TE TUMU PAEROA
Office of the Māori Trustee

The Māori Trustee's submission on the Natural and Built Environment Bill

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Summary of Position

1. The Māori Trustee administers, as trustee or agent, nearly 88,000 hectares of Māori freehold land on behalf of approximately 100,000 individual Māori landowners. Te Tumu Paeroa is the organisation that supports the Māori Trustee to carry out her functions, roles and responsibilities. Detailed information regarding the Māori Trustee and Te Tumu Paeroa is set out in Appendix A. Additional information can be found on Te Tumu Paeroa's website, www.tetumupaeroa.co.nz.

2. The views expressed in this submission represent the Māori Trustee's position as the single largest trustee and agent of Māori land in Aotearoa. However, given the sheer scale and varied nature of the land assets within the Māori Trustee's portfolio, the Māori Trustee's views may not always be shared by all owners of lands she administers.

3. The Māori Trustee supports the need for reform of the resource management system. However, the Māori Trustee believes there are a number of matters that need to be addressed within the Natural and Built Environments bill (**the NBE Bill**) to make it fit for purpose.

4. The Māori Trustee summarises her submission as follows:
   a. The reform presents a once-in-a-generation opportunity to overhaul elements within the current resource management system that are defective or sub-optimal. However, the timeframe to make submissions has been unreasonably short (55 working days interrupted by a Christmas/New Year break) given the length of the NBE Bill and its significance. To afford the public such a short review period is both surprising and disappointing. Further, and despite the Government having expended an immense amount of resources into the development of the NBE Bill, the NBE Bill appears to have been drafted in haste. This is apparent from the large number of inconsistencies in language, punctuation and grammar that make it difficult to understand.

   b. The Māori Trustee supports the intent to encourage increased Māori participation within the new system. However, due to the current resourcing of the sector, she has grave concerns that there will not be sufficient capability and capacity to ensure these opportunities are realised. It will be important that clear processes around how to facilitate, resource and fund Māori participation are made to ensure that decisions do not continue to favour those who can afford to participate. The Māori Trustee's preference is that this is funded at a central Government level to acknowledge that local authorities may have limited ability to effectively fund Māori participation if their asset base is diminished through other Government reform. This will ensure that the NBE Bill's intentions result in actually increasing participation within the system. The Māori Trustee would encourage the Minister to ensure that these processes are developed by Māori.

   c. The Māori Trustee notes the increased reference to the use of mātauranga Māori within the NBE Bill. Mātauranga Māori is traditionally an oral history of evidence, therefore, it does not conform to the western criteria of scientific evaluation. The past few decades

has only seen a modest amount of publicly funded research into utilising and growing mātauranga Māori based evidence and observations with regards to environmental limit setting. The Māori Trustee is concerned that, due to this lack of research, mātauranga Māori based evidence may be disregarded due to not meeting the western criteria of being scientifically robust and reliable as required in multiple sections of the NBE Bill. To this point, and more broadly, the Government needs to ensure that any evidence used under this NBE Bill does not conflict with or invalidate the mātauranga held at a local level.

d. The Māori Trustee notes that a significant number of reform programmes are being undertaken concurrently at present; this includes resource management reform, three waters, and local government reform. It is imperative that these reforms align and give effect to te Tiriti o Waitangi.

e. The Māori Trustee considers that both the NBE Bill and Spatial Planning Bill (**SP Bill**) would benefit from the inclusion of a preamble – in both English and te Reo Māori (such as is the case in Te Ture Whenua Māori Act 1993). This would allow for a meaningful narrative to explain the key shifts in legislation and the intent behind it from both a Te Ao Māori and western perspective.

f. The Māori Trustee considers that the current drafting of the NBE Bill does not give effect to te Tiriti o Waitangi. Although Māori appear to have more opportunities to participate within the new system, many of these roles do not carry sufficient substantive power to have a genuine or meaningful impact on the operation of the new resource management system. The Māori Trustee considers that the following should be implemented, among other measures, to give effect to te Tiriti o Waitangi:

- It is desired that the National Māori Entity (**NME**) is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the Environmental Protection Authority (**EPA**);
- Regional Planning Committees (**RPC**) should have 50:50 Māori representatives;
- A co-director Māori should be appointed to the secretariat of each RPC; and
- Developing a mana whakahaere engagement register at both the national and regional levels so central and local governments can better understand the separate and overlapping interests of all Māori rights holders and ensure they engage appropriately.

g. The Māori Trustee considers the strengthening of the te Tiriti o Waitangi clause to be a positive improvement to the new resource management system. However, if the NBE Bill is to give genuine effect to te Tiriti o Waitangi then all reference to Crown constructed principles that tend to reaffirm the interpretation of the English text, should be removed. The establishment and understanding of treaty principles under the current resource management system, through the Crown, Courts and Waitangi Tribunal's interpretation, has received a mixed response from Māori and tends to be viewed as

serving and preserving the Crown's interests. The current principles often limit the ability for Māori to exercise tino rangatiratanga over their whenua, kāinga and taonga – a right that was guaranteed in Article 2 of te Tiriti o Waitangi. The resource management system reform provides an opportunity to distance ourselves from these contentious principles and centre the new system on equity.

The establishment of a National Māori Entity provides an opportunity to facilitate wānanga and hui with mana whakahaere across Aotearoa to establish a framework on how te Tiriti o Waitangi can appropriately be given effect to.

h. The Māori Trustee does not consider the purpose of the NBE Bill as currently drafted is clear on what the NBE Bill intends to achieve (and how) for the natural environment. This is concerning considering the unprecedented environmental degradation that Aotearoa is experiencing. The current drafting of the purpose also appears to be a regressive step from the RMA's purpose of sustainable management, which safeguarded the life supporting capacity of air, water, soil and ecosystems. Having a clear and hierarchal purpose will allow for consistency in implementing the NBE Bill and this clarity should reduce misunderstandings and disputes. The Māori Trustee would like to see purpose of the Act re-written to:

- set a clear hierarchy of obligations, through the concept of te Oranga o te Taiao, that prioritises protecting and sustaining the life supporting capacity and intrinsic values of the natural environment;
- state that use and development is provided for subject to the protection and sustainment of the life supporting capacity and intrinsic values of the natural environment being secured;
- support and provide for intergenerational equity; and
- give effect to te Oranga o te Taiao (**with relief sought in s 7**).

The purpose should be drafted as a short, clear statement detailing what the NBE Bill wants to achieve followed by a clear statement of how it intends to achieve it. The definition of te Oranga o te Taiao (**with relief sought in s 7**) should also be defined within s 3.

i. Although the Māori Trustee supports the use of the Māori concept 'te Oranga o te Taiao' in the purpose of the NBE Bill, she is concerned that the current drafting of its definition narrows the Māori understanding of te taiao/the environment to focus predominantly on the 'health of the natural environment'. The Māori worldview of te taiao is more holistic and recognises the interdependent relationship that humans have (including their social, cultural and economic wellbeing) with the natural environment and ecosystem health. The NBE Bill's definition seemingly reinforces a western perspective that establishes ecosystem health as independent from humans and the wider environment.

The definition of te Oranga o te Taiao in the NBE Bill also fails to acknowledge that protecting the health of the natural environment protects the health and well-being of

the wider environment. The Māori Trustee's preference is that this is addressed through setting a clear hierarchy of obligations, similar to the NPS-FM's Te Mana o te Wai, that prioritises protecting and sustaining the life supporting capacity and intrinsic values of the natural environment before providing for the health needs of people and their social, economic and cultural well-being.

j. The Māori Trustee considers that both the purpose of the NBE Bill and te Tiriti o Waitangi should form the korowai of the new resource management system. All decisions made under the NBE Bill should have to achieve and give effect to them respectively.

k. The Minister's discretionary powers across the NBE Bill and SP Bill appear very broad, with limited requirements for examination and assessment. This leaves a lot of discretion to the political will of the Minster of the day. To ensure consistency in prioritising ecological integrity, the Minister's discretion needs to be consistent with the purpose of the NBE Bill and give effect to te Tiriti o Waitangi.

l. The Māori Trustee considers that the current purpose of the NME is insufficient and does not afford the NME any substantive power to have a genuine or meaningful impact on the operation of the new resource management system. The Māori Trustee supports the NME having the function to independently monitor decisions made under the NBE Bill or SP Bill to ensure that they give effect to te Tiriti o Waitangi but they will need to be empowered to enforce compliance. The Māori Trustee also notes that the NBE Bill does not directly address how the NME will be funded. Assurances should be made in the NBE Bill to ensure that the NME is funded to effectively perform their roles and are not reliant on a political budget bid.

The Māori Trustee emphasises that increasing the powers that the NME hold, should not and does not preclude or undermine the ability for Māori in general to exercise their kaitiakitanga and tino rangatiratanga at place. The NME should also be required, on request, or during the preparation of national direction, to hold wānanga and hui with mana whakahaere across Aotearoa.

m. The Māori Trustee notes that the NBE Bill appears to have been drafted in a way that only recognises the rights and responsibilities that iwi and hapū hold with relation to te taiao. It is not appropriate for the Crown to determine which Māori may participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all Māori rights holders to be recognised.

To ensure all Māori perspectives were captured in drafting the National Policy Statement for Freshwater Management 2020 (**NPS-FM**) the principle of mana whakahaere was introduced. While not perfectly understood in the legislation, Te Tai

Kaha provides a more comprehensive definition of mana whakahaere[1] that should be adopted in the NBE Bill. This better defines the existing rights, responsibilities, and interests held by Māori through its inclusion of iwi, hapū, whānau and ahi kā (landowners). Often Māori landowners are ahi kā (customary rights holders) and it would be inappropriate for this NBE Bill to favour some customary rights while ignoring others. The Māori Trustee considers that all instances where Māori rights holders are referred to within this NBE Bill should be updated to use the term mana whakahaere. This will ensure that the rights and responsibilities held by all mana whakahaere, who may have interests separate to iwi and hapū (e.g. ahi kā/Māori landowners), are recognised.

n. The Māori Trustee generally supports the development of a National Planning Framework (**NPF**) to set consistent and cohesive direction at a national level. However, as the NPF will be given effect to through secondary legislation which is in the process of being developed, it is difficult to determine whether the procedural matters that are planned to be addressed in it are appropriate. The Māori Trustee notes that the implementation of the new resource management system is likely to take at least 10 years to be fully adopted. This could mean that a second NPF is implemented before the system has fully transitioned. It is hard to conceive how successful the NPF will be in achieving anything during the transition period. This creates a risk that if results are not seen immediately, people will just assume that the system is not working.

o. The Māori Trustee views the introduction of environmental limits in the NBE Bill as a positive addition to the new resource management system. However, there is a fundamental issue within this NBE Bill that environmental limits are only set to prevent the natural environment from degrading from its current state and therefore do not accurately represent the layman's understanding of environmental limits. If limits are to be set at current state (2023), many natural resources will be required to be maintained at a state that is not sustainable for ecological health. Environmental limits should be recorded at a rate that allows for the sustainable use of natural resources. If natural resources are below this bottom line, RPC's should be required to complete restorative work to get it back to and beyond the bottom line to secure its future sustainable use.

The Māori Trustee also considers that environmental limits will form a core part of the new resource management system. However, the current drafting of s 39 does not expressly require environmental limits to be set, it only provides that the Minister 'may' set or prescribe requirements to set environmental limits within the NPF. This creates a substantial risk that future Ministers, if not required to, may not set any environmental limits which could undermine the operation of the system as a whole. If environmental limits are not expressly required to be set, future NBE plans could also conceivably allow for environmental degradation. Assurances are required to ensure that environmental limits 'must' be set and have the ability to be challenged in the courts if they are not.

[1] Mana whakahaere: Iwi, hapū, ahi kā (Māori landowners) who exercise mana whakahaere (authority) and other obligations (kaitiakitanga and manaakitanga) to a particular area, water source, space and resource. https://www.foma.org.nz/wp-content/uploads/2022/02/2021.11-Hierarchy-of-Maori-Rights-and-Responsibilities.pdf, p.8.

p. The Māori Trustee supports the identification of resource allocation principles within the NBE Bill. However, as the NBE Bill does not expressly define any of the principles and s 87(a) only states that the NPF may "give directions that – provide further detail on the meaning of the resource allocation principles", there is no certainty on what effect these principles may have or how they will be applied within the system. This needs addressing.

The Māori Trustee also supports the term "equity" being listed as part of the resource allocation principles. However, from a Māori landowner perspective, equity within the system will only be possible if Māori landowners are in a position to develop their land at the same time as general landowners. As Māori land is historically underdeveloped with minimal yields, the likelihood of Māori landowners being in a position to apply for resource consents at the same time as their general landowning counterparts is improbable. This will likely result in the continuation of resources being allocated on a first-in, first served principle. To ensure that equity is honoured within the system, a percentage of available resource allocations will need to be reserved for Māori and the allowance of grand-parenting should be discontinued.

q. The Māori Trustee notes that only minor changes, if any, have been made to Part 6, subpart 2, Freshwater Farm plans compared to Part 9A of the Resource Management Act 1991 (**RMA**). The Māori Trustee has chosen not to individually on this part in the table below however, she reiterates her points made in her 2021 submission on the Freshwater Farm Plan Regulations: Discussion Document as they have not been addressed in the NBE Bill. These include:

- leased Māori land has not been adequately accounted for;
- no consultation requirement has been put in place between the farm operator and landowner regarding actions set;
- lack of express commitment to ensure Te Mana o te Wai is given effect to;
- No provision is made to ensure that a working relationship with regional councils and mana whakahaere is developed, with adequate funding and support provided; and
- the unintended consequence of making smaller Māori land blocks uneconomic to lease[2], through the increased operational costs on farm operators that require certification and auditing of their freshwater farm plans.

r. The Māori Trustee notes that there is a distinct difference between Māori freehold land and general land. Māori freehold land has two main characteristics which make it a unique land tenure: its economic value and its cultural value. An interest in Māori freehold land is, like general land, an economic asset that may be used, traded, sold or transferred. However, unlike general land, Te Ture Whenua Māori Act 1993 sets strong rules to ensure that land remains in the hands of its owners, whānau and the hapū associated with it. Māori freehold land should not be confused with land owned by iwi, which is normally general land passed into ownership through the Treaty Settlement

[2] The Māori Trustee estimates that the annual cost to put a FW-FP in place (with no capital works completed) to be approximately $3,000. Currently, 40% of Māori Trustee administered blocks earn less than $3,000 per annum.

process. Te Ture Whenua Māori Act 1993 recognises that Māori land is a taonga tuku iho of special significance to Māori passed on from generation to generation. An interest in Māori freehold land is also considered a whakapapa link for owners to their tūpuna, whānau, hapū and iwi, whether they reside on the whenua or not. The Māori Trustee considers that certain sections of this NBE Bill have not accounted for these differences and changes will need to be made to address these unique circumstances.

s. The Māori Trustee considers that the preservation clause under s 814 is weak and does not provide sufficient protection to Māori rights and interests in freshwater and geothermal resource now and into the future. The Government needs to undertake actions promptly to address these issues to not further exacerbate inequities in the new resource management system.

5. Our submission table containing the Māori Trustee's specific responses to the NBE Bill are set out in pages 12 to 139 below.

Conclusion

6. The Māori Trustee looks forward to discussing this submission with the Environment Select Committee and Ministry for the Environment officials.

7. Please contact [redacted]

Dr Charlotte Severne
Māori Trustee

Submissions

Part 1 Purpose and preliminary matters

Provision	Position	Submission	Relief Sought
3 Purpose of this Act The purpose of this Act is to— (a) enable the use, development, and protection of the environment in a way that— (i) supports the well-being of present generations without compromising the well-being of future generations; and (ii) promotes outcomes for the benefit of the environment; and (iii) complies with environmental limits and their associated targets; and (iv) manages adverse effects; and (b) recognise and uphold te Oranga o te Taiao.	Oppose	The Māori Trustee considers that the drafted purpose of the NBE Bill does not currently provide clear and considered direction on what the NBE Bill intends to achieve (and how) for the natural environment. This is concerning given the unprecedented environmental degradation that Aotearoa is experiencing. The current drafting of the purpose also appears to be a regressive step from the RMA's purpose of sustainable management, which safeguarded the life supporting capacity of air, water, soil and ecosystems. The Māori Trustee has identified the following issues with the current drafting of s 3. **s 3(a)** • 'Enabling' the protection of the environment (with its broad definition), alongside use and development is inappropriate and is likely to invite litigation over how these could be achieved contemporaneously. It is essential that the NBE Bill's purpose ensures that protecting and sustaining the life supporting capacity and intrinsic values of the natural environment takes primacy over its use and development. This could be achieved through setting a clear hierarchy of obligations similar to the NPS-FM's Te Mana o te Wai. • s 3(a) also implies that protection can only be 'enabled' if it occurs in a way that supports, promotes, complies with and manages, respectively, the components in (i) to (iv). This could lead to protections being based on and unintentionally constrained by the need to support current generations' well-being (which includes economic, social and cultural), managing adverse impacts (that could be economic) and complying with environmental limits (that are set at minimum levels of ecological integrity). The current drafting of this section could unintentionally limit the extent to which protections for the natural environment could be applied beyond what is stated in components (i) to (iv). **s 3(a)(i)** • s 3(a)(i) provides for the enabled use, development and protection of the environment as long as it occurs in a way that "supports the well-being of present generations without compromising the well-being of future generations". As 'well-being' is defined as relating to the social, economic, environmental and cultural well-being of people and communities, this clause is inherently ambiguous on what needs to be met, and to what level. It also does not provide clear direction on what state the natural environment needs to be in to support the well-being of future generations.	The Māori Trustee considers the purpose of the Act should be re-written or amended to: • set a clear hierarchy of obligations, through the concept of te Oranga o te Taiao, that prioritises protecting and sustaining the life supporting capacity and intrinsic values of the natural environment; • state that use and development is provided for subject to the protection and sustainment of the life supporting capacity and intrinsic values of the natural environment being secured; • support and provide for intergenerational equity; and • give effect to te Oranga o te Taiao (**with relief sought in s 7**). The purpose should be drafted as a short, clear statement detailing what the NBE Bill wants to achieve followed by a clear statement of how it intends to achieve it. The definition of te Oranga o te Taiao (**with relief sought in s 7**) should also be defined within s 3.

		This clause could have pervasive and unacceptable consequences if not amended. • Ultimately, this clause should be amended to provide for intergenerational equity that secures the same or better access to, and benefits of, natural and physical resources for future generations that current generations have. **s 3(a)(ii)** • Due to the broad drafting of the definition of 'environment' under this NBE Bill, the requirement to promote "outcomes for the benefit of the environment" lacks specificity and could be utilised inappropriately to promote economic and other benefits at the expense of the natural environment. Further refinement is required to specify what outcomes in this NBE Bill should be realised and reference should be provided to the relevant clauses. **s 3(a)(iii)** • s 3(a)(iii) provides for the enabled use, development and protection of the environment as long as it occurs in a way that complies with environmental limits and their associated targets. There is a fundamental issue within this NBE Bill that environmental limits are only set to prevent the natural environment from degrading from its current state. Environmental limits need to be set at a rate that allows for the sustainable use of natural resources. If natural resources are below this bottom line, RPCs will need to complete restorative work to get it back to and beyond the bottom line to secure its future sustainable use. Furthermore there are no requirements to set targets that are sustainable which could see ecosystems continue to degrade and reach their tipping points. Complying with environmental limits and targets that are set at an unsustainable level for the natural resource is a low and inappropriate standard within this NBE Bill. **s 3(a)(iv)** • s 3(a)(iv) provides for the enabled use, development and protection of the environment as long as it occurs in a way that 'manages adverse effects'. Similarly to other clauses in this section, this clause could have the unintended impact of permitting adverse effects on economic, social and cultural conditions to be managed at the expense of the natural environment. **s 3(b)**	

		• Although the Māori Trustee is supportive of the use of the Māori concept 'te Oranga o te Taiao' in the purpose of the NBE Bill, she is concerned that the current drafting of its definition narrows the Māori understanding of te taiao/the environment to focus predominantly on the 'health of the natural environment'. The Māori worldview of te taiao is more holistic and recognises the interdependent relationship that humans have (including their social, cultural and economic wellbeing) with the natural environment and ecosystem health. The NBE Bill's definition seemingly reinforces a western perspective that establishes ecosystem health as independent from humans and the wider environment. This is not consistent with a Māori worldview and should be amended to recognise all aspects of the environment. • The definition of te Oranga o te Taiao in the NBE Bill also fails to acknowledge that protecting the health of the natural environment protects the health and well-being of the wider environment. This could be amended through setting a clear hierarchy of obligations, similar to the NPS-FM's Te Mana o te Wai, that prioritises protecting and sustaining the life supporting capacity and intrinsic values of the natural environment before providing for the health needs of people and their social, economic and cultural well-being. • The RMA, under s 6(e), currently recognises and provides for "the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga". However the definition of te Oranga o te taiao limits this relationship by only recognising the "intrinsic relationship between iwi and hapū and te Taiao". This approach is regressive and should be amended to recognise the relationship that all Māori have to te taiao. • There also appears to be a deliberate decision to use the unfamiliar planning term "recognise and uphold" rather than 'recognise and provide for' or 'give effect to' in s 3(b). It is unclear if the new term is meant to be more or less directive than the aforementioned terms in the new system. To reduce ambiguity and avoid costly disputes, the term should be defined or 'give effect to' be used in its place. The use of dual purposes (ss 3(a) and (b)), while not unprecedented in New Zealand legislation, creates uncertainty as to their intended application and hierarchy within this NBE Bill and will likely require the Courts to resolve. This lack of clarity, specificity and hierarchy within the current purpose of the NBE Bill will likely lead to an inconsistent approach being applied and a lengthy litigation process to determine the meaning of each clause. The Māori Trustee's preference, for the above reasons, is that the purpose of the NBE Bill be re-written or amended and has provided guidance on how this should be done under relief sought.	

4 Tiriti o Waitangi All persons exercising powers and performing functions and duties under this Act must give effect to the principles of te Tiriti o Waitangi.	Partially support	The Māori Trustee considers the strengthening of the te Tiriti o Waitangi clause to be a positive improvement to the new resource management system. However, if this section is to give genuine effect to te Tiriti o Waitangi then all reference to Crown constructed principles that tend to reaffirm the interpretation of the English text, should be removed. The establishment and understanding of treaty principles under the current resource management system, through the Crown, Courts and Waitangi Tribunal's interpretation, has received a mixed response from Māori and tends to be viewed as serving and preserving the Crown's interests. The current principles often limit the ability for Māori to exercise tino rangatiratanga over their whenua, kāinga and taonga – a right that was guaranteed in Article 2 of te Tiriti o Waitangi. The resource management system reform provides an opportunity to distance ourselves from these contentious principles and centre the new system on equity. Directly referencing the requirement to give effect to te Tiriti o Waitangi in New Zealand legislation is not unprecedented[3] and recent Cabinet advice[4] has also demonstrated a preference for policy-makers to focus on the text rather than the principles. The Māori Trustee therefore considers that the all persons exercising powers and performing functions under this NBE Bill must give effect to te Tiriti o Waitangi. The establishment of a NME provides an opportunity to facilitate wānanga and hui with mana whakahaere across Aotearoa to establish a framework on how te Tiriti o Waitangi can appropriately be given effect to.	The Māori Trustee considers that the NME should be empowered, in collaboration with Crown representatives, to hold wānanga and hui with mana whakahaere across Aotearoa to establish a framework on how te Tiriti o Waitangi can appropriately be given effect to. The Māori Trustee considers that the following amendments should be made to s 4: **Amendments** All persons exercising powers and performing functions and duties under this Act must give effect to ~~the principles of~~ te Tiriti o Waitangi.
5 System outcomes To assist in achieving the purpose of this Act, the national planning framework and all plans must provide for the following system outcomes: (a) the protection or, if degraded, restoration, of— (i) the ecological integrity, mana, and mauri of— (A) air, water, and soils; and (B) the coastal environment, wetlands, estuaries, and lakes and rivers and their margins; and (C) indigenous biodiversity: (ii) outstanding natural features and outstanding natural landscapes: (iii) the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins:	Partially support	The Māori Trustee considers that the list of outcomes in s 5 lack a clear hierarchy and leave the protection and restoration of the natural environment vulnerable if not amended. The Māori Trustee's understanding is that all outcomes within s 5 must be 'provided for' within the system and that any conflicts between these outcomes are intended to be resolved within the NPF or plans (if directed by the NPF). The intention to resolve conflict between system outcomes in secondary legislation (NPF), risks a high level of political discretion being applied and could lead to economic opportunities (s 5(c)) being prioritised over the protection and restoration of ecological integrity (s 5(a)). Although the system outcomes listed in s 5 will not be able to degrade the natural environment any further than the environmental limits quantified in the NPF (the worst acceptable outcome), the NBE Bill fails to recognise that providing for positive improvements to the natural environment should not be weighted equally with positive improvements to economic, social and cultural wellbeing. There is also a perceived risk that allowing for the priority of system outcomes to be determined with a high level of discretion could result in an 'overall broad judgement' approach being applied and for the NBE system to be defined by the same problems that the	The Māori Trustee considers that a hierarchy should be provided for between outcomes listed in s 5. This hierarchy should prioritise the protection and restoration of ecological integrity over economic, social and cultural outcomes. The Māori Trustee considers to ensure consistency in application, definitions for the following terms need to be provided within the NBE Bill: • protection; • degraded; and • restoration. It is preferential that these terms be defined in terms of protecting and restoring degraded natural resources to a *healthy* ecological state within a specified timeframe. These should not be based on environmental limits, currently understood by this NBE Bill. The Māori Trustee considers that the use of tikanga Māori concepts within this NBE Bill need to be defined, measured, monitored, and reported on by Māori. Direction is required to allow for Māori in each region to work in collaboration with RPCs to set requirements to meet this outcome. Māori

[3] Education and Training Act 2020 No 38 (as at 01 January 2023), Public Act 9 Te Tiriti o Waitangi – New Zealand Legislation, s 9(1).
[4] https://dpmc.govt.nz/sites/default/files/2019-10/CO%2019%20%285%29%20Treaty%20of%20Waitangi%20Guidance%20for%20Agencies.pdf, p. 3

(b) in relation to climate change and natural hazards, achieving— (i) the reduction of greenhouse gas emissions: (ii) the removal of greenhouse gases from the atmosphere: (iii) the reduction of risks arising from, and better resilience of the environment to, natural hazards and the effects of climate change: (c) well-functioning urban and rural areas that are responsive to the diverse and changing needs of people and communities in a way that promotes— (i) the use and development of land for a variety of activities, including for housing, business use, and primary production; and (ii) the ample supply of land for development, to avoid inflated urban land prices; and (iii) housing choice and affordability; and (iv) an adaptable and resilient urban form with good accessibility for people and communities to social, economic, and cultural opportunities; (d) And the availability of highly productive land for land-based primary production: (e) the recognition of, and making provision for, the relationship of iwi and hapū and the exercise of their kawa, tikanga (including kaitiakitanga), and mātauranga in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga: (f) the protection of protected customary rights and recognition of any relevant statutory acknowledgement: (g) the conservation of cultural heritage: (h) enhanced public access to and along the coastal marine area, lakes, and rivers: (i) the ongoing and timely provision of infrastructure services to support the well-being of people and communities.		RMA did for numerous years. This could be resolved through providing a clear ranking to system outcomes within the NBE Bill. The Māori Trustee has identified the following issues with the current drafting of s 5: • the use of the term 'to assist' at the beginning of s 5 is superfluous and potentially weakens the importance of system outcomes to achieving the purpose of this NBE Bill. • Regional spatial strategies are not currently required to provide for system outcomes. To ensure a coherent and cohesive system, regional spatial strategies should be expressly required to achieve system outcomes within this section. **s (5)(a)** • The Māori Trustee considers s 5(a) to be ambiguous in its direction. There is no direction on how terms such as 'protection', 'degraded' and 'restoration' are measured, to what extent they need to be and within what timeframe to meet the outcome. It is preferential that these terms be defined around protecting and restoring degraded natural resources to a healthy ecological state within a specified timeframe. To ensure consistency in application, definitions for the following terms need to be provided within the NBE Bill: o protection; o degraded; and o restoration. **s 5(a)(i)** • Although the Māori Trustee is supportive of the use of tikanga Māori concepts within the NBE Bill to an extent, the use of mana and mauri within this clause appears perfunctory and provides no direction on how they are meant to be used within the system. This also highlights a more general problem within the system that appears to demonstrate the lack of participation Māori have had to direct these processes and how they will be implemented through regional spatial strategies and plans. The use of tikanga Māori concepts within this NBE Bill need to be defined, measured, monitored, and reported on by Māori. Direction is required to allow for Māori in each region to work in collaboration with RPCs to set requirements to meet this outcome. Māori should be able, in partnership with RPCs, to also direct enforcement when compliance is not met. • The definition of 'ecological integrity' within the NBE Bill is not currently described as a state or outcome but rather as a list of matters to account for when assessing if ecological integrity is present. Ecological integrity needs to be expressed as a measurable state to ensure decision-makers and users of the system can successfully protect, and if degraded, restore it to a sustainable level. **s 5(c)**	should also be able, in partnership with RPCs, to also direct enforcement when compliance is not met. The Māori Trustee considers the following amendments need to be made to s 5: **Amendments** ~~To assist~~ In achieving the purpose of this Act, the national planning framework*, regional spatial strategies* and all plans must provide for the following system outcomes: (a) the protection or, if degraded, restoration, of— (i) the ecological integrity, mana, and mauri of— (A) air, water, and soils; and (B) the coastal environment, wetlands, estuaries, and lakes and rivers and their margins; and (C) indigenous biodiversity: (ii) outstanding natural features and outstanding natural landscapes: (iii) the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins: (b) in relation to climate change and natural hazards, achieving— (i) the reduction of greenhouse gas emissions: (ii) the removal of greenhouse gases from the atmosphere: (iii) the reduction of risks arising from, and better resilience of the environment to, natural hazards and the effects of climate change: (c) well-functioning urban and rural areas that are responsive to the diverse and changing needs of people and communities in a way that promotes— (i) *the sustainable use and development of Māori land; and* (ii) the *sustainable* use and development of land for a variety of activities, including for housing, business use, and primary production; and (iii) the ample supply of land for development, to avoid inflated urban land prices; and (iv) housing choice and affordability; and (v) an adaptable and resilient urban form with good accessibility for people and communities to social, economic, and cultural opportunities; (d) And the availability of highly productive land for land-based primary production: (e) the recognition of, and making provision for, the relationship of ~~iwi and hapū~~ *Māori* and the exercise of their kawa, tikanga (including

		• Under the current resource management system, there has often been a disconnect between Government initiatives to strengthen the connection and utilisation of Māori land for the betterment of the whenua and its owners and direction set at a national, and consequentially a regional, level[5]. The development of Māori land and environmental protection are not mutually exclusive kaupapa. However, striking the appropriate balance between the two requires adequate engagement with Māori landowners (and the entities that represent them) in the early stages of policy development to allow for a coordinated national and regional response that results in the sustainable use and development of Māori land. To ensure this engagement and improved outcomes for whenua Māori and its landowners are achieved, an express outcome providing for the sustainable use and development of Māori land should be included within s 5(c). **s 5(e)** • The Māori Trustee notes that references to the relationship Māori have with te taiao and its resources have been significantly narrowed within the NBE Bill to just recognise and provide for the relationship that iwi and hapū hold with te taiao and its resources. This is a regressive step from s 6(e) of the RMA that inclusively recognised the relationship of all 'Māori'. It is not for the Crown to determine which Māori get to participate and have their voices heard within the resource management system, as tangata Tiriti, all Māori should be afforded this right. Not amending this clause could unacceptably result in the kawa, tikanga and mātauranga held by Māori who may have interests separate to iwi and hapū (e.g. Māori landowners) being ignored. Therefore this clause needs to be amended to use the more inclusive term 'Māori' rather than just 'iwi and hapū'.	kaitiakitanga), and mātauranga in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga: (f) the protection of protected customary rights and recognition of any relevant statutory acknowledgement: (g) the conservation of cultural heritage: (h) enhanced public access to and along the coastal marine area, lakes, and rivers: (i) the ongoing and timely provision of infrastructure services to support the well-being of people and communities.
6 Decisions-making principles (1) To assist in achieving the purpose of this Act, the Minister and every regional planning committee, in making decisions under the Act, must— (a) provide for the integrated management of the environment; and (b) actively promote the outcomes provided for under this Act; and (c) recognise the positive effects of using and developing the environment to achieve the outcomes; and (d) manage the effects of using and developing the environment in a way that achieves, and does not undermine, the outcomes; and (e) manage the cumulative adverse effects of using and developing the environment.	Partially Support	The Māori Trustee is supportive of having a set of principles to guide decision-making under the NBE Bill. However, minor tweaks are needed to minimise ambiguity and strengthen clauses. The Māori Trustee has identified the following issues with the current drafting of s 6: **s 6(1)** • the use of the term "to assist" is superfluous and to align with previous suggested amendments should be removed. **s 6(1)(c)** • The requirement to "recognise the positive effects of using and developing the environment" as a decision-making principle is inappropriate and should be removed. Having a clause that expressly recognises the positive effects of developing and using the environment, while at the same time having no corresponding clause to recognise the positive effects of protecting the environment, places an unnecessary and inappropriate emphasis on	The Māori Trustee considers that the definition of ecological integrity should be amended to be expressed as a measurable state to ensure decision-makers and users of the system can successfully protect, and if degraded, restore it to a sustainable level. The Māori Trustee considers to ensure consistency in application, a definition for **environmental protection** should be provided within the NBE Bill. It is preferential that the term be defined and expanded based on matters expressed in s 5(a) – protecting and, if degraded, restoring natural resources to a *healthy* ecological state within a specified timeframe. This term should not be based on environmental limits, currently understood by this NBE Bill. The Māori Trustee considers the following amendments need to be made to s 6:

[5] This includes but is not limited to, the National Policy Statement for Freshwater Management 2020 and more recently the 2022 Pricing Agricultural Emissions discussion document.

