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Tēnā koutou katoa

Christchurch City Council comments on 'Our future resource management system – Materials for discussion'

1. Christchurch City Council (the Council) thanks the Ministry for the Environment (the Ministry) for the opportunity to comment on its document 'Our future resource management system – Materials for Discussion' (2021).
2. This submission is broken into two parts:
 - a) General Comments
 - b) Answers to the List of Resource Management reform Questions for Discussion.
3. We value the opportunity to provide comments through this submission process, but would also like to add that our elected members and staff continue to be available to assist with the Resource Management (RM) reform programme on a less formal basis. As practitioners of the Resource Management Act, local government authorities have a breadth of experience of challenges and opportunities of the current resource management system, which are an invaluable resource for the RM reform programme.

Part a) – General Comments

4. In our July 2021 submission on the exposure draft of the Natural and Built Environment Bill (NBA),¹ we expressed the Council's broad support for the government's planned reform of environment and planning legislation. This support continues, however, we remain concerned about the constrained timetable – particularly for engagement. The Council acknowledges that since July last year, the Ministry has built in additional time for engagement; established the Local Government Steering Group; and has committed to a partnership-based engagement approach. We would suggest that more time spent engaging at this stage of the reform process will pay dividends into the future. We also note that engagement with, and support for, local government needs to continue over the 10-year transition and implementation period, and must not stop once the legislation has been enacted.
5. Given Ngāi Tahu holds rangatiratanga within its takiwā, as affirmed in Te Tiriti, and under the Ngāi Tahu Settlement Act 1998, Council expects to see Ngāi Tahu representation on any subsequent national level authority and on regional joint committees. . We are interested to see how the Ministry plans to elevate its engagement with Iwi within the RM reform programme.
6. The RM reform programme presents an opportunity for the Government and Māori to co-design resource

¹ Christchurch City Council, Submission on the Natural and Built Environments Bill exposure draft, available at: <https://ccc.govt.nz/assets/Documents/The-Council/Request-information/2021/Christchurch-City-Council-submission-on-NBA-exposure-draft.PDF>,

management programmes and policy, and to make decisions together. Representation and composition of subsequent local governance entities should be a matter of consultation between mana whenua and local authorities. Concerns are again raised on capacity of Māori to engage without significant funding support from both central and local authority level. This is exacerbated when considering similar, concurrent engagement across Three Waters Reform and Local Government Reform. The Council looks forward to central Government intent on resolving capacity and funding matters.

7. We note that the RM reform is being carried out in parallel to the Review of Local Government, and suggest that the outcome of the latter may have significant implications for the design of any future RM system – specifically regional-level planning and the make-up of joint committees.
8. We acknowledge that the *Our future resource management system* focuses on specific areas. However, we are awaiting further clarity on a range of topics, raised in our submission on the NBA, that are not covered in the discussion document. These include:
 - **The role of the Joint Committees.** The discussion document proposes how these will be made up, but does not offer the requested clarity about the committees' purpose and function/s.
 - **How public participation will be encouraged, and increased, in the new system.** Our submission on the NBA called for increased opportunities for the public to be involved (e.g. through the Independent Hearings Panel processes). The discussion document suggests that local government will be required to represent public views and makes no mention of how the system design will cater to greater levels of engagement.
 - **Planning toward transition and implementation of the new system.** While we appreciate the RM reform is in its initial stages, we would expect that work is already underway on the transition and implementation of the new system and would appreciate sharing our views.
 - **Treatment of technical matters** e.g. ensuring quality built environments; management of natural hazards and climate change; heritage outcomes; and recognition of incompatible activities. While we appreciate that the detail on these matters will come from the subsequent draft versions of the legislation, we would appreciate further information as to how they will be treated.
9. We would appreciate clarification of the above matters as soon as possible.
10. We would like to acknowledge the time that Ministry staff have spent in recent months, engaging with the Christchurch City Council about its experiences with different planning mechanisms in the post-earthquake context, and hope to continue this dialogue over the coming months.

Conclusion

11. Thank you for the opportunity to provide this submission. For any clarification on points within this submission please contact Mark Stevenson, Manager, Planning (Mark.Stevenson@ccc.govt.nz).

