notification consultation on proposed plan		**Relief Sought** i. Amend clauses 5 and 6 to provide for consultation to also occur with hapū who are not represented by an iwi or iwi authority.
Schedule 3, Clause 11 *Justification Report*	**Partly Support**	**Submission** Clause 11(2)(a) appears to require regional councils to prepare a justification report on bespoke provisions in accordance with section 89 (which relates to land use plans). Land use plans are prepared by territorial authorities (or territorial authorities with additional regional council functions – if a unitary authority). Justification reports for land use plans are already covered in clause 11(1). **Relief Sought** i. Delete the words "section 89 of this Act (for a proposed land use plans) or" from clause 11(2)(a).
Schedule 3, clause 34 *Appeal on provision of relief framework*	**Oppose**	**Submission** MDC is concerned the ability to appeal a regulatory relief framework will only result in costly, time-consuming, litigation, and potential abuses of process which have the effect of slowing plans coming into force. As seen with appeals related to financial contributions provisions in the early years of the RMA, some parties use whatever appeal mechanisms they can to slow certain plan provisions coming into force (to prevent controls being applied, avoid paying fees, or as a means to frustrate competitors). MDC is opposed to the regulatory provisions of the Bill in their current form. MDC's preference is for the Bill to rely on section 105 (without the references to regulatory relief) which allows for landowners to apply to the Environment Court to have overly onerous provisions struck out or modified. Such an approach would make the additional effort and expense of preparing a regulatory relief framework unnecessary. **Relief Sought** i. Delete clause 34 of Schedule 3 ii. Delete section 92 – which refers to a regulatory relief framework.

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
Schedule 3, Part 4, Clauses 62-74 *Regulatory Relief*	**Opposed**	**<u>Submission</u>** MDC is opposed to the regulatory relief provisions in their current form. Although narrow in scope, the provisions risk creating an inefficient and expensive processes at a time when local authorities are being asked to change at pace and keep expenditure and rates increased under control. MDC notes that the specified topics for which regulatory relief is to be provided for, relate (at least in part) to goals in section 11(g) and (i) which local authorities must seek to achieve, and mandatory functions of local authorities under section 184. It is inconsistent for the government to impose such requirements on local authorities, for some wider national benefit, and then require local authorities to provide regulatory relief while the government itself does not. MDC agrees that there should be a duty on local authorities to consider whether plan provisions have a significant impact on the reasonable use of land when preparing such provisions. Such considerations should include the impact on development potential, the effect of obligations for protection or restoration, or whether the provision creates an onerous compliance obligation. However, plan consultation, submission processes and appeal rights also create avenues for landowners to challenge the imposition of unreasonable restrictions on the use of land. In respect to the ability of a landowner to appeal or object to unreasonable restrictions over their land, MDC's preference is for the Bill to rely on section 105 (without the references to regulatory relief). That section already allows for landowners to apply to the Environment Court to have overly onerous provisions struck out or modified. Such an approach would make the additional effort and expense of preparing a regulatory relief framework unnecessary. MDC also notes that proposed section 86 also enables plans to incorporate incentives for a landowner to undertake an activity, and suggests this be extended to also providing incentives for protection or restoration. **<u>Relief Sought</u>** i. Delete Part 4 of Schedule 3. ii. Amend proposed section 78 to include requirements for a local authority to have regard to whether a plan provision places an unreasonable restriction on the use of land.

Part 3: Combined Plan		
Provision(s)	**MDC Position**	**Submission**
		iii. Amend section 105 to delete the cross reference to Part 4 of Schedule 3 and references to regulatory relief.
Schedule 10, Clause 23 *Review of decisions granting regulatory relief*	**Oppose**	**Submission** MDC is opposed to the regulatory relief provisions of the Bill in their current form. MDC's preference is for the Bill to rely on section 105 (without the references to regulatory relief) which allows for landowners to apply to the Environment Court to have overly onerous provisions struck out or modified. Such an approach would make the additional effort and expense of preparing a regulatory relief framework unnecessary. MDC is also supportive of methods in plans being able include incentives to encourage landowners to undertake various activities (see section 86) such as protecting , restoring, or maintaining buildings or areas. **Relief Sought** i. Delete Schedule 10, clause 23 – which refers to a regulatory relief framework.