(2) If, in relation to making a decision under this Act, the information available is uncertain or inadequate, all persons exercising functions, duties, and powers under this Act must favour— (a) caution; and (b) a level of environmental protection that is proportionate to the risks and effects involved. (3) All persons exercising powers and performing functions and duties under this Act must recognise and provide for the responsibility and mana of each iwi and hapū to protect and sustain the health and well-being of te taiao in accordance with the kawa, tikanga (including kaitiakitanga), and mātauranga in their area of interest.		economic development. The clause is also already addressed through s 6(1)(b). **s 6(2)(b)** • Environmental protection needs to be expressly linked to matters listed under s 5(a) that focus on protecting and, if degraded, restoring ecological integrity. This would ensure that inappropriate protections are not afforded to economic and other activities at the expense of the natural environment. This could be resolved through providing a definition of environmental protection that links to matters expressed under s 5(a) as well as directly stating within the clause the intention to provide protection from 'inappropriate use and development'. **s 6(3)** • The Māori Trustee notes that the NBE Bill appears to have been drafted in a way that only recognises the rights and responsibilities that iwi and hapū hold with relation to te taiao. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all Māori rights holders to be recognised. • To ensure all Māori perspectives were captured in drafting the NPS-FM 2020 the principle of mana whakahaere was introduced[6]. While not perfectly understood in the legislation, Te Tai Kaha provide a more comprehensive definition of mana whakahaere[7] that ought to be adopted in the NBE Bill. This better defines the existing rights, responsibilities, and interests held by Māori through its inclusion of iwi, hapū, whānau and ahi kā (landowners). Including Māori landowners will better ensure that the relationships and responsibilities that all Māori have with and to te taiao are provided for. • If this clause is not amended it could result in the rights and responsibilities held by mana whakahaere, who may have interests separate to iwi and hapū (e.g. ahi kā/Māori landowners), being ignored. This would be unacceptable. This clause needs to be amended to use the more inclusive term 'mana whakahaere' rather than just "iwi and hapū". • It is also considered that the NBE Bill should provide for the 'tino rangatiratanga' of mana whakahaere rather than "responsibility and mana". This would give better effect to te Tiriti o Waitangi.	**Amendments** (1) ~~To assist~~ In achieving the purpose of this Act, the Minister and every regional planning committee, in making decisions under the Act, must— (a) provide for the integrated management of the environment; and (b) actively promote the outcomes provided for under this Act; and ~~(c) recognise the positive effects of using and developing the environment to achieve the outcomes; and~~ *(c)* manage the effects of using and developing the environment in a way that achieves, and does not undermine, the outcomes; and *(d)* manage the cumulative adverse effects of using and developing the environment. (2) If, in relation to making a decision under this Act, the information available is uncertain or inadequate, all persons exercising functions, duties, and powers under this Act must favour— (a) caution; and (b) a level of environmental protection from *inappropriate use and development* that is proportionate to the risks and effects involved. (3) All persons exercising powers and performing functions and duties under this Act must recognise and provide for the ~~responsibility and mana~~ *tino rangatiratanga* of ~~each iwi and hapū~~ *mana whakahaere* to protect and sustain the health and well-being of te taiao in accordance with the kawa, tikanga (including kaitiakitanga), and mātauranga in their area of interest.
Provision	**Position**	**Submission**	**Relief Sought**

[6] 1.3(4)(a) the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater.
[7] Mana whakahaere: Iwi, hapū, ahi kā (Māori landowners) who exercise mana whakahaere (authority) and other obligations (kaitiakitanga and manaakitanga) to a particular area, water source, space and resource. https://www.foma.org.nz/wp-content/uploads/2022/02/2021.11-Hierarchy-of-Maori-Rights-and-Responsibilities.pdf, p.8.

7 Interpretation		N/A	The Māori Trustee considers the following terms should be defined within the interpretation of this NBE Bill: • built environment; • degraded; • efficiency; • environmental protection; • equity • Māori entity; • mana whakahaere; • protection; • restoration; and • sustainability.	The Māori Trustee considers the following terms should be defined within the interpretation of this NBE Bill: • built environment; • degraded; • efficiency; • environmental protection; • equity • Māori entity; • mana whakahaere; • protection; • restoration; and • sustainability.
	area of interest means the area that iwi authorities or groups representing hapū identify as their traditional rohe	Partially support	In respect of **submission made to s 6(3)** iwi authorities or groups representing hapū should be amended to mana whakahaere.	**Amendments** **area of interest** means the area that ~~iwi authorities or groups representing hapū~~ mana whakahaere identify as their traditional rohe.
	ecological integrity means the ability of the natural environment to support and maintain the following: (a) representation: the occurrence and extent of ecosystems and indigenous species and their habitats; and (b) composition: the natural diversity and abundance of indigenous species, habitats, and communities; and (c) structure: the biotic and abiotic physical features of ecosystems; and	Partially support	The definition of 'ecological integrity' within the NBE Bill is not currently described as a state or outcome but rather as a list of matters to account for when assessing if ecological integrity is present. Ecological integrity needs to be expressed as a measurable state to ensure decision-makers and users of the system can successfully protect, and if degraded, restore it to a sustainable level.	The Māori Trustee considers the definition of ecological integrity should be amended to be expressed as a measurable state to ensure decision-makers and users of the system can successfully protect, and if degraded, restore it to a sustainable level.

	(d) functions: the ecological and physical functions and processes of ecosystems			
	environment means, as the context requires, - (a) the natural environment: (b) people communities and the built environment that they create: (c) the social, economic, and cultural conditions that affect the matters stated in **paragraphs (a) and (b)** or that are affected by those matters	Oppose	**Refer to submissions made in respect to s 3.**	The Māori Trustee considers the definition of 'environment' should be revised in respect to submissions made to s 3.
	environmental limit means a limit set for ecological integrity of human health, as provided for in **sections 39 and 40**	Oppose	The Māori Trustee considers the introduction of environmental limits to the NBE Bill as a positive addition to the new resource management system. However, there is a fundamental issue within this NBE Bill that environmental limits are only set to prevent the natural environment from degrading from its current state and therefore do not accurately represent the layman's understanding of environmental limits. If limits are to be set at current state (2023), many natural resources will be required to be maintained at a state that is not sustainable for ecological health. Environmental limits should be recorded at a rate that allows for the sustainable use of natural resources. If natural resources are below this bottom line, RPCs should be required to complete restorative work to get it back to and beyond the bottom line to secure its future sustainable use.	The Māori Trustee considers the definition of 'environmental limits' should be based on sustainable, objective, scientific biophysical measurements of natural environmental aspects and human health.
	mana whenua means customary authority exercised by an iwi or hapū in an identified area	Partially support	In respect of **submission made to s 6(3)** iwi or hapū should be amended to Māori.	**Amendments** **mana whenua** means customary authority exercised by ~~an iwi or hapū~~ *Māori* in an identified area
	natural environment means – (a) the resources of land, water, air, soil, minerals, energy, and all forms of plants, animals, and other living organisms (whether native to New Zealand or introduced) and their habitats; and (b) ecosystems and their constituent parts	Partially support	**Refer to submissions made in respect to s 3.**	The Māori Trustee considers the definition of 'natural environment' should be revised in respect to submissions made to s 3.

	public authority – (a) for the purposes of a joint agreement (*see* section 656) means – (i) a local authority; and (ii) a statutory body; and (iii) the Crown; and (b) for the purposes of a transfer of powers under **section 650**, has the meaning given in **section 650(5)**	Partially support	**Refer to submissions made in respect to s 650.**	**Amendments** **public authority –** (a) for the purposes of a joint agreement (*see* section 656) means – (i) a local authority; and (ii) a statutory body; and (iv) the Crown; and (v) mana whakahaere; and (b) for the purposes of a transfer of powers under **section 650**, has the meaning given in **section 650(5)**
	tangata whenua, in relation to a particular area, means the iwi, or hapū, that holds mana whenua over that area	Partially support	In respect of **submission made to s 6(3)** iwi or hapū should be amended to Māori.	**Amendments** **tangata whenua,** in relation to a particular area, means ~~the iwi, or hapū~~ Māori, that hold~~s~~ mana whenua over that area
	te Oranga o te Taiao means – (a) the health of the natural environment; and (b) the essential relationship between the health of the natural environment and its capacity to sustain life; and (c) the interconnectedness of all parts of the environment; and (d) the intrinsic relationship between iwi and hapū and te Taiao	Partially support	Although the Māori Trustee is supportive of the use of the Māori concept 'te Oranga o te Taiao' in the purpose of the NBE Bill, she is concerned that the current drafting of its definition narrows the Māori understanding of te taiao/the environment to focus predominantly on the 'health of the natural environment'. The Māori worldview of te taiao is more holistic and recognises the interdependent relationship that humans have (including their social, cultural and economic wellbeing) with the natural environment and ecosystem health. The NBE Bill's definition seemingly reinforces a western perspective that establishes ecosystem health as independent from humans and the wider environment. This is not consistent with a Māori worldview and should be amended to recognise all aspects of the environment. The definition of te Oranga o te Taiao in the NBE Bill also fails to acknowledge that protecting the health of the natural environment protects the health and well-being of the wider environment. This could be amended through setting a clear hierarchy of obligations, similar to the NPS-FM's Te Mana o te Wai, that prioritises protecting and sustaining the life supporting capacity and intrinsic values of the natural environment before providing for the health needs of people and their social, economic and cultural well-being. The RMA, under s 6(e), currently recognises and provides for "the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga". However the definition of te Oranga o te taiao limits this relationship by only recognising the "intrinsic relationship between iwi and hapū and te Taiao". This approach is regressive and should be amended to recognise the relationship that all Māori have to te taiao.	The Māori Trustee considers that te Oranga o te Taiao should encompass the following: • a wider definition of the environment to reflect a Māori worldview; • recognising the intrinsic relationship between all Māori and te Taiao; • sets a clear hierarchy of obligations similar to Te Mana o te Wai, that prioritises protecting and sustaining the life supporting capacity and intrinsic values of the natural environment before providing for the health needs of people and their social, economic and cultural well-being.

12 Act binds the Crown (1) This Act binds the Crown, except as provided in this section. *Exclusions in respect of Crown work or activity on land* (2) This Act does not apply to any work or activity of the Crown that is— (a) a use of land within the meaning of section 17; or (b) certified by the Minister of Defence as necessary for reasons of national security (3) Section 17(2) does not apply to work or activity of the Crown that— (a) is undertaken within the boundaries of an area of land held or managed under the Conservation Act 1987 or any Act specified in Schedule 1 of that Act (unless that land is held for administrative purposes); and (b) is consistent with a conservation management strategy, conservation management plan, or management plan made under the Conservation Act 1987 (or any Act specified in Schedule 1 of that Act; and (c) does not have a significant adverse effect beyond the boundaries of the area of land. (4) Section 17 does not apply to the detention of prisoners in a court cell block if it is declared by notice in the Gazette to be a part of a corrections prison. *Exclusion of specified enforcement documents* (5) An abatement notice or direction must not be served on, or issued against, an instrument of the Crown under this Act unless it is served on or issued against— (a) a Crown organisation; and (b) in its own name. (6) An enforcement order must not be made against an instrument of the Crown under this Act, unless it is made against— (a) a Crown organisation; and (b) a local authority or the EPA applies for the order; and (c) the order is made against the organisation in its own name. (7) Subsections (5) and (6) are not limited by section 17(1)(a) of the Crown Proceedings Act 1950.	Partially support	The Māori Trustee notes that the conjunction used between s (12)(a) and (b) has changed from 'and' in the RMA (s 4(2)(a) and (b)) to 'or' in this draft of the NBE Bill. To ensure that the Crown and the Minister of Defence are not afforded unnecessary and inappropriate powers within the NBE Bill, this conjunction needs to be amended to 'and' rather than 'or'.	The Māori Trustee considers the following amendment should be made to s 12: **Amendments** (1) This Act binds the Crown, except as provided in this section. *Exclusions in respect of Crown work or activity on land* (2) This Act does not apply to any work or activity of the Crown that is— (a) a use of land within the meaning of section 17; ~~or~~ *and* (b) certified by the Minister of Defence as necessary for reasons of national security (3) Section 17(2) does not apply to work or activity of the Crown that— (a) is undertaken within the boundaries of an area of land held or managed under the Conservation Act 1987 or any Act specified in Schedule 1 of that Act (unless that land is held for administrative purposes); and (b) is consistent with a conservation management strategy, conservation management plan, or management plan made under the Conservation Act 1987 (or any Act specified in Schedule 1 of that Act; and (c) does not have a significant adverse effect beyond the boundaries of the area of land. (4) Section 17 does not apply to the detention of prisoners in a court cell block if it is declared by notice in the Gazette to be a part of a corrections prison. *Exclusion of specified enforcement documents* (5) An abatement notice or direction must not be served on, or issued against, an instrument of the Crown under this Act unless it is served on or issued against— (a) a Crown organisation; and (b) in its own name. (6) An enforcement order must not be made against an instrument of the Crown under this Act, unless it is made against— (a) a Crown organisation; and (b) a local authority or the EPA applies for the order; and (c) the order is made against the organisation in its own name. (7) Subsections (5) and (6) are not limited by section 17(1)(a) of the Crown Proceedings Act 1950. (8) An infringement notice must not be served against an instrument of the Crown under this Act, unless— (a) the instrument of the Crown is a Crown organisation; and (b) the organisation is liable to be proceeded against for the alleged offence under subsection (6); and (c) the enforcement order is served against the Crown organisation in its own name.

(8) An infringement notice must not be served against an instrument of the Crown under this Act, unless— (a) the instrument of the Crown is a Crown organisation; and (b) the organisation is liable to be proceeded against for the alleged offence under subsection (6); and (c) the enforcement order is served against the Crown organisation in its own name. (9) An instrument of the Crown must not be prosecuted for an offence against this Act, unless— (a) the prosecution is made against a Crown organisation; and (b) the offence is alleged to have been committed by that Crown organisation; and (c) the proceedings are commenced— (i) by a local authority, the EPA, or an enforcement officer; and (ii) against the Crown organisation in its own name, and not citing the Crown as a defendant; and (iii) in accordance with the Crown Organisations (Criminal Liability) Act 2002. (10) However, subsections (8) and (9) are limited by section 8(4)(c) of the Crown Organisations (Criminal Liability) Act 2002 (which provides that a court may not sentence a Crown organisation to pay a fine in respect of an offence against this Act). *Further exceptions applying to enforcement against Crown organisation or Crown* (11) If a Crown organisation is not a body corporate, it must be treated as a separate legal personality for the purposes of— (1) serving or issuing an abatement notice or direction against the Crown organisation; and (2) making an enforcement order against the Crown organisation; and (3) serving an infringement order on the Crown organisation; and (4) enforcing any order, direction, or notice referred to in paragraphs (a) to (c).			(9) An instrument of the Crown must not be prosecuted for an offence against this Act, unless— (a) the prosecution is made against a Crown organisation; and (b) the offence is alleged to have been committed by that Crown organisation; and (c) the proceedings are commenced— (i) by a local authority, the EPA, or an enforcement officer; and (ii) against the Crown organisation in its own name, and not citing the Crown as a defendant; and (iii) in accordance with the Crown Organisations (Criminal Liability) Act 2002. (10) However, subsections (8) and (9) are limited by section 8(4)(c) of the Crown Organisations (Criminal Liability) Act 2002 (which provides that a court may not sentence a Crown organisation to pay a fine in respect of an offence against this Act). *Further exceptions applying to enforcement against Crown organisation or Crown* (11) If a Crown organisation is not a body corporate, it must be treated as a separate legal personality for the purposes of— (1) serving or issuing an abatement notice or direction against the Crown organisation; and (2) making an enforcement order against the Crown organisation; and (3) serving an infringement order on the Crown organisation; and (4) enforcing any order, direction, or notice referred to in paragraphs (a) to (c) (12)Unless subsections (5) to (11) provide otherwise, the Crown must not be— (a) served or issued with a notice or direction referred to in subsection (11)(a) or (c); or (b) have an order referred to in subsection (11)(b) made against it; or (c) be prosecuted for an offence against this Act.

(12) Unless subsections (5) to (11) provide otherwise, the Crown must not be— (a) served or issued with a notice or direction referred to in subsection (11)(a) or (c); or (b) have an order referred to in subsection (11)(b) made against it; or (c) be prosecuted for an offence against this Act.			

Part 2 Duties and restrictions

Provision	Position	Submission	Relief Sought
14 Duty to avoid, minimise, remedy, offset, or provide redress for adverse effects (1) Every person has a duty to avoid, minimise, remedy, offset, or take steps to provide redress for any adverse effect on the environment arising from an activity carried on by or on behalf of the person, whether or not the activity is carried on in accordance with— (a) any of **sections 26 to 30**: (b) any applicable limits or targets: (c) a framework rule, a plan rule, a resource consent, or a designation. (2) The duty referred to in **subsection (1)** is not of itself enforceable against any person, and no person is liable to any other person for a breach of that duty. (3) However, **subsection (2)** does not limit the following powers: (a) the power conferred by **section 700** to make an enforcement order: (b) the power conferred by **section 708** to serve an abatement notice.	Partially support	There is considerable ambiguity as to how s 14(1) will be applied. There appears to be no clear framework on how and when to implement these duties. There is no clear hierarchical application of avoid, minimise, remedy offset and redress. The effects management framework in s 61 provides a framework only for adverse effects on significant biodiversity areas and specified cultural heritage as describes in s 62(1). Schedules 3 to 5 provide clear principles to be used and applied when dealing with significant biodiversity areas and specified cultural heritage. However, this framework is not provided for any other adverse effects on the environment arising from other activities.	The Māori Trustee requests that a clear framework or hierarchy is provided for when duties under s 14 are implemented. This will avoid ambiguity in connection with these duties.
17 Restrictions relating to land (1) A person must not use land in a way that contravenes— (a) a framework rule; or (b) a plan rule. (2) However, despite **subsection (1)**, a person may use land if the use,— (a) in every case, is expressly allowed by a resource consent; or	Partially support	Section 17(2)(b) and s 17(2)(c) is unclear on how the jurisdiction of regional councils and territorial authorities will be applied in relation to an activity. If a plan rule relates to an activity which contains both a land use and a discharge/water permit it will create a complicated process where an applicant may have to apply to both the regional council and the territorial authority for the one activity.	The Māori Trustee considers that a process should be prescribed to clarify where and when the jurisdiction of a regional council and territorial authority apply, should a plan rule for an activity overlap both local authorities' jurisdictions.

(b) in the case of a plan rule within the jurisdiction of the regional council, is an activity allowed by **section 30**; or (c) in the case of a plan rule within the jurisdiction of a territorial authority, is an activity allowed by **section 26 or 28**. (3) A person must not contravene **section 516, 518, 541, or 545** (which relate to designations and interim heritage protection orders) without the prior written consent of the requiring authority or heritage protection authority, as the case may require. (4) This section does not apply to the use of the coastal marine area.			

Part 3 National planning framework

Provision	Position	Submission	Relief Sought
33 Purpose of national planning framework The purpose of the national planning framework is to further the purpose of this Act by— (a) providing directions on the integrated management of the environment in relation to— (i) matters of national significance; and (ii) matters for which national consistency is desirable; and (iii) matters for which consistency is desirable in some, but not all, parts of New Zealand; and (b) helping to resolve conflicts about environmental matters, including those between or among system outcomes; and (c) setting environmental limits and strategic directions.	Partially support	The Māori Trustee generally supports the development of a NPF to set consistent and cohesive direction at a national level. However, as the NPF will be contained in secondary legislation which is in the process of being developed, it is difficult to determine whether the procedural matters that are planned to be addressed in it are appropriately placed. As already highlighted, s 33(b) could be resolved, to a certain extent, through setting a clear hierarchy within the relevant sections of this NBE Bill. The Māori Trustee also considers that the phrase "further the purpose of this Act" unnecessarily implies that the purpose of the NPF is to go beyond the purpose of the NBE Bill. The purpose of the NPF should be based on setting national direction that is relevant to achieving the purpose of this NBE Bill.	The Māori Trustee considers that the following amendments should be made to s 33: **Amendments** The purpose of the national planning framework is to ~~further~~ *set objectives, policies and standards that are relevant to achieving* the purpose of this Act by— (a) providing directions on the integrated management of the environment in relation to— (i) matters of national significance; and (ii) matters for which national consistency is desirable; and (iii) matters for which consistency is desirable in some, but not all, parts of New Zealand; and (b) helping to resolve conflicts about environmental matters, including those between or among system outcomes; and (c) setting environmental limits and strategic directions.
36 Resource allocation principles The resource allocation principles are as follows: (a) sustainability: (b) efficiency: (c) equity.	Partially support	The Māori Trustee is generally supportive of the identification of resource allocation principles within the NBE Bill. However, as the NBE Bill does not expressly define any of the principles and s 87(a) only states that the NPF ***may*** "give directions that – provide further detail on the meaning of the resource allocation principles", there is no certainty on what effect these principles may have or how they will be applied within the system. These principles could be interpreted to have multiple meanings (e.g. equity – could refer to racial equity or intergenerational equity among other things) and should be defined or have the requirement for clear direction given to their meanings under s 87(a).	The Māori Trustee considers that to ensure that equity is honoured within the resource management system, a percentage of available resource allocations need to be reserved for Māori. The Māori Trustee considers that the following amendments should be made to s 36: **Amendments** The resource allocation principles are as follows:

		Although the Māori Trustee understands that the principles listed under s 36 are not meant to be hierarchical, she considers it is more logical to list equity before efficiency. The Māori Trustee is also supportive of the term equity being listed as part of the resource allocation principles. However, from a Māori landowner perspective, equity within the system will only work if Māori landowners are in a position to develop their land at the same time as general landowners. As Māori land is historically underdeveloped with minimal yields, the likelihood of Māori landowners being in a position to apply for resource consents at the same time as their general landowning counterparts is improbable. This will likely result in the continuation of resources being allocated on a first-in, first served principle. To ensure that equity is honoured within the system, a percentage of available resource allocations need to be reserved for Māori.	(a) sustainability: (b) ~~efficiency:~~ *equity*: (c) ~~equity.~~ *efficiency*.
37 Purpose of settings environmental limits The purpose of setting environmental limits is— (a) to prevent the ecological integrity of the natural environment from degrading from the state it was in at the commencement of this Part: (b) to protect human health.	Partially support	The introduction of environmental limits in the NBE Bill is a positive addition to the new resource management system. However, there is a fundamental issue within this NBE Bill that environmental limits are only set to prevent the natural environment from degrading from its current state and therefore do not accurately represent the layman's understanding of environmental limits. If limits are to be set at current state (2023), many natural resources will be required to be maintained at a state that is not sustainable for ecological health. Environmental limits should be recorded at a rate that allows for the sustainable use of natural resources. If natural resources are below this bottom line, RPCs should be required to complete restorative work to get it back to and beyond the bottom line to secure its future sustainable use. The requirement to set environmental limits to protect human health is not conditional on a current state measurement. This drafting acknowledges that it would not be appropriate to require environmental limits to be set to prevent human health from declining further than measurements recorded in 2023 as this would likely sustain and lead to poor health outcomes for many people in society. However, the same absolute approach has not been afforded to ecological integrity within the NBE Bill. This is inappropriate and reinforces a western perspective that ecological health can be viewed independently from, and lesser to, human health. The Māori Trustee considers that an absolute approach needs to be applied to the purpose of setting environmental limits for ecological integrity.	The Māori Trustee considers that the following amendments should be made to s 37: **Amendments** **37 Purpose of settings environmental limits** The purpose of setting environmental limits is— (a) to prevent the ecological integrity of the natural environment from degrading ~~from the state it was in at the commencement of this Part~~: (b) to protect human health.
38 Environmental limits (1) Environmental limits must be set in relation to the following aspects of the natural environment: (a) air: (b) indigenous biodiversity: (c) coastal water: (d) estuaries: (e) freshwater: (f) soil. (2) Environmental limits may be set for any other aspect of the natural environment in accordance with the purpose of setting environmental limits.	Partially support	The Māori Trustee supports environmental limits being set for the aspects of the natural environment described in s 38. However, further information is required to detail the purpose of each environmental domain, the specific aspects of each environmental domain that need to have limits set, and how these limits will be measured. This information could be set out in a schedule within the NBE Bill and build on the work done in the NPS-FM.	A schedule should be included in the NBE Bill to detail the specific aspects of each environmental domain that must have environmental limits set and how these will be measured. The Māori Trustee considers that the following amendments should be made to s 38: **Amendments** (1) Environmental limits must be set in relation to the following ~~aspects~~ *domains* of the natural environment: (a) air: (b) indigenous biodiversity:

			(c) coastal water: (d) estuaries: (e) freshwater: (f) soil. (2) Environmental limits may be set for any other ~~aspect~~ *domain* of the natural environment in accordance with the purpose of setting environmental limits.
39 How environmental limits are to be set The responsible Minister may, in the national planning framework,— (a) set environmental limits; or (b) prescribe the requirements for environmental limits to be set in plans, including— (i) setting requirements for the process to be followed: (ii) setting out the substantive requirements.	Partially support	Environmental limits will form a core part of the new resource management system. However, the current drafting of s 39 does not expressly require environmental limits to be set; it only directs that the Minister "may" set or prescribe requirements to set environmental limits within the NPF. This creates a substantial risk that future Ministers may not set any environmental limits which could undermine the operation of the system as a whole. If environmental limits are not expressly required to be set, future NBE plans could also conceivably allow for environmental degradation. An amendment is required to ensure environmental limits 'must' be set and have the ability to be challenged in the courts if they are not. The Māori Trustee is also concerned that the Minister has sole powers to set environmental limits. This leaves a great deal of political will to be utilised in setting what should be objective, scientific biophysical measurements of natural environmental aspects. It is also unclear, whether mātauranga Māori based methods will be utilised as measurements for environmental limits. As Tiriti partners, Māori are entitled to be part of the decision-making process for setting environmental limits and provisions should be made within this NBE Bill to allow them to do so. The Māori Trustee considers that the responsible Minister must have regard to the NME when making decisions on environmental limits. Limits set, should be directly related to achieving the purpose of this NBE Bill (once amended to account for **relief sought in s 3 of this submission**). This will also allow for environmental limits to be challenged in the Courts if they do not achieve the NBE Bill's purpose.	The Māori Trustee considers that the following amendments should be made to s 39: **Amendments** The responsible Minister ~~may~~ must, in the national planning framework,— (a) set environmental limits *necessary to achieve the purpose of this Act and give effect to te Tiriti o Waitangi*; or (b) prescribe the requirements for environmental limits *necessary to achieve the purpose of this Act and give effect to te Tiriti o Waitangi* to be set in plans, including— (i) setting requirements for the process to be followed: (ii) setting out the substantive requirements. (c) *have regard to any advice received from the National Māori Entity in setting limits.*
41 Interim limits for ecological integrity (1) The national planning framework may, in prescribing environmental limits in relation to ecological integrity, also prescribe 1 or more interim limits in conjunction with that environmental limit. (2) Despite **section 40(3)**, an interim limit for ecological integrity may be set as— (a) a state in a management unit that is more degraded than it was at the commencement of this Part; or (b) an amount of harm or stress occurring in a management unit to the natural environment that is worse than the amount existing at the commencement of this Part.	Oppose	The Māori Trustee is not convinced that there is a need for interim limits, as currently described, within the NBE Bill. The implementation of a successful resource management system will require RPCs to manage activities and their effects through their NBE plans. If managed correctly, degradation of the natural environment should, in time, eventually return to and beyond environmental limits. The allowance of interim limits to be set at worse than current state, is more indicative of the mismanagement of resources and a failure within the mechanics of the system. Their allowance also seems to be intended to skew favourable reporting rather than being reflective of the actual state of the environment and true success of the system. The degraded state of ecological integrity and ecosystem health of our natural resources within Aotearoa has both directly and indirectly being caused by human intervention. Providing for natural resources to continue to degrade below current	The Māori Trustee considers s 41 should be removed from the NBE Bill. **Amendments** ~~**41 Interim limits for ecological integrity**~~ ~~(1) The national planning framework may, in prescribing environmental limits in relation to ecological integrity, also prescribe 1 or more interim limits in conjunction with that environmental limit.~~ ~~(2) Despite **section 40(3)**, an interim limit for ecological integrity may be set as—~~ ~~(a) a state in a management unit that is more degraded than it was at the commencement of this Part; or~~ ~~(b) an amount of harm or stress occurring in a management unit to the natural environment that is worse than the amount existing at the commencement of this Part.~~