Ngā mihi



Lianne Dalziel
MAYOR

Part b) – Answers to the List of Resource Management Questions for Discussion



National Planning Framework	
<p>1. What role does the national planning framework (NPF) need to play to resolve conflicts that currently play out through consenting?</p>	<p>In the Council’s submission on the NBA exposure draft, we requested that the NBA provide stronger direction on how conflicts between environmental outcomes and between environmental outcomes and environmental limits can be resolved. We considered that there is potential for conflicts to arise because those outcomes and limits, and the purpose of the Act and related provisions, seek both the promotion of the natural environment and the well-being of people and communities.</p> <p>If those conflicts are not resolved within the NBA itself, they should be clearly resolved through the NPF, particularly where there is likely to be conflict in respect of matters of national interest, environmental outcomes or environmental limits. An example of how this can be done can be found in the policies for the proposed National Policy Statement for Highly Productive Land (2019). It dealt with the potential conflict with the then National Policy Statement on Urban Development Capacity (2016) by only allowing urban expansion onto highly productive land if certain criteria were met.</p> <p>In our submission on the exposure draft of the NBA, we also suggested that the Act include a government-funded declaratory judgment service and/or an independent panel (similar to the Ministry for Building, Innovation and Employment’s Determinations Process) to resolve interpretation issues quickly and conclusively. Such a panel could deal with interpretation issues arising from the NBA itself and from conflicting NPF directions. Any outcomes of such a service will need to be communicated widely so that any changes to or refinements of interpretations are able to be applied consistently nationwide.</p> <p>The role of national direction should be to identify national environmental priorities for protection; set out how the resource management outcomes will be achieved; and specify protection methods and standards if possible and desirable at a national level. However, the latter should be closely considered as some existing national direction has been found to be well meaning but impractical to implement. National direction should be well integrated and should not result in conflict between national instruments. Directly addressing conflict resolution at the highest level would ensure the outcomes can be effectively promoted. This could significantly reduce litigation which can be both prolonged and expensive. Consideration should be given to determine how any conflicts could be resolved and how this would work in practice.</p> <p>We support the proposal to introduce consolidated national direction in the form of an NPF. It is important that existing conflicts between pieces of existing national direction are resolved, as well as resolving conflicts between existing and new forms of national direction. We would be supportive of the NPF being contained within a single document but consider that it also needs to be integrated and easy to navigate.</p> <p>Conflicts should be resolved in the NPF and NBA plans, where possible, rather than at the consenting stage. Some conflicts will be best resolved through the NPF and some conflicts such as those relating to place-making will be best resolved at a regional level through NBA plans.</p> <p>We request continued meaningful engagement with local government on the development of the NPF which will ensure that the framework is workable.</p>
<p>2. How would we promote efficiency in the Board of Inquiry process while still ensuring its transparency and robustness?</p>	<p>The Board of Inquiry process could promote efficiency by including the opportunity for submissions; a hearing; by commissioning independent advice; and restricting appeals to only those based on points of law.</p> <p>For less substantive changes, a smaller panel could consider the submissions without a hearing being required, but with the possibility of a hearing if the Board decided one was warranted. We suggest there would need to be clear, prescribed criteria in the NBA for determining whether a change was “less substantive”.</p>
<p>3. How often should the NPF be reviewed, bearing in mind the relationships between the NPF, regional spatial strategies and Natural and Built Environments Act plans?</p>	<p>A nine- or ten-year review period, suggested in the discussion document, seems to be a reasonable period to determine how provisions in planning documents are affecting outcomes and to identify problems that need to be fixed.</p> <p>The timeframes for the first regional spatial strategies and NBA plans should be sequential following the release of the first NPF. However, our experience suggests that it is likely to be difficult to specify a review period for the NPF to maintain that sequence for the subsequent reviews of all regional spatial strategies and NBA plans. Even with fixed 10 year review periods for regional and district planning documents stipulated in the RMA, and previous planning Acts, the variability in the time to complete reviews has inevitably resulted in reviews of regional and district planning documents getting out of sequence.</p> <p>The NBA should include the ability to change parts of the NPF within the review period when necessary.</p>