Part 4: Planning Consents		
Provision(s)	**MDC Position**	**Submission**
Section 115 *Consent authority returns incomplete application.*	**Partly Support**	**Submission** MDC supports the ability of a consent authority to return an incomplete consent application and that an applicant has an ability to challenge such an action. However, there is a risk that the Planning Tribunal may be clogged with minor administrative matters and that by being a division of the Environment Court, it may prove to be slower, more complex and formal, and a more costly body for resolving lower order challenges than some other forms of independent adjudication means. **Relief Sought**

Part 4: Planning Consents		
Provision(s)	**MDC Position**	**Submission**
		i. Provide for an intermediate adjudication step, whereby an applicant can request the local authority get an independent peer review of the decision to return the application, and only then (if dissatisfied with that person's decision) apply to the Planning Tribunal.
Section 117 *Consent processing timeframes*	**Partly Support**	**Submission** MDC supports the specification of the consent timeframes for basic application types within the Planning Bill but is concerned that these are expressed as maxima with no reference made in the Bill itself to processing timeframes being paused while consent authorities are awaiting further information from applicants, situations where the applicant has asked for an application to be put on hold, or other extenuating circumstances. The Bill instead appears to suggest that suspensions will be defined through regulations (which are not yet available for parties to submit on), which would not provide long-term certainty for applicants or consent authorities (as regulations can be changed relatively quickly with minimal public input). The situations where processing timeframes should be suspended are clear from the content of subsequent sections (i.e. s118 where applicants or iwi have asked for an extension, s119 Requests for further information, and s120 requests for reports). Consent processing timeframes should also be suspended for specified extenuating circumstances such as during a declared state of emergency (as consent processing staff may themselves be affected by an emergency or be involved in civil defence response and short-term recovery activities). **Relief Sought** i. To provide transparency and certainty for consent authorities, applicants and the general public, provisions similar to RMA sections 88B and 88E (which set out the circumstances as to what time periods should be excluded from the calculation of processing timeframes) should be included in the Planning Act. At a minimum, exclusions should be provided for timeframes associated with: o Further information requests. o Commissioned reports. o Where the applicant (or other specified party) has asked to put processing on hold.

Part 4: Planning Consents		
Provision(s)	**MDC Position**	**Submission**
		○ Circumstances where a consent authority is awaiting another related application.
Section 118 *Certain consents must be processed within a year*	**Opposed**	**Submission** MDC questions the need for section 118 and its processing timeframe of 1 year. The singling out of particular industry or business types over others for special treatment (picking winners) in the Bill is not conducive to business certainty, can result in the misallocation of resources, distorts markets, sets an undesirable precedent whereby other industries also seek special treatment, and disincentivises diversification of the economy and innovation. Section 117 already provides for processing timeframes which are shorter than the 1 year timeframe proposed, with sections 284 and 285 providing the ability for timeframes to be extended, or requirements waived to cater for complex applications. It should be possible to amend sections 284 and 285 to provide for longer timeframes if applicants or other specified groups (such as the groups listed in 118) request. **Relief Sought** i. Delete section 118 and modify sections 284 and 285 to allow for longer extension of timeframes if an applicant or specified group request it.
Section 125 *Notification requirements if 124 does not apply*	**Partly Support**	**Submission** MDC supports the general structure and approach to section 125. However, some local authorities, such as the Manawatū District, include iwi and hapū whose Treaty claims have yet to be settled. Section 125 implies that these groups, even if mana whenua or tangata whenua, will not automatically be notified under s125(2) even if they have an agreement or arrangement outside of a statutory acknowledgment. **Relief Sought** i. Amend section 125 so that iwi and hapū who do not have a Treaty settlement may be notified under s125 if the relevant local authority has retained records which identifies their sites of significance, and the proposed activity is on, adjacent to, or adversely effects that site of significance.
Section 127	**Partly Support**	**Submission**

Part 4: Planning Consents

Provision(s)	MDC Position	Submission
Whether effects are likely to be more than minor		MDC supports the general structure and approach to section 127. However, MDC considers the reference to the regional spatial plan in 127(3) to be unnecessary and potentially problematic. Regional spatial plans are likely to have a form which is higher-level and less detailed than land use plans (so may not be particularly useful when considering specific effects), while sections 12 and 68 clearly anticipate land use plans will be implementing the regional spatial plan with greater specificity and provisions better aligned with the task of assessing adverse effects. **Relief Sought** i. Delete the reference to the regional spatial plan in s127(3).
Section 131 *Submissions on applications*	**Partly Support**	**Submission** MDC appreciates the need for limiting unnecessary costs associated with large volumes of submissions from parties with no association with the region or district to which a consent application relates. However, there should be some allowance for submissions from specialist or expert groups who are representing an interest greater than that of a member of the general public. That interest could concern situations where an application concerns technical matters (such as uncommon but high-risk impacts on human health or ecological health) and there is no person in the region or district who would otherwise have the expertise to comment on that matter. **Relief Sought** i. Provide a new subsection 131(1)(c) which enables a person representing an interest greater than what the general public has to make submission. If desired, the scope of that interest could be limited to providing comment on technical matters which no qualifying resident in the district or region has expertise to comment on (even if the submitter is not directly affected themselves).