(3) **Subsection (1)** applies if the responsible Minister is satisfied that the harm or stress caused to a natural environment existing immediately before the commencement of this Part will cause continuing degrading of the natural environment beyond the commencement of this Part.		state/environmental limits, through interim limits, is absolving our responsibility to actively pursue restoration under s 5(a). The Māori Trustee therefore does not support the use of interim limits that ultimately undermine the strength of setting environmental limits.	~~(3) **Subsection (1)** applies if the responsible Minister is satisfied that the harm or stress caused to a natural environment existing immediately before the commencement of this Part will cause continuing degrading of the natural environment beyond the commencement of this Part.~~
43 Setting interim limits (1) The national planning framework may prescribe an interim limit for ecological integrity or for human health by— (a) requiring limits to be prescribed in plans; and (b) prescribing how a regional planning committee must decide on the limit to set for its region (which may include setting substantive requirements or process requirements or both) (2) In prescribing an interim limit, the national planning framework or a plan— (a) must specify when the interim limit is to be replaced by a related environmental limit; and (b) may specify when a more stringent interim limit is to apply. (3) The details specified under **subsection (2)** may refer to a specific date or event. (4) An interim applies until it is replaced by a related environmental limit.	Oppose	The Māori Trustee reiterates her points made in this **submission with regards to s 41**, in that, she does not support the use of interim limits, as currently written, within the system. However, the Māori Trustee does note that if interim limits were to remain within the NBE Bill, there is currently no direction on how long they should be set for just that an end date needs to be provided (s 43(2)(a)). The time period for interim limits is therefore at the discretion of the Minister and does not necessarily need to be based on ecological health and integrity. Interim limits could therefore be provided for the longevity of an economic project. This clause, if it is to remain, should require a time limit to be set that it linked to achieving s 5(a).	The Māori Trustee considers s 43 should be removed from the NBE Bill. However, if interim limits were to remain within this NBE Bill, a timeframe should be specified on how long they can last and be directly linked to ecological integrity (s 5(a)). **Amendments** ~~**43 Setting interim limits**~~ ~~(1) The national planning framework may prescribe an interim limit for ecological integrity or for human health by—~~ ~~(a) requiring limits to be prescribed in plans; and~~ ~~(b) prescribing how a regional planning committee must decide on the limit to set for its region (which may include setting substantive requirements or process requirements or both)~~ ~~(2) In prescribing an interim limit, the national planning framework or a plan—~~ ~~(a) must specify when the interim limit is to be replaced by a related environmental limit; and~~ ~~(b) may specify when a more stringent interim limit is to apply.~~ ~~(3) The details specified under **subsection (2)** may refer to a specific date or event.~~ ~~(4) An interim applies until it is replaced by a related environmental limit.~~
44 Exemptions from environmental limits may be directed **(1) Subsection (2)** applies if the responsible Minister is requested to direct an exemption by a regional planning committee under this Act or the Spatial Planning Act **2022**. (2) The responsible Minister may direct in the national planning framework an exemption from an environmental limit or an interim limit relating to ecological integrity. (3) Any request under this section must be made— (a) by a planning committee; and (b) in a form approved by the Minister; and (c) during the process of preparing or revising the relevant plan or regional spatial strategy, as the case may be. (4) A request for an exemption must demonstrate how the regional planning committee considered options for complying with the relevant	Oppose	Similarly to interim limits, the Māori Trustee is not convinced that there is a need for broad exemptions from environmental limits, as currently described, within the NBE Bill. The implementation of a successful resource management system will require RPCs to manage activities and their effects through their NBE plans. If managed correctly, degradation of the natural environment should, in time, eventually return to and beyond environmental limits. The allowance of exemptions, is more indicative of the mismanagement of resources and a failure within the mechanics of the system. Their allowance also seems to be intended to skew favourable reporting rather than being reflective of the actual state of the environment and true success of the system. The degraded state of ecological integrity and ecosystem health of our natural resources within Aotearoa has both directly and indirectly being caused by human intervention. Providing for natural resources to continue to degrade below current state/environmental limits, through exemptions, is absolving our responsibility to actively pursue restoration under s 5(a). There is no justification for the further loss of ecological integrity as allowed for under s 44. The Māori Trustee also notes that s 44(4) only requires RPC's to demonstrate how they 'considered options for complying with the relevant environmental limit' they	The Māori Trustee considers s 44 should be re-written to clearly demonstrate: • Exemptions are a final course of action; • Mana whakahaere must be engaged with by the RPCs prior to the exemption being sought. • RPCs must produce a report of considered and alternative options that demonstrate why the exemption is the right option; and • RPCs must include all comments received through engaging with mana whakahaere in their report. **Amendments** ~~**44 Exemptions from environmental limits may be directed**~~ ~~**(1) Subsection (2)** applies if the responsible Minister is requested to direct an exemption by a regional planning committee under this Act or the Spatial Planning Act **2022**.~~

environmental limit, including by applying the effects management framework (*see* **section 61**). (5) If an exemption is directed, the responsible Minister must progress the direction as a change to the national planning framework and **Schedule 6** applies.		are seeking exemption from but does not require any analysis to show why an exemption is the right option compared to alternatives. This seems to be a low bar for RPCs to meet. There is also no clear requirement for RPCs to engage with Māori to ascertain whether seeking an exemption is appropriate. The Māori Trustee therefore does not support the use of exemptions that ultimately undermine the strength of setting environmental limits. However, if exemptions to environmental limits were to remain within the NBE Bill, they would need to be rewritten to ensure engagement with Māori occurs prior to seeking an exemption and RPCs should be required to produce a report of considered and alternative options that demonstrate why an exemption is the right option.	~~(2) The responsible Minister may direct in the national planning framework an exemption from an environmental limit or an interim limit relating to ecological integrity.~~ ~~(3) Any request under this section must be made—~~ ~~(a) by a planning committee; and~~ ~~(b) in a form approved by the Minister; and~~ ~~(c) during the process of preparing or revising the relevant plan or regional spatial strategy, as the case may be.~~ ~~(4) A request for an exemption must demonstrate how the regional planning committee considered options for complying with the relevant environmental limit, including by applying the effects management framework (*see* section 61).~~ ~~(5) If an exemption is directed, the responsible Minister must progress the direction as a change to the national planning framework and **Schedule 6** applies.~~
45 Essential features of exemption (1) An exemption from an environmental limit must be designed to result in the least possible net loss of ecological integrity that is compatible with the activity proposed. (2) The activity must provide public benefits that justify the loss of ecological integrity. (3) An exemption must be subject to a time limit that the responsible Minister thinks appropriate in the circumstances. (4) If the responsible Minister imposes conditions when granting an exemption, the conditions and the time limits imposed must be published in the relevant plan or regional spatial strategy, as the case requires.	Oppose	The Māori Trustee reiterates her points made in this **submission with regards to s 44**, in that, she does not support the use of broad exemptions, as currently written, within the system. The Māori Trustee considers s 45 to be particularly broad and the criteria listed not fit for purpose if exemptions were to remain within the NBE Bill. The Māori Trustee has identified the following issues with s 45: **s 45(1)** • The requirement for an exemption to result in "the least possible net loss of ecological integrity" seems counter-productive and an easy threshold to navigate. An exemption should still be required to achieve net gain. **s 45(2)** • The allowance for an exemption to be provided as long as public benefits "justify the loss of ecological integrity" reinforces a western perspective that fails to acknowledge that protecting ecological integrity directly benefits humans and the wider environment. Human values should not be recognised as having more importance than ecological values within the NBE Bill. • There is also no direction on what is considered a public benefit which allows a considerable amount of discretion to be applied. **s 45(3)** • Although it is positive that an exemption is subject to a time limit, it is concerning that no direction is provided on what terms these must be set. The time limit is currently set at the discretion of what the Minister of the day "thinks is appropriate". This could therefore allow for economic projects to be exempted from environmental limits for the entirety of the project and at the expense of the natural environment.	The Māori Trustee considers s 45 should be rewritten to align with **relief sought in s 44**. This section would need to ensure that the criteria for exemption is limited and set at a high-threshold for those seeking an exemption to meet. Conditions around time limits for exemptions would also need to be articulated. **Amendments** ~~**45 Essential features of exemption**~~ ~~(1) An exemption from an environmental limit must be designed to result in the least possible net loss of ecological integrity that is compatible with the activity proposed.~~ ~~(2) The activity must provide public benefits that justify the loss of ecological integrity.~~ ~~(3) An exemption must be subject to a time limit that the responsible Minister thinks appropriate in the circumstances.~~ ~~(4) If the responsible Minister imposes conditions when granting an exemption, the conditions and the time limits imposed must be published in the relevant plan or regional spatial strategy, as the case requires.~~

		The Māori Trustee considers that if exemptions are to be provided for within the system, the criteria needs to be limited and set a high-threshold for those seeking an exemption to meet. Conditions around time limits for exemptions would also need to be articulated.	
46 When exemptions not to be directed The responsible Minister must not direct an exemption if the Minister thinks, after considering the matters set out in **section 50(2)**,— (a) that the current state of ecological integrity in the area where the exemption would apply is unacceptably degraded; or (b) that an exemption would lead to an irreversible loss of ecological integrity.	Partially support	The Māori Trustee reiterates her points made in this submission with regards to s 44, in that, she does not support the use of broad exemptions, as currently written, within the system. The direction in this clause should not be based on what the Minister of the day's thoughts. Therefore, a criteria should be established under this section to expressly state the conditions for when an exemptions must not be directed. Keeping the current drafting allows for excessive discretion and potential for future Minister's to undermine the system. The Māori Trustee accepts that if exemptions are to remain within the system, there must be provisions that describe when an exemption must not be directed (ss 46 and 50(2)). However, further clarity needs to be provided to ensure consistency is achieved in all Ministerial decisions.	The Māori Trustee considers s 46 should be rewritten to align with **relief sought in ss 44 and 45**. This section should ensure that directions are not based on what the Minister of the day's thoughts. Therefore, a criteria should be established under this section to expressly state the conditions for when an exemptions must not be directed.
47 Purpose of setting targets The purpose of setting targets is to assist in improving the state of the natural and built environment.	Partially support	The Māori Trustee generally supports the use of setting targets, in association with environmental limits, within the NBE Bill. However, it is considered that the purpose of setting targets should directly relate to the purpose of the NBE Bill once amended to account for **relief sought in s 3** of this submission. The Māori Trustee notes that a definition for 'built environment' has not been provided for within the NBE Bill. To avoid ambiguity, a definition should be provided.	The Māori Trustee considers a definition for built environment should be included within the interpretation section (s 7) of the NBE Bill. The Māori Trustee considers the following amendments should be made to s 47: **Amendments** The purpose of setting targets is to assist in ~~improving~~ *protecting, improving and restoring* the state of the natural *environment* and *improving the state* of built environment.
49 Mandatory targets associated with limits (1) Targets must be set for each aspect of the natural environment for which limits are required by **section 38(1)**. (2) The responsible Minister may, in the national planning framework,— (a) set targets required by **subsection (1)**; or (b) prescribe the substantive or process requirements for targets that are to be set in plans. (3) The requirements prescribed under **subsection (2)(b)** may include— (a) a requirement that targets set in plans are to be set at or better than a minimum level specified in the national planning framework (a **minimum level target**):	Partially support	The Māori Trustee supports the mandatory requirement to set targets for each aspect of the natural environment for which limits are required by s 38(1). However, the Māori Trustee reiterates her previous concerns that there appears to be no requirement to set targets that are sustainable which could result in ecosystems continuing to degrade and reach their tipping points. Additionally, it is unclear what happens to targets when they are reached and whether or not they become new environmental limits. There also appears to be no requirement to improve once natural resources are considered to be just above the minimum line (environmental limit).	The Māori Trustee considers that further direction is required to clarify what happens to targets once they are reached and how continuous improvement can be mandated once above the minimum line (environmental limit). The Māori Trustee considers the following amendments should be made to s 49: **Amendments** (1) *Ecologically sustainable t*argets must be set for each aspect of the natural environment for which limits are required by **section 38(1)**. (2) The responsible Minister may, in the national planning framework,— (a) set targets required by **subsection (1)**; or (b) prescribe the substantive or process requirements for targets that are to be set in plans. (3) The requirements prescribed under **subsection (2)(b)** may include—

(b) requirements relating to the time frame over which targets are to be achieved. (4) The targets required by **subsection (1)** must— (a) in all cases, be set at a level equal to or better than that of the associated environmental limit; and (b) for targets set in plans, be set at a level equal to or better than any applicable minimum level target set in the national planning framework.			(a) a requirement that targets set in plans are to be set at or better than a minimum level specified in the national planning framework (a **minimum level target**): (b) requirements relating to the time frame over which targets are to be achieved. (4) The targets required by **subsection (1)** must— (a) in all cases, be set at a level equal to or better than that of the associated environmental limit; and (b) for targets set in plans, be set at a level equal to or better than any applicable minimum level target set in the national planning framework.
50 Minimum level targets (1) The responsible Minister must set a minimum level target in the national planning framework if the Minister is satisfied that the associated environmental limit is set at a level that represents unacceptable degradation of the natural environment. (2) In determining whether the level of an environmental limit represents an unacceptable degradation of the natural environment, the responsible Minister must consider the following matters: (a) whether future generations will be able to use the natural environment to provide for their needs and well-being; and (b) the risk that the state of the natural environment poses to human health, including the health of future generations; and (c) whether the state of the natural environment— (i) places indigenous plants or animals at increased risk of local displacement or extinction; or (ii) (ii) poses a risk of irreversible or significant harm to ecological integrity; and (d) New Zealand's international obligations that relate to the natural environment.	Partially support	The Māori Trustee reiterates her points made in this **submission with regards to s 46**, in that, she does not support the use of broad exemptions, as currently written, within the system. The Māori Trustee accepts that if exemptions are to remain within the system, there must be provisions that describe when an exemption must not be directed (ss 46 and 50(2)). However, further clarity needs to be provided. The Māori Trustee notes that direction within this NBE Bill seems to only focus on whether a target is set or not. Further direction is needed on where targets need to be set, how long they will take to meet and assurances made that they cannot be shifted below the current level in the future. Although, the Māori Trustee is supportive of intergenerational equity it is unclear to what extent current generations need to provide for future generations and whether this requirement is for *all* or foreseeable future generations. The NBE Bill needs to clearly recognise and assign responsibility for environmental improvement across multiple generations.	The Māori Trustee considers that further direction is required on the following matters: • where targets need to be set, how long they will take to meet and assurances made that they cannot be shifted below the current level in the future. • recognising and assigning responsibility for environmental improvement across multiple generations.
53 Monitoring of limits and targets and responses The national planning framework must— (a) require the monitoring and reporting of environmental limits and targets; and (b) enable data obtained from that monitoring to be aggregated at a national level; and	Partially support	The Māori Trustee supports Māori being involved in the monitoring of environmental limits and targets. However, clause 53(c) is unclear on what Māori can actually do, if they find anything while monitoring their natural resources. The NBE Bill needs to ensure Māori can actively and meaningfully participate in the new resource management system. This would require an amendment that enables Māori to	The Māori Trustee considers the following amendments should be made to s 53: **Amendments** The national planning framework must— (a) require the monitoring and reporting of environmental limits and targets; and

(c) enable Māori to be involved in monitoring of environmental limits and targets.		participate, if they wished to, in the monitoring and reporting on environmental limits and targets.	*(b) enable Māori to participate, if they wish, in the monitoring and reporting of environmental limits and target; and* ~~(b)~~ *(c)* enable data obtained from that monitoring to be aggregated at a national level.~~; and~~ ~~(c) enable Māori to be involved in monitoring of environmental limits and targets.~~
55 Matters relevant to setting management units (1) In setting a management unit, the responsible Minister or a regional planning committee, as the case may be, must ensure that the size and location of the management unit— (a) are sufficient to enable limits and their associated targets to meet the purposes set out in **sections 37 and 47** respectively; and (b) are determined by reference to scientific knowledge and mātauranga Māori. (2) In determining what is sufficient under **subsection (1)(a)**, the Minister or the planning committee, as the case may be, must consider the following matters: (a) whether areas with similar environmental pressures and characteristics could be grouped within a management unit for greater effectiveness and efficiency; and (b) the extent to which, in the particular location, it will be possible to measure factors such as— (i) the biophysical state of the natural environment; and (ii) (ii) the pressures on the environment; and (iii) any losses or gains in the health of the natural environment in the management unit. (3) Subject to **subsection (1)**, the size and location of a management unit should be set to provide flexibility and to maximise opportunities for appropriate offsetting. (4) This section does not apply to management units set for environmental limits or targets relating to freshwater or air.	Partially support	The Māori Trustee is supportive of the use of mātauranga Māori within the NBE Bill. However, the NBE Bill needs to ensure that any assessments that require reference to mātauranga Māori, for example s (55(1)(b)), is determined by Māori. There is no guarantee that the responsible Minister will be of Māori descent and/or knowledgeable of mātauranga Māori. If mātauranga Māori needs to be assessed, the Minister should be required to take advice or defer the decision to the NME or the Māori representatives on RPCs. The Māori Trustee also has concerns around the requirement to ensure that the size and location of a management unit is set to "maximise opportunities for appropriate offsetting". This direction could result in some areas being improved whilst others are further degraded while still meeting compliance obligations. This also ignores the cultural appropriateness of off-setting in general (**refer to submissions in schedules 3-5**). The Māori Trustee suggests that clause 55(3) should be removed.	The Māori Trustee considers the following amendments should be made to s 55: **Amendments** (1) In setting a management unit, the responsible Minister, or a regional planning committee, as the case may be, must ensure that the size and location of the management unit— (a) are sufficient to enable limits and their associated targets to meet the purposes set out in **sections 37 and 47** respectively; and (b) are determined by reference to scientific knowledge and mātauranga Māori. (2) In determining what is sufficient under **subsection (1)(a)**, the Minister or the planning committee, as the case may be, must consider the following matters: (a) whether areas with similar environmental pressures and characteristics could be grouped within a management unit for greater effectiveness and efficiency; and (b) the extent to which, in the particular location, it will be possible to measure factors such as— (i) the biophysical state of the natural environment; and (ii) the pressures on the environment; and (iii) any losses or gains in the health of the natural environment in the management unit. *(3) In determining reference to mātauranga Māori under **subsection (1)(b)**, the Minister or the planning committee, as the case may be, must delegate their decision to either –* *(a) the National Māori Entity; or* *(b) the Māori representatives of the regional planning committee.* ~~(3) Subject to **subsection (1)**, the size and location of a management unit should be set to provide flexibility and to maximise opportunities for appropriate offsetting~~. (4) This section does not apply to management units set for environmental limits or targets relating to freshwater or air.
58 National planning framework must provide direction on certain matters The national planning framework must include content that provides direction on: (a) non-commercial housing on Māori land: (b) papakāinga on Māori land:	Partially support	The Māori Trustee supports the NPF's requirement to provide direction on non-commercial housing and papakāinga on Māori land. However, further direction should be provided on the sustainable use and development of Māori land in general. Māori land and Māori landowners face specific challenges that limit use and development of	The Māori Trustee considers the following amendments should be made to s 58: **Amendments** The national planning framework must include content that provides direction on:

(c) enabling development capacity well ahead of expected demand: (d) enabling infrastructure and development corridors: (e) enabling renewable electricity generation and its transmission.		their whenua that the NPF needs to directly address. These challenges for Māori land and Māori landowners include[8]: • the land being fragmented and small in size; • the land not being economically viable in its own right; • the land being leased to neighbouring properties at income levels that are barely able to cover costs. • the land often being either legally or physically landlocked; • the land having minimal improvements and being largely un-occupied; • the land having multiple ownership interests; • the land having marginal land classes; and • the landowners being unlikely to be approved to borrow against the whenua by banks.	*(a) enabling the sustainable use and development of Māori land:* (b) non-commercial housing on Māori land: (c) papakāinga on Māori land: (d) enabling development capacity well ahead of expected demand: (e) enabling infrastructure and development corridors: (f) enabling renewable electricity generation and its transmission.
61 Effects management framework The **effects management framework** is a means of managing adverse effects as follows: (a) adverse effects must be avoided wherever practicable: (b) any adverse effects that cannot be avoided must be minimised wherever practicable: (c) any adverse effects that cannot be avoided or minimised must be remedied wherever practicable: (d) any remaining adverse effects that cannot be avoided, minimised, or remedied must be offset wherever practicable: (e) if adverse effects remain after applying the requirements, in that order, of **paragraphs (a) to (d)**, the activity cannot proceed unless redress is provided by enhancing the relevant aspect of the environment.	Partially support	The Māori Trustee is concerned that the current drafting of the effects management framework potentially provides a free pass for users of the system to pay their way out of effectively managing their adverse effects to undertake a proposed activity (s 61(e)). Although the effects management framework is meant to be applied sequentially, it seems plausible that users could quickly move through components (a) to (d) and just pay to undertake the activity using (e). This would be an inappropriate, but legal, application of the framework and therefore needs tightening. The Māori Trustee also notes that the notion and application of redress seems to overlap with other steps in the effects management framework. If redress is to mean anything other than compensation, it could be interpreted as a remedy (s 61(c)) and the requirement to enhance the relevant aspect of the environment through redress sounds similar to an offset (s 61(d)). Therefore, the Māori Trustee considers if adverse effects remain after applying the requirements, of paragraphs (a) to (d), the activity should not be allowed to proceed. The Māori Trustee also notes that the application of off-setting and redress do not currently account for Māori values and whether or not their use is appropriate from a tikanga perspective. This lack of recognition fails to give effect to Te Tiriti o Waitangi and needs to be directly addressed. The Māori Trustee has made **suggested amendments to schedules 3 to 5** to address this issue.	The Māori Trustee considers that s 61(e) should be amended to: • ensure that users cannot pay their way out of their adverse effects; and **Amendments** The **effects management framework** is a means of managing adverse effects as follows: (a) adverse effects must be avoided wherever practicable: (b) any adverse effects that cannot be avoided must be minimised wherever practicable: (c) any adverse effects that cannot be avoided or minimised must be remedied wherever practicable: (d) any remaining adverse effects that cannot be avoided, minimised, or remedied must be offset wherever practicable: (e) if adverse effects remain after applying the requirements, in that order, of **paragraphs (a) to (d)**, the activity cannot proceed. ~~unless redress is provided by enhancing the relevant aspect of the environment.~~
64 Scope of possible exemption (1) The responsible Minister may specify, in the national planning framework, exemptions from the	Partially support	The Māori Trustee is concerned with the broad discretion the Minister is afforded within this NBE Bill. This has the potential to undermine, weaken and provide	The Māori Trustee considers the following amendments should be made to s 64:

[8] These challenges are based off the Māori Trustee's experience of administering approximately 88,000ha of land for over 1,760 entities with 1,953 actively managed lease agreements. The median area of a land block within our portfolio is 16.6ha and the mean area is 48ha. NZ LUC classes 6,7 and 8 make up 59,650 ha or 70% of the Māori Trustee's portfolio.

effects management framework for activities that have adverse effects on a significant biodiversity area or specified cultural heritage. (2) An exemption from the effects management framework may provide that an activity is exempt only if 1 or more of the following circumstances applies: (a) the activity must be located, for functional or operational reasons, in the particular place, despite the fact that it will generate adverse effects: (b) there is no reasonably practicable alternative location: (c) the activity would, if carried out in an alternative location, result in a more than trivial adverse effect on the attributes that make the alternative location a place of national importance (*see* **section 559**): (d) the activity meets other requirements specified for an exemption under this Act.		exemptions to relatively strong provisions set to protect the natural environment such as environmental limits and the effects management framework. Exemptions should only be provided if they are necessary to achieve the purpose of the NBE Bill **(once amended to include relief sought in s 3)**. The Minister should have to justify exemptions by reference to the NBE Bill's purpose. The Māori Trustee also considers s 64(2) needs to be strengthened to require that all components listed in (a) to (c) to apply for an exemption to be provided. This would provide a higher bar to meet than what is currently required. Exemptions should only be provided if absolutely necessary not something to be actively pursued. For similar reasons, reference to an "operational" test should be removed from s 64(2)(a) to ensure that economic reasons are not prioritised over the protection of the natural environment.	**Amendments** (1) The responsible Minister may specify, in the national planning framework, exemptions from the effects management framework for activities that have adverse effects on a significant biodiversity area or specified cultural heritage *and which are necessary to achieve the purpose of this Act and give effect to te Tiriti o Waitangi*. (2) An exemption from the effects management framework may provide that an activity is exempt only if ~~1 or more~~ *all* of the following circumstances applies: (a) the activity must be located, for functional ~~or operational~~ reasons, in the particular place, despite the fact that it will generate adverse effects: (b) there is no reasonably practicable alternative location: (c) the activity would, if carried out in an alternative location, result in a more than trivial adverse effect on the attributes that make the alternative location a place of national importance (*see* **section 559**): ~~(c)~~ *(3) An exemption from the effects management framework may provide that an activity is exempt if* the activity meets other requirements specified for an exemption under this Act.
66 Limits of exemptions (1) Exemptions applying under **section 64** may be made only for the following types of activities: (a) activities required to deal with a very high risk to public health or safety: (b) activities for the purpose of maintaining or restoring a significant biodiversity area: (c) the customary use of indigenous biodiversity carried out in accordance with tikanga: (d) activities on Māori land or on other land required to facilitate the activities on Māori land: (e) activities undertaken for the purpose of managing Te Urewera under the Te Urewera Act 2014: (f) activities with effects on significant biodiversity areas within areas of geothermal activity: (g) activities in a place identified as a significant biodiversity area solely because of the presence of a plant species listed as threatened or declining in the New Zealand Threat Classification System, unless the species is rare within the region or ecological area: (h) activities lawfully established immediately before the commencement of **section 62(1)** (whichever is applicable): (i) subdivision:	Partially support	The Māori Trustee supports, for reasons stated in her **submission on s 58**, that activities on Māori land or on other land required to facilitate the activities on Māori land are afforded an exemption. The Māori Trustee also supports an exemption being afforded for activities described under s 66(1)(c). However, the Māori Trustee is still concerned at the amount of exemptions provided for within this NBE Bill.	N/A

(j) activities that will contribute to an outcome described in **section 5(b)**: (k) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990: (l) activities managed under other legislation, as long as the responsible Minister is satisfied that the other legislation provides an appropriate level of protection: (m) the lines and associated equipment used or owned by Transpower to convey electricity and for associated activities, including access tracks and maintenance activities: (n) infrastructure operated by a lifeline utility operator as defined in the Civil Defences and Emergency Management Act 2002 and any directly associated activity: (o) activities that will provide nationally significant benefits that outweigh any adverse effects of the activity: (p) in the case of a specified cultural heritage place, activities required to ensure that the place and its cultural heritage values endure: (q) activities of the Crown on conservation land and waters that are not inconsistent with any applicable conservation planning document: (r) activities carried out by the customary marine title holder in the relevant customary marine title area. (2) In **subsection (1)(g)**, the **New Zealand Threat Classification System** means the system maintained by the Department of Conservation for— (a) assessing the risk of extinction of New Zealand species; and (b) classifying the species according to that risk.			
87 Directions on allocation method (1) The national planning framework may give directions that— (a) provide further detail on the meaning of the resource allocation principles: (b) require or prohibit the use of a specified allocation method or specified range of allocation methods for a specified resource or in specified circumstances: (c) define a particular allocation method: (d) direct how a regional planning committee must have regard to the allocation principles	Partially support	The Māori Trustee notes that the NBE Bill does not currently define what the resource allocation principles (sustainability, equity and efficiency) individually mean within the context of the new resource management system. The NPF should be required to give further detail on these principles if they are not defined. If direction is not given there will be a lack of certainty on how these principles will be applied or whether they will have any material impact. To ensure that resource allocation principles have weight and are able to inform decisions in the new resource management system, direction under s 87(1)(d) should state how a RPC must '*provide for*' the allocation principles when developing an allocation method in a plan'.	The Māori Trustee considers the following amendments should be made to s 87: **Amendments** *(1)* The national planning framework ~~may~~ *must* give directions that— *(a) provide further detail on the meaning of the resource allocation principles:* *(b) specify that a regional planning committee must have regard to Māori land and Māori landowners when providing for any allocation method within a plan*:

when developing an allocation method in a plan: (e) require a regional planning committee to specify an allocation method or methods for a resource described in **section 126(3)**: (f) specify other resources for which an allocation method is required or permitted by a plan: (g) specify any matter that a regional planning committee must consider or adopt when providing for any allocation method in a plan (for example, a direction on any plan outcome, policy, process, or method): (h) provide for the frequency and duration of the required time period in **section 306**: (i) set out criteria that decision makers must have regard to when determining the merits of affected applications under **section 314**. (2) The Minister must, when developing a direction under any of **subsection (1)(b) to (i)**, have regard to the resource allocation principles.		The Māori Trustee also considers that express direction should be given to RPCs to have regard to Māori land and Māori landowners when providing for any allocation method within a plan. As Māori land is historically underdeveloped with minimal yields, the likelihood of Māori landowners being in a position to apply for resource consents at the same time as their general landowning counterparts is improbable. This will likely result in the continuation of resources being allocated on a first-in, first served principle. To ensure that equity is honoured within the system, RPCs need to be cognisant of the difficulties that Māori land and Māori landowners encounter in the resource allocation space. The NPF, in giving any directions on resource allocation methods, should also be expressly required to give effect to te Tiriti o Waitangi.	*(c) direct how a regional planning committee must have regard to and provide for the allocation principles when developing an allocation method in a plan.* *(2) The national planning framework may give directions that–* *(a)* require or prohibit the use of a specified allocation method or specified range of allocation methods for a specified resource or in specified circumstances: *(b)* define a particular allocation method: ~~*(c) direct how a regional planning committee must have regard to the allocation principles when developing an allocation method in a plan:*~~ *(c)* require a regional planning committee to specify an allocation method or methods for a resource described in section 126(3): *(d)* specify other resources for which an allocation method is required or permitted by a plan: *(e)* specify any matter that a regional planning committee must consider or adopt when providing for any allocation method in a plan (for example, a direction on any plan outcome, policy, process, or method): *(f)* provide for the frequency and duration of the required time period in section 306: *(g)* set out criteria that decision makers must have regard to when determining the merits of affected applications under section 314. *(3)* The Minister must, when developing a direction under any of **subsection *2(a) to (g)***, have regard to the resource allocation principles. *(4) The Minister must, when developing direction under this section, give effect to te Tiriti o Waitangi.*
94 Responsible minister (1) This section applies for the purpose of the preparation, change, or review of the national planning framework. (2) The Minister for the Environment— (a) is the responsible Minister in relation to any provision that applies to both— (i) the coastal marine area; and (ii) (ii) an area outside the coastal marine area; and (b) **must** consult with the Minister of Conservation before exercising or performing a power or function conferred by this Part or **Schedule 6** that relates to the preparation, change, or review of that provision. (3) The Minister for the Environment is the responsible Minister in relation to any provision that	Partially support	The Māori Trustee considers that the lack of responsibility Māori are afforded within this NBE Bill, in terms of decision-making powers, to be disappointing. Giving effect to te Tiriti o Waitangi, requires Māori to be enabled to exercise tino rangatiratanga over their whenua, kāinga and taonga. The Government having sole responsibility to prepare, change, review and ultimately make decisions in the NPF, that will directly impact the ability for Māori to exercise tino rangatiratanga without their permission or input, breaches te Tiriti o Waitangi.	The Māori Trustee considers that s 94, and Part 3 more broadly, should be rewritten or amended to give the NME more decision making powers and to require the responsible Minister to have regard to their advice in the exercise of Ministerial powers. The preparation, changes, reviews and decisions made under the NPF should be made in partnership with Māori (the NME).

applies only to an area outside the coastal marine area. (4) The Minister of Conservation— (a) is the responsible Minister in relation to any provision that applies only to a coastal marine area; and (b) **must** consult the Minister for the Environment before exercising or performing a power or function conferred by this Part or **Schedule 6** that relates to the preparation, change, or review of that provision.			