Regional spatial strategies	
<p>4. To what degree should regional spatial strategies (RSSs) and implementation agreements drive resource management change and commit partners to deliver investment?</p>	<p>As we understand, the primary purpose of RSSs is to determine how the region should develop over the next 30 years. This should include the identification of resource management/land use changes required by NBA plans and the mechanisms and tools outside of NBA plans that will be necessary to enable such changes e.g. the provision of the new infrastructure required for new urban growth areas. In some cases, the feasibility of providing the necessary infrastructure may determine where new urban growth areas are identified in the RSS. So, to answer the question in part, the RSS should drive resource management changes in NBA plans that are necessary to achieve strategic outcomes.</p> <p>However, there will be resource management issues that do not need to be addressed in the RSS and can be dealt with in NBA plans. This is particularly so if the resource management issue is not reliant on integration with mechanisms and tools outside of NBA plans. For example, the issue of how to appropriately protect a residential area from the adverse effects of a neighbouring industrial area, such as noise or large overbearing buildings, is not a strategic issue and is likely to be able to be managed through NBA plans without the need for mechanisms and tools outside of such plans.</p> <p>Where the resource management issue is reliant on integration with mechanisms and tools outside of NBA plans, there needs to be a clear public commitment from partners to the RSS to implement those mechanisms and tools. RSSs should therefore clearly identify what commitment partners will deliver. This may include commitments to mechanisms other than infrastructure provision. It may include, for example, commitments by various levels of government to facilitate mitigation, adaptation and risk reduction for natural hazards and climate change.</p> <p>The engagement material suggested the possibility of legal mechanisms to ensure the delivery of commitments by partners, which we agree may be useful. However, it would also be useful if NBA plans can include provisions that limit proposed resource management/land use changes being given effect to, until the necessary mechanisms and tools outside of NBA plans are delivered. This would avoid, for example, development occurring where the necessary infrastructure provision had not yet been implemented to achieve an integrated approach.</p> <p>Any new growth related infrastructure required to implement the spatial plan should be funded through Councils' Long Term Plan and Annual Plan processes. Capital Government projects should align with spatial plans (e.g. NZTA, Ministry of Education, Urban Development Authorities) to ensure alignment between Government funding of infrastructure and services and regional and local plans.</p>
<p>5. How can appropriate local issues be included in RSSs?</p>	<p>Provision should be included for parts of RSSs that are of relevance to only parts of regions to be prepared by the relevant local authorities alongside their communities. This could be through sub-committees of the regional joint committee. For example, the urban growth strategy for Greater Christchurch is likely to be of relevance to only the three district councils and the regional council that make up the Greater Christchurch Partnership, rather than all of the councils in the Canterbury region. Another example is the Canterbury Water Management Strategy, which relates to water zones and sets different outcomes for different catchments in Canterbury.</p> <p>In some cases matters may only be of relevance to a single or limited number of districts or zones in the region. For example, developing adaptation or mitigation responses for communities subject to coastal hazard risks. While a broad framework for managing such risks may be set by the joint committee, its application to specific areas and communities would be more appropriately developed through the relevant local authorities. This would be particularly so where the relevant district is likely to be contributing to the adaptation or mitigation response, or has infrastructure, facilities and other assets likely to be impacted by such decisions.</p> <p>There should also be a requirement that local authorities be meaningfully engaged on the relevant values and issues of significance in their districts before drafting of the RSS begins. For example, identifying areas of significant ecological, cultural or other values that should be protected from development. Local authorities should also be able to submit on the RSS to ensure the interests of their communities are fully considered.</p>
<p>6. With regional and unitary council boundaries proposed for RSSs, how should cross-boundary issues be addressed?</p>	<p>There should be a requirement, similar to that applying to planning documents under the RMA, that regard be had to the extent to which the RSSs need to be consistent with the RSSs of adjacent regions.</p>