Part 5: Key Roles

Provision(s)	MDC Position	Submission
Sections 184 and 185. *Responsibilities and functions of territorial authorities*	**Partly Support**	**<u>Submission</u>** MDC supports the responsibilities and functions listed, as these are similar to the functions of territorial authorities now. However, provisions which require mandatory regulation of significant historic heritage, areas of high natural character within the coastal environment and outstanding natural features and landscapes (which, by necessity, may require limiting the use of land) conflict with requirements to provide regulatory relief. This creates the potential for councils to be in a lose-lose situation whereby they either face legal challenge for failing to regulate the use of certain land or must incur a financial penalty (in the form of regulatory relief) if they do. This is not a financially sustainable situation for smaller councils which may, proportionately, have a large number of outstanding natural features or heritage buildings and sites within their district. MDC supports the proposed inclusion of requirements for councils to consider incentives as land use plan methods (proposed s86) to encourage landowners to undertake activities and is of the view that incentives also serve as form of compensation for a reduced land use rights where the protection of natural or historic heritage is proposed. MDC also notes that the function of managing noise is missing from the list of responsibilities under s184(2). This is inconsistent with the territorial authority powers and duties proposed under sections 17, 24, 240, 242, 248 and 254. Noise is listed as a function of regional councils (in respect to fisheries) under section 222 of the Natural Environment Bill. For the sake of simplicity and clarity, it is suggested responsibility for the control of noise be shared as following: • Noise is the responsibility of territorial authorities landward of mean high water springs. • Noise is the responsibility of regional councils in coastal waters seaward of mean high water springs (i.e. in the coastal marine area). **<u>Relief Sought</u>** i. Where regulation of certain matters is mandatorily required, the requirement to provide regulatory relief should be replaced with an ability for a land owner who believes their land is unreasonably impacted to request the Environment Court remove or modify the plan provision creating the impediment (along similar lines to the current RMA section 85). ii. Add the management of noise, landward of mean high water springs, as a responsibility of territorial

Part 5: Key Roles		
Provision(s)	**MDC Position**	**Submission**
		authorities under s184.
Section 186 *Information gathering, monitoring, and keeping records*	**Partly Support**	**<u>Submission</u>** Although the duty to monitor the effectiveness and efficiency of rules and methods falls to local authorities, it is unclear how information from monitoring nationally-prepared provisions. or methods which have been imposed (or required to be inserted) by central government, is to be fed back to central government. Such provisions may need to be amended if, through data collected by local authorities, shows the efficacy of those provisions is questionable. There also appears to be typographical error in s186(3)(a) which inadvertently requires territorial authorities to monitor the efficiency and effectiveness of rules and methods in 'regional plans'. The reference should be to land use plans. **<u>Relief Sought</u>** i. Amend s182 so that the Minister must have regard to information contained in local authority rule and method effectiveness reporting and, where the relevant provision is one required in plans though a central government instrument, must take action where a such rule or method is shown to be ineffective or inefficient. ii. Change the reference to 'regional plans' in s186(3)(a) to 'land use plans'.
Section 189 *Obligations relating to statutory acknowledgements*	**Partly Support**	**<u>Submission</u>** There appears to be no equivalent duty on central government in relation to statutory acknowledgements as there is for local authorities. Given the power of Ministers to make, delete or amend provisions in local authority plans, require compliance with standardised plan provisions, and direct other plan-content related matters, this creates a double standard and potential double-jeopardy situation for local authorities (such as whereby the Bill requires consideration of statutory acknowledgements by local authorities, but government standardised planning provisions do not). This can be addressed by creating a duty for Ministers to act consistently with statutory acknowledgments when exercising their powers.

Part 5: Key Roles		
Provision(s)	**MDC Position**	**Submission**
		Relief Sought i. Insert a similar provision to s189 into the Bill which requires the Ministers to ensure the exercise of their powers is consistent with statutory acknowledgements in the districts or regions in which the exercise of the powers is proposed. These provisions should relate to all national policy direction, national instrument, national standard, and regulation making powers.
Section 197 *Power to make joint management agreements*	**Partly Support**	**Submission** Section 197 makes no reference of an ability to enter into a joint management agreement with iwi or hapū despite various parts of New Zealand being of higher importance to Māori and some groups having the knowledge, capability and capacity to help manage areas. Joint management agreements can also enable iwi and hapū to better perform their traditional duties of kaitiaki and offer the potential to further grow the Māori economy. The ability to enter into joint management agreements with iwi and hapū should therefore be seen as a complementary opportunity, even if comparatively little used at present. Any concerns from central government about Māori participation in a joint management agreement can be mitigated by the Minister being notified of the wish to enter into a joint management agreement, and the Minister being able to exercise various intervention powers (if they believe there is a problem) under sections 201, 202 and 204. It is noted that RMA section 36B (the RMA equivalent of proposed section 197) does refer to iwi and hapū, so it is unclear as to why the reference was omitted in this provision of the Planning Bill. **Relief Sought** i. Amend s197(1)(b)(i) to read "for the purposes of this Act, the public authority, iwi or hapū that would be a party to the joint management agreement – "
Section 203 *Minister may direct preparation of plan, document,*	**Partly Support**	**Submission** Section 203 broadly mirrors the intent behind section 24A of the of RMA but extends the Minister's powers to directing (rather than 'recommending') a local authority prepare a plan, document, change or variation.