Part 4 Natural and built environment plans

Provision	Position	Submission	Relief Sought
96 Purpose of plans The purpose of a plan is to further the purpose of this Act by providing for the integrated management of the natural and built environment in the region that the plan relates to.	Partially support	The Māori Trustee considers that the phrase "further the purpose of this Act" unnecessarily implies that the purpose of NBE plans is to go beyond the purpose of the NBE Bill. The purpose of NBE plans should be based on providing for the integrated management of the natural and built environment in a region that achieves the purpose of this NBE Bill.	The Māori Trustee considers the following amendments should be made to s 96: **Amendments** ~~The purpose of a plan is to further the purpose of this Act by providing for the integrated management of the natural and built environment in the region that the plan relates to.~~ *The purpose of the preparation, implementation, and administration of natural and built environment plans is to assist a regional planning committee and local authorities to carry out any of their functions in order to achieve integrated management of the natural and built environment in the region the plan relates to and the purpose of this Act.*
102 What plans must include (1) A plan must have strategic content that reflects the major policy issues of a region and its constituent districts. (2) A plan must— (a) manage the resources of the natural and built environment; and (b) manage the effects of using and developing the environment, including cumulative effects; and (c) achieve environmental limits (including interim limits) and targets; and (d) provide for system outcomes, subject to any direction given in the national planning framework; and (e) resolve conflicts relating to any aspect of the natural and built environment in the region,	Partially support	The Māori Trustee generally supports the criteria listed under s 102 detailing what plans must include. However, to avoid ambiguity s 102(2)(g) should also require these features to be mapped.	The Māori Trustee considers the following amendments should be made to s 102: **Amendments** (1) A plan must have strategic content that reflects the major policy issues of a region and its constituent districts. (2) A plan must— (a) manage the resources of the natural and built environment; and (b) manage the effects of using and developing the environment, including cumulative effects; and (c) achieve environmental limits (including interim limits) and targets; and (d) provide for system outcomes, subject to any direction given in the national planning framework; and (e) resolve conflicts relating to any aspect of the natural and built environment in the region, including conflicts between or among the

including conflicts between or among the environmental outcomes stated for the region and its constituent districts; and (f) provide processes to deal with cross-boundary issues with adjacent local authorities, including the extent to which the plan must have regard to regional spatial strategies and plans of adjacent local authorities; and (g) identify land, the coastal marine area, or any natural resource in the region for which protection, or a particular use or development, is a priority; and (h) include provisions that give effect to any water conservation order applying to a river within the region of which the plan applies; and (i) ensure the integration of infrastructure with land use; and (j) ensure that there is sufficient development capacity of land for housing and business to meet the expected demands of the region and its district.			environmental outcomes stated for the region and its constituent districts; and (f) provide processes to deal with cross-boundary issues with adjacent local authorities, including the extent to which the plan must have regard to regional spatial strategies and plans of adjacent local authorities; and (g) identify *and map* land, the coastal marine area, or any natural resource in the region for which protection, or a particular use or development, is a priority; and (h) include provisions that give effect to any water conservation order applying to a river within the region of which the plan applies; and (i) ensure the integration of infrastructure with land use; and (j) ensure that there is sufficient development capacity of land for housing and business to meet the expected demands of the region and its district.
106 Te Oranga o te Taiao Statement (1) An iwi or hapū may, at any time, provide a statement on te Oranga o te Taiao to the relevant regional planning committee. (2) A statement by an iwi or hapu on te Oranga o te Taiao may relate to allocation matters.	Partially support	The Māori Trustee is supportive of iwi and hapū being able to provide Te Oranga o te Taiao statements to their relevant RPC. However, there is currently no direction on how these statements will be provided for within NBE plans and what effect they will have to RPC decision-making – if any at all. These statements will take time, resources and effort for iwi and hapū to create and should therefore have clear direction on how they are intended to function within a NBE plan. If no direction is given, there is a risk that statements will be prepared and slipped into a plan with no direction of use. It is also unclear on how these statements will be utilised within the plan if multiple statements are submitted by different iwi and hapū.	The Māori Trustee considers that further direction should be provided to s 106 to describe: • How Te Oranga o te Taiao statements will be recognised and provided for within NBE plans; and • How Te Oranga o te Taiao statements will be utilised within NBE plans if multiple statements are submitted by different iwi and hapū.
124 Limitations applying to making of rules relating to water and coastal marine area *Rules relating to coastal marine area and coastal waters* (1) A plan rule that applies to the coastal marine area must not identify any of the following as permitted activities to which **section 23** applies: (a) the dumping of waste or other matter from a ship, an aircraft, or an offshore installation in the coastal marine area: (b) the dumping of a ship, aircraft, or installation in the coastal marine area: (c) the incineration of waste or other matter in a marine incineration facility in the coastal marine area	Partially support	The Māori Trustee is generally comfortable with the limitations to making rules relating to water and the coastal marine area under s 124. However, with regards to s 124(7) the Māori Trustee considers that the purpose needs to be amended (**refer relief sought under s 3**), to ensure this subsection is applied appropriately.	N/A

(2) Subject to **subsection (1)**, **subsection (7)** and **section 118(3)** apply to rules included in a plan about the dumping of waste or other matter as if a reference to a discharge of a contaminant includes a reference to the dumping of waste or other matter. (3) A plan rule must not identify as a permitted activity in a coastal marine area,— (a) any commercial aquaculture that will occupy a space that is not currently the subject of a coastal permit authorising aquaculture activities: (b) any aquaculture activity that will occupy a space that is not the currently the subject of a coastal permit authorising an aquaculture activity unless the space is subject to an aquaculture zone decision. (4) **Schedule 9** applies for the purpose of managing the quality of coastal waters. *Rules relating to water quality* (5) **Subsection (6)** applies if a plan includes a rule relating to any of the following: (a) maximum or minimum levels, flows, or rates of use of water: (b) minimum standards of water quality or air quality: (c) ranges of temperature or pressure of geothermal water. (6) If a plan includes a rule described in **subsection (5)**, the plan may also state— (a) whether the rule affects existing resource consents for activities that contravene the rule: (b) that the holder of a resource consent may comply with the terms of the rule in stages or over specified periods of time. (7) Standards must not be set that would, or may, result in a reduction in the quality of the water at the time when a proposed plan is notified, unless it is consistent with the purpose of this Act to do so. (8) **Subsection (7)** is subject to the need to allow for reasonable mixing of a discharged contaminant or water (*see* **section 279(4)**). *Rules relating to fisheries resources in coastal marine area* (9) Despite **section 105(1)(f)**, in relation to the functions exercised by a regional council or unitary authority under **section 644(b)(i), (ii), and (viii)**, a plan must not include rules that place controls on taking, allocating, or enhancing fisheries resources in			

the coastal marine area for the purposes of managing fishing or fisheries resources controlled under the Fisheries Act 1996.			
139 Land subject to controls (1) An interest in land must be treated as not being taken or injuriously affected because of a provision in a plan, unless the contrary is expressly provided for in this Act. (2) If a person with an interest in land considers that a provision in a plan or proposed plan applying to that person's interest makes, or would make, the interest in the land incapable of reasonable use, that person may challenge the provision or proposed provision. (3) The person may do so by— (a) making a submission under **Schedule 7** in respect of the provision or proposed provision; or (b) applying to change the plan under **clause 69 of Schedule 7**. (4) A reference in this section and **section 140** to a provision in a plan or proposed plan does not include a designation, heritage protection order, or a requirement for a designation or heritage protection order. (5) In this section and **section 140**, **reasonable use**, in relation to land, includes the use or potential use of the land for any activity if the actual or potential effects of the activity would not be significant on the natural and built environment or on any person other than the applicant.	Partially support	The Māori Trustee considers that the NBE Bill does not sufficiently provide for the complexities and nuances experienced by whenua Māori and Māori landowners. Rules within an NBE plan could conceivably render Māori land "incapable of reasonable use" due to its inherent characteristics and challenges resulting from that (**refer to submission on s 58**) not being accounted for during the creation of NBE plans. Although it is positive that s 139(3) allows for persons to challenge the provision or proposed provision, the time, resources and bureaucracy attached to the challenge will act as a deterrent. Māori land and Māori landowners be considered and provided for within NBE plans so that rules are less likely to render whenua Māori incapable of reasonable use.	The Māori Trustee considers specific provisions need to be provided for Māori land and Māori landowners, within the NBE Bill – including Part 4, to sufficiently address their complexities and nuances.
140 Jurisdiction of Environment Court over land subject to controls (1) This section applies if— (a) an application is made to the Environment Court to change a plan under **clause 69 of Schedule 7**: (b) an appeal is made to that court concerning a provision in a proposed plan or a change to a plan. (2) The grounds that must be satisfied by the applicant or appellant are that the provision or proposed provision of a plan— (a) makes the relevant land incapable of reasonable use; and (b) places an unfair and unreasonable burden on any person with an interest in that land.	Partially support	The Māori Trustee reiterates her **submissions made for s 139.**	The Māori Trustee considers specific provisions need to be provided for Māori land and Māori landowners, within the NBE Bill – including Part 4, to sufficiently address their complexities and nuances.

(3) In determining whether the grounds set out in **subsection (2)** are met, the court may assess and take into account the risks or future risks (if any) identified as relevant to the land in question. (4) **Section 141** applies if the court is satisfied that the grounds in **subsection (2)**, as assessed under **subsection (3)** (if relevant), are met.			
141 Court's determination (1) In determining an application provided for in **section 140(1)**, the Environment Court may direct the relevant regional planning committee to do whichever of the following the committee considers appropriate: (a) modify, delete, or replace the provision in the plan or proposed plan in the manner that the court directs; or (b) notify the relevant local authority that it is required to offer to acquire all or part of the estate or interest in the land under the Public Works Act 1981, as long as— (i) the person with the estate or interest agrees to that course of action; and (ii) the requirements of **subsection (3)** are met. (2) Before the court gives a direction or report under **subsection (1)**, it must have regard to **Part 2**, including the effect of **section 17(2)** (use of land). (3) The court must not give a direction under **subsection (1)(b)** unless the person with the estate or interest in the land concerned or part of it (or that person's spouse, civil union partner, or de facto partner)— (a) had acquired the estate or interest in the land or part of it before the date on which the provision or proposed provision was first notified or included in the relevant plan or proposed plan; and (b) the provision or proposed provision remained in substantially the same form. (4) If an offer to acquire the relevant estate or interest in the land or part of it is made under **subsection (1)(b)**— (a) is accepted, the local authority is responsible for implementing the acquisition under the Public Works Act 1981, including meeting the costs of the acquisition:	Partially support	The Māori Trustee reiterates her **submissions made for s 139.** Māori land should be addressed through an express clause within s 141. The Māori Trustee notes that the Environment Court may direct an RPC to "notify the relevant local authority that it is required to offer to acquire all or part of the estate or interest in land under the Public Works Act 1981" as part of their determination. The person whose estate or interest the direction is subject to may agree to the course of action. This course of action would rarely be appropriate for Māori land. As highlighted in other parts of the NBE Bill, whenua Māori is a taonga tuku iho to its owners and in many cases would be considered inappropriate to sell. Te Ture Whenua Māori Act 1993 also echoes this sentiment by setting a high threshold for owners to meet if they wished to alienate their land[9]. Therefore, if Māori landowners do not agree to sell their whenua, as it is inappropriate to do so, s 141(b) provides no further recourse – the provision appealed will remain the same. The Māori Trustee considers that the Environment Court should be able to direct the RPC, and subsequently local authorities, to lease Māori land in these instances. Māori land should never be able to be compulsorily acquired under this NBE Bill.	The Māori Trustee considers specific provisions need to be provided for Māori land and Māori landowners, within the NBE Bill – including Part 4, to sufficiently address their complexities and nuances. The Māori Trustee considers that the Environment Court should be able to direct the RPC, and subsequently local authorities, to lease Māori land, under s 141(1) in these instances. Māori land should never be able to be compulsorily acquired under this NBE Bill.

[9] Te Ture Whenua Maori Act 1993 No 4 (as at 29 November 2022), Public Act 150C Alienation by other owners – New Zealand Legislation, s 150C.

(b) is not accepted, the provisions in the plan remains in force unaffected or, if not already in force, comes into force without modification. (5) A direction given under **subsection (1)** has effect as if it were given under **clause 136 of Schedule 7**. (6) This section does not limit the powers of the Environment Court.			
142 Power to acquire land (1) A local authority may, by agreement under the Public Works Act 1981, acquire land or an interest in land in its region or district if, under the operative plan, the local authority considers that the acquisition is necessary or necessary for 1 or both of the following purposes: (a) to terminate or prevent a prohibited activity in relation to the land: (b) to facilitate activity in relation to the land that is in accordance with the outcomes and policies specified in the plan. (2) A plan must not oblige a local authority to acquire land, except as provided in **section 141(1)(b) or 524**. (3) A person whose estate or interest in land is taken for a purpose authorised by **subsection (1)** is entitled to the compensation that the person would have been entitled to if the land had been acquired for a public work under the Public Works Act 1981.	Partially support	The Māori Trustee notes that s 142(1) seems to unintentionally suggest local authorities can acquire land or an interest in land in their region or district (by agreement under the Public Works Act 1981) if they consider it *necessary.* The conjunction 'or' that succeeds it seems to provide a secondary pathway to acquire land if the local authority considers it necessary for 1 or both of the purposes described in components (a) and (b). To ensure that local authorities are not afforded unnecessary and inappropriate powers to acquire land or an interest in land, the first "necessary" in s 142(1) needs to be deleted. Māori land should never be able to be compulsorily acquired under this NBE Bill.	The Māori Trustee considers the following amendments should be made to s 141: **Amendments** (1) A local authority may, by agreement under the Public Works Act 1981, acquire land or an interest in land in its region or district if, under the operative plan, the local authority considers that the acquisition is ~~necessary or~~ necessary for 1 or both of the following purposes: (a) to terminate or prevent a prohibited activity in relation to the land: (b) to facilitate activity in relation to the land that is in accordance with the outcomes and policies specified in the plan. (2) A plan must not oblige a local authority to acquire land, except as provided in **section 141(1)(b) or 524**. (3) A person whose estate or interest in land is taken for a purpose authorised by **subsection (1)** is entitled to the compensation that the person would have been entitled to if the land had been acquired for a public work under the Public Works Act 1981.

Part 5 Resource consenting and proposals of national significance

Provision	Position	Submission	Relief Sought
152 Types of resource consents In this Act, **resource consent** means any of the following consents or permits: (a) a **land use consent**, which is a consent to do something that otherwise would contravene **section 17 or 20**: (b) a **subdivision consent**, which is a consent to do something that otherwise would contravene **section 18**: (c) a **coastal permit**, which is a consent to do something in a coastal marine area that otherwise would contravene any of **sections 19, 20, 22, 23, and 24**:	Support	The Māori Trustee supports the types of consent listed under s 152.	N/A

<table>
<tr>
<td>(d) a water permit, which is a consent to do something (other than in a coastal marine area) that otherwise would contravene section 21:
(e) a discharge permit, which is a consent to do something (other than in a coastal marine area) that otherwise would contravene section 22.</td>
<td></td>
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<td></td>
</tr>
<tr>
<td>153 How activities are categorised
(1) In this Act, activities are categorised as follows:
<table>
<tr><th></th><th>Category</th><th>Description of activities</th></tr>
<tr><td>1</td><td>Permitted</td><td>Activities that do not require a resource consent but may be subject to other requirements.</td></tr>
<tr><td>2</td><td>Controlled</td><td>Activities that require a resource consent, which the consent authority may grant (with or without conditions) or decline only in accordance with the relevant provisions of the national planning framework or plan (whichever applies) and the limited discretion conferred by those provisions.</td></tr>
<tr><td>3</td><td>Discretionary</td><td>Activities that require a resource consent, which the consent authority may grant (with or without conditions) or decline in accordance with the relevant provisions of the national planning framework or plan (whichever applies).</td></tr>
<tr><td>4</td><td>Prohibited</td><td>No person is entitled to apply for a resource consent for the activity and no consent authority has power to grant a consent for the activity.</td></tr>
</table>
(2) The description of activities in column (2) of subsection (1) is only a guide to the general effect of sections 154, 157, and 158.</td>
<td>Support</td>
<td>The Māori Trustee supports the reduction of activity categories from six, in the RMA, to four in this NBE Bill.

The Māori Trustee in particular supports the consenting authority having the ability to decline a resource consent applied for under the controlled activity category.</td>
<td>N/A</td>
</tr>
<tr>
<td>156 Activities may be permitted with or without requirements
(1) The national planning framework or a plan may provide that an activity is a permitted activity subject to compliance with conditions or</td>
<td>Partially support</td>
<td>The Māori Trustee reiterates her submissions made under s 6(3), in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana</td>
<td>The Māori Trustee considers the following amendments should be made to s 156:

Amendments</td>
</tr>
</table>

requirements specified in the national planning framework or plan. (2) The national planning framework or a plan may direct an applicant to apply for a permitted activity notice under section 302. (3) Conditions or requirements may include (without limitation)— (a) monitoring the activity for compliance with standards prescribed in the national planning framework or plan: (b) certification by a qualified or certified person: (c) requiring that the activity be undertaken in accordance with a report or management plan prepared by a qualified person: (d) requiring work to be done by a qualified or certified person: (e) requiring a report or assessment prepared by an iwi within an area identified as having significant value to Māori: (f) requiring persons or groups to give written approval: (g) requiring an environmental contribution to be made.		whakahaere to be recognised. The Māori Trustee therefore considers that s 156(3)(e) should be amended to require those with mana whakahaere to prepare the report. The Māori Trustee also sees merit in extending the directive under s 156(3)(g) to include cultural contributions.	(1) The national planning framework or a plan may provide that an activity is a permitted activity subject to compliance with conditions or requirements specified in the national planning framework or plan. (2) The national planning framework or a plan may direct an applicant to apply for a permitted activity notice under section 302. (3) Conditions or requirements may include (without limitation)— (a) monitoring the activity for compliance with standards prescribed in the national planning framework or plan: (b) certification by a qualified or certified person: (c) requiring that the activity be undertaken in accordance with a report or management plan prepared by a qualified person: (d) requiring work to be done by a qualified or certified person: (e) requiring a report or assessment prepared by ~~an iwi~~ *mana whakahaere* within an area identified as having significant value to Māori: (f) requiring persons or groups to give written approval: (g) requiring an environmental *or cultural* contribution to be made.
157 Consent authority may permit activity by waiving compliance with certain requirements, conditions, or permissions (1) An activity is a permitted activity if— (a) the activity would be a permitted activity except for a marginal or temporary non-compliance with requirements, conditions, and permissions specified in this Act, the national planning framework, or a plan; and (b) any adverse environmental effects of the activity are no different in character, intensity, or scale than they would be in the absence of the marginal or temporary non-compliance referred to in paragraph (a); and (c) any written approval from persons whom the plan or the national planning framework requires to be obtained, has been obtained; and (d) the consent authority, in its discretion, decides to notify the person proposing to undertake the activity that the consent authority has waived the non-compliance and decided that the activity is a permitted activity.	Partially support	The Māori Trustee administers an extensive portfolio of Māori land, the majority of which is leased. Therefore, subsection (1)(d) should be amended to require consenting authorities to notify both the land owners and the person proposing to undertake the activity.	The Māori Trustee considers the following amendments should be made to s 157: **Amendments** (1) An activity is a permitted activity if— (a) the activity would be a permitted activity except for a marginal or temporary non-compliance with requirements, conditions, and permissions specified in this Act, the national planning framework, or a plan; and (b) any adverse environmental effects of the activity are no different in character, intensity, or scale than they would be in the absence of the marginal or temporary non-compliance referred to in paragraph (a); and (c) any written approval from persons whom the plan or the national planning framework requires to be obtained, has been obtained; and (d) the consent authority, in its discretion, decides to notify the person proposing to undertake the activity *and the land owner* that the consent authority has waived the non-compliance and decided that the activity is a permitted activity. (2) A consent authority may give a notice under subsection (1)(d)— (a) after receiving an application for a resource consent for the activity; or (b) on its own initiative.

(2) A consent authority may give a notice under subsection (1)(d)— (a) after receiving an application for a resource consent for the activity; or (b) on its own initiative. (3) The notice must be in writing and must include— (a) a description of the activity; and (b) details of the site at which the activity is to occur; and (c) the consent authority's reasons for considering that the activity meets the criteria in subsection (1)(a) to (c), and the information relied on by the consent authority in making that decision. (4) If a person has submitted an application for a resource consent for an activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant. (5) A notice given under subsection (1)(d) lapses 5 years after the date of the notice unless the activity permitted by the notice is given effect to.			(3) The notice must be in writing and must include— (a) a description of the activity; and (b) details of the site at which the activity is to occur; and (c) the consent authority's reasons for considering that the activity meets the criteria in subsection (1)(a) to (c), and the information relied on by the consent authority in making that decision. (4) If a person has submitted an application for a resource consent for an activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant. (5) A notice given under subsection (1)(d) lapses 5 years after the date of the notice unless the activity permitted by the notice is given effect to.
161 Right to apply may be transferred (1) A right to apply may be transferred by its holder to any other person. (2) A transfer of a right to apply does not take effect until written notice of it has been given to and received by the appropriate regional council or unitary authority	Partially support	The Māori Trustee reiterates her submissions made on s 157 in that not all consent holders are also the owners of the land on which the consent is issued for. Therefore, consent holders should not have the right to apply for transfer without notification and engagement of the land owner.	The Māori Trustee considers the following amendments should be made to s 161: **Amendments** (1) A right to apply may be transferred by its holder to any other person *providing that –* *(a) landowners, if different to the consent holder, are notified and agree to the transfer* (2) A transfer of a right to apply does not take effect until written notice of it has been given to and received by the appropriate regional council or unitary authority.
163 Prior consultation not needed (1) Neither the applicant nor the consent authority need consult any person about an application for a resource consent unless the national planning framework, the relevant plan, or another Act otherwise requires. (2) To avoid doubt, section 6(3) is subject to subsection (1).	Partially support	The Māori Trustee understands the intention to create efficiencies within the system through not requiring prior consultation for a resource consent application unless directed by the NPF, NBE plans and other Acts. However, this raises significant concerns that the system will continue to benefit those who can afford to participate. The Māori Trustee administers significant tranches of Māori land across 14 regions (refer to Appendix B) and this provision highlights the impracticality of being able to meaningfully participate in the NPF and each regions NBE plan process to ensure appropriate engagement provisions are in place with regards to resource consent application.	The Māori Trustee considers her office should be directly engaged in the preparation of the NPF to ensure that appropriate resource consent application provisions are reflected in NBE plans.
164 Recovery of costs incurred in consultation and engagement	Partially support	The Māori Trustee supports the recovery of costs incurred in consultation and engagement. However, the Māori Trustee considers, **for reasons submitted under s**	The Māori Trustee considers the following amendments should be made to s 164: **Amendments**

(1) A person who applies for or holds a resource consent is liable to pay the consent engagement costs as determined in accordance with— (a) regulations made under **clause 41 of Schedule 8** (if any); or (b) a schedule of costs agreed between the consent authority, iwi, and hapū (if regulations do not prescribe how the costs are to be determined). (2) The consent authority may recover those consent engagement costs on behalf of, and pay them to, the relevant Māori parties that have incurred the costs (plus any reasonable administration costs of the consent authority).		**6(3)**, that the more inclusive term of mana whakahaere should replace iwi and hapū in subclause (1)(b) and, for consistency, the term Māori parties in subclause (2).	(1) A person who applies for or holds a resource consent is liable to pay the consent engagement costs as determined in accordance with— (a) regulations made under **clause 41 of Schedule 8** (if any); or (b) a schedule of costs agreed between the consent authority~~, iwi, and hapū~~ *and mana whakahaere* (if regulations do not prescribe how the costs are to be determined). (2) The consent authority may recover those consent engagement costs on behalf of, and pay them to, the relevant ~~Māori parties~~ *mana whakahaere* that have incurred the costs (plus any reasonable administration costs of the consent authority).
200 National planning framework or plans may set or provide for consent authority to determine notification requirements (1) The national planning framework or a plan must, in relation to each activity that requires a resource consent,— (a) state the notification status of the activity; or (b) provide for the consent authority to determine, in accordance with national planning framework or plan, the notification status of the activity. (2) The national planning framework or plan must, in relation to an activity,— (a) identify who are affected persons for the purposes of notification or persons from whom approval must be obtained (in relation to a permitted activity); or (b) provide for the consent authority to determine who are affected persons. (3) For the purpose of **subsection (1)(a) or (b)**, the Minister or regional planning committee (as the case may be) must consider— (a) the likely state of the future environment in light of information they consider relevant in the plan, the regional spatial strategy, or the national planning framework or any combination of those documents; and (b) whether any information obtained from the notification process is likely to make a material difference to the consent decision.	Partially support	The Māori Trustee considers that determining the notification status of an activity in the NPF or NBE plan relies on the Minister or RPC, as the case may be, holding very specific and localised knowledge of an area. However, s 200(3) only requires the Minister or RPC to consider the likely state of the future environment, based on information obtained from RSSs, NBEs or the NPF, and whether any information obtained during the undertaking of a notification process will likely impact their consent decision. There is no specific requirement or opportunity to allow local communities or landowners to provide information to the Minister or RPC that may better inform their decisions. To ensure appropriate and well-informed decisions are made in determining the notification status of activities, provision should be made to allow local communities and landowners to provide local knowledge and information to the Minister or RPC.	The Māori Trustee considers the following amendments should be made to s 164: **Amendments** (1) The national planning framework or a plan must, in relation to each activity that requires a resource consent,— (a) state the notification status of the activity; or (b) provide for the consent authority to determine, in accordance with national planning framework or plan, the notification status of the activity. (2) The national planning framework or plan must, in relation to an activity,— (a) identify who are affected persons for the purposes of notification or persons from whom approval must be obtained (in relation to a permitted activity); or (b) provide for the consent authority to determine who are affected persons. (3) For the purpose of **subsection (1)(a) or (b)**, the Minister or regional planning committee (as the case may be) must consider— (a) the likely state of the future environment in light of information they consider relevant in the plan, the regional spatial strategy, or the national planning framework or any combination of those documents; and *(b) any information obtained from local communities and landowners; and* (c) whether any information obtained from the notification process is likely to make a material difference to the consent decision.