NBA Plans	
<p>7. Do you agree with the Randerson Panel's recommendation to have one combined Natural and Built Environments Act (NBA) plan per region?</p>	<p>We have concerns whether a regional approach will adequately address local concerns and needs consideration of the local variation that exists within regions. The Canterbury region is the largest, geographically, in the country with 11 different local authorities. The issues and opportunities across our region are incredibly varied, and one size does not fit all.</p> <p>We acknowledge that many topics could be addressed regionally to a certain extent (e.g., natural hazards, amenity values (setbacks, recession plane, height etc.), and rural land use) which would resolve a lot of duplication, leading to greater efficiency and ease of use for Plan users. However, we consider that a sub-regional NBA plan would be better option than a regional NBA for the Greater Christchurch area, given the significant urban growth challenges Greater Christchurch faces.</p> <p>Alternatively provision should be made for sub-regional sections to be prepared by sub-committees that include the relevant councils. This would enable more successful place-based planning for specific areas with no regional comparators, such as the Greater Christchurch area. (Refer to the response to Question 8 for further response on this).</p> <p>It is also important that identified character areas within different districts continue to have bespoke provisions. In our opinion, it is critical that the planning system must appropriately consider local variations within regions.</p> <p>While a single regional plan is likely to be easier for regular users of plans, especially professionals who work with several district and regional plans, it is uncertain whether a single regional plan will be less complex, especially for lay people. The need for NBA plans to address regional and local matters, will likely result in a lengthy plan which may be challenging to navigate.</p>
<p>8. Would there be merit in enabling sub-regional NBA plans that would be incorporated into an NBA plan?</p>	<p>Yes – if matters are of local relevance only, rather than region wide issues. It would assist in ensuring that local concerns and needs, considering the local variation that exists within regions, is appropriately addressed – e.g. urban, provincial and rural experiences. For the Greater Christchurch area, there would be value in setting up a sub-committee to prepare area-specific draft plan sections. This would address Greater Christchurch-specific challenges/opportunities stemming from our significant urban growth and our area's particular resource management issues. This is effectively how urban growth within Greater Christchurch is managed, with provisions being included in the Canterbury Regional Policy Statement which apply specifically to the Greater Christchurch area.</p> <p>For some issues a single district could prepare part of the NBA plan relating to their district. For example, developing the detailed adaptation or mitigation responses for communities subject to coastal hazard risks.</p> <p>The role of district councils in the preparation of sub-regional NBA plans would need to be worked through in more detail.</p>
<p>9. What should the role of local authorities and their communities be to support local place-making and understanding of local issues in NBA plans?</p>	<p>NBA plans will need to be developed in partnership with local authorities and with communities to ensure that local place making is prioritised. We endorse a 'community-up' approach, rather than a top-down approach.</p> <p>The broader approach indicated for drafting the NBA should provide opportunities for less formal feedback to be sought and taken into account, rather than only relying on formal submissions which limit participation in the process to those with the knowledge and resources to work the system.</p> <p>District councils should be required to be consulted on the values and issues of significance in their districts before drafting of the NBA plans begins. District councils should also be able to submit on the NBA plan to ensure the interests of their communities are fully considered and have a representative on the panel for relevant hearings.</p>

10. Will the proposed plan-making process be more efficient and effectively deliver planning outcomes?

The proposed plan-making process has the potential to be more efficient and effective – but more detail is required. At the regional level proposed and given the size of the Canterbury region for example, there is the risk that local level issues will be overlooked, meaning appropriate planning outcomes will not be delivered.

Effectiveness is likely to be increased by the proposals to facilitate early, better and targeted public participation and a sustained role for hapū/iwi/Māori entities in the development of plans. Allowing local government and hapū/iwi/Māori entities to make submissions and have representatives on relevant hearings panels is also likely to assist. Past experience suggests that this may have some efficiency implications. But this may be overcome to a degree by central government resourcing of hapū/iwi/Māori entities in particular.

The quality of decision making on plans has been variable and therefore there need to be processes and requirements that ensure that evidence is tested and that decision makers are sufficiently qualified and experienced.

More democratic representation could be provided by requiring some level of Council representation on hearings panels.

The NBA proposal is that submissions must be considered by an independent hearings panel. An independent hearing panel should not be an adversarial or overly legalistic platform, but rather an inquisitorial one. For lay submitters without representation or counsel, an adversarial panel is likely to be a further barrier to engagement. Ideally it should avoid the ‘trappings’ or perception of being a judicial process, whilst retaining appropriate formality. If the intention is to reduce the scope of appeals to the Environment Court thereby expanding the importance of a hearing panel, then the hearing panel should not become a defacto court process.

We stress that Schedules 1 and 2 of the NBA should in principle require:

- local opportunity for people to participate in the process
- duty to engage with each local authority in the region prior to any formal notification
- full consultation with the affected community/communities
- more engagement at the start of plan making processes
- easier opportunities for non-professionals to be involved in hearings
- provision for the opportunity for local authorities to consult and be consulted on draft provisions, regulations and Regional Spatial Plans prior to any formal public notification process.

We note that communities with few resources are disadvantaged in the existing process. Our experience is that submissions by residents groups on development appear to get more traction if from affluent areas, due to the social and capital resource imbalances in our communities. The “scaling up” of planning processes to a regional level will make current barriers to engagement by some sectors of the community worse, unless there is active planning to reverse that trend. A statutory requirement to consult with such sectors of the community prior to notification of NBA plans would assist.

We recommend making it easier for people to submit by accepting submissions in any form, similar to engagement processes under the Local Government Act, rather than the prescribed and restrictive nature of the RMA (i.e., submissions must be written in accordance with Form 5).

We also recognise the need for planning processes to be responsive to enable changes to occur at local community level which reflect the desire of the local community.