Part 5: Key Roles		
Provision(s)	**MDC Position**	**Submission**
change or variation.		Although the reference to council functions (s185) appears appropriate, the reference to addressing 'the issue' (which appears to be a 'planning land use issue') is vague and has the potential to be interpreted widely or misused. The direction needs to be tied back more firmly to a significant shortcoming or failure (be it an act of commission or omission) in relation to the local authority carrying out its land use planning functions. Subsection 203(3) and (4) are of significant concern as they appear to give permission to the Minister to skip an investigation of the local authority before issuing a direction (which would otherwise be required through section 203(2)). The requirement that the Minister can skip an investigation on the basis of having reasonable evidence only (s203(4)) is a fundamental breach of the principles of natural justice (as it does not provide local authorities an opportunity to respond to accusations) and may result in the Minister taking ill-informed, inappropriate or unconstructive action, particularly where: • The perceived failure of the local authority is related to a lack of resources to carry out their duties in a timely manner. • A local authority has been given conflicting goals or provisions in national instruments which are impossible to reconcile. • The failure on the part of a local authority relates back to an act or omission by central government in the performance of its functions, duties, or powers. **Relief Sought:** i. Replace the word 'issue' in a s203(1) and (2) with a 'significant failure or shortcoming in the performance of its functions or duties under this Act' (or wording to similar effect). ii. Delete s203(3) and 203(4).
Section 204 *Minister may*	**Partly Support**	**Submission** Section 204 gives the Minister a broad discretion to direct local authorities to take any action the Minister

Part 5: Key Roles

Provision(s)	MDC Position	Submission
direct local authority to achieve outcomes		considered necessary to achieve an outcome. Although the intent that the Minister can intervene where a local authority has failed to adequately perform a duty, function or power, the reference to 'outcomes' has the potential to be misused as it is not strongly tied to the matter of non-performance. An outcome 'specified by the Minister' combined with the words 'any action necessary' could (in theory) enable the Minister to direct a plan change or change in consent processing practice that offers an unfair advantage to (or discourages) a particular group, business, or industry. **Relief Sought** **i.** Amend s204(1) to read "The Minister may direct a local authority to take any relevant action ~~that the Minister considers~~ necessary to remedy any aspect of a significant failure or shortcoming in the performance by a local authority of any of its functions, powers or duties under this Act.

Part 6: Enforcement and Other Matters

Provision(s)	MDC Position	Submission
Section 218 *Authorisations and responsibility of enforcement officers*	**Partly Support**	**Submission** Section 218 narrows who local authorities can authorise to carry out enforcement functions on their behalf compared to RMA s38. Although Manawatū District Council has limited the range of authorisations it has given in the last (mainly to security firms), the proposed wording of s218 nonetheless reduces the flexibility of other local authorities to fill capacity gaps. Most local authorities have very few dedicated enforcement staff. Narrowing the range of agencies which can undertake enforcement actions on behalf of a local authority may also reduce the ability to undertake opportunistic enforcement actions (whereby non-local-authority enforcement officers who happen to have a warrant from local authority can use their presence to dissuade or prevent an offence from occurring, or undertake other enforcement actions on behalf of the local authority).

Part 6: Enforcement and Other Matters		
Provision(s)	**MDC Position**	**Submission**
		Relief sought i. Provide a new 218(1)(c) which enables officers from the Ministry of Primary Industries, Department of Conservation, Maritime New Zealand, or Customs New Zealand to be authorised to act on behalf of a local authority (if the relevant agency of department has agreed).
Sections 220-222 *Enforcement Functions of the EPA*	**Partly Support**	**Submission** Most of the powers mentioned in sections 220 and 221 are similar to those contained in RMA section 343F. The addition of an ability to take action against a regional council is supported as it ensures an appropriately independent enforcement agency can take action where a regional council would otherwise have a conflict of interest (e.g. where a regional council may otherwise have had to take action against itself). However, Manawatū District Council submits that 220(c) should be amended so that the EPA can only intervene in an enforcement action of a local authority with the agreement of the local authority, or else in circumstances where there is reasonable evidence the action being taken by the local authority will be insufficient relative to the seriousness of the offence. These qualifiers would help address concerns that the use of the power in 220(c) would compromise or unnecessarily complicate investigations by a local authority. **Relief sought** i. Amend section 220(c) by adding qualifiers to the effect the EPA can only intervene: (i) with the agreement of the relevant local authority, or (ii) only in circumstances where the EPA has reasonable evidence to suggest the enforcement action proposed by the local authority will be insufficient or inadequate relative to the seriousness of the offending. ii. Make consequential changes to section 221(1) to give effect to the point above.
Section 224 *EPA may require*	**Partly Support**	**Submission** The general intent behind section 224 is supported, but in order to meet the 10 working day timeframe it is recommended that section 224 relate only to that information which is held by the local authority. The EPA should