201 Determination of whether person is affected person or person from whom approval required (1) This section applies to a decision maker when determining whether a person is— (a) an affected person for the purposes of notification of an application for a resource consent; or (b) a person from whom approval must be obtained in relation to a permitted activity. (2) The decision maker must— (a) weigh the positive effects of the proposed activity against the adverse effects that the activity has on the person: (b) consider whether information from the person is necessary to understand the extent and nature of effects or contributions towards outcomes: (c) consider whether the person has an interest in the application greater than that of the general public: (d) consider whether the person's involvement will result in information that has a material effect on the consent decision or permitted activity decision (whether granted or not) and any conditions imposed: (e) determine whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in **Schedule 14**: (f) determine whether there are any— (i) affected protected customary rights groups; or (ii) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity). (3) A person is not an affected person or a person from whom approval must be obtained if— (a) the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the decision maker before they make a determination under this section; or (b) the decision maker is satisfied it is unreasonable in the circumstances for the applicant to seek the person's written approval. (4) For the purpose of **subsection (2)(e)**, the decision maker must have regard to every relevant statutory	Partially support	The Māori Trustee considers that the determination of whether a person is an affected person or a person from whom approval is required to be a particularly salient issue for her office. The Māori Trustee is concerned, that without proper education and training, decision-makers may lack the knowledge required, with regards to Māori land administration and its complexities, to appropriately determine whether or not the Māori Trustee or a Māori landowner is an affected person. It is difficult to perceive how a decision-maker could determine the effects, both positive and negative, from an activity on a Māori landowner without notifying them. The Māori Trustee also notes that due to the majority of her portfolio being leased, there have been instances under the current resource management system where, despite been named as the owner of the property on its record of title, the Māori Trustee did not receive notification where the lessee did. The Māori Trustee considers that due to the historic barriers and present challenges (**refer to submissions on s 58**) that Māori land and Māori landowners experience, s 201(d) should direct decision-makers to determine whether a proposed activity is on or adjacent to, or may affect, Māori land and protected Māori land.	The Māori Trustee considers decision-makers should be required to undertake education and training to ensure that they understand local kawa, tikanga, mātauranga Māori and whenua Māori administration and complexities before they can determine whether or not someone is an affected person or a person whom approval is required. The Māori Trustee considers the following amendments should be made to s 201: **Amendments** (1) This section applies to a decision maker when determining whether a person is— (a) an affected person for the purposes of notification of an application for a resource consent; or (b) a person from whom approval must be obtained in relation to a permitted activity. (2) The decision maker must— (a) weigh the positive effects of the proposed activity against the adverse effects that the activity has on the person: (b) consider whether information from the person is necessary to understand the extent and nature of effects or contributions towards outcomes: (c) consider whether the person has an interest in the application greater than that of the general public: (d) consider whether the person's involvement will result in information that has a material effect on the consent decision or permitted activity decision (whether granted or not) and any conditions imposed: (e) determine whether the proposed activity is on or adjacent to, or may affect, land that is the subject of a statutory acknowledgement made in accordance with an Act specified in **Schedule 14**: *(f) determine whether the proposed activity is on or adjacent to, or may affect, Māori land as defined in **Te Ture Whenua Māori Act 1993** or Protected Māori land as defined in **section 497**:* (g) determine whether there are any— (i) affected protected customary rights groups; or (ii) affected customary marine title groups (in the case of an application for a resource consent for an accommodated activity). (3) A person is not an affected person or a person from whom approval must be obtained if— (a) the person has given, and not withdrawn, approval for the proposed activity in a written notice received by the decision maker before they make a determination under this section; or (b) the decision maker is satisfied it is unreasonable in the circumstances for the applicant to seek the person's written approval. (4) For the purpose of **subsection (2)(e)**, the decision maker must have regard to every relevant statutory acknowledgement made in accordance with an Act specified in **Schedule 14**.

acknowledgement made in accordance with an Act specified in **Schedule 14**. (5) In this section and **section 202**, **decision maker** means a regional planning committee, the Minister, or consent authority, as the case may be.			(5) In this section and **section 202**, **decision maker** means a regional planning committee, the Minister, or consent authority, as the case may be.
207 Prohibiting public or limited notification A decision maker must prohibit public and limited notification of an application for a resource consent if satisfied that 1 or both of the following apply: (a) the activity is clearly aligned with the outcomes or targets set by legislation or plans; and (b) there is no affected person.	Partially support	The Māori Trustee supports reducing the need for all applications to be subject to public or limited notification where there is clear alignment with legislative or plan outcomes/targets. However, the Māori Trustee reiterates her **submissions made to s 201**.	The Māori Trustee considers decision-makers should be required to undertake education and training to ensure that they understand local kawa, tikanga, mātauranga Māori and whenua Māori administration and complexities before they can determine whether or not someone is an affected person or a person whom approval is required. And that this requirement should be recognised in the NBE Bill or relevant secondary legislation.
209 Who may make submissions (1) If an application for a resource consent is publicly notified, a person described in **subsection (2)** may make a submission about it to the consent authority. (2) Any person may make a submission, but the person's right to make a submission is limited by **section 148** if the person is a person A as defined in **section 147** and the applicant is a person B as defined in **section 147**. (3) If an application for a resource consent is the subject of limited notification, a person described in **subsection (4)** may make a submission about it to the consent authority. (4) A person served with notice of the application may make a submission, but the person's right to make a submission is limited by **section 148** if the person is a person A as defined in **section 147** and the applicant is a person B as defined in **section 147**.	Partially support	The Māori Trustee considers that s 209 potentially assumes that all resource consent applicants will also be the owner of the land for which the proposed resource consent applies. As noted previously, the majority of the Māori Trustee's land portfolio is leased and where resource consents exist, the lessee is more than likely to be the holder. The Māori Trustee therefore considers that any resource consent that is subject to limited notification should expressly allow for the owner of the land for which resource consent is being applied for to make a submission on the application.	The Māori Trustee considers the following amendments should be made to s 209: **Amendments** (1) If an application for a resource consent is publicly notified, a person described in **subsection (2)** may make a submission about it to the consent authority. (2) Any person may make a submission, but the person's right to make a submission is limited by **section 148** if the person is a person A as defined in **section 147** and the applicant is a person B as defined in **section 147**. (3) If an application for a resource consent is the subject of limited notification, a person described in **subsection (4)** may make a submission about it to the consent authority. (4) The following persons may make a submission on a resource consent application that is subject to limited notification – (a) A person served with notice of the application may make a submission, but the person's right to make a submission is limited by **section 148** if the person is a person A as defined in **section 147** and the applicant is a person B as defined in **section 147**: and (b) A person who owns the land for which consent is being applied.
211 Time limit for submissions (1) This section specifies the closing date for serving submissions on a consent authority that has notified an application. (2) If public notification was given, the closing date is the 20th working day after the date of public notification. (3) If limited notification was given, the closing date is the 20th working day after the date of limited notification.	Partially support	The Māori Trustee acknowledges the intention to create efficiencies in the submission process through setting time limits for submissions. However, this raises significant concerns that the new resource management system will continue to benefit those who can afford to participate. This section is of particular concern for the Māori Trustee as she administers significant amounts of Māori land across 14 regions (**refer to Appendix B**) and could be required to submit, approve or write a notice to multiple consent authorities at any one time. The Māori Trustee therefore considers that consent authorities should be allowed to grant an extension, on reasonable grounds, of up to 10 working days.	The Māori Trustee therefore considers that consent authorities should be allowed to grant an extension, on reasonable grounds, of up to 10 working days.

(4) However, if limited notification was given, the consent authority may adopt as an earlier closing date the day on which the consent authority has received from all affected persons a submission, written approval for the application, or written notice that the person will not make a submission.			
213 Preliminary meetings (1) This section applies to an application for resource consent for which there has been public or limited notification, regardless of whether a hearing is held on the application. (2) A consent authority may invite or require an applicant for a resource consent and some or all of the persons who have made submissions on the application to attend a meeting with the following: (a) each other or one another; and (b) the authority; and (c) anyone else whose presence at the meeting the authority considers appropriate. (3) The authority may invite or require persons to attend a meeting— (a) either— (i) at the request of 1 or more of the persons; or (ii) on its own initiative; and (b) only for the purpose of— (i) clarifying a matter or issue; or (ii) facilitating resolution of a matter or issue. (4) The authority may require persons to attend a meeting only with the consent of the applicant. (5) A person who is a member, delegate, or officer of the authority, and who has the power to make the decision on the application that is the subject of the meeting, may attend and participate if— (a) the authority is satisfied that its member, delegate, or officer should be able to attend and participate; and (b) all the persons at the meeting agree. (6) The chairperson of the meeting must, before the hearing, prepare a report that— (a) does not include anything communicated or made available at the meeting on a without prejudice basis; and (b) for the parties who attended the meeting,— (i) sets out the issues that were agreed; and (ii) sets out the issues that are outstanding; and	Partially support	The Māori Trustee considers that s 213(2) should allow all persons who made a submission on a resource consent application to be able to attend a meeting with those listed in (a) to (c). The Māori Trustee also considers that s 213(2) assumes that the landowner is the consent holder. As noted previously, the majority of the Māori Trustee's land portfolio is leased and where resource consents exist, the lessee is more than likely to be the holder. For this reason, subsection (2) should provide for landowners to attend any meetings listed in (a) to (c) on an application for a consent on their whenua.	The Māori Trustee considers the following amendments should be made to s 213: **Amendments** (1) This section applies to an application for resource consent for which there has been public or limited notification, regardless of whether a hearing is held on the application. (2) A consent authority may invite or require an applicant for a resource consent and ~~some or~~ *must invite* all of the persons who have made submissions on the application, *and any landowner whose land may be affected by the consent* to attend a meeting with the following: (a) each other or one another; and (b) the authority; and (c) anyone else whose presence at the meeting the authority considers appropriate. (3) The authority may invite or require persons to attend a meeting— (a) either— (i) at the request of 1 or more of the persons; or (ii) on its own initiative; and (b) only for the purpose of— (i) clarifying a matter or issue; or (ii) facilitating resolution of a matter or issue. (4) The authority may require persons to attend a meeting only with the consent of the applicant. (5) A person who is a member, delegate, or officer of the authority, and who has the power to make the decision on the application that is the subject of the meeting, may attend and participate if— (a) the authority is satisfied that its member, delegate, or officer should be able to attend and participate; and (b) all the persons at the meeting agree. (6) The chairperson of the meeting must, before the hearing, prepare a report that— (a) does not include anything communicated or made available at the meeting on a without prejudice basis; and (b) for the parties who attended the meeting,— (i) sets out the issues that were agreed; and (ii) sets out the issues that are outstanding; and (c) for all the parties,— (i) may set out the nature of the evidence that the parties are to call at the hearing; and (ii) may set out the order in which the parties are to call the evidence at the hearing; and

(c) for all the parties,— (i) may set out the nature of the evidence that the parties are to call at the hearing; and (ii) may set out the order in which the parties are to call the evidence at the hearing; and (iii) may set out a proposed timetable for the hearing. (7) The consent authority must have regard to the report in making its decision on the application. (8) If a person required to attend a meeting fails to do so, and does not give a reasonable excuse, the consent authority may decline— (a) to process the person's application; or (b) to consider the person's submission. (9) If the consent authority declines, under **subsection (8)(a)**, to process the person's application,— (a) the person may not appeal under **section 253** against the decision; and (b) the person may object under **section 829** against the decision. (10) If the consent authority declines, under **subsection (8)(b)**, to consider the person's submission, the person— (a) may not appeal under **section 253** against— (i) the decision to decline to consider the submission; or (ii) the decision on the application; and (b) may not become under **section 829** a party to proceedings under **clauses 54 and 55 of Schedule 13**; and (c) may object under **section 829** against the decision to decline to consider the submission.			(iii) may set out a proposed timetable for the hearing. (7) The consent authority must have regard to the report in making its decision on the application. (8) If a person required to attend a meeting fails to do so, and does not give a reasonable excuse, the consent authority may decline— (a) to process the person's application; or (b) to consider the person's submission. (9) If the consent authority declines, under **subsection (8)(a)**, to process the person's application,— (a) the person may not appeal under **section 253** against the decision; and (b) the person may object under **section 829** against the decision. (10) If the consent authority declines, under **subsection (8)(b)**, to consider the person's submission, the person— (a) may not appeal under **section 253** against— (i) the decision to decline to consider the submission; or (ii) the decision on the application; and (b) may not become under **section 829** a party to proceedings under **clauses 54 and 55 of Schedule 13**; and may object under **section 829** against the decision to decline to consider the submission.
302 Permitted activity notices (1) A person must— (a) apply to a consent authority for a permitted activity notice (a **PAN**) if required to do so by the national planning framework or a plan; and (b) not commence the activity (that is this subject of the PAN) until the PAN is issued. (2) PANs are provided for the purposes of— (a) compliance, monitoring and enforcement, including cost-recovery and plan effectiveness monitoring; and	Partially support	The Māori Trustee considers further clarification is required to s 302(4)(c) to specify that no further information can be sought outside of what is prescribed by plans and the NPF.	The Māori Trustee considers the following amendments should be made to s 302: **Amendments** (1) A person must— (a) apply to a consent authority for a permitted activity notice (a **PAN**) if required to do so by the national planning framework or a plan; and (b) not commence the activity (that is this subject of the PAN) until the PAN is issued. (2) PANs are provided for the purposes of—

(b) ensuring any third party approval or certification is obtained as appropriate. (3) The application must be completed in accordance with, and include the information prescribed by, the national planning framework, the plan, and regulations. (4) A consent authority must— (a) decide whether to issue or decline to issue a PAN within 10 working days after the date on which the authority receives the application; and (b) return an incomplete application within 5 working days after the date on which the authority receives the application; and (c) not seek further information. (5) Subsection (6) applies if a consent authority that issued a PAN becomes aware that the information that a person provided in order to obtain the PAN contained inaccuracies or did not comply with the requirements specified in the national planning framework, plan, or regulations. (6) The authority must revoke the PAN if it is satisfied that the inaccuracies or non-compliance were material in satisfying the authority that it must issue the PAN. (7) A PAN lapses 3 years after the date on which it is issued, unless the activity to which it relates commences.			(a) compliance, monitoring and enforcement, including cost-recovery and plan effectiveness monitoring; and (b) ensuring any third party approval or certification is obtained as appropriate. (3) The application must be completed in accordance with, and include the information prescribed by, the national planning framework, the plan, and regulations. (4) A consent authority must— (a) decide whether to issue or decline to issue a PAN within 10 working days after the date on which the authority receives the application; and (b) return an incomplete application within 5 working days after the date on which the authority receives the application; and (c) not seek further information *other than that referred to on subsection (3).* (5) Subsection (6) applies if a consent authority that issued a PAN becomes aware that the information that a person provided in order to obtain the PAN contained inaccuracies or did not comply with the requirements specified in the national planning framework, plan, or regulations. (6) The authority must revoke the PAN if it is satisfied that the inaccuracies or non-compliance were material in satisfying the authority that it must issue the PAN. (7) A PAN lapses 3 years after the date on which it is issued, unless the activity to which it relates commences.
306 Consent authority must determine and publicly notify required time period (1)A consent authority must— (a) determine the time period (required time period) within which it will receive affected applications; and (b) no later than 40 working days before the required time period commences,— (i) give public notice of the required time period; and (ii) make publicly available a report setting out its reasons and its assessment required by **subsection (2)**. (2) The consent authority must conduct an assessment of the required time period against— (a) the resource allocation principles; and (b) any direction in the national planning framework or a natural built environment plan.	Partially support	The Māori Trustee reiterates her **submissions made in respect of s 36**. She considers further direction needs to be provided to articulate how resource allocation principles will apply to s 306(2). Māori Trustee is reiterates her **submissions made to s 36**. The Māori Trustee considers that further direction needs to be provided to articulate how resource allocation principles will apply to s 306(2).	The Māori Trustee considers further direction should be provided to articulate how resource allocation principles will apply to s 306(2).

321 Expert consenting panel must decide whether hearing is appropriate (1) The panel— (a) must consider whether it is appropriate to hold a hearing on the application; and (b) may require evidence to be provided from submitters before the hearing (if any). (2) There is no requirement for a panel to hold a hearing in respect of the application and no person has a right to be heard by a panel.	Partially support	The Māori Trustee acknowledges the intention to create efficiencies within the fast-track consent process by allowing expert consenting panels to decide whether holding a hearing is appropriate. However, the Māori Trustee is concerned that this may unnecessarily restrict the right of parties, who have participated in the consenting process in good faith, to be heard on matters that may adversely affect them. The Māori Trustee considers that s 321 needs to provide a pathway that allows parties, who have participated in the process in good faith, to be heard. The Māori Trustee suggests this could happen through setting criteria that a party who wishes to be heard must meet to force a hearing.	The Māori Trustee considers that s 321 should provide a pathway that allows parties, who have participated in the process in good faith, to be heard. The Māori Trustee suggests this could happen through setting criteria that a party who wishes to be heard must meet to force a hearing.

Part 6 Water and contaminated land management

Provision	Position	Submission	Relief Sought
416 Purpose The purpose of this subpart is to provide a framework, based on the polluter pays principle, for the management of contaminated land so that— a) those who cause or allow contamination to occur bear the costs of managing the contamination in order to prevent or remedy harm to human health and the environment; and b) the owner of the land is responsible for managing the contamination in accordance with this subpart; and c) the land is managed— (i) to prevent harm to human health and the environment; and (ii) to minimise any further harm to human health and the environment.	Partially Support	The Māori Trustee is generally comfortable with the polluter pays principle and the purpose of this subpart. However, she notes that the majority of whenua Māori under her administration is rural land, often remote rural land, leased for terms of 3 to 9 years with periodic land inspections (mainly once in 3 years). Changes are therefore needed to acknowledge the position of owners who have leased their land and have no knowledge of the improper activities of the tenant.	The Māori Trustee considers that the following amendments should be made to s 416: **Amendments** The purpose of this subpart is to provide a framework, based on the polluter pays principle, for the management of contaminated land so that— a) those who cause or *knowingly* allow contamination to occur bear the costs of managing the contamination in order to prevent or remedy harm to human health and the environment; and b) the ~~owner of the land~~ *polluter and any person who knowingly allows contamination* is responsible for managing the contamination in accordance with this subpart; and c) the land is managed— (i) to prevent harm to human health and the environment; and (ii) to minimise any further harm to human health and the environment.
417 Polluter pays principle In this subpart, the **polluter pays principle** means the principle that those who produce pollution should bear the costs of managing it to prevent damage to human health and the environment.	Partially Support	The Māori Trustee supports the polluter pays principle whereby those who produce pollution should bear the cost of managing it. However, liability cannot be allowed to extend to a landowner who has not knowingly allowed contamination to occur on their land.	**Refer to relief sought in s 416**.
419 Landowner obligations when land is contaminated (1) If land is contaminated to the extent that it poses an unacceptable risk to human health or the environment, the landowner must— (a) notify the regional council of the contamination; and	Partially Support	The Māori Trustee notes that s 419 appears to assume that landowner occupies the land. As previously mentioned, the majority of the Māori Trustee's portfolio is leased and therefore the land user (lessee) is the most likely party to have caused or allowed contamination on the whenua. The Māori Trustee therefore considers that s 419 should place the obligation of notification on the occupier of the land. This subsection appears to assume that a polluter is the landowner. Due the majority of the Māori Trustee's portfolio being leased, the land user (lessee) would be the	**Refer to relief sought in 416.** The Māori Trustee considers the following amendments should be made to s 419: **Amendments** **419 ~~Landowner~~ *Occupier's* obligations when land is contaminated**

(b) manage, investigate, and monitor the contamination to ensure that is concentrations— (i) do not exceed an environmental limit; and (ii) do not pose an unacceptable risk to human health or the environment; and (c) provide the regional council with any reports of any activities described in **paragraph (b)**; and (d) comply with any requirements in regulations. (2) The landowner must comply with their obligations in **subsection (1)** within the prescribed time frames.		party to cause or allow contamination on the whenua. Therefore, landowner obligations under s 419 need to allow for these circumstances.	(1) If land is contaminated to the extent that it poses an unacceptable risk to human health or the environment, the *occupier of the land (or if there is no one in occupation, the landowner)* ~~landowner~~ must— (a) notify the regional council of the contamination; and (b) manage, investigate, and monitor the contamination to ensure that is concentrations— (i) do not exceed an environmental limit; and (ii) do not pose an unacceptable risk to human health or the environment; and (c) provide the regional council with any reports of any activities described in **paragraph (b)**; and (d) comply with any requirements in regulations. (2) The *occupier or* landowner *as the case may be* must comply with their obligations in **subsection (1)** within the prescribed time frames.
420 Obligations of regional council (1) A regional council must,— (a) identify all HAIL land within its boundaries; and (b) use available information to determine which land within its boundaries is contaminated land; and (c) inform landowners of their obligations under **section 419**; and (d) help landowners to understand their obligations under this subpart; and (e) keep and maintain, on a publicly available register, an up-to-date record of the following information: (i) all HAIL land within its boundaries; and (ii) all contaminated land within its boundaries; and (iii) the nature, extent, and severity of contamination found in contaminated land within its boundaries; and (iv) the management and remediation of contaminated land within its boundaries. (2) In this section, **HAIL land** means land that is, or has been, used for an activity or industry listed in the HAIL.	Partially Support	The Māori Trustee considers that to improve public awareness of HAIL and contaminated land, regional councils should be required to list and map all locations on their internet site.	The Māori Trustee considers that to improve public awareness of HAIL and contaminated land, regional councils should be required to list and map all locations on their internet site.
421 Territorial authority must consider effects of proposed development, etc, on contaminated land When dealing with a proposal to develop, subdivide, or use contaminated land (a **proposal**), a territorial authority must— (a) consider—	Partially support	The Māori Trustee considers to ensure consistency throughout the NBE Bill, any proposal should follow the prevalent framework to avoid, remedy or mitigate. This framework is an established staged approach for dealing with adverse effects.	The Māori Trustee consider the following amendments should be made to s 421: **Amendments** When dealing with a proposal to develop, subdivide, or use contaminated land (a proposal), a territorial authority must—

(i) the environmental effects of the proposal; and (ii) whether and how the proposal will benefit the environment; and (b) control the use and development of the contaminated land in order to— (i) prevent any adverse effects or likely adverse effects to human health or the environment that result from the proposed development, subdivision, or land use; and (ii) mitigate those adverse effects.			(a) consider— (i) the environmental effects of the proposal; and (ii) whether and how the proposal will benefit the environment; and (b) control the use and development of the contaminated land in order to— (i) prevent any adverse effects or likely adverse effects to human health or the environment that result from the proposed development, subdivision, or land use; and (ii) *avoid, remedy or* mitigate those adverse effects.
423 EPA's role in relation to contaminated land sites of national significance (1) If the Minister decides to classify a site as a contaminated land site of national significance,— (a) the EPA is the lead regulator in relation that site, and (b) for that purpose, the EPA has all the functions and powers of the local authority and the regional council under this subpart. (2) The EPA's role as lead regulator in relation to the site— (a) commences on the date on which the Minister's decision to classify the site under **section 422** takes effect; and (b) ends on the date on which the Minister's decision to declassify the site under **section 422** takes effect. (3) The EPA must ensure that in exercising its role as lead regulator that it does not conflict with the local authority's role as regulator in relation to the site. (4) The powers and functions of the EPA conferred under **subsection (1)(b)** are in addition to its other functions and powers under this Act.	Partially support	The Māori Trustee considers that s 423 is ambiguous in its application. This section appears to refer to sites of national significance. However, s 423(2)(a) appears to require the land site to be classified under s 422 as a significantly contaminated site prior to the EPA's role being established. There is no direction on how and when the Minister's powers to classify a site of national significance in s 423(1) or s 422 is enabled. All references within s 422 refer only to significantly contaminated land. The Māori Trustee therefore considers that the relationship between ss 422 and 423 needs to be clarified.	The Māori Trustee considers that further clarification should be provided to address the relationship between ss 422 and 423.
424 Identifying the polluter A **polluter**, in relation to contaminated land, means a person who has directly or indirectly, or through neglect or wilful inactivity, caused or allowed a discharge of a contaminant into the environment.	Partially support	The Māori Trustee is concerned that the definition of a 'polluter' under s 424 is too broad and could unduly place more obligations on owners of the land rather than the polluters themselves. The Māori Trustee is concerned, due to the majority of her portfolio being leased, that landowners could be considered and held liable as a possible polluters for any contamination caused outside of their knowledge and control. The Māori Trustee considers that clarification should be provided to ensure that a landowner cannot automatically be held indirectly liable if a polluter (land user) contaminates the land.	The Māori Trustee considers that clarification should be provided to ensure that a landowner cannot automatically be held indirectly liable if a polluter (land user) contaminates the land. The Māori Trustee considers the following amendments should be made to s 424: **Amendments** A **polluter**, in relation to contaminated land, means a person who has directly ~~or indirectly~~, or through neglect or wilful inactivity, caused or allowed a discharge of a contaminant into the environment.

Part 8 Matters relevant to natural and built environment plans

Provision	Position	Submission	Relief Sought
498 Recognition of protected Māori land as taonga tuku iho (1) The functions, duties, and powers conferred by this subpart must be exercised in a manner that recognises that protected Māori land is a taonga tuku iho for the owners of the land and the hapū associated with the land. (2) A person exercising a power or performing a function or duty under this subpart must consider the rights and interests of owners of protected Māori land to retain, control, utilise, and occupy the land for the benefit of present and future generations of owners, their whānau, and their hapū. (3) This section applies if the function, duty, or power is performed or exercised— (a) in relation to a notice of requirement for a designation, a new designation, or an existing designation: (b) where **clause 28 of Schedule 7** applies: (c) under this subpart or any provision elsewhere in this Act that relates to designations.	Partially support	The Māori Trustee considers that any functions, duties and powers under this subpart must be exercised in a manner that 'recognises and provides' for protected Māori land as a taonga tuku iho for the owners of the whenua.	The Māori Trustee considers that the following amendments should be made to s 498: **Amendments** (1) The functions, duties, and powers conferred by this subpart must be exercised in a manner that recognises ~~that~~ *and provides for* protected Māori land as a taonga tuku iho for the owners of the land ~~and the hapū associated with the land~~. (2) A person exercising a power or performing a function or duty under this subpart must consider the rights and interests of owners of protected Māori land to retain, control, utilise, and occupy the land for the benefit of present and future generations of owners, their whānau, and their hapū. (4) This section applies if the function, duty, or power is performed or exercised— (a) in relation to a notice of requirement for a designation, a new designation, or an existing designation: (b) where clause 28 of Schedule 7 applies: (c) under this subpart or any provision elsewhere in this Act that relates to designations.
500 Criteria for approval as requiring authority *Network utility operator other than additional utility operators* (1) **Subsections (2) and (3)** apply to a network utility operator described in **paragraphs (a) to (m)** of the definition of that term in **section 7**. (2) The Minister must not give approval under **section 499(3)** unless the Minister is satisfied that— (a) the approval of the applicant as a requiring authority is appropriate for the purposes of carrying on the project, work, or network utility operation; and (b) the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a requiring authority under this Act and will give proper regard to the interests of those affected and to the interests of the environment. (3) If the applicant is a network utility operator described in **paragraph (i)** of the definition of that	Partially support	The Māori Trustee considers that there needs to be further clarity provided within this section with regards to ss 500(2)(a),b) and (6)(c) to reduce ambiguity. The Māori Trustee has identified the following issues with s 500: **s 500(2)(a)** • This subsection uses the word 'appropriate' without any qualifier, this allows the Minister to approve applicants without any consistent framework. **s 500(2)(b)** • The Māori Trustee considers that the use of the term "likely to" provides no guarantee that the applicant will satisfactorily carry out all the responsibilities of a requiring authority. Assurances need to be made that any applicant will be able to carry out these responsibilities. **s 500(6)(c)** • The Māori Trustee considers a quantifiable metric needs to replace the term "sufficient section" to ensure the provision is applied consistently by users of the NBE Bill.	The Māori Trustee considers that amendments should be made to ss 500(2)(a),b) and (6)(c) to provide further clarification.

term in **section 7**, the applicant need not have financial responsibility for the construction work for the purpose of the Minister being satisfied of the matters in **subsection (5)(b)**. *Additional utility operators* (4) **Subsections (5) and (6)** apply to a utility operator who wishes to be approved as an additional utility operator. (5) The Minister must not give approval under **section 499(3)** unless the Minister is satisfied that the activity, project, or work— (a) is in the nature of a public good; and (b) will deliver an identifiable public benefit outcome; and (c) is not a commercial retail activity (such as a supermarket or petrol station) or a facility to support a commercial retail activity (such as a warehousing or distribution facility). (6) For the purposes of **subsection (5)(b)**,— (a) an identifiable public benefit must include a social, cultural, or environmental benefit: (b) an activity, project, or work that has an identifiable public benefit outcome is not precluded just because the operator charges a fee for access or obtains a commercial benefit from it: (c) the public benefit must be for the general public or a sufficient section of the public.			
504 Primary and secondary CIPs (1) A primary CIP must be lodged with the regional planning committee for every notice of requirement, either at the same time or after the notice is lodged. (2) A primary CIP must— (a) identify the anticipated construction and operation activities, the associated effects, and how the requiring authority intends to manage those effects; and (b) list any matters that the requiring authority has decided to include in a secondary CIP. (3) Subject to **subsection (4)**, the requiring authority must submit a secondary CIP to the regional planning committee before construction is commenced. (4) A secondary CIP need not be submitted to the regional planning committee if— (a) the proposed public work, project, or work has been otherwise approved under this Act; or	Partially support	The Māori Trustee considers that secondary CIPs should be required to expressly acknowledge protected Māori land, including its location, Māori land status, its significance, associated values and the relationship the owners have with their whenua) via a statement, if the whenua is directly or indirectly impacted by the proposed works. A description should also be provided on how the works in the secondary CIP respect and consider these values and connections. This will ensure requiring authorities have to engage with Māori landowners who are impacted by their designations and secondary CIPs.	The Māori Trustee considers the following amendment should be made to s 504: **Amendments** (1) A primary CIP must be lodged with the regional planning committee for every notice of requirement, either at the same time or after the notice is lodged. (2) A primary CIP must— (a) identify the anticipated construction and operation activities, the associated effects, and how the requiring authority intends to manage those effects; and (b) list any matters that the requiring authority has decided to include in a secondary CIP. (3) Subject to **subsection (4)**, the requiring authority must submit a secondary CIP to the regional planning committee before construction is commenced. (4) A secondary CIP need not be submitted to the regional planning committee if— (a) the proposed public work, project, or work has been otherwise approved under this Act; or

(b) the details of the proposed public work, project, or work, as referred to in **subsection (2)**, are incorporated into the designation or primary CIP; or (c) the planning committee waives the requirement for a secondary CIP. (5) A secondary CIP must show— (a) the height, shape, and bulk of the public work, project, or work; and (b) the location on the site of the public work, project, or work; and (c) the likely finished contour of the site; and (d) the vehicular access, circulation, and provision for parking; and (e) the landscaping proposed; and (f) any other matters to avoid, remedy, or mitigate any adverse effects on the environment; and (g) any other matter that was specified in the relevant primary CIP as being addressed in the secondary CIP.			(b) the details of the proposed public work, project, or work, as referred to in **subsection (2)**, are incorporated into the designation or primary CIP; or (c) the planning committee waives the requirement for a secondary CIP. (5)A secondary CIP must show— (a) the height, shape, and bulk of the public work, project, or work; and (b) the location on the site of the public work, project, or work; and (c) the likely finished contour of the site; and (d) the vehicular access, circulation, and provision for parking; and (e) the landscaping proposed; and (f) any other matters to avoid, remedy, or mitigate any adverse effects on the environment; and (g) any other matter that was specified in the relevant primary CIP as being addressed in the secondary CIP. *(h) Acknowledgement of protected Māori land, including its location, Māori land status, its significance, associated values and the relationship owners have with their whenua, via a statement. A description must accompany this statement stating how the works in the secondary CIP respect and consider these values and connections.*
507 Notification of notices of requirement and CIPs (1) If the activity concerned has a notification status under the national planning framework or the plan for the region, that notification status applies to the notice of requirement and any associated primary CIP. (2) In any other case, the provisions in this Act for determining whether a resource consent is to be publicly notified, limited notified, or non-notified apply to the notice of requirement and any associated primary CIP. (3) The regional planning committee must consider the notice of requirement and primary CIP together for the purpose of notification. (4) However, if the notice of requirement is only for route protection, the planning committee need only consider the effects of construction and implementation when assessing the primary CIP for the purpose of notification. (5) Public notification is required if the notice of requirement or primary CIP is inconsistent with the applicable regional spatial strategy. (6) In applying **section 206(c)** (limited notification), the planning committee must consider the impact of the activity on landowners and occupiers within or adjacent to the boundaries of the designation. (7) Limited notification is required for affected iwi, hapū, or Māori parties specified in the plan for the	Partially support	The Māori Trustee considers s 507(9) implies that if written agreement is provided by one of the affected parties then notification will not occur. If not amended, this could be problematic as one Māori group should not preclude another group from exercising their tino rangatiratanga.	The Māori Trustee considers a single term should be chosen and used throughout the NBE Bill when referring to general Māori or a definition be given to highlight their nuance. The Māori Trustee considers the following amendment should be made to s 507: **Amendments** (1) If the activity concerned has a notification status under the national planning framework or the plan for the region, that notification status applies to the notice of requirement and any associated primary CIP. (2) In any other case, the provisions in this Act for determining whether a resource consent is to be publicly notified, limited notified, or non-notified apply to the notice of requirement and any associated primary CIP. (3) The regional planning committee must consider the notice of requirement and primary CIP together for the purpose of notification. (4) However, if the notice of requirement is only for route protection, the planning committee need only consider the effects of construction and implementation when assessing the primary CIP for the purpose of notification. (5) Public notification is required if the notice of requirement or primary CIP is inconsistent with the applicable regional spatial strategy. (6) In applying **section 206(c)** (limited notification), the planning committee must consider the impact of the activity on landowners and occupiers within or adjacent to the boundaries of the designation. (7) Limited notification is required for affected iwi, hapū, or Māori parties specified in the plan for the region if the planning committee determines that there has been inadequate engagement with those parties.