RSS and NBA joint committees	
<p>11. How could a joint committee model balance effective representation with efficiency of processes and decision-making?</p>	<p>To ensure appropriate representation the joint committees would need to include local authority representation of all local authorities and that should be proportional to the population of the district being represented. However, in the case of Canterbury the size of such a committee is likely to be unwieldy.</p> <p>As noted earlier (refer question 7 above), we consider that sub-regional NBA plans (e.g. a plan for the Greater Christchurch area) should be considered. Such a sub-regional plan would enable the efficient development of an NBA plan and spatial strategy and decision making, while enabling effective representation of the relevant local authorities. This is effectively how the Greater Christchurch Partnership operates in terms of urban development within Greater Christchurch, with provisions being included in the Canterbury Regional Policy Statement which apply specifically to the Greater Christchurch area.</p> <p>The recommended mechanism would provide for a single representative for each local authority for the joint committee, with that joint committee dealing with issues of relevance to the region as a whole. In addition, to increase efficiency and effective representation, it would include provision for sub-committees of only the relevant local authorities to prepare and decide on area-specific NBA plan and spatial strategy sections.</p> <p>One main challenge would be retaining local democratic input where final plan making decisions are made by a joint committee. We support the proposal being considered that the structure and composition of committees are to be determined on a region-by-region basis, however, it is important that there is local authority representation of all local authorities.</p>
<p>12. How could a joint committee provide for local democratic input?</p>	<p>Refer to the response to the previous question.</p> <p>Committees should be resourced to establish local sub-committees with local area knowledge, representation and relationships. We strongly suggest that these committees should be made up of elected members with appropriate training (Making good decisions etc), rather than staff or consultants. Elected members have a range of experience – urban, rural and provincial communities, and are accountable to the communities that elect them. We acknowledge that the three-yearly electoral cycle could create ongoing changes to the membership of planning committees. Consideration must also be given to the capability of elected members including the availability of training such as the current ‘Making Good Decisions’ course.</p> <p>It is imperative that local authorities are able to provide policy and technical input into the drafting of their region’s NBA plan and RSS, prior to public notification. In addition, committees should be required to engage with local councils on draft NBA plans and RSS, prior to public notification.</p> <p>Planning committees’ functions include promulgating and making decisions on plans. This is currently a council function under the RMA. This shift will result in a loss of local democracy as key policy and planning decisions for districts will no longer be made by elected councillors from that local authority.</p> <p>We are concerned that the Bill limits the involvement of local elected members in decision-making and that the structure of proposed planning committees will reduce the relevance of local and territorial authorities in place making decisions for their respective communities. It is also unclear what role public participation will have in the new system particularly in terms of the opportunities available for local input into plan-making processes. Communities are highly localised and the regionalisation of planning issues and processes has the potential to undermine the abilities of communities to influence and make decisions about the places that they live. We recommend making it easier for people to submit by accepting submissions in any form, similar to engagement processes under the Local Government Act, rather than the prescribed and restrictive nature of the RMA (i.e., submissions must be written in accordance with Form 5).</p> <p>The exposure draft proposal is that submissions must be considered by an independent hearings panel. Currently councils have discretion to retain or delegate this function. Given independent panels are more expensive for the local authority than appointing elected councillors, the Bill should be clear which organisation is intended to fund/resource the panel. Democratic representation could be retained by requiring some level of council representation on independent panels.</p>
<p>13. How could a joint committee ensure adequate representation of all local authority views and interests if not all local authorities are directly represented?</p>	<p>As above, committees should be required to engage with local councils on draft NBA plans and RSS, prior to public notification.</p> <p>This should be required even if all local authorities are represented on the committee, as it gives constituent local authorities time to consider drafts in greater depth.</p>

<p>14. Are sufficient accountabilities included in the proposed new integrated regional approach to ensure the strategies and plans can be owned and implemented by local authorities?</p>	<p>It is difficult to comment on this when there is currently not sufficient detail.</p>
<p>15. How should joint committees be established?</p>	<p>Refer to responses to the previous questions in this section.</p> <p>In addition to representation from local government, nominated representation should be from hapū/iwi/Māori and from central government for RSSs.</p> <p>Committee Secretariats' locations should be prescribed – we would expect they would be based in the largest metropolitan council area in a region. The logistical requirements of provincial councillors' participation will need to be considered through the establishment phase (similar to comments above).</p> <p>Additional high-level direction is required on how these committees should be funded.</p>

Consenting

16. Will the proposed future system be more certain and efficient for plan users and those requiring consents?

Some suggestions to increase certainty and efficiency:

- Discretionary activities should also include activities that may be less appropriate in some circumstances, but not in all circumstances.
- It is not clear on the merit in renaming what effectively appear to be restricted discretionary activities to “controlled”, if consent can in some circumstances be declined. Categories could be permitted, restricted discretionary, discretionary and prohibited.
- Support provisions for notification, provided these are clearly articulated, including what happens when an activity triggers rules that are a combination of non-notifiable and notifiable – can the effects of the non-notifiable aspect be considered for notification purposes?
- Regarding written approval being a pathway to a permitted activity, clearly set out what happens when ownership changes or approval is withdrawn.
- Regarding third party certification, provided the qualifications of the certifier are clearly set out and nationally recognised we support this – OR if the NBA Plan rule itself can set out the qualifications required for the certifier (i.e. qualification levels of arborists for tree related conditions, qualifications and experience of urban designers for urban design certification).
- The scope to review consents should be broader. This would help to ensure there is a mechanism to address matters not considered through the initial consent process. Currently, section 128 RMA enables reviews only at the time specified in the consent for specified reasons. This is not considered enough or practical. For instance, it is difficult to specify a reason to review the consent if it was not obvious at the time of processing the consent. Greater flexibility in reviewing consents also provides the opportunity to redress the poor outcomes of some consented activities. There would need to be further consideration in terms of how this would work in the case of a review that effectively nullifies the grant of consent or had a significant financial effect on the consent holder.
- It is suggested that consideration is given to the expiry of consents if not exercised for a certain period of time. This provides more certainty to the community and avoids the re-establishment of what could be unsuitable activities.
- Provision for joint consent processing for regional and district functions (e.g. effluent disposal) would be beneficial e.g., one application is jointly processed by regional and district council.
- National direction is needed with regards to specifying resource consent types that will be subject to notification/non-notification clauses in the NBA, NPF and NBE plans.

Compliance, monitoring and enforcement

<p>17. Do you agree with the proposed changes to compliance, monitoring and enforcement provisions and tools?</p>	<p>The proposed changes to compliance, monitoring and enforcement (CME) provisions that seek to improve these functions within the future RMA system, are a positive and necessary step.</p> <p>The comment in the discussion document that Councils will continue to be responsible for CME processes, and that the establishment of regional hubs will be deferred, is noted. There is strong relationship between consenting functions and compliance/monitoring functions, which risk being lost if the two functions are delivered by separate entities.</p> <p>Whilst there are benefits to local councils retaining control over CME activities, this has the potential to frustrate a regional or combined approach to plan making and consenting – particularly for smaller councils that have difficulty resourcing and administering CME programmes and where priorities at a local level are inconsistent with those at a regional level.</p> <p>Some compliance / enforcement work where nationally important values are involved needs to be handled centrally. That’s the experience from 30 years of the Act reflected in MfE reports. We suggest consideration be given to developing national guidance for CME functions e.g. guidance, standards similar to the National Policy Statement framework. The functions could then be delivered locally or regionally, with attention paid to ensuring that the approaches are nationally consistent (e.g. similar to moderation of NCEA exam marking).</p> <p>We suggest that the following are necessary to improve the efficiency and effectiveness of the compliance, monitoring and enforcement functions under the RMA:</p> <ul style="list-style-type: none"> • Include the ability to consider past performance when considering applications for natural resource use. It is proposed that there is a change to allow consent authorities to consider an applicant’s compliance history in the consent process. • Auditor to conduct annual review of councils’ compliance, monitoring and enforcement functions and make mandatory directions regarding processes and resourcing. This could work like Building Control Authority audit and accreditation system. • Introduce fees for permitted activity monitoring. This would allow Councils to recover the costs of monitoring. Proposed change to broaden the cost recovery provisions for CME in the NBA, allowing for costs to be recovered for compliance monitoring of permitted activities and investigation of non-compliant activities. Therefore, we would be supportive. <p>We are supportive of retaining a devolved system but request stronger support, guidance, resourcing/funding, and performance monitoring from central government. All councils are challenged to adequately resource compliance, monitoring and enforcement functions.</p> <p>There has been increased co-operation in the CME space between councils in the Canterbury region which has resulted in the adoption of the Canterbury Strategic Compliance Framework. By adopting the framework, Councils have agreed to work towards best practice, have consistency in approach to compliance, and target our resources where the highest risk exists.</p> <p>The Ministry for the Environment’s Best Practice Guidelines for Compliance, Monitoring and Enforcement under the Resource Management Act have been useful for informing our practice, and we’d like to see guidance and support of this sort furthered.</p>
<p>18. How practical will the proposals be to implement?</p>	<p>The functions will need to be clearly set out in the legislation.</p> <p>As noted above, the retention of CME functions with local Councils may frustrate the regional / combined approach to plan making and consenting where regional and local priorities and methods aren’t aligned.</p>