Part 6: Enforcement and Other Matters		
Provision(s)	**MDC Position**	**Submission**
information from local authority		not require a local authority to investigate and gather information the local authority does not already hold if the EPA is carrying out the performance function (particularly where such an investigation by a local authority will be impractical to complete within 10 working days). **<u>Relief Sought</u>** i. Amend section 224 so that each reference to information is followed by the words 'held by the local authority'.
Sections 283 and 291 *Regulations relating to planning consent levy*	**Opposed**	**<u>Submission</u>** Although the need to fund the development and review of national direction is accepted, the collection of levies under sections 283 and 291 is opposed because: • Responsibility for collection falls on, and imposed costs and an additional administrative burden on, local authorities (section 291 does not provide any discretion for the government to collect the levy itself). • The collection of levies will create significant transactional inefficiencies for permitted activities (requiring persons to submit information and pay fees in situations where the RMA does not require them to currently) • Imposition of levies in this instance fails to acknowledge the nationwide benefits associated with national direction, and that good-practice principles for setting charges, levies and taxation[4] dictate that taxation is more appropriate in instances where there is a greater public good. • It is unclear how local authorities are to enforce non-payment of the levies as the debt would be to the Crown and not the local authority. • In some instances, where national instruments impose restrictions of the use of land, the collection of levies is inconsistent with the concepts behind the government's proposed regulatory relief regime.

[4] E.g. New Zealand Treasury (2017) ***Guidelines for Setting Charges in the Public Sector***

Part 6: Enforcement and Other Matters

Provision(s)	MDC Position	Submission
		Decision Sought i. Delete section 283 ii. Delete section 291
Sections 292 293 *Joint regional and district planning documents*	**Support**	**Submission** The ability for local authorities to combine to jointly prepare a regional spatial plan, natural environment plan, or land use plan is supported. The costs of preparing and administering plans can be substantial relative to a small local authority's funding base, and the ability to combine to jointly prepare plans (as occurred with the local authorities in the Wairarapa) is one way to share costs. In other circumstances, the limited resources of some smaller rural local authorities and the similarity of issues they are managing with neighbouring districts may mean there is little need for them to have separate plan provisions.

Schedule 1: Transitional, savings, and related provisions

Provision(s)	MDC Position	Submission
Schedule 1 Clause 5 *First Key Instruments under this Act and the Natural Environment*	**Opposed**	**Submission** Clause 5 is inconsistent and unrealistic in its current form. Clause 5(1)-(3) states : a) the national policy direction for this Act and Natural Environment Act must be issued **within nine months of Royal Assent**, and b) after the first national policy direction is issued, the national standards setting the evidence base for supporting combined plans must be issued **within nine months of Royal Assent**, and

Schedule 1: Transitional, savings, and related provisions		
Provision(s)	**MDC Position**	**Submission**
Act		c) national standards on standard [Combined] plan provisions must be issued within **18 months of Royal Assent** d) national standards relating to various matters set out in [we presume[5]] s83 of the Natural Environment Bill relating to implementation of national policy direction, consistency, and how goals are to be achieved **within 9 months of Royal Assent.** However, clause 5(4), **says a draft regional plan must be notified within 15 months of Royal Assent or 6 months of the first national policy direction being issued**. That means the draft regional spatial plan may need to be notified before the standards relating to their content and format are issued. It is also likely that local authorities will be some way into their evidence gathering and draft regional spatial plan preparation process before any national direction is available. It would be more logical for draft spatial plans to be notified after all relevant government direction has been issued and sufficient time has been allowed to incorporate or comply with that direction. Clause 5(5) states that a local authority must notify its land use plan or natural environment plan within 9 months after the regional spatial plan is decided. This takes little account of: • that for many local authorities the staff and resources used for preparing the land use or environment plan will be the same staff who have been working on the regional spatial plan. Only limited progress may have been made on land use and environment plans while the spatial plan was being prepared. • Some Iwi and hapū who need to be consulted may not be in position to allocate resources and respond quickly to further demands for input. • Clause 5(4) is not clear as to what the reference to 'decided' relates. The references to sections 22 and 23 are incorrect. It is possible that the reference is supposed to be to local authority decisions under Schedule 2 clause 21 or possibly it is related to the adoption of the regional spatial plan under Schedule 2 clauses 29 and 30. If the former, then the nine months timeframe is likely to be insufficient to resolve appeals which may have a material effect on land use or natural environment plan content. • The draw on the resources and time of other participants in the planning process, such as nationwide

[5] Clause 5(3) appears to cite Natural Environment Bill sections which either do not exist or are misquoted. They may relate to matters listed in s.83 of that Bill.