region if the planning committee determines that there has been inadequate engagement with those parties. (8) The planning committee must determine the adequacy of engagement under **subsection (7)** according to whether— (a) the requiring authority has engaged with all the affected iwi, hapū, or Māori parties identified in the plan: (b) any of those affected parties have provided written agreement to the notice of requirement or CIP: (c) the requiring authority has explicitly addressed the issues raised in engagement with affected iwi, hapū, or Māori parties identified in the plan or notice of requirement. (9) If any of the affected iwi, hapū, or Māori parties identified in the plan have provided written agreement under **subsection (8)(b)**, notification is not required.			(8) The planning committee must determine the adequacy of engagement under **subsection (7)** according to whether— (a) the requiring authority has engaged with all the affected iwi, hapū, or Māori parties identified in the plan: (b) any of those affected parties have provided written agreement to the notice of requirement or CIP: (c) the requiring authority has explicitly addressed the issues raised in engagement with affected iwi, hapū, or Māori parties identified in the plan or notice of requirement. (9) If any of the affected iwi, hapū, or Māori parties identified in the plan have provided written agreement under subsection (8)(b), notification is not required *for that party.*
509 Further information, submissions, and hearing for notice of requirement (1) A regional planning committee need not hold a hearing in relation to a notice of requirement or CIP if it considers that it has sufficient information to make a decision without a hearing. (2) The committee may decide not to hold a hearing regardless of whether the applicant or a submitter wishes to be heard. (3) However, the committee must not waive the requirement for a hearing if— (a) a hearing is required by an agreement between the consent authority and iwi, hapū, or Māori (such as Whakahono ā Rohe) or Treaty settlement legislation; or (b) it is more effective and efficient for issues and information to be tested at a hearing to assess whether they meet planning outcomes. (4) The committee may request the applicant and submitters to provide further information for the purpose of determining whether a hearing is required, including— (a) clarification of submissions; and (b) expert evidence. (5) The planning committee must inform the applicant and the submitters, within 10 working days	Partially support	The Māori Trustee considers s 509(2) undermines public participation in the notice of requirement process. The subsection should be amended to ensure those who wish to be heard can be. For similar reasons, s 509(6)(a) should also be amended. The Māori Trustee also considers that s 509(3)(a) needs to be amended to provide clarity as to whether engagement agreements are included within this provision.	The Māori Trustee considers the following amendment should be made to s 509: **Amendments** (1) A regional planning committee need not hold a hearing in relation to a notice of requirement or CIP if it considers that it has sufficient information to make a decision without a hearing. (2) The committee ~~may decide not to~~ *must* hold a hearing ~~regardless of whether~~ *if* the applicant or a submitter wishes to be heard. (3) However, the committee must not waive the requirement for a hearing if— (a) a hearing is required by an agreement between the consent authority and iwi, hapū, or Māori (such as Whakahono ā Rohe *or engagement agreements*) or Treaty settlement legislation; or (b) it is more effective and efficient for issues and information to be tested at a hearing to assess whether they meet planning outcomes. (4) The committee may request the applicant and submitters to provide further information for the purpose of determining whether a hearing is required, including— (a) clarification of submissions; and (b) expert evidence. (5) The planning committee must inform the applicant and the submitters, within 10 working days or the time prescribed by regulations, whether a hearing will be held. (6) If the committee holds a hearing, it— (a) ~~may~~ *must* invite the applicant, any person commissioned to write a report, any submitters, or any relevant persons (including technical experts) to be heard:

or the time prescribed by regulations, whether a hearing will be held. (6) If the committee holds a hearing, it— (a) may invite the applicant, any person commissioned to write a report, any submitters, or any relevant persons (including technical experts) to be heard: (b) must invite the applicant to be heard if the authority is hearing from submitters or any other persons wishing to be heard.			(b) must invite the applicant to be heard if the authority is hearing from submitters or any other persons wishing to be heard.
510 Application of resource consent hearing provisions (1) **Sections 183 to 186 and 209 to 214** apply in relation to the hearing of a notice of requirement or CIP— (a) as if the regional planning committee were a consent authority and the notice or CIP were an application for a resource consent; and (b) with any other necessary modifications. (2) A person making a submission on a notice of requirement or CIP must provide the committee with the following information when filing the submission: (a) details of what the submitter is seeking: (b) supporting material and associated information explaining their request, including copies of any expert reports relied upon in the person's submission.	Partially support	The Māori Trustee considers that the requirement under s 510(2)(b) to provide expert evidence upfront in a submission is unreasonable for most parties that would submit against a notice of requirement or a CIP. Obtaining expert reports without certainty of a hearing is unjust to a submitter and carries a considerable amount of work for every submission process within the NBE.	The Māori Trustee considers the following amendment should be made to s 510: **Amendments** (1) **Sections 183 to 186 and 209 to 214** apply in relation to the hearing of a notice of requirement or CIP— (a) as if the regional planning committee were a consent authority and the notice or CIP were an application for a resource consent; and (b) with any other necessary modifications. (2) A person making a submission on a notice of requirement or CIP must provide the committee with the following information when filing the submission: (a) details of what the submitter is seeking: (b) (b) supporting material and associated information explaining their request, including copies of any expert reports ~~relied upon~~ *referred to* in the person's submission.
512 Recommendation by regional planning committee (1) When considering a requirement and any submissions received, a regional planning committee must not have regard to— (a) any effect on scenic views from private properties or land transport assets that are not stopping places; or (b) any effect on the visibility of commercial signage and advertising; or (c) any adverse effect arising from the use of the land by— (i) people on low incomes; or (ii) people with special housing needs; or (iii) people whose disabilities mean that they need support or supervision in their housing; or	Partially support	The Māori Trustee considers that s 512(2) should require the RPC to have particular regard to protected Māori land as a taonga tuku iho when considering a requirement. Furthermore, the use of the words 'adequate consideration', 'reasonably necessary' and 'demonstrably inappropriate' require guidance to ensure consistent application from each RPC. Alternatively, a definition of each could be added to s 497 of this Part. The Māori Trustee considers that the use of the word 'environment' within s 512(5) appears to allow individuals to potentially offset adverse effects on the 'natural environment' if they are providing a benefit to the environment as a whole. This could allow offsetting of an adverse effect on a resource, such as water, if an economic benefit was proposed, as economic conditions are defined within the definition of the 'environment'.	The Māori Trustee considers that the use of the words 'adequate consideration', 'reasonably necessary' and 'demonstrably inappropriate' require guidance to ensure consistent application from each RPC. Alternatively, a definition of each could be added to s 497 of this Part. The Māori Trustee considers that changes need to be made to s 512(5) to ensure adverse effects on the natural environment cannot be offset by making positive effects to the environment. The Māori Trustee also considers the following amendment should be made to s 512: **Amendments** (1) When considering a requirement and any submissions received, a regional planning committee must not have regard to— (a) any effect on scenic views from private properties or land transport assets that are not stopping places; or (b) any effect on the visibility of commercial signage and advertising; or (c) any adverse effect arising from the use of the land by—

(d) trade competition or the effects of trade competition. (2) When considering a requirement and any submissions received, a regional planning committee must consider the effects on the environment of allowing the requirement, having particular regard to— (a) any relevant provisions of— (i) the national planning framework: (ii) a plan or proposed plan; and (b) consistency with the regional spatial strategy; and (c) if the infrastructure concerned has not been spatially identified in a regional spatial strategy, whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if— (i) the requiring authority does not have an interest in the land sufficient for undertaking the work; or (ii) it is likely that the work will have a significant adverse effect on the environment; and (d) if the infrastructure concerned has not been identified in a regional spatial strategy, whether the work and designation are reasonably necessary for achieving national planning framework outcomes and the regional spatial strategy's vision and objectives for the region's development and change and strategic outcomes in plans; and (e) whether adequate consideration has been given to opportunities for co-location of infrastructure, except where co-location of infrastructure is demonstrably inappropriate; and (f) any other matter the committee considers reasonably necessary in order to make a recommendation on the requirement. (3) If the infrastructure concerned has been spatially identified in a regional spatial strategy, the planning committee must not consider whether adequate consideration has been given to alternatives. (4) If the infrastructure concerned has been identified in a regional spatial strategy, the planning committee must not consider whether the work and designation are reasonably necessary for achieving national planning framework outcomes or the regional spatial strategy's vision and objectives for			(i) people on low incomes; or (ii) people with special housing needs; or (iii) people whose disabilities mean that they need support or supervision in their housing; or (d) trade competition or the effects of trade competition. (2) When considering a requirement and any submissions received, a regional planning committee must consider the effects on the environment of allowing the requirement, having particular regard to— (a) any relevant provisions of— (i) the national planning framework: (ii) a plan or proposed plan; and (b) consistency with the regional spatial strategy; and (c) if the infrastructure concerned has not been spatially identified in a regional spatial strategy, whether adequate consideration has been given to alternative sites, routes, or methods of undertaking the work if— (iii) the requiring authority does not have an interest in the land sufficient for undertaking the work; or (iv) it is likely that the work will have a significant adverse effect on the environment; and (d) if the infrastructure concerned has not been identified in a regional spatial strategy, whether the work and designation are reasonably necessary for achieving national planning framework outcomes and the regional spatial strategy's vision and objectives for the region's development and change and strategic outcomes in plans; and (e) whether adequate consideration has been given to opportunities for co-location of infrastructure, except where co-location of infrastructure is demonstrably inappropriate; and *(f) protected Māori land as a taonga tuku iho* (g) any other matter the committee considers reasonably necessary in order to make a recommendation on the requirement (3) If the infrastructure concerned has been spatially identified in a regional spatial strategy, the planning committee must not consider whether adequate consideration has been given to alternatives. (4) If the infrastructure concerned has been identified in a regional spatial strategy, the planning committee must not consider whether the work and designation are reasonably necessary for achieving national planning framework outcomes or the regional spatial strategy's vision and objectives for the region's development or any change or strategic outcomes in plans. (5) The effects to be considered under **subsection (2)** may include any positive effects on the environment to offset or take steps to provide redress for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority. (6) The planning committee may recommend to the requiring authority that it— (a) confirm the requirement: (b) modify the requirement: (c) impose conditions:

the region's development or any change or strategic outcomes in plans. (5) The effects to be considered under **subsection (2)** may include any positive effects on the environment to offset or take steps to provide redress for any adverse effects on the environment that will or may result from the activity enabled by the designation, as long as those effects result from measures proposed or agreed to by the requiring authority. (6) The planning committee may recommend to the requiring authority that it— (a) confirm the requirement: (b) modify the requirement: (c) impose conditions: (d) withdraw the requirement. (7) However, if the requiring authority is the Minister of Education or the Minister of Defence, the planning committee may not recommend imposing a condition requiring an environmental contribution. (8) The planning committee must give reasons for its recommendation under **subsection (5)**.			(d) withdraw the requirement. (7) However, if the requiring authority is the Minister of Education or the Minister of Defence, the planning committee may not recommend imposing a condition requiring an environmental contribution. (8) The planning committee must give reasons for its recommendation under **subsection (5)**.
514 Notification of decision on designation (1) The regional planning committee must ensure that, within 15 working days after it receives a decision made under **section 513**, a notice of decision and a statement of the time within which an appeal against the decision may be lodged is served on— (a) persons who made a submission on the requirement; and (b) owners and occupiers of land to which the designation applies. (2) If the regional planning committee gives a notice summarising a decision, it must— (a) make a copy of the decision available (whether physically or by electronic means) at all its offices and all public libraries in the region; and (b) include with the notice a statement of the places where a copy of the decision is available; and (c) send or provide, on request, a copy of the decision within 3 working days after the request is received.	Partially support	The Māori Trustee considers that owners and occupiers adjacent to the boundaries of a designation should be provided with notification of a decision on a designation regardless whether they were a submitting party. This ensures a comprehensive notification process and aligns with s 507(6).	The Māori Trustee considers the following amendments should be made to s 514(1) (b): **Amendments** 1) The regional planning committee must ensure that, within 15 working days after it receives a decision made under section 513, a notice of decision and a statement of the time within which an appeal against the decision may be lodged is served on— (a) persons who made a submission on the requirement; and (b) owners and occupiers of land to which the designation applies; *and* *(c) owners and occupiers of adjacent land to which the designation applies.* (2) If the regional planning committee gives a notice summarising a decision, it must— (a) make a copy of the decision available (whether physically or by electronic means) at all its offices and all public libraries in the region; and (b) include with the notice a statement of the places where a copy of the decision is available; and (c) send or provide, on request, a copy of the decision within 3 working days after the request is received.

521 Alteration of designation (1) A requiring authority that is responsible for a designation may at any time give notice to the regional planning committee of its requirement to alter the designation. (2) **Sections 187 to 191 and 503 to 515**, with all necessary modifications, apply to a requirement referred to in **subsection (1)** as if it were a requirement for a new designation. (3) A regional planning committee may at any time alter a designation in its plan or proposed plan if— (a) the alteration— (i) involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or (ii) involves only minor changes or adjustments to the boundaries of the designation or requirement; and (b) written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and (c) the requiring authority agrees with the alteration. (4) **Sections 187 to 191 and 503 to 515** do not apply to an alteration under **subsection (3)**. (5) If a plan provision becomes more permissive,— (a) the requiring authority may give notice in writing to the regional planning committee to alter the notice of requirement or CIP (or both) to align the document or documents with the more permissive provision; and (b) the committee must alter the relevant documents in the manner provided in section 515(2).	Partially support	The Māori Trustee considers that the conjunction 'or' needs to be amended to 'and' under s 521(3)(b) in the first instance as this will provide for the circumstances of leased land and ensure all affected parties receive notice of a designation. The Māori Trustee also notes that due to the majority of her portfolio being leased, there have been instances under the current resource management system where, despite been named as the owner of the property on its record of title, the Māori Trustee did not receive notification where the lessee did due to being the registered ratepayer. Therefore, notification and agreement to an alteration of a designation should be afforded to both owners *and* occupiers. A designation may have limited effects on an occupier but it is likely to have a direct and pervasive impact on owners.	The Māori Trustee considers the following amendments should be made to s 521: **Amendments** (1) A requiring authority that is responsible for a designation may at any time give notice to the regional planning committee of its requirement to alter the designation. (2) **Sections 187 to 191 and 503 to 515**, with all necessary modifications, apply to a requirement referred to in **subsection (1)** as if it were a requirement for a new designation. (3) A regional planning committee may at any time alter a designation in its plan or proposed plan if— (a) the alteration— (i) involves no more than a minor change to the effects on the environment associated with the use or proposed use of land or any water concerned; or (ii) involves only minor changes or adjustments to the boundaries of the designation or requirement; and (b) written notice of the proposed alteration has been given to every owner ~~or~~ *and* occupier of the land directly affected and those owners or occupiers*, with consent of owners,* agree with the alteration; and (4) **Sections 187 to 191 and 503 to 515** do not apply to an alteration under **subsection (3)**. (5) If a plan provision becomes more permissive,— (a) the requiring authority may give notice in writing to the regional planning committee to alter the notice of requirement or CIP (or both) to align the document or documents with the more permissive provision; and (b) the committee must alter the relevant documents in the manner provided in section 515(2).
522 Removal of designation (1) If a requiring authority no longer wants a designation or part of a designation, it must give notice in the prescribed form to— (a) the regional planning committee concerned; and (b) every person who is known by the requiring authority to be the owner or occupier of any land to which the designation relates; and (c) every other person who, in the opinion of the requiring authority, is likely to be affected by the designation.	Partially Support	The Māori Trustee considers that the conjunction 'or' needs to be amended to 'and' under s 522(1)(b) as this will provide for the circumstances of leased land and ensure all affected parties receive notice of the full or part removal a designation. Furthermore, the Māori Trustee considers that the phrase 'in the opinion of the requiring authority' under s 522(1)(c) is equally too broad and too narrow. This subsection should direct that requiring authority must notify all persons affected. This precludes any uncertainty within this subsection and ensures that all affected persons are properly notified.	The Māori Trustee considers that the following amendments should be made to s 522: **Amendments** (1) If a requiring authority no longer wants a designation or part of a designation, it must give notice in the prescribed form to— (a) the regional planning committee concerned; and (b) every person who is known by the requiring authority to be the owner ~~or~~ *and* occupier of any land to which the designation relates; and

(2) As soon as is reasonably practicable after receiving a notice under **subsection (1)**, the planning committee must, without using the process in **Schedule 7**, amend its plan accordingly. (3) The provisions of **Schedule 7** do not apply to any removal of a designation or part of a designation under this section. (4) However, if a planning committee considers the effect of the removal of part of a designation on the remaining designation is more than minor, it may, within 20 working days of receipt of the notice under **subsection (1)**, decline to remove that part of the designation. (5) A requiring authority may object, under **section 828**, to any decision to decline removal of part of a designation under **subsection (4)**.			(c) every other person who~~, in the opinion of the requiring authority,~~ is likely to be affected by the designation. (2) As soon as is reasonably practicable after receiving a notice under **subsection (1)**, the planning committee must, without using the process in **Schedule 7**, amend its plan accordingly. (3) The provisions of **Schedule 7** do not apply to any removal of a designation or part of a designation under this section. (4) However, if a planning committee considers the effect of the removal of part of a designation on the remaining designation is more than minor, it may, within 20 working days of receipt of the notice under **subsection (1)**, decline to remove that part of the designation. (5) A requiring authority may object, under **section 828**, to any decision to decline removal of part of a designation under **subsection (4)**.
524 Environment Court may order taking of land (1) An owner of an estate or interest in land (including a leasehold estate or interest) that is subject to a designation or requirement under this Part may apply at any time to the Environment Court for an order obliging the requiring authority responsible for the designation or requirement to acquire or lease all or part of the owner's estate or interest in the land under the Public Works Act 1981. (2) An application under **subsection (1)** must be in the prescribed form and the applicant must serve a copy of the application on the requiring authority and the regional planning committee. (3) The Environment Court may make an order applied for under **subsection (1)** if it is satisfied that— (a) the owner has tried, but been unable, to enter into an agreement for the sale of the estate or interest in the land subject to the designation or requirement at a price not less than the market value that the land would have had if it had not been subject to the designation or requirement; and (b) either— (i) the designation or requirement prevents reasonable use of the owner's estate or interest in the land; or (ii) the applicant was the owner, or the spouse, civil union partner, or de facto partner of the owner, of the estate or	Partially Support	The Māori Trustee considers that no further Māori land should be taken and provisions within this NBE Bill need to reflect this. Te Ture Whenua is the primary legislation for Māori land and has specific requirements that make it necessarily difficult for whenua Māori to sold or alienated[10]. Therefore, this provision needs to provide an exception for Māori land to ensure it complies with the preamble of Te Ture Whenua Māori Act 1993 that seeks "to promote the retention of land in the hands of its owners". This addition does not seek to preclude Māori land from being identified for a designation, however, due to the historical alienation of whenua Māori it should not be able to be sold, acquired or leased in part or full at the request of an individual owner unless it complies with Te Ture Whenua Māori Act 1993.	The Māori Trustee consider the following amendments should be made to s 524: **Amendments** (1) An owner of an estate or interest in land (including a leasehold estate or interest) that is subject to a designation or requirement under this Part may apply at any time to the Environment Court for an order obliging the requiring authority responsible for the designation or requirement to acquire or lease all or part of the owner's estate or interest in the land under the Public Works Act 1981. (2) An application under **subsection (1)** must be in the prescribed form and the applicant must serve a copy of the application on the requiring authority and the regional planning committee. (3) The Environment Court may make an order applied for under **subsection (1)** if it is satisfied that— (a) the owner has tried, but been unable, to enter into an agreement for the sale of the estate or interest in the land subject to the designation or requirement at a price not less than the market value that the land would have had if it had not been subject to the designation or requirement; and (b) either— (i) the designation or requirement prevents reasonable use of the owner's estate or interest in the land; or (ii) the applicant was the owner, or the spouse, civil union partner, or de facto partner of the owner, of the estate or interest in the land when the designation or requirement was created. (4) Before making an order under **subsection (1)**, the court may direct the owner to take further action to try to sell the estate or interest in the land. (5) If the Environment Court makes an order to take an estate or interest in land under the Public Works Act 1981, the owner of that estate or interest

[10] Te Ture Whenua Maori Act 1993 No 4 (as at 29 November 2022), Public Act Contents – New Zealand Legislation, ss 147 – 150E.

interest in the land when the designation or requirement was created. (4) Before making an order under **subsection (1)**, the court may direct the owner to take further action to try to sell the estate or interest in the land. (5) If the Environment Court makes an order to take an estate or interest in land under the Public Works Act 1981, the owner of that estate or interest must be treated as having entered into an agreement with the requiring authority responsible for the designation or requirement for the purposes of section 17 of the Public Works Act 1981. (6) If **subsection (5)** applies in respect of a requiring authority that is a network utility operator approved under **section 499**,— (a) any agreement must be treated as having been entered into with the Minister of Lands on behalf of the network utility operator as if the land were required for a government work; and (b) all costs and expenses incurred by the Minister of Lands in respect of the acquisition of the land are recoverable from the network utility operator as a debt due to the Crown. (7) The amount of compensation payable for an estate or interest in land ordered to be taken under this section must be assessed as if the designation or requirement had not been created.			must be treated as having entered into an agreement with the requiring authority responsible for the designation or requirement for the purposes of section 17 of the Public Works Act 1981. (6) If **subsection (5)** applies in respect of a requiring authority that is a network utility operator approved under **section 499**,— (a) any agreement must be treated as having been entered into with the Minister of Lands on behalf of the network utility operator as if the land were required for a government work; and (b) all costs and expenses incurred by the Minister of Lands in respect of the acquisition of the land are recoverable from the network utility operator as a debt due to the Crown. (7) The amount of compensation payable for an estate or interest in land ordered to be taken under this section must be assessed as if the designation or requirement had not been created. *(8) This section does not apply to Māori land unless Te Ture Whenua Māori Act 1993 provides otherwise.*
526 Transfer of rights and responsibilities for designations (1) If the financial responsibility for a project or work or network utility operation is transferred from 1 requiring authority to another, responsibility for any relevant designation must also be transferred. (2) A requiring authority responsible for a designation (**A**) may temporarily transfer responsibility for its designation to another requiring authority (**B**) for the purpose of enabling B to relocate infrastructure that is within A's designation. (3) B must give the regional planning committee written notice of the transfer that— (a) includes A's written consent to the transfer; and (b) indicates the intention to relocate A's infrastructure within the footprint of A's designation. (4) The planning committee may—	Partially Support	The Māori Trustee considers that amendments should be made to align with **submissions and relief sought under ss 498 and 504.**	The Māori Trustee considers that amendments should be made to s 524 to align with **submissions and relief sought under ss 498 and 504.** The Māori Trustee also consider the following amendments should be made to s 524: **Amendments** (1) If the financial responsibility for a project or work or network utility operation is transferred from 1 requiring authority to another, responsibility for any relevant designation must also be transferred. (2) A requiring authority responsible for a designation (**A**) may temporarily transfer responsibility for its designation to another requiring authority (**B**) for the purpose of enabling B to relocate infrastructure that is within A's designation. (3) B must give the regional planning committee written notice of the transfer that— (a) includes A's written consent to the transfer; and (b) indicates the intention to relocate A's infrastructure within the footprint of A's designation. (4) The planning committee ~~may~~ *must*—

(a) require B to lodge a secondary CIP to make any changes to A's CIP that the committee thinks necessary; or (b) waive the requirement for a secondary CIP, so that the relocation can proceed within the terms of A's designation. (5) The planning committee must advise the Minister and the relevant territorial authority of the transfer. (6) For the purposes of **section 515(2)(b)**, the transfer must, without using the process in **Schedule 7**, be noted in the plan and has effect on its terms.			(a) require B to lodge a secondary CIP to make any changes to A's CIP that the committee thinks necessary; or (b) waive the requirement for a secondary CIP, so that the relocation can proceed within the terms of A's designation.
530 Regional planning committees decision on request (1) If the regional planning committee receives the request after it has determined that the requirement will not be notified, it must return the request. (2) If the regional planning committee receives the request before it has determined whether the requirement will be notified, it must defer its decision on the request until after it has decided whether to notify the requirement and then apply either **subsection (3) or (4)**. (3) If the regional planning committee decides not to notify the requirement, it must return the request. (4) If the regional planning committee decides to notify the requirement, it must give the requiring authority its decision on the request within 15 working days after the date of the decision on notification. (5) In any other case, the regional planning committee must give the requiring authority its decision on the request within 15 working days after receiving the request. (6) Despite the discretion to grant a request under **subsection (4) or (5)**, if regulations have been made under **section 858(1)(g)**,— (a) the regional planning committee must grant the request if the value of the investment in the proposal is likely to meet or exceed a threshold amount prescribed by those regulations; but (b) that obligation to grant the request does not apply if the regional planning committee determines, having regard to any matters prescribed by those regulations, that exceptional circumstances exist. (7) No submitter has a right to be heard by the regional planning committee on a request.	Partially Support	The Māori Trustee considers that s 530(7) undermines public participation in the notification process. It is the preference that to ensure integrity remains in the system, all those wishing to be heard can.	The Māori Trustee considers that the NBE Bill should be amended to ensure that those wishing to be heard are afforded the opportunity to do so.