Monitoring and system oversight	
19. Will these proposals lead to more effective monitoring and oversight of the system?	<p>The proposals will be effective if the importance of effective monitoring and oversight needs to be imbedded in the system otherwise monitoring gets left until last.</p> <p>Monitoring and oversight needs to be appropriately valued so it is resourced properly by Councils. There need to be consequences for not meeting monitoring timeframes, but this needs flexibility to take into account the capabilities of the particular Council – with possibly contestable government funding available for monitoring functions for smaller local authorities.</p> <p>The matters selected for monitoring should be meaningful and useful to reflect the state of the environment and the system performance, for example measuring compliance with ‘working days’ is a blunt tool that doesn’t reflect the individual nuances of applications or issues around resourcing, workloads etc. and is not meaningful when it comes to the quality of the outcome.</p> <p>The Council has some concerns that the ‘system oversight’ proposals in the engagement document, namely ‘stronger regulatory stewardship and operational oversight of the system by central government and other independent oversight bodies,’ and ‘a range of powers for ministers to intervene and direct the system,’ are significant interventions. We suggest that the proposals are clarified and that any required actions or interventions are undertaken with agreement with local authorities. The risk is that the councils may be perceived to be incapable of performing their duties. It may reduce confidence in the Council and create uncertainty.</p>
20. Will the system be able to adequately respond and adapt to changing circumstances?	If resourced appropriately and with the right legislative wording.
Role of local government in the future system	
21. What does an effective relationship between local authorities and joint committees look like?	<p>An effective relationship between local authorities and joint committees would be strongly driven and enhanced by the other suggestions made in this submission for local authority involvement.</p> <p>We would expect that joint committees’ membership be made up of local government elected members and local mana whenua representatives. Refer to the comments above in the section on RSS and NBA joint committees.</p> <p>We would expect that local government would be engaged by committees on the development of the NPF, and of RSSs, including both ongoing informal engagement and a statutory consultation period on the proposed drafts prior to public notification.</p> <p>We would also expect that local government is involved in undertaking community engagement, particularly on those issues that are locally specific, e.g. developing adaptation or mitigation responses for communities subject to coastal hazard risks</p> <p>Although council staff may be involved in the development of RSSs and NBA plans through the secretariat, it would not be appropriate to expect them to represent the policy positions of individual councils.</p>
22. What other roles might be required to make the future resource management system effective and efficient?	Councils should be able to continue to seek to influence, outside of planning committees, the policy determinations of regional and sub-regional committees on matters that affect (or could affect) the Council’s communities or environment. This should include the statutory provision for councils to formally seek changes to NBA plans and RSSs, as is currently the case in respect of Regional Policy Statements under the RMA. Councils should still also be able to continue to pursue outcomes through submissions, hearings and appeals (to the extent appeals are provided for in the Act) on behalf of their communities.

<p>23. What might be required to ensure the roles and responsibilities of local authorities can be effectively and efficiently delivered?</p>	<p>Clarity of national direction (as addressed above) and resourcing for local authorities to deliver. Support for local government needs to continue over the 10-year transition and implementation period, and must not stop once the legislation has been enacted.</p> <p>We note that the engagement material says ‘Regional councils will retain responsibility for natural resource functions, and territorial authorities will retain their core land use and subdivision responsibilities.</p> <p>We suggest that territorial authorities’ functions should include:</p> <ul style="list-style-type: none"> - Consent authority for land use and subdivision consents under the NBA. - Decide on NBA plan changes that are of solely local significance. - Compliance monitoring and enforcement (instead of regional hubs). <p>Regional councils functions should include:</p> <ul style="list-style-type: none"> - Technical expertise and environmental knowledge-base to support territorial authorities’ decisions. - Environmental monitoring. <p>We note the Review of Local Government is underway, and may change the roles and responsibilities of local authorities.</p>
<p>National Māori entity</p>	
<p>24. What functions should a national Māori entity have?</p>	<p>A National Māori entity should:</p> <ul style="list-style-type: none"> • have oversight of the NPF • appoint Māori members to any Board of Inquiry process • have system oversight and monitoring functions (including monitoring of Te Tiriti performance).
<p>25. What should the membership and appointments process be for the entity?</p>	<p>Membership and appointment processes for the National Māori entity should be determined by Māori to ensure the group has sufficient mana.</p> <p>We are informed that Te Rūnanga O Ngāi Tahu is opposed to pan Māori groupings influencing decision making at either a national or regional level that impacts on the Ngāi Tahu takiwā. Ngāi Tahu holds rangatiratanga and is the Crown’s Te Tiriti partner within the takiwā. If there is to be a National Māori Entity, it must include Ngāi Tahu representation.</p>
<p>Joint committee composition</p>	
<p>26. Should parties in a region be able to determine their committee composition?</p>	<p>Yes. Different areas will require different representation arrangements –particularly for mana whenua representatives.</p> <p>The committee composition will hinge on whether there is a single NBA per region, or not.</p>
<p>27. What should be the selection and appointments processes for joint committee members?</p>	<p>Selection and appointment processes for Māori appointees to joint committees should be determined by Māori.</p>