Schedule 1: Transitional, savings, and related provisions		
Provision(s)	**MDC Position**	**Submission**
		infrastructure providers, who may have to be involved in more than 70 land use and environment plan preparation processes. • The likelihood of councils needing to seek legal advice on new and untried provisions and concepts, or central government guidance on those concepts not being available in time. Taking in account the work and resources required, and the resources likely to be available to all parties involved in the preparation of land use and natural environment plans, a more realistic timeframe to notify would be at least 18 months from regional spatial plans being decided. That timeframe is likely to be the minimum required to enable a local authority to meet its Schedule 2 obligations to: • Consider the implications of iwi participation legislation or initiated Mana Whakahono ā Rohe agreements • Undertake pre-notification consultation in a meaningful way, including with: o The Minister and any other affected Ministers of the Crown. o Local iwi and hapū (including consideration of how the local authority may foster development of iwi capacity to respond). o Nearby local authorities. o Customary marine title groups (where relevant). • Invite and include designations in the draft plan (with six weeks for a response). • Prepare evaluation and justification reports, including assessments of the materiality of impacts. • Prepare a regulatory relief framework (where a plan contains provisions related to a *specified topic*). • Provide documents to the relevant departmental chief executive for an audit and respond to feedback and update its justification report (where bespoke provisions or provisions related to a specified topic are proposed). • Provide a full copy of the draft proposed plan to iwi, and have regard to any advice received It is further noted that many of the requirements above are subject to regulations, and the timing and content of the

Schedule 1: Transitional, savings, and related provisions		
Provision(s)	**MDC Position**	**Submission**
		regulations are both uncertain currently. Examples of some of the regulations proposed in the Bill include: • Environmental limits and / or methodologies. • Regulations relating to regulatory relief frameworks (including regulations relating to the materiality of impacts). • National instruments relating to plan content and format. **Relief Sought** i. Fix the cross-references in clause 5(3) which currently refer to Natural Environment Bill sections 6.5(a), (b), (c) and (d), and section 6.8((1)(b). ii. Amend clause 5(4)(a) so that the first draft regional spatial plans must be notified within six months of the last national direction listed in 5(3) being issued, or 24 months of Royal Assent, whichever is the later. iii. Amend clause 5(4)(b) to refer to 18 months of when a regional spatial plan is adopted under clause 29 of Schedule 2.
Schedule 1, Clauses 11 and 12	**Support**	**Submission** Manawatū District Council supports treating the processing of consents and notices of requirement lodged before the commencement of the Planning Bill under the RMA as though the Planning Bill had not been enacted. The treatment of applications in this manner is consistent with the principle that legislation should not be applied retrospectively and is pragmatic in that it avoids the necessity for applications to be re-worked or re-submitted. The reference to Part 1 of Schedule 9 in clause 12(2) should refer to Part 1 of Schedule 11. **Relief Sought** i. Amend clause 12 so that the reference to Part 1 of Schedule 9 is changed to 'Part 1 of Schedule 11'.
Schedule 1,	**Support**	**Submission**

Schedule 1: Transitional, savings, and related provisions

Provision(s)	MDC Position	Submission
Clause 30 *Continuation of Environment Court*		Manawatū District Council supports treating matters before the Environment Court, relating to proceedings already commenced under the RMA at the time the clause takes effect as though the RMA still applied, as being consistent with the principle that legislation should not be applied retrospectively and is pragmatic. However, the use of the words 'and enforced under that Act' may benefit from further clarification in respect to whether the effects exclusion envisaged under section 14 would apply post commencement of this clause.