(8) If the regional planning committee returns or declines the request, it must give the requiring authority its reasons, in writing or electronically, at the same time as it gives the authority its decision. (9) If the regional planning committee declines the request under **subsections (4) to (6)**, the requiring authority may object to the regional planning committee under **section 828**.			
536 Regional planning committee's decision (1) The regional planning committee must make its decision in the period— (a) starting on the date on which the committee decides to notify the requirement under **section 514**; and (b) ending 5 working days after the date on which the period for submissions on the requirement closes. (2) No submitter has a right to be heard by the regional planning committee on a decision under **section 535**.	Partially Support	The Māori Trustee considers that s 536(2) undermines public participation in the notification process. It is the preference that to ensure integrity remains in the system, all those wishing to be heard can.	The Māori Trustee considers that the NBE Bill should be amended to ensure that those wishing to be heard are afforded the opportunity to do so.
541 Application to become heritage protection authority (1) Any Māori entity with mana whenua in relation to a place, and any body corporate having an interest in the protection of any place, may apply to the Minister in the prescribed form for approval as a heritage protection authority for the purpose of protecting that place. (2) The applicant must also provide in or with their application any additional information required by regulations made under **section 858**. (3) The Minister may make any inquiry into the application and request any information that they consider necessary. (4) The Minister may, by notice in the *Gazette*, approve an applicant under **subsection (1)** as a heritage protection authority for the purpose of protecting the place and on any terms and conditions (including provision of a bond) that are specified in the notice. (5) The Minister must not give notice under **subsection (4)** unless they are satisfied that— (a) the approval of the applicant as a heritage protection authority is appropriate for the protection of the place that is the subject of the application; and	Partially Support	The Māori Trustee considers that the term 'Māori entity', as described in s 541(1) needs to be defined within the NBE Bill to provide clarity. The Māori Trustee also considers that the NME is better suited to consider and make decisions on any application by a Māori entity with mana whenua, to become a heritage protection authority, than the Minister may be. The Māori Trustee therefore considers that all powers afforded to the Minister under this section should also be afforded to the NME. Furthermore, the Māori Trustee considers that the process described in subsection (5) should not be decided by the Minister with regards to applications submitted by Māori entities. This process should be determined by Māori particularly when a heritage protection order is for the purpose of protecting a place of significance to Māori.	The Māori Trustee considers that the term 'Māori entity' should be defined within the NBE Bill. The Māori Trustee also considers the following amendments should be made to s 541: **Amendments** (1) Any Māori entity with mana whenua in relation to a place, and any body corporate having an interest in the protection of any place, may apply to the Minister in the prescribed form for approval as a heritage protection authority for the purpose of protecting that place. (2) The applicant must also provide in or with their application any additional information required by regulations made under section 858. (3) *Prior to making any decision whether to approve the application, the Minister must request, receive and consider the advice and recommendations of the National Māori Entity.* ~~The Minister may make any inquiry into the application and request any information that they consider necessary.~~ (4) The Minister may, by notice in the Gazette, approve an applicant under subsection (1) as a heritage protection authority for the purpose of protecting the place and on any terms and conditions (including provision of a bond) that are specified in the notice. (5) The Minister must not give notice under subsection (4) unless they are satisfied that— (a) the approval of the applicant as a heritage protection authority is appropriate for the protection of the place that is the subject of the application; and

(b) the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a heritage protection authority under this Act. (6) The Minister must, by notice in the *Gazette*, revoke an approval given under **subsection (4)** if they consider that— (a) a heritage protection authority is unlikely to continue to satisfactorily protect the place for which approval as a heritage protection authority was given; or (b) a heritage protection authority is unlikely to satisfactorily carry out any responsibility as a heritage protection authority under this Act. (7) All functions, powers, and duties that a Māori entity or body corporate has under this Act in relation to any heritage protection order, or notice for a heritage protection order, must be treated as having been transferred to the Minister on— (a) the revocation of the approval of the Māori entity or body corporate under **subsection (6)**; or (b) the dissolution of the Māori entity or body corporate approved as a heritage protection authority under **subsection (4)**.			(b) the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a heritage protection authority under this Act. (6) The Minister must, by notice in the Gazette, revoke an approval given under subsection (4) if they consider that— (a) a heritage protection authority is unlikely to continue to satisfactorily protect the place for which approval as a heritage protection authority was given; or (b) a heritage protection authority is unlikely to satisfactorily carry out any responsibility as a heritage protection authority under this Act. (7) All functions, powers, and duties that a Māori entity or body corporate has under this Act in relation to any heritage protection order, or notice for a heritage protection order, must be treated as having been transferred to the Minister on— (a) the revocation of the approval of the Māori entity or body corporate under **subsection (6)**; or (b) the dissolution of the Māori entity or body corporate approved as a heritage protection authority under **subsection (4)**.
542 Consent of owners of Māori land A heritage protection authority must obtain the written consent of the owners of Māori land (as defined in section 4 of Te Ture Whenua Maori Act 1993) before it applies for a heritage protection order affecting that land, except when the authority is the landowner.	Partially Support	The Māori Trustee considers that s 542 should be amended to ensure that the sole owner, joint tenants or majority of owners (as provided under ss 147 and 150C of Te Ture Whenua Māori Act 1993) of Māori land must provide written consent before a protection order can be placed on their whenua. This will ensure that a majority of owners are in agreement and understand that the order may impact the use of their whenua into the future.	The Māori Trustee considers the following amendments should be made to s 542: **Amendments** A heritage protection authority must obtain the written consent of the *sole owner, joint tenants, trustees or majority of* owners (as provided under sections 147, 150A and 150C of Te Ture Whenua Māori Land Act 1993) of Māori land (as defined in section 4 of Te Ture Whenua Māori Act 1993) before it applies for a heritage protection order affecting that land, except when the authority is the landowner.
543 Notice to territorial authority (1) A heritage protection authority may give notice in the prescribed form to a territorial authority of a heritage protection order for the purpose of protecting any area of land (if any) surrounding that place that is reasonably necessary for the purpose of ensuring the protection and reasonable enjoyment of that place. (2) A notice given under **subsection (1)** must support 1 of the following outcomes: (a) the conservation of cultural heritage:	Partially Support	The Māori Trustee reiterates her **submissions made under s 5(e)**, in that the NBE Bill appears to be drafted in a way that only recognises the relationships that some Māori have with te taiao. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the relationships that all Māori have with te taiao to be recognised. The Māori Trustee therefore considers that s 543(2)(b) should be amended to recognise and provide for the relationship of *Māori* with the exercise of the local kawa, tikanga, and mātauranga of the *Māori* of the region in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga, and indigenous biodiversity.	The Māori Trustee considers the following amendments should be made to s 543: **Amendments** (1) A heritage protection authority may give notice in the prescribed form to a territorial authority of a heritage protection order for the purpose of protecting any area of land (if any) surrounding that place that is reasonably necessary for the purpose of ensuring the protection and reasonable enjoyment of that place. (2) A notice given under subsection (1) must support 1 of the following outcomes: (a) the conservation of cultural heritage:

(b) recognising and providing for the relationship of iwi and hapū with the exercise of the local kawa, tikanga, and mātauranga of the iwi and hapū of the region in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga, and indigenous biodiversity. (3) A notice given under **subsection (1)** must contain the following information: (a) the location of the place and the area proposed to be subject to the order: (b) an assessment of how the order meets the requirements of **subsection (1)** and 1 or more of the outcomes specified in **subsection (2)**. (c) an explanation of any imminent risks to the place: (d) a description of the relevant new or existing protection provisions that the heritage protection authority proposes be applied to the place in the relevant plan: (e) any additional information required by regulations made under **section 858**. (4) A heritage protection authority may withdraw a notice under this section for a heritage protection order by notice in writing to the territorial authority affected. (5) On receiving notification under **subsection (4)**, the territorial authority must— (a) publicly notify the withdrawal; and (b) notify all persons upon whom the notice for a heritage protection order has been served. (6) A heritage protection authority must not give notice, and a territorial authority must not act on a notice, under **subsection (1)**— (a) for a heritage protection order to be placed on the same place within 5 years of a decision being made on a heritage protection authority's proposal in relation to that place (including a plan, plan change, or review); or (c) if the substance of the matter for which heritage protection is being sought has been considered and determined within the previous 5 years.			(b) (b) recognising and providing for the relationship of ~~iwi and hapū~~ *Māori* with the exercise of the local kawa, tikanga, and mātauranga of the ~~iwi and hapū~~ *Māori* of the region in relation to their ancestral lands, water, sites, wāhi tapu, wāhi tūpuna, and other taonga, and indigenous biodiversity. (3) A notice given under **subsection (1)** must contain the following information: (a) the location of the place and the area proposed to be subject to the order: (b) an assessment of how the order meets the requirements of **subsection (1)** and 1 or more of the outcomes specified in **subsection (2)**. (c) an explanation of any imminent risks to the place: (d) a description of the relevant new or existing protection provisions that the heritage protection authority proposes be applied to the place in the relevant plan: (e) any additional information required by regulations made under **section 858**. (4) A heritage protection authority may withdraw a notice under this section for a heritage protection order by notice in writing to the territorial authority affected. (5) On receiving notification under **subsection (4)**, the territorial authority must— (a) publicly notify the withdrawal; and (b) notify all persons upon whom the notice for a heritage protection order has been served. (6) A heritage protection authority must not give notice, and a territorial authority must not act on a notice, under **subsection (1)**— (a) for a heritage protection order to be placed on the same place within 5 years of a decision being made on a heritage protection authority's proposal in relation to that place (including a plan, plan change, or review); or (d) if the substance of the matter for which heritage protection is being sought has been considered and determined within the previous 5 years.

545 Effect of heritage protection order (1) While a heritage protection order is in force, regardless of the provisions of any plan or resource consent, no person may, except in accordance with the prior written consent of the relevant heritage protection authority, do anything that would wholly or partly nullify the effect of the heritage protection order, including— (a) undertaking any use of land; and (b) subdividing any land; and (c) changing the character, intensity, or scale of the use of any land. (2) Information provided in accordance with **section 543(3)** may be used to determine whether anything will wholly or partly nullify the effect of the heritage protection order. (3) The heritage protection authority may give consent with or without conditions. (4) A heritage protection order— (a) takes effect as provided in **section 544**: (b) ends on the earliest of the following days: (i) the day on which the notice for a heritage protection order is withdrawn: (ii) the day on which the notice is cancelled: (iii) the day on which the heritage protection order is included in the district plan. (5) A person who contravenes **subsection (1)** does not commit an offence against this Act unless the person knew, or could reasonably be expected to have known, of the existence of the order.	Partially Support	The Māori Trustee considers it is necessary to provide further guidance on how s 545(5) is proven in practice. This subsection seemingly allows for a person to plead ignorance if considered to contravene a provision in subsection (1).	The Māori Trustee considers a guidance note should be provided by the Ministry for the Environment with regard to s 545(5) to describe how the government intend the subsection to be proven in practice.
551 Alteration of heritage protection order (1) A heritage protection authority that is responsible for a heritage protection order may at any time give notice to the relevant territorial authority of its intention to alter the heritage protection order. (2) For the purposes of this subpart, a notice to alter a heritage protection order must be treated as if it were a notice for a new heritage protection order. (3) However, a territorial authority may at any time alter a heritage protection order in its plan if— (a) the alteration— (i) involves no more than a minor change to the effects on the environment associated with the heritage protection order concerned; or (ii) involves only minor changes or adjustments to the boundaries of the heritage protection order; and	Partially Support	Section 551(3(b), in its current form, appears to imply that only one party has to agree to the proposed alteration for it to proceed. However, an alteration to a heritage protection order should only be able to proceed if owners, not occupiers, of the land agree.	The Māori Trustee considers the following amendments should be made to s 551: **Amendments** (1) A heritage protection authority that is responsible for a heritage protection order may at any time give notice to the relevant territorial authority of its intention to alter the heritage protection order. (2) For the purposes of this subpart, a notice to alter a heritage protection order must be treated as if it were a notice for a new heritage protection order. (3) However, a territorial authority may at any time alter a heritage protection order in its plan if— (a) the alteration— (i) involves no more than a minor change to the effects on the environment associated with the heritage protection order concerned; or (ii) involves only minor changes or adjustments to the boundaries of the heritage protection order; and

(b) written notice of the proposed alteration has been given to every owner or occupier of the land directly affected and those owners or occupiers agree with the alteration; and (c) the territorial authority and the heritage protection authority agree with the alteration. (4) **Subsection (2)** does not apply to an alteration under **subsection (3)**.			(b) written notice of the proposed alteration has been given to every owner ~~or~~ *and* occupier of the land directly affected and those owners ~~or occupiers~~ agree with the alteration; and (c) the territorial authority and the heritage protection authority agree with the alteration. (4) **Subsection (2)** does not apply to an alteration under **subsection (3)**.
552 Transfer of heritage protection order (1) The Minister may, on the Minister's own initiative, transfer responsibility for an existing heritage protection order to another heritage protection authority. (2) However, the Minister must not exercise the power under **subsection (1)** if— (a) the heritage protection order relates to private land; and (b) the transfer of the order is to a Māori entity or body corporate approved under **section 541**. (3) In determining whether to transfer responsibility for an order under **subsection (1)**, the Minister must take into account— (a) the reasons why it is no longer appropriate for the current heritage protection authority to have responsibility for the order being proposed for transfer; and (b) whether the heritage protection authority to which the Minister proposes to transfer the heritage protection order to protect the place or area is— (i) appropriate for the protection of the place that is subject to an HPA; and (ii) likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a heritage protection authority under this Act. (4) Before the Minister transfers responsibility for a heritage protection order under this section, the Minister must serve written notice of the Minister's intention to do so on— (a) the heritage protection authority currently responsible for the heritage protection order; and (b) the heritage protection authority to which the Minister proposes to transfer that responsibility; and	Partially Support	The Māori Trustee reiterates her points made in **paragraph 4 (e) of this submission**, in that it is desired that the NME is afforded more power within this NBE Bill. The Māori Trustee considers that the NME is better suited to make decisions on the transfer of heritage protection orders that directly relate to Māori. Provisions should be made within this section to allow for this.	The Māori Trustee considers that the NME is better suited to make decisions on the transfer of heritage protection orders that directly relate to Māori. Provisions should be made within this section to allow for this.

(c) the owner and occupier (if any) of the place or area subject to the heritage protection order and any other person with a registered interest in that place or area; and (d) the territorial authority in whose district the place or area subject to the order is located. (5) The persons or organisations served with a notice under **subsection (4)** may, within 20 working days after being served, make a written objection or submission to the Minister on the Minister's proposal. (6) The Minister must take into account all objections and submissions received within the specified time before making a final determination. (7) In this section, **Crown** includes— (a) the Sovereign in right of New Zealand; and (b) departments of State; and (c) State enterprises named in Schedule 1 of the State-Owned Enterprises Act 1986; and (d) Crown entities within the meaning of section 7 of the Crown Entities Act 2004; and (e) the mixed ownership model companies named in Schedule 5 of the Public Finance Act 1989; and (f) local authorities within the meaning of the Local Government Act 2002.			
557 Criteria to be prescribed for identifying significant biodiversity areas (1) The Minister must set criteria for identifying significant biodiversity areas in the national planning framework. (2) Before specifying criteria, the Minister must seek written advice from the limits and targets review panel (*see* **clause 3 of Schedule 6**), including advice on— (a) whether, in the opinion of the panel, the criteria proposed by the Minister are scientifically robust; and (b) any other matter the Minister considers relevant.	Partially Support	The Māori Trustee reiterates her points made in **paragraph 4 (e) of this submission**, in that it is desired that the NME is afforded more power within this NBE Bill. The Māori Trustee considers that the Minister should be required to seek written advice from the NME before specifying the criteria for identifying significant biodiversity areas. Provisions should be made within this section to allow for this. The Māori Trustee considers that the criteria for identifying significant biodiversity areas should expressly allow for the use of mātauranga Māori methods. There may be instances where mātauranga Māori is the more or only appropriate method to determine why an area should be identified as a significant biodiversity area.	The Māori Trustee considers the following amendments should be made to s 557: **Amendments** (1) The Minister must set criteria for identifying significant biodiversity areas in the national planning framework. (2) Before specifying criteria, the Minister must seek written advice from the limits and targets review panel (*see* **clause 3 of Schedule 6**), including advice on— (a) whether, in the opinion of the panel, the criteria proposed by the Minister ~~are~~ *is* scientifically robust; and (b) any other matter the Minister considers relevant. *(3) Before specifying criteria, the Minister must seek written advice from the National Māori Entity, including advice on—* *(a) Whether, in the opinion of the National Māori Entity, the criteria proposed by the Minister is based on mātauranga Māori and gives effect to te Tiriti o Waitangi; and* *(b) any other matter the Minister considers relevant.*
559 Protection of places of national importance (1) An activity that would have a more than trivial adverse effect on the attributes that make an area a	Partially Support	The Māori Trustee is concerned that s 559(1)(a) provides for the use of broad exemptions where the duty to avoid more than trivial adverse effects on significant biodiversity areas would not apply. The drafting of this section is also complicated as	The Māori Trustee considers clarification should be provided that s 559 does not intend to allow broad exemptions to the effects management framework, as provided for under ss 64 to 67.

place of national importance must not be allowed by a rule, resource consent, or designation, unless— (a) an exemption is made in accordance with the requirements set out in **sections 64 to 67**; or (b) the activity is part of a protected customary right; or (c) the activity is carried out under a customary marine title order or customary marine title agreement (2) **Subsection (1)** applies to places of national importance, but only if that place is identified in— (a) the national planning framework or a proposed part of the framework; or (b) a plan or proposed plan; or (c) in the case of a cultural heritage place, a closed register. (3) Before an activity is able to commence, the consenting authority or requiring authority, as the case may be, must establish whether the area subject to a resource consent application or notice of requirement includes an area of significant biodiversity. (4) **Subsection (3)** does not apply if— (a) the activity is fishing authorised under the Fisheries Act 1996 (other than aquaculture); or (b) the Minister has made an exception for the activity.		it references ss 64 to 67 which provide scope for exemptions from the entire effects management framework not just an exemption from a duty to avoid trivial adverse effects as seems to be the intention of s 559. This creates ambiguity and should be clarified within the NBE Bill. The Māori Trustee also notes that despite the assurance to protect places of national importance, subsection (4)(b) ultimately undermines this protection as the Minister of the day can make an exception for a particular activity.	
560 Provision may be made for cultural heritage to be identified on closed register (1) A plan may provide for cultural heritage to be identified in a closed register if— (a) a person makes a request to the relevant regional planning committee; and (b) the requester provides good reason why the precise location of the cultural heritage should not be shown in a plan. (2) If the request is accepted, the requester must determine that either the requester or the local authority is to hold the information provided under **subsection (1)(b)**. (3) Where cultural heritage is identified only in a closed register, the maps included in the plan must include a notation to indicate the general location of the cultural heritage and a description of it, as well as information on how a person wishing to apply for a consent can obtain confirmation as to whether the cultural is within the area of the consent application.	Partially Support	The Māori Trustee supports the protection of sensitive information through allowing cultural heritage to be identified in a closed register. However, the Māori Trustee notes that s 506(2) implies that requests to have cultural heritage identified in a closed register may be denied. The inclusion of a cultural heritage site on a closed register, if requested by Māori due to tikanga or cultural significance, should always be approved.	The Māori Trustee considers the following amendments should be made to s 560: **Amendments** *(1) A plan must provide for cultural heritage to be identified in a closed register if not including it would be a serious offence to tikanga māori or result in the disclosure of the location of wāhi tapu.* (2) A plan may provide for cultural heritage to be identified in a closed register if— (a) a person makes a request to the relevant regional planning committee; and (b) the requester provides good reason why the precise location of the cultural heritage should not be shown in a plan. (2) If the request is accepted, the requester must determine that either the requester or the local authority is to hold the information provided under **subsection (1)(b)**. (3) Where cultural heritage is identified only in a closed register, the maps included in the plan must include a notation to indicate the general location of the cultural heritage and a description of it, as well as information on how

(4) The person holding the information must respond within 10 working days to any request made under **subsection (3)**.			a person wishing to apply for a consent can obtain confirmation as to whether the cultural is within the area of the consent application. (4) The person holding the information must respond within 10 working days to any request made under **subsection (3)**.
565 Limits to exemptions Exemptions under **section 564** may be made only— (a) by rules in the national planning framework; and (b) for the following kinds of activity: (i) activities on Māori land: (ii) activities in a plantation forest, but only if the forest is managed to maintain, for the long term, a population of a species in the HVBA that is— (A) a threatened species: (B) an at-risk species: (iii) activities for the purpose of maintaining or restoring indigenous biodiversity, including by pest control, but only if— (A) the activity does not involve the permanent destruction of significant habitat of indigenous biodiversity; or (B) it will result in a demonstrable gain for indigenous biodiversity over the long term: (iv) activities undertaken by or on behalf of the Crown on conservation land or waters that— (A) are not inconsistent with any relevant conservation planning document; and (B) do not have a significant adverse effect beyond the boundaries of the conservation land or water: (v) activities undertaken for the purpose of managing Te Urewera under the Te Urewera Act 2014: (vi) research activities that have no more than minor adverse effects, but only if the scientific value of the research outweighs those effects: (vii) fishing (other than aquaculture) in areas that have not been identified as HVBAs.	Support	The Māori Trustee supports, for reasons stated in her **submissions on s 58**, that activities on Māori land are afforded an exemption.	N/A
566 Considerations that apply to the grant of exemptions (1) The Minister, before including an exemption in the national planning framework, must consider— (a) the relative cost of granting or declining to grant an exemption for the activity; and	Partially support	The Māori Trustee considers that economic considerations should not be factored in when determining whether an exemption should be granted. This would allow for protections of HVBA to be undermined by economic interests.	The Māori Trustee considers that an economic consideration should not apply to the granting of an exemption. The Māori Trustee considers the following amendments should be made to s 566: **Amendments**

(b) any alternatives to granting an exemption that would achieve the objective of the proposed exemption; and (c) any condition that should be imposed; and (d) any other matter that the Minister considers relevant. (2) An exemption must be designed to diminish the harm that will be caused to the HVBA to the greatest extent compatible with enabling the activity to proceed.			(1) The Minister, before including an exemption in the national planning framework, must consider— (a) the relative cost*, to the natural environment,* of granting or declining to grant an exemption for the activity; and (b) any alternatives to granting an exemption that would achieve the objective of the proposed exemption; and (c) any condition that should be imposed; and (d) any other matter that the Minister considers relevant. (2) An exemption must be designed to diminish the harm that will be caused to the HVBA to the greatest extent compatible with enabling the activity to proceed.

Part 10 Exercise of functions, powers, and duties

Provision	Position	Submission	Relief Sought
630 Functions and powers of Minister for Environment The Minister for the Environment has the following functions under this Act: (a) to ensure that the national planning framework is prepared, approved, and maintained: (b) to decide whether to intervene in, or give a direction on, a matter that is, or is part of, a proposal of national importance: (c) to monitor the implementation of this Act (and of any secondary legislation made under it) and its effectiveness in achieving the purpose of the Act: (d) to monitor the relationship between the functions, powers, and duties of central government and local government under this Act: (e) to monitor and investigate, as the Minister considers appropriate, any matter of significance to the environment: (f) to consider and investigate the use of economic instruments such as charges, levies, off-setting, and incentives as a means of achieving the purpose of this Act: (g) any other functions specified in this Act.	Partially support	The Māori Trustee considers that the Minister for the Environment has a lot of discretionary power under the Bill that is not expressly linked to achieving the purpose of the Bill or giving effect to te Tiriti o Waitangi. The purpose (**with amendments made under relief sought in s 3**) and the te Tiriti o Waitangi clause (**with amendments made under relief sought in s 4**) should both act as korowai for the new resource management system with all decisions needing to be linked back to them. This would ensure that all Ministerial decisions could be checked and challenged if necessary. It is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. This would better give effect to te Tiriti o Waitangi through ensuring Māori are able to exercise their tino rangatiratanga over their whenua, kāinga and taonga.	The Māori Trustee considers that prior to expressing the purpose of the Bill (**with amendments made under relief sought in s 3**) and give effect to te Tiriti o Waitangi (**with amendments made under relief sought in s 4**). It is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. This would better give effect to te Tiriti o Waitangi through ensuring Māori are able to exercise their tino rangatiratanga over their whenua, kāinga and taonga.

634 Ministers may direct review of plan to be commenced (1) The Minister for the Environment may direct a regional planning committee to begin to review of the whole or any part of a plan (except in relation to the coastal marine area) and, if the Minister does so, must specify a reasonable period within which the review must begin. (2) The Minister of Conservation may direct a regional planning committee to commence a review of the whole or any part of a plan so far as it relates to the coastal marine area, and if the Minister does so, must specify a reasonable period within which the review must commence. (3) The responsible Minister must— (a) provide reasons why they are directing the review and make their reasons publicly available; and (b) prepare a statement of expectations that sets out the objectives expected to be achieved, which the regional planning committee must have regard to; and (c) consult any relevant ministers or any other person the responsible minister considers appropriate to consult on the content in the statement of expectations. (4) The regional planning committee must— (a) report to the Minister on how the review meets the statement of expectations; and (b) make the report publicly available. (5) **Clause 54 of Schedule 7** applies to the review with any necessary modifications.	Partially support	The Māori Trustee reiterates her **submissions made to s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. This would better give effect to te Tiriti o Waitangi through ensuring Māori are able to exercise their tino rangatiratanga over their whenua, kāinga and taonga. Therefore, provisions under this section should also allow for the NME to direct a review of a plan if the NME, through their monitoring, considers that a plan does not give effect to te Tiriti o Waitangi.	The Māori Trustee reiterates her **relief sought in s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. This would better give effect to te Tiriti o Waitangi through ensuring Māori are able to exercise their tino rangatiratanga over their whenua, kāinga and taonga. The Māori Trustee also considers this section should also allow for the NME to direct a review of a plan if the NME, through their monitoring, considers that a plan does not give effect to te Tiriti o Waitangi.
638 Delegation of functions by Ministers (1) A Minister of the Crown may, generally or particularly, delegate to the chief executive of that Minister's department any of the Minister's functions, powers, or duties under this Act. (2) A delegation made under this section must comply with clause 5 of Schedule 6 of the Public Service Act 2021. (3) However, the following functions, powers, or duties must not be delegated: (a) certifying any work or activity under section 13(2): (b) appointing persons to exercise powers or perform functions or duties in place of a local authority or regional planning committee under section 632:	Partially support	The Māori Trustee reiterates her **submissions made to s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this Bill. There will be instances where the NME is better suited to address certain matters, particularly relating to te Tiriti o Waitangi, tikanga Māori and mātauranga Māori, than the chief executive of that Minister's department.	The Māori Trustee reiterates her **relief sought in s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this Bill. There will be instances where the NME is better suited to address certain matters, particularly relating to te Tiriti o Waitangi, tikanga Māori and mātauranga Māori, than the chief executive of that Minister's department. However, at a minimum, the following amendments should be made to s 638: **Amendments** (1) A Minister of the Crown may, generally or particularly, delegate to the chief executive of that Minister's department or *the National Māori Entity* any of the Minister's functions, powers, or duties under this Act.

(c) approving, changing, replacing, or revoking the national planning framework or any part of it: (d) the following functions, powers, and duties under subpart 9 of Part 5: (i) deciding whether to make a direction under section 329(2) or 337(1) in relation to a matter that is or is part of a proposal of national significance: (ii) appointing a board of inquiry under section 349 to consider a matter for which a direction has been made under section 329(2) or 337(1): (iii) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under section 329(2) or 337(1): (iv) deciding whether to intervene in a matter under section 365: (v) deciding under section 367 whether to notify an application or notice of requirement to which section 376 applies: (e) approving an applicant as a requiring authority under section 499: (f) approving an applicant as a heritage protection authority under section 542: (g) recommending the issue or amendment of a water conservation order under section 393 or 395: (h) recommending the appointment of an Environment Judge or alternate Environment Judge under clause 8 of Schedule 13 or as the Chief Environment Court Judge under clause 20 of Schedule 13: (i) recommending the making of regulations under Part 12: (j) this power of delegation. (4) A chief executive may, in accordance with clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, subdelegate any function, power, or duty delegated to them by a Minister under clause 5 of that schedule. (5) Any delegation or subdelegation made under this section may be revoked in accordance with clause 4 or 6 of Schedule 6 of the Public Service Act 2020, as the case may be.			(2) A delegation made under this section must comply with clause 5 of Schedule 6 of the Public Service Act 2021. (3) However, the following functions, powers, or duties must not be delegated *to the chief executive of that Minister's department*: (a) certifying any work or activity under section 13(2): (b) appointing persons to exercise powers or perform functions or duties in place of a local authority or regional planning committee under section 632: (c) approving, changing, replacing, or revoking the national planning framework or any part of it: (d) the following functions, powers, and duties under subpart 9 of Part 5: (i) deciding whether to make a direction under section 329(2) or 337(1) in relation to a matter that is or is part of a proposal of national significance: (ii) appointing a board of inquiry under section 349 to consider a matter for which a direction has been made under section 329(2) or 337(1): (iii) extending the time by which a board of inquiry must produce a final report on a matter for which a direction has been made under section 329(2) or 337(1): (iv) deciding whether to intervene in a matter under section 365: (v) deciding under section 367 whether to notify an application or notice of requirement to which section 376 applies: (e) approving an applicant as a requiring authority under section 499: (f) approving an applicant as a heritage protection authority under section 542: (g) recommending the issue or amendment of a water conservation order under section 393 or 395: (h) recommending the appointment of an Environment Judge or alternate Environment Judge under clause 8 of Schedule 13 or as the Chief Environment Court Judge under clause 20 of Schedule 13: (i) recommending the making of regulations under Part 12: (j) this power of delegation. (4) A chief executive may, in accordance with clauses 2 and 3 of Schedule 6 of the Public Service Act 2020, subdelegate any function, power, or duty delegated to them by a Minister under clause 5 of that schedule. (5) Any delegation or subdelegation made under this section may be revoked in accordance with clause 4 or 6 of Schedule 6 of the Public Service Act 2020, as the case may be

643 Functions of regional councils and unitary authorities (1) A regional council or unitary authority has the following functions under this Act: (a) to participate with the regional planning committee appointed for the region in developing and reviewing any plan, to the extent that the plan is relevant to a resource management issue relating to a function of the council or authority and any matters which they are responsible for under this Act. (b) at its discretion, to prepare statements of regional environmental outcomes that record a summary of the significant resource management issues of the region, or of a district or local community within the region; and (c) to monitor and enforce the general duties set out in **Part 2**, as far as they are relevant to their functions; and (d) any other functions specified in this Act. (2) The purpose of the statements of regional environmental outcomes is to record a summary of the significant resource management issues of the region, or of a district, or local community within the region. (3) If a function is delegated or transferred to a regional council or unitary authority by a Minister, a regional planning committee, or a territorial authority, the council or authority must carry out that function under the terms of the delegation.	Partially support	The Māori Trustee considers that regional councils and unitary authorities should be required to prepare statements regional environmental outcomes under s 643(1)(b). These statements are intended to provide an opportunity for communities to identify significant resource management issues faced by their region. These statements will also act as a pathway for communities to voice their concerns and aspirations for their regions which could in turn have a material impact on the preparation of both NBE plans and Regional Spatial Strategies. The creation of statements of environmental outcomes should therefore be mandatory not voluntary.	The Māori Trustee considers the following amendments should be made to s 643: **Amendments** (1) A regional council or unitary authority has the following functions under this Act: a) to participate with the regional planning committee appointed for the region in developing and reviewing any plan, to the extent that the plan is relevant to a resource management issue relating to a function of the council or authority and any matters which they are responsible for under this Act. b) ~~at its discretion~~, to prepare statements of regional environmental outcomes that record a summary of the significant resource management issues of the region, or of a district or local community within the region; and c) to monitor and enforce the general duties set out in **Part 2**, as far as they are relevant to their functions; and d) any other functions specified in this Act. (2) The purpose of the statements of regional environmental outcomes is to record a summary of the significant resource management issues of the region, or of a district, or local community within the region. (3) If a function is delegated or transferred to a regional council or unitary authority by a Minister, a regional planning committee, or a territorial authority, the council or authority must carry out that function under the terms of the delegation.
645 Functions of territorial authorities and unitary authorities (1) A territorial authority or unitary authority has the following functions under this Act: (a) to participate with the regional planning committee appointed for the district in developing and reviewing any plan, to the extent that the plan is relevant to a resource management issue relating to a function of the authority and any matters which the authority is responsible for under this Act; and (b) at the authority's discretion, to prepare statements of community outcomes; and (c) to monitor and enforce the general duties set out in **Part 2**, as far as they are relevant to the authority's functions; and	Partially support	The Māori Trustee considers that territorial authorities should be required to prepare statements of community outcomes under s 645(1)(b). These statements will act as a pathway for communities to voice their concerns and aspirations for their districts which could in turn have a material impact on the preparation of both NBE plans and Regional Spatial Strategies. The creation of statements of community outcomes should therefore be mandatory not voluntary.	The Māori Trustee considers the following amendments should be made to s 645: **Amendments** (1) A territorial authority or unitary authority has the following functions under this Act: a) to participate with the regional planning committee appointed for the district in developing and reviewing any plan, to the extent that the plan is relevant to a resource management issue relating to a function of the authority and any matters which the authority is responsible for under this Act; and b) ~~at the authority's discretion~~, to prepare statements of community outcomes; and c) to monitor and enforce the general duties set out in **Part 2**, as far as they are relevant to the authority's functions; and d) any other functions specified in this Act.