28. Are sub-committees needed to meet regional needs including Treaty settlements?	This should be determined on a regional basis, and in consultation with mana whenua.
29. How do we best provide for existing arrangements (eg, Treaty settlement or other resource management arrangements)?	Current Tiriti Settlement and other existing resource management arrangements should be carried through into the new system.
Enhanced Mana Whakahono ā Rohe arrangements, integrated with transfers of powers and joint management agreements	
30. How could an enhanced Mana Whakahono ā Rohe process be enabled that is integrated with transfers of powers and joint management agreements?	<p>We support capacity building for mana whenua, appropriate resourcing of this function, clear legislative direction for transfers of powers and joint management agreements.</p> <p>We consider that this question would be best addressed according to each iwi or rūnanga and their respective councils rather than in some super-regional style agreement which may not reflect hāpu or iwi boundaries.</p> <p>In some ways, we suggest that this question cannot be answered until roles and responsibilities around consenting / compliance are determined.</p> <p>There is a risk that Regional / Combined Plan format could work against diverse local tangata whenua wishes.</p>
31. What should be covered in the scope of an enhanced Mana Whakahono ā Rohe and what should be mandatory matters?	<p>Mandatory consultation with appropriate mana whenua where sites/issues of significance are involved, both at plan making and consenting. Requirement to give specific regard to the outcomes of consultation in decision making.</p> <p>Mandatory consideration of Iwi Management Plans in preparation of strategic and regional plans.</p> <p>Mana Whakahono ā Rohe, or any equivalent agreement, should cover process specifics such as who and how to contact to initiate mana whenua involvement for different types of issues, including whether there are issues on which no involvement is sought, agreed timeframes, and funding arrangements.</p>
32. What are the barriers that need to be removed, or incentives added, to better enable transfers of powers and joint management agreements?	Capacity within iwi – resourcing commensurate with the level of input required.

Funding in the future system	
33. How should funding be distributed across taxpayers, ratepayers and individuals?	<p>The Crown should clearly articulate in the NPF where funding responsibilities begin and cease from a Crown perspective and as to what becomes a local authority funding initiative.</p> <p>The Crown should fund:</p> <ul style="list-style-type: none"> • mana whenua involvement at various stages of the NPF, RSS and NBA plan development and decision making processes, and in compliance, monitoring, enforcement and oversight, as Treaty partners; • Community Advice Centres to assist people with understanding and participating in the process as well as planning disputes; and • the additional costs councils will face implementing the NBA and SPA. <p>The changes to the resource management system currently being proposed by central government are estimated to increase costs for local government by 11% per annum (Interim regulatory impact statement: Reforming the resource management system (15 June 2011)). Central government should provide funding or alternative assistance to help Councils meet these increased costs.</p>
34. How should Māori participation be supported at different levels of the system?	<p>In addition to funding as covered in the response to the previous question, the system's design, and ways of operating should support Māori participation by default. For example, sufficient time needs to be allowed in engagement/consultation processes for meaningful engagement with mana whenua.</p> <p>In addition, central government funding needs to be provided to mana whenua to ensure participation.</p> <p>We are concerned that a lack of resourcing for mana whenua is already a barrier to their effective engagement in the RMA. Consideration should be given to how government can support mana whenua and provide greater resourcing under the new system so they can effectively engage and participate in RM processes. As stated in question 33, above, central government funding needs to be provided to mana whenua to ensure participation. Consideration should also be given to other support e.g. access to technical experts, to ensure engagement</p>
Other comments	
35. Databases and systems	<p>We strongly encourage the Ministry to consider a standardised consenting and monitoring database to be used across the country to avoid councils investing in separate IT systems individually. A standardised database would also bring efficiency gains for reporting.</p>