Schedule 4: Independent Hearing Panels

Provision(s)	MDC Position	Submission
Schedule 4, Clause 2 *Direction on skills*	**Partly Support**	**<u>Submission</u>** Clause 2 is currently worded in very general terms. To provide predictability in the appointment process, the clause should set out minimum specific qualifications and experience with respect to Planning Law, Environmental Law (or both), environmental science, land development, local government law, te ao Māori and must be accredited decision-makers. The independent panel must also have knowledge and experience of issues facing the region or district to which the planning instrument relates. **<u>Relief Sought</u>** i. Amend clause 2 so the Minister must as a minimum, when issuing a direction, ensure Independent Panels are chaired by a lawyer or accredited decision-maker and have appropriate qualifications and experience in relation to the following: a. Planning law, or Environmental Law, or a combination of both b. Local government

Schedule 4: Independent Hearing Panels		
Provision(s)	**MDC Position**	**Submission**
		c. Environmental Science, or land development, or engineering, or a combination of these d. Te ao Māori
Schedule 4, Clause 5	**Partly Support**	**Submission** It is appropriate that the Minister has a discretion to appoint a panel member where there will be an impact on central government resources, projects, or goals. However, to ensure the overall independence of the panel, the number of members appointed by the Minister should not exceed one person (as the overall size of the hearing panel will likely be small, perhaps fewer than seven members). **Relief Sought** i. Amend clause 5(1) to refer to only one central government appointee ii. Restrict the exercise of the Ministerial discretion in clause 5 to circumstances where a. The panel is considering a regional spatial plan or a review of a regional spatial plan; or b. The subject matter of the plan or plan change will affect, or is likely to affect, a project or assets owned by the government or impact on the achievement of a goal in the relevant Act
Schedule 4, clause 8 *Funding of panel and related activities*	**Opposed**	**Submission** Most of the arrangements set in clause 8 are of the nature that local authorities would normally work through individually or in conjunction with other local authorities. However, MDC does not support local authorities having to pay for the costs of participation of central government representatives, particularly if they have not asked for central government representation. If the government wishes to participate in an independent panel, then they should carry the costs of that participation (in reflection of broad national interest they purport to represent) rather than pass the costs onto local ratepayers. **Relief Sought** i. Delete the reference to central government representatives from clause 5(3). ii. Delete clause 5(5) entirely.

Schedule 4: Independent Hearing Panels

Provision(s)	MDC Position	Submission
		iii. Delete clause 5(6)(c) which refers to private plan changes.

Schedule 5: Designations

Provision(s)	MDC Position	Submission
Schedule 5, Clause 2 *Recognition of identified Māori land as taonga tuku iho*	**Partly Support**	**<u>Submission</u>** MDC supports the concepts of 'identified Māori land' and 'taonga tuku iho' in relation to designations. However, there are concerns around the wider applicability of the concepts in the context of the Bill as the Bill seems to refer to these terms only within the context of designations and infrastructure corridor sites. The terms could be relevant to many matters covered in the Bill. The concept of identified Māori land being taonga tuku iho has broader application outside the Bill, but the Bill adopts narrower interpretation. ***Taonga tuku iho*** In respect to *Taonga tuku iho,* the term is undefined and appears to leave identification to leave interpretation (and the implications of that interpretation) open to either the designation authority (which is not appropriate) or Māori. ***Identified Māori land*** The definition given for identified Māori land is consistent with other definitions released in recent national direction (i.e. Māori ancestral land in the draft National Environmental Standards for Papakāinga (NES-P)). However, as with the draft National Environmental Standard for Papakāinga, the parameters around what is considered 'general land owned by Māori' under the Bill is more limiting than the standard definition under Te Ture Whenua Māori Act 1993. **<u>Relief Sought</u>** i. That the definition of general land owned by Māori is made consistent with that under Te Ture Whenua Māori Act 1993.

Schedule 5: Designations		
Provision(s)	**MDC Position**	**Submission**
Schedule 5, Clause 3 *Meaning of designation*	**Support**	**Submission** The definition is supported as providing greater clarity as that a designation does not just apply to land but can also include restrictions on the use of subsoil, airspace, or space occupied by water. This is clearer than the RMA definition.
Schedule 5, Clause 9 *Meaning of core infrastructure Operator*	**Partly Support**	**Submission** The definition of 'core infrastructure operator' and corresponding meaning of 'core infrastructure operation' is generally supported. However, it is unclear as to whether the reference to 'drainage' in subclause (e) includes flood control works or not. Although there is some overlaps, some common understandings of drainage works omit works intended to protect land and property from flooding through measures such as stopbanks, floodwalls, detention or attenuation structures, and floodgates (which divert or hold water rather than drain it). The Manawatū District and wider Horizons Region contains many flood control structures. At present almost of the flood control structures are owned by the Regional Council, but there may be potential for a future development to have its own private flood protection works given extensive flood plains in the region. **Relief Sought** i. Include a reference to 'flood control works' in clause 9(e), or provide a definition of 'drainage' in clause 3 which includes flood control or flood control works.
Schedule 6, Clause 11 *Minister may approve other infrastructure operators*	**Partly Support**	**Submission** It is noted that clause 11 is intended to accommodate infrastructure operators who are not 'core infrastructure operators' under clause 9. It is not clear who these parties may be, nor what their operations may be. Historically, designations were reserved for public works (which were generally held to have a public benefit, and the effects of which had a degree of public accountability associated with them as they were under the ultimate control of elected members). The public benefit test is incorporated into clause 11 and is supported. However, there is no consideration given to adverse impacts beyond the 'those directly affected' and potentially 'the built environment'. Subclauses 3 to 7 then goes further to emphasis what appear to be primarily economic benefits. There is no explicit reference to the

Schedule 5: Designations		
Provision(s)	**MDC Position**	**Submission**
		potential environmental impacts of works associated with the operator or operation (or the potential economic costs or remediating damage to the natural environment). A link to the Natural Environment Bill and its goals should be included to ensure the Minister gives a balanced assessment of the merits of any application before making a decision. **Relief Sought** i. Amend clause 11 but inserting a subclause which requires the Minister to explicitly consider whether approval of a designating authority application will enable works which are not inconsistent with achieving goals under section 11 of the Natural Environment Bill, would be of low risk in respect to a breaching environmental limits, and whether the Minister is satisfied that an operator will be able to fulfil obligations that may be imposed under the plans or permits under Natural Environment Bill.
Schedule 5, Clauses 17-20 *Notification of designation*	**Partly Support**	**Submission** Clause 17(1)(c) only references effects on the *built environment* that are more than minor. However, although it is well known that the activities associated with a designation can have significant impacts on natural resources there is no cross reference to the Natural Environment Bill, nor the possible need for a permit under that Bill. It is also noted that references to designations are largely absent from the Natural Environment Bill, which presumably means the activities associated with the designation which affect natural resources are independently subject to the separate natural resource permit regime under the Natural Environment Bill. This lack of integration means there is a lost opportunity to improve process efficiency by enabling proposed designations and natural resource permits to be notified and considered concurrently and jointly. **Relief sought** i. Provide a mechanism in Schedule 5 of the Planning Bill which provides for territorial authorities to share notices of a proposed designation with regional councils where there is a likelihood of the designation having adverse effects on natural resources; and ii. Enable notices for a proposed designation and natural resource permits which relate to the same project to be notified together (where necessary under the provisions of each Bill) and heard together. iii. **EITHER:** Amend clause 14 of Schedule 5 (no duty to consult) to state that a territorial authority must

Schedule 5: Designations		
Provision(s)	**MDC Position**	**Submission**
		provide information about a notice for a proposed designation to a regional council: where the designation is likely to have a more than minor effect on a natural resource. **OR:** iv. The territorial authority must provide information about a notice of a proposed designation to the relevant regional council(s), and the regional council must assess whether the designation is likely to have a significant effect on a natural resource which will require a permit and notify the designation authority of that need.
Schedule 5 Clause 22 *Recommending authority*	**Partly Support**	**<u>Submission</u>** Some designations may have adverse effects on the natural environment of such significance that they require a natural resource permit under the Natural Environment Bill, and for that permit application to be notified. In such circumstances, it may be efficient for the permit and designation to be notified and heard at the same time. When this is the case, provision should be made to have a joint territorial authority – regional council recommending authority and hearings (so to avoid duplication of hearings processes). It is noted that clause 23 already anticipates some ability for there to be joint hearing, and this could be extended to the circumstances described above. **<u>Relief sought</u>** i. Amend clause 22 to provide for more than 1 commissioner to be appointed by the relevant territorial authority (or authorities where a designation spans more than one district) and regional council where a project which is the subject of a proposed designation is also the subject of a notified natural resource permit application. ii. Amend clauses 24 and 25 (recommendations on proposed designation and designation conditions) to provide the ability for a joint hearing panel which comprises commissioners appointed for the purpose of hearing the proposed designation and associated natural resource permit with the ability to make a decision on the natural resource permit and set conditions.

Schedule 5: Designations		
Provision(s)	**MDC Position**	**Submission**
Schedule 5 Clause 42	**Partly support**	**<u>Submission</u>** MDC generally supports clause 42, particularly subclause 4 where, if a person wishing to undertake an activity in contravention of clauses 4(1)(c) or 5(1) does not receive a decision from the designating authority within 40 working days, the person may proceed with their activity. This helps reduce the potential impact of 'planning blight' (whereby a person is unable to use land because of uncertainty around whether their activity will conflict with a designation over that land). Council supports this approach but also recommends a contact requirement for designating authorities to improve communication with affected parties to make this subclause workable. MDC would also like to see a contact register be established for contacting designating authorities. At times, Council has not been able to make contact with the correct staff of designating authorities or has found the address for service is unclear or out-of-date. **<u>Relief sought</u>** MDC seeks that: i. All requiring authorities must have an address for service (email and postal) that those acting under this section can use to contact the designating authority. This address for service should be given to all affected landowners of the designation, as well as to the local authorities within which the designation sits.