(d) any other functions specified in this Act. (2) The purpose of the statements of community outcomes is to record a summary of the views of a district or local community within the region. (3) In preparing a statement of community outcomes, the territorial authority or unitary authority is subject to the general obligations on decision makers set out in **subpart 1 of Part 1**, but need not ensure that the statement complies with any national direction, regulation, or other planning document under this Act or the Spatial Planning Act **2022**. (4) The territorial authority or unitary authority must provide the statements to the regional planning committee as soon as is reasonably possible after a director is appointed to the planning committee secretariat under **Schedule 8**. (5) Each local authority in the region must, in relation to matters for which it has responsibility, implement and administer the committee's plan and its regional spatial strategy.			(2) The purpose of the statements of community outcomes is to record a summary of the views of a district or local community within the region. (3) In preparing a statement of community outcomes, the territorial authority or unitary authority is subject to the general obligations on decision makers set out in **subpart 1 of Part 1**, but need not ensure that the statement complies with any national direction, regulation, or other planning document under this Act or the Spatial Planning Act **2022**. (4) The territorial authority or unitary authority must provide the statements to the regional planning committee as soon as is reasonably possible after a director is appointed to the planning committee secretariat under **Schedule 8**. (5) Each local authority in the region must, in relation to matters for which it has responsibility, implement and administer the committee's plan and its regional spatial strategy.
650 Transfer of powers (1) A local authority or a regional planning committee may transfer 1 or more of its functions, powers, or duties to another public authority in accordance with this section. (2) The power conferred by **subsection (1)** does not apply to the power of transfer itself. (3) A local authority must not transfer any function, power, or duty unless— (a) it has first served notice on the Minister of its proposal to transfer a power, function, or duty; and (b) it has used the special consultative procedure described in section 83 of the Local Government Act 2002; and (c) both the local authority and the public authority agree that the transfer is desirable for all of the following reasons: (i) the authority to which the transfer is to be made represents the appropriate community of interest relating to the performance or exercise of the function, power, or duty: (ii) the transfer will result in greater efficiency in the performance or exercise of the function, power, or duty: (iii) technical or special capability or expertise.	Partially support	The Māori Trustee is unconvinced that local authorities will transfer their powers to public authorities under s 650 any more than they did under s 34 of the RMA. This section appears to lack any incentive for local authorities to want to transfer their powers and s 652 only requires requests to be considered and a report provided every 3 years to the NME detailing how these requests for transfer were considered and dealt with. The Māori Trustee considers incentives need to be provided to ensure that local authorities and RPCs utilise this section in practice. This will be particularly important for Māori in their ability to exercise tino rangatiratanga over their whenua, kāinga and taonga. The Māori Trustee also considers that *mana whakahaere* should be included as a public authority.	The Māori Trustee considers incentives need to be provided to ensure that local authorities and RPCs utilise s 650 in practice. This will be particularly important for Māori in their ability to exercise tino rangatiratanga over their whenua, kāinga and taonga. The Māori Trustee also considers the following amendments should be made to s 650: **Amendments** (1) A local authority or a regional planning committee may transfer 1 or more of its functions, powers, or duties to another public authority in accordance with this section. (2) The power conferred by **subsection (1)** does not apply to the power of transfer itself. (3) A local authority must not transfer any function, power, or duty unless— (a) it has first served notice on the Minister of its proposal to transfer a power, function, or duty; and (b) it has used the special consultative procedure described in section 83 of the Local Government Act 2002; and (c) both the local authority and the public authority agree that the transfer is desirable for all of the following reasons: (i) the authority to which the transfer is to be made represents the appropriate community of interest relating to the performance or exercise of the function, power, or duty: (ii) the transfer will result in greater efficiency in the performance or exercise of the function, power, or duty: (iii) technical or special capability or expertise.

(4) **Subsection (3)(c)** does not apply in the case of a transfer of power to an iwi authority or a group representing hapū. (5) In this section, public authority includes— (a) a local authority; and (b) a regional planning committee; and (c) an iwi authority; and (d) a group representing 1 or more hapū; and (e) a statutory authority; and (f) a government department; and (g) a joint committee; and (h) a local board.			(4) **Subsection (3)(c)** does not apply in the case of a transfer of power to an iwi authority or a group representing hapū. (5) In this section, public authority includes— (a) a local authority; and (b) a regional planning committee; and (c) *mana whakahaere;* ~~an iwi authority;~~ and ~~(d) a group representing 1 or more hapū; and~~ (e) a statutory authority; and (f) a government department; and (g) a joint committee; and (h) a local board.
651 Limits to transfer of powers **Section 650** does not permit a planning committee— (a) to transfer the power under **clause 41 of Schedule 7** (power to give final approval to plan); or (b) to enter into a joint management agreement that provides for final approval of a plan to be given jointly.	Partially support	The Māori Trustee considers that RPCs should be able to enter into a joint management agreement with mana whakahaere to give joint and final approval of a plan. This would give effect to te Tiriti o Waitangi and provide mana whakahaere with the ability to meaningfully participate, make decisions and exercise their tino rangatiratanga within the new resource management system.	The Māori Trustee considers the following amendments (**taking into account relief sought under s 650**) should be made to s 651: **Amendments** **Section 650** does not permit a planning committee— (a) to transfer the power under **clause 41 of Schedule 7** (power to give final approval to plan); or (b) to enter into a joint management agreement *(excluding **section 650(4)(c))*** that provides for final approval of a plan to be given jointly.
655 Delegation of powers and functions to employees and other persons (1) A local authority may delegate to an employee, or a hearings commissioner appointed by the local authority (who may or may not be a member of the local authority), any functions, powers, or duties under this Act except this power of delegation. (2) If a local authority is considering appointing 1 or more hearings commissioners to exercise a delegated power to conduct a hearing under **Schedule 7**,— (a) the local authority must consult tangata whenua through relevant iwi authorities on whether it is appropriate to appoint a commissioner with an understanding of tikanga Māori and of the perspectives of local iwi and hapū; and (b) if the local authority considers it appropriate, it must appoint at least 1 commissioner with an understanding of tikanga Māori and of the perspectives of local iwi or hapū, in consultation with relevant iwi authorities.	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that s 655 should be amended to require a local authority to engage with all mana whakahaere in the relevant rohe. Furthermore, the Māori Trustee also considers it is inappropriate for a local authority to determine whether it is appropriate to appoint a commissioner with an understanding of tikanga Māori. This should always be determined by Māori.	The Māori Trustee considers the following amendments should be made to s 655: **Amendments** (1) A local authority may delegate to an employee, or a hearings commissioner appointed by the local authority (who may or may not be a member of the local authority), any functions, powers, or duties under this Act except this power of delegation. (2) If a local authority is considering appointing 1 or more hearings commissioners to exercise a delegated power to conduct a hearing under Schedule 7,— (a) the local authority must consult ~~tangata whenua through relevant iwi authorities~~ *mana whakahaere* on whether it is appropriate to appoint a commissioner with an understanding of tikanga Māori and of the perspectives of ~~local iwi and hapū~~*, mana whakahaere*; and (b) if ~~the local authority~~ *mana whakahaere* considers it appropriate, *the local authority* ~~it~~ must appoint at least 1 commissioner with an understanding of tikanga Māori and of the perspectives of ~~local iwi, or hapū~~ *mana whakahaere~~, in consultation with relevant iwi authorities.~~* (3) A local authority may delegate to any other person any functions, powers, or duties under this Act except the following: (a) the powers in **subsection (1)**: (b) the decision on an application for a resource consent:

(3) A local authority may delegate to any other person any functions, powers, or duties under this Act except the following: (a) the powers in **subsection (1)**: (b) the decision on an application for a resource consent: (c) the making of a recommendation on a requirement for a designation. (4) **Section 654** applies to a delegation under this section. (5) **Subsection (1) or (2)** does not prevent a local authority delegating to any person the power to do anything before a final decision on a matter referred to in those subsections.			(c) the making of a recommendation on a requirement for a designation. (4) **Section 654** applies to a delegation under this section. (5) **Subsection (1) or (2)** does not prevent a local authority delegating to any person the power to do anything before a final decision on a matter referred to in those subsections.
656 Power to make joint management agreements (1) If a local authority, regional planning committee, or other possible party requests a joint management agreement with another possible party, it must, after carefully considering the request,— (a) notify the Minister of the request; and (b) satisfy itself that each public authority, iwi authority, or group representing hapū that is a party to the proposed joint agreement— (i) represents the relevant community of interest; and (ii) has the technical or special capability or expertise to perform or exercise the functions, power, or duty jointly with the local authority. (2) However, the requirements of **subsection (1)(b)** do not apply in the case of a joint management agreement entered into with an iwi authority or group representing hapū. (3) A regional planning committee must not enter into a joint management agreement that provides for final approval of a plan to be given jointly. (4) A local authority or regional planning committee must also include in the joint management agreement details describing— (a) the resources that will be required for the administration of the agreement; and (b) how the administrative costs of the joint management agreement will be met; and (c) how the agreement will be altered or terminated; and (d) how risks and liabilities will be allocated between or among the parties to the joint management agreement.	Partially support	The Māori Trustee reiterates her **point made in s 651**, in that s 656(3) should allow for RPCs to enter into a joint management agreement with mana whakahaere to give joint and final approval of a plan. This would give effect to te Tiriti o Waitangi and provide mana whakahaere with the ability to meaningfully participate, make decisions and exercise their tino rangatiratanga within the new resource management system.	The Māori Trustee considers that s 656(3) should allow for RPCs to enter into a joint management agreement with mana whakahaere to give joint and final approval of a plan. This would give effect to te Tiriti o Waitangi and provide mana whakahaere with the ability to meaningfully participate, make decisions and exercise their tino rangatiratanga within the new resource management system.

(5) In addition, the requirements of **section 651(4) and (5)** apply to a request to enter into a joint management agreement. (6) A local authority or regional planning committee, as relevant, that meets the requirements of **subsections (1) and (2)** may enter into a joint management agreement. (7) In this section and **section 657**, **party** means a public authority, iwi authority, or group representing hapū for the purposes of this Act.			
657 When local authority or regional planning committee may act alone (1) This section applies if a joint management agreement requires the parties to perform or exercise a specified function, power, or duty together, but the agreement does not specify how such a decision is to be made. (2) The local authority or regional planning committee may perform or exercise the function, power, or duty by itself if a decision is required before the parties are able to do so together.	Partially support	The Māori Trustee considers that s 657 contradicts the purpose of entering into a joint management agreement if a local authority or RPC can undermine it and act alone. If urgent decisions need to be made, joint management agreements should state the terms under which these can be made.	The Māori Trustee considers that s 657 contradicts the purpose of entering into a joint management agreement if a local authority or RPC can undermine it and act alone. If urgent decisions need to be made, joint management agreements should state the terms under which these can be made.
660 Purpose of National Māori Entity The purpose for establishing the National **Māori** Entity is to provide independent monitoring of decisions taken under this Act or the Spatial Planning Act **2022**, in order to inform and support positive progress at the national, regional or local level, as relevant, in managing the environment in light of the obligation set out in **section 4**.	Oppose	The Māori Trustee reiterates her **submissions made to s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. The NME should be afforded the ability to monitor, report on and enforce compliance to ensure that the system gives effect to te Tiriti o Waitangi. The NME should also be required, on request, or during the preparation of national direction, to hold wānanga and hui with mana whakahaere across Aotearoa. The current purpose of the NME is insufficient and fails to afford the NME any substantive power to have a genuine or meaningful impact on the operation of the new resource management system. The Māori Trustee supports the NME having the function to independently monitor decisions made under the NBE or SP Bills to ensure they give effect to te Tiriti o Waitangi. However, the NME needs to be able to enforce compliance with te Tiriti o Waitangi if their monitoring identifies an active breach. The Māori Trustee also notes that the NBE Bill does not directly address how the NME will be funded. The Supplementary Analysis Report[11] states that the NME will receive "$3m pa for 22/23 and 23/24, then rising to $5m ongoing" as part of Budget 22. However, it is preferential that the ability for the NME to effectively perform their role should not subject to a political budget bid. This section should be amended to ensure that the NME is funded to effectively perform their roles.	The Māori Trustee reiterates her **relief sought under s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. The NME should be afforded the ability to monitor, report on and enforce compliance to ensure that the system gives effect to te Tiriti o Waitangi. The NME should also be required, on request, or during the preparation of national direction, to hold wānanga and hui with mana whakahaere across Aotearoa. This section should also be amended to expressly state that the NME will be guaranteed funding to effectively perform their roles.

[11] National Māori Entity funding, p. 107 *Supplementary-Analysis-Report.pdf (environment.govt.nz)

		The Māori Trustee emphasises that increasing the powers that the NME hold, should not and does not preclude or undermine the ability for Māori in general to exercise their kaitiakitanga and tino rangatiratanga at place. The NME should also be required, on request, or during the preparation of national direction, to hold wānanga and hui with mana whakahaere across Aotearoa.	
661 Independence of National Māori Entity (1) In performing its functions and duties and exercising its powers under this Act, the National Māori Entity must act independently of— (a) any Minister of the Crown or Crown agency: (b) any persons, entities, or groups of persons with functions, powers, or duties under this Act and the Spatial Planning Act **2022**: (c) iwi, hapū, and Māori. (2) However, the National Māori Entity may, at its discretion, operate collaboratively, and informed by information provided by any person, entity, or group referred to in **subsection (1)**.	Partially support	The Māori Trustee considers it to be appropriate for the NME to function independently of iwi, hapū and Māori. However, the NME should also be required, on request, to hold wānanga and hui with mana whakahaere across Aotearoa to gather information.	The Māori Trustee considers the following amendments should be made to s 661: **Amendments** (1) In performing its functions and duties and exercising its powers under this Act, the National Māori Entity must act independently of— (a) any Minister of the Crown or Crown agency: (b) any persons, entities, or groups of persons with functions, powers, or duties under this Act and the Spatial Planning Act **2022**: (c) iwi, hapū, and Māori. (2) However, the National Māori Entity may, at its discretion *or on request*, operate collaboratively, and informed by information provided by any person, entity, or group referred to in **subsection (1)**.
662 Functions, powers, and duties of National Māori Entity (1) The primary function of the National Māori Entity is to monitor and assess the cumulative effect of the exercise of functions, powers, and duties under this Act and the Spatial Planning Act **2022** by (**monitored entities**) in giving effect to the principles of te Tiriti o Waitangi (*see* **section 4**). (2) In carrying out its primary function, the National Māori Entity must— (a) develop, and make publicly available, a framework for its monitoring function; and (b) regularly monitor the operations of those performing functions and duties and exercising powers under this Act and the Spatial Planning Act **2022**; and (c) assess whether any issues identified through monitoring are relevant to the duty of the monitored entities to give effect to the principles of te Tiriti o Waitangi; and (d) make recommendations to the monitored entities, including whether Ministerial intervention is required— (i) in relation to the performance of a monitored entity: (ii) if issues at a national, regional, or local level are identified. (3) The National Māori Entity, on its own initiative or upon request from a monitored entity, may—	Partially support	The Māori Trustee reiterates her **submissions made to s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. The NME should be afforded the ability to monitor, report on and enforce compliance to ensure that the system gives effect to te Tiriti o Waitangi. The NME should also be required, on request, or during the preparation of national direction, to hold wānanga and hui with mana whakahaere across Aotearoa. The current functions, powers and duties of the NME is insufficient and fails to afford the NME any substantive power to have a genuine or meaningful impact on the operation of the new resource management system. The Māori Trustee supports the NME having the function to independently monitor decisions made under the NBE or SP Bills to ensure they give effect to te Tiriti o Waitangi. However, the NME needs to be able to enforce compliance with te Tiriti o Waitangi if their monitoring identifies an active breach. The current drafting of this section reduces the NME to a purely advisory position which in itself does not give effect to te Tiriti o Waitangi.	The Māori Trustee reiterates her **relief sought under s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. The NME should be afforded the ability to monitor, report on and enforce compliance to ensure that the system gives effect to te Tiriti o Waitangi. The NME should also be required, on request, or during the preparation of national direction, to hold wānanga and hui with mana whakahaere across Aotearoa.

(a) carry out monitoring outside the regular cycle, if it considers it necessary to achieve its purpose; and (b) provide expert advice to those performing functions or duties or exercising powers under either of the Acts referred to in **subsection (1)**, including in relation to the national planning framework. (4) In this subpart, **monitored entities** means any of the following: (a) Ministers: (b) Crown agencies: (c) local authorities and unitary authorities: (d) any other persons or groups acting under either of the Acts referred to in subsection (1).			
663 Obligation to report on monitoring activities (1) The National Māori Entity, informed by its monitoring activities as required by **section 662**,— (a) must report to each monitored entity as soon as practicable after concluding its monitoring of that entity; and (b) must advise the monitored entity of its duty to respond within the time specified; and (c) may require any information. (2) The National Māori Entity may prepare and provide reports under subsection (1)(a) by whatever means it considers appropriate. (3) The National Māori Entity must also report to the Minister, at least once every 6 years, to show on a national basis whether the environment is being effectively managed to give effect to the principles of te Tiriti o Waitangi. (4) Reports provided by the National Māori Entity to the Minister may include recommendations, including recommendations as to intervention by the Minister, if the National Māori Entity considers that significant issues have been identified in the performance by the monitored entity. (5) All monitoring reports prepared by the National Māori Entity, and the associated responses of the monitored entities, must be made publicly available by the National Māori Entity.	Partially support	The Māori Trustee reiterates her **submissions made to s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. The NME should be afforded the ability to monitor, report on and enforce compliance to ensure that the system gives effect to te Tiriti o Waitangi. The NME should also be required, on request, or during the preparation of national direction, to hold wānanga and hui with mana whakahaere across Aotearoa.	The Māori Trustee reiterates her **relief sought under s 630**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA under this NBE Bill. The NME should be afforded the ability to monitor, report on and enforce compliance to ensure that the system gives effect to te Tiriti o Waitangi. The NME should also be required, on request, or during the preparation of national direction, to hold wānanga and hui with mana whakahaere across Aotearoa.
664 Responses to reports (1) The Minister, and each monitored entity that receives a report from the National Māori Entity	Partially support	The Māori Trustee is concerned that the requirement of the Minister to respond to a report produced by the NME 'within 6 months' will result in 6 months being the default response time. This could result in actions requiring immediate attention within the report being delayed and the potential further degradation of the natural	The Māori Trustee considers a criteria should be prescribed as to what the NME considers as an issue requiring immediate attention to reduce the response time of the Minister.

under **section 663**, must respond to the report and its recommendations (if any),— (a) in the case of the Minister, within 6 months of receiving the report; and (b) in the case of a monitored entity, within the time frame specified in the report. (2) Responses must demonstrate that the monitored entity has considered— (a) the findings and any recommendations included in the report; and (b) what measures it intends to take in relation to those matters. (3) The Minister must, as soon as practicable, present to the House of Representatives a copy of the report received by the Minister and a copy of the Minister's response.		environment not been addressed promptly. The requirement should be that a response be given *as soon as practicable but no later than* 6 months after receiving the report. The Māori Trustee also consider that the Minister or monitored entity, in their response, should be required to provide reasons for undertaking or not undertaking any recommendations included in the report.	The Māori Trustee considers the following amendments should be made to s 664: **Amendments** (1) The Minister, and each monitored entity that receives a report from the National Māori Entity under **section 663**, must respond to the report and its recommendations (if any),— (a) in the case of the Minister, ~~within~~ *as soon as practicable but no later than* 6 months *after* ~~of~~ receiving the report; and (b) in the case of a monitored entity, within the time frame specified in the report. (2) Responses must demonstrate that the monitored entity has considered— (a) the findings and any recommendations included in the report; and (b) what measures it intends to take in relation to those matter. *(3) Responses must demonstrate any reasons for undertaking or not undertaking recommendations included in the report.* *(4)* The Minister must, as soon as practicable, present to the House of Representatives a copy of the report received by the Minister and a copy of the Minister's response.
666 Membership (1) The National Māori Entity consists of 7 members. (2) In making appointments, the Minister— (a) must not appoint a person unless that person is nominated by iwi, hapū, or Māori in accordance with the process set out in regulations (if any) made under **section 672**; and (b) must consult with the Minister of Māori Development and the Minister for Māori Crown Relations–Te Arawhiti. (3) When appointing members, the Minister must be satisfied that the members, collectively, have knowledge of, and experience and capability in relation to,— (a) the principles of te Tiriti o Waitangi; and (b) (b)tikanga Māori, te reo Māori, and mātauranga Māori; and (c) monitoring and reporting performance; and (d) knowledge of this Act and the Spatial Planning Act 2022; and (e) expertise in communication, particularly with Māori and local government; and (f) governance. (4) No person may be appointed who is disqualified within the meaning of section 30(2) of the Crown Entities Act 2004. (5) The Minister must give public notice of all appointments.	Partially support	The Māori Trustee considers the Minister's powers to appoint members to the NME, if they are satisfied with components (a) to (f) under subsection (3), to be somewhat inappropriate if the Minister is not Māori. It is also questionable whether the Minister would be suited to determine whether members of the NME have particular knowledge, experience and capability of the principles of te Tiriti o Waitangi, tikanga and mātauranga Māori, if the Minister themselves was not Māori. This should be a process determined by Māori with oversight and funding provided by the Crown.	The Māori Trustee considers that a process for appointing the NME members is developed and determined by Māori with oversight and funding provided by the Crown.

676 Purpose of Mana whakahono ā rohe The purpose of adopting a **Mana whakahono ā rohe** is— (a) to provide a mechanism for iwi authorities, groups that represent hapū, local authorities, and planning committees to discuss, agree on, and record ways in which the 2 parties to the Mana whakahono ā rohe participate in resource management and decision-making processes under this Act; and (b) to assist local authorities and planning committees to comply with their statutory duties under this Act, the Spatial Planning Act 2022, and iwi and hapū participation legislation.	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that s 676(a) should be amended to include those with mana whakahaere if they wish to be party to a Mana whakahono ā rohe agreement. The Māori Trustee considers that consequential amendments should also be made to this subpart to ensure 'mana whakahaere' is used consistently to describe any Māori rights holders.	The Māori Trustee considers the following amendments should be made to s 676: **Amendments** The purpose of adopting a Mana whakahono ā rohe is— (a) to provide a mechanism for ~~iwi authorities, groups that represent hapū~~, *mana whakahaere,* local authorities, and planning committees to discuss, agree on, and record ways in which the 2 parties to the Mana whakahono ā rohe participate in resource management and decision-making processes under this Act; and (b) to assist local authorities and planning committees to comply with their statutory duties under this Act, the Spatial Planning Act 2022, and iwi and hapū participation legislation.
677 Guiding principles In initiating, developing, and implementing a Mana whakahono ā rohe, the participating authorities must use their best endeavours— (a) to achieve the purpose of a Mana whakahono ā rohe in an enduring manner: (b) to achieve the opportunities for collaboration amongst the participating authorities, including by promoting— (i) the use of integrated processes: (ii) co-ordination of the resources required to undertake the obligations and responsibilities of the parties to the Mana whakahono ā rohe: (c) in determining whether to proceed to negotiate a joint or multi-party Mana whakahono ā rohe, to achieve the most effective and efficient means of meeting the statutory obligations of the participating authorities: (d) to work together in good faith and in a spirit of co-operation: (e) to communicate with each other in an open, transparent, and honest manner: (f) to recignsie and acknowledge the benefit of working together by sharing their respective vision and expertise: (g) to commit to meeting statutory time frames and minimise delays and costs associated with the statutory processes: (h) to recignsie that a Mana whakahono ā rohe under this subpart does not limit the requirements of any relevant iwi and hapū	Partially support	The Māori Trustee considers that that the use of the term 'best endeavours' under s 677 to be ambiguous and will likely have inconsistent results when participating authorities initiate, develop and implement a Mana whakahono ā rohe. The Māori Trustee therefore considers that guidance note should be added to ensure that participating authorities initiate, develop and implement a Mana whakahono ā rohe in a consistent manner.	The Māori Trustee considers that guidance note should be added to ensure that participating authorities initiate, develop and implement a Mana whakahono ā rohe in a consistent manner.

participation legislation or the agreements associated with that legislation.			
678 Limitations on implementing Mana whakahono ā rohe arrangement (1) A Mana whakahono ā rohe arrangement cannot limit or otherwise constrain the engagement with iwi and hapū that is required by or under this Act or the Spatial Planning Act **2022**. (2) A Mana whakahono ā rohe does not limit any relevant provision of any iwi or hapū participation legislation or any agreement under that legislation. (3) Unless the participating authorities agree,— (a) the contents of a Mana whakahono ā rohe must not be altered; and (b) a Mana whakahono ā rohe must not be terminated. (4) If 2 or more iwi authorities or groups that represent hapū have, collectively, entered into a Mana whakahono ā rohe with a local authority or regional planning committee, any 1 of the parties to the Mana whakahono ā rohe, if seeking to amend the contents of the Mana whakahono ā rohe, must negotiate with the other parties to the Mana whakahono ā rohe for that purpose rather than seeking to enter into a new Mana whakahono ā rohe. (5) Local authorities and regional planning committees must not discuss or agree matters unless the matters are within the scope of their roles and functions under this Act or the Spatial Planning Act **2022**.	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that s 678(1) and (4) should be amended to reference those with mana whakahaere.	The Māori Trustee considers the following amendments should be made to s 676: **Amendments** (1) A Mana whakahono ā rohe arrangement cannot limit or otherwise constrain the engagement with ~~iwi and hapū~~ *mana whakahaere* that is required by or under this Act or the Spatial Planning Act 2022. (2) A Mana whakahono ā rohe does not limit any relevant provision of any iwi or hapū participation legislation or any agreement under that legislation. (3) Unless the participating authorities agree,— a) the contents of a Mana whakahono ā rohe must not be altered; and b) a Mana whakahono ā rohe must not be terminated. (4) If 2 or more ~~iwi authorities or groups that represent hapū~~ *mana whakahaere* have, collectively, entered into a Mana whakahono ā rohe with a local authority or regional planning committee, any 1 of the parties to the Mana whakahono ā rohe, if seeking to amend the contents of the Mana whakahono ā rohe, must negotiate with the other parties to the Mana whakahono ā rohe for that purpose rather than seeking to enter into a new Mana whakahono ā rohe.
690 Purpose of Working Group The purpose of the Working Group is to produce a report that considers and makes recommendations— (a) on matters relating to freshwater allocation; and (b) on a process for engagement between the Crown and iwi and hapū, at the regional or local level, on freshwater allocation.	Partially support	The Māori Trustee acknowledges that iwi and hapū have freshwater rights, interests and responsibilities. However, the Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. The Māori Trustee objections to the notion that the Crown can determine which Māori they wish to consult with regarding freshwater allocation. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that s 690(b) should be amended to include all mana whakahaere with freshwater rights, interests and responsibilities as excluding them is a direct breach of te Tiriti o Waitangi.	The Māori Trustee considers the following amendments should be made to s 690: **Amendments** The purpose of the Working Group is to produce a report that considers and makes recommendations— (a) on matters relating to freshwater allocation; and (b) on a process for engagement between the Crown and ~~iwi and hapū~~ *mana whakahaere*, at the regional or local level, on freshwater allocation.
693 Freshwater allocation matters (1) After the Minister's response has been presented to the House of Representatives, the Minister, on behalf of the Crown, must engage with iwi and hapū at the regional or local level on matters of	Partially support	The Māori Trustee reiterates her **point made in s 690** that all Māori with mana whakahaere have freshwater rights, interests and responsibilities. Accordingly, references to iwi and hapū should be amended to acknowledge all Māori with mana whakahaere within s 693.	The Māori Trustee considers the following amendments should be made to s 693: **Amendments**

freshwater allocation that are relevant to the plan for the region.. (2) The outcome of the engagement undertaken under **subsection (1)** may be reflected in an allocation statement on the issues relevant to the allocation of freshwater, if agreed between the Minister and iwi and hapū. (3) An allocation statement may be developed and agreed— (a) at a regional, catchment, or sub-catchment level; or (b) over another geographic area. (4) The engagement required under **subsection (1)** must be commenced not later than 12 months after the date on which the Minister receives written notice from an iwi or hapū, or a group of iwi and hapū, in relation to an area for which an allocation statement is agreed under **subsection (3)**. (5) The Minister must support the submission of the allocation statement to the relevant regional planning committee. (6) When the regional planning committee receives an allocation statement submitted under **subsection (5)**, the regional planning committee must— (a) determine how the plan is to be updated; and (b) update the plan in a manner that is consistent with this Act. (7) The updating required by **subsection (6)** must be completed by whichever date is the earlier of the following: (a) the date of the next review of the plan; or (b) the date that is 5 years after the relevant regional planning committee receives the allocation statement.			(1) After the Minister's response has been presented to the House of Representatives, the Minister, on behalf of the Crown, must engage with ~~iwi and hapū~~ *mana whakahaere* at the regional or local level on matters of freshwater allocation that are relevant to the plan for the region.. (2) The outcome of the engagement undertaken under subsection (1) may be reflected in an allocation statement on the issues relevant to the allocation of freshwater, if agreed between the Minister and ~~iwi and hapū~~ *mana whakahaere*. (3) An allocation statement may be developed and agreed— a) at a regional, catchment, or sub-catchment level; or b) over another geographic area. (4) The engagement required under subsection (1) must be commenced not later than 12 months after the date on which the Minister receives written notice from ~~an iwi or hapū, or a group of iwi and hapū~~ *mana whakahaere*, in relation to an area for which an allocation statement is agreed under subsection (3). (5) The Minister must support the submission of the allocation statement to the relevant regional planning committee. (6) When the regional planning committee receives an allocation statement submitted under **subsection (5)**, the regional planning committee must— (a) determine how the plan is to be updated; and (b) update the plan in a manner that is consistent with this Act. (7) The updating required by **subsection (6)** must be completed by whichever date is the earlier of the following: (a) the date of the next review of the plan; or (b) the date that is 5 years after the relevant regional planning committee receives the allocation statement.

Part 11 Compliance and enforcement

Provision	Position	Submission	Relief Sought
698 Notification of application (1) The applicant for a declaration must serve notice of the application in the prescribed form on every person directly affected by the application. (2) Every notice required to be served under this section must be served within 5 working days after the application is made to the Environment Court.	Support	The Māori Trustee supports s 698 as long as there is an express requirement that Māori landowners will be advised of declarations relating to activities or issues that may be occurring on their leased land.	The Māori Trustee considers the following amendment should be made to s 698: **Amendments** (1) The applicant for a declaration must serve notice of the application in the prescribed form on every person directly affected by the application, *including landowners*.

			(2) Every notice required to be served under this section must be served within 5 working days after the application is made to the Environment Court.
704 Right to be heard (1) Before deciding an application for an enforcement order, the Environment Court must— (a) hear the applicant; and (b) hear any person against whom the order is sought who wishes to be heard, but only if that person notifies the Registrar that the person wishes to be heard within 15 working days after the date on which they were notified of the application. (2) However, this section is subject to **section 706** (which relates to interim enforcement orders).	Partially support	The Māori Trustee notes that due to the majority of her portfolio of whenua Māori being leased, there will be instances where the landowner is not the applicant for an enforcement order. The Māori Trustee therefore considers that s 704 should provide the right for landowners, of the land on which the enforcement order is related, should be afforded the opportunity to be heard.	The Māori Trustee considers the following amendment should be made to s 704: **Amendments** (1) Before deciding an application for an enforcement order, the Environment Court must— (a) hear the applicant; ~~and~~ (b) *hear the landowner, if they are not the applicant; and* (c) hear any person against whom the order is sought who wishes to be heard, but only if that person notifies the Registrar that the person wishes to be heard within 15 working days after the date on which they were notified of the application. (2) However, this section is subject to **section 706** (which relates to interim enforcement orders).
783 Local authorities to monitor to effectively carry out their functions and duties under this Act (1) A local authority must monitor— (a) the state of the whole or any part of the environment of its region or district— (i) to the extent that is appropriate to enable the local authority to effectively carry out its functions and responsibilities under this Act; and (ii) in addition, by reference to any indicators or other matters prescribed by regulations made under this Act, and in accordance with the regulations; and (b) the efficiency and effectiveness of policies, rules, or other methods in its plan content in— (i) upholding any natural environmental limits that apply in its region; and (ii) promoting the system outcomes under **subpart 1 of Part 1**; and (iii) addressing or managing other matters of regional or local significance that have been identified within its plan; and (c) the exercise of any functions, powers, or duties delegated or transferred by it; and (d) the efficiency and effectiveness of processes used by the local authority in exercising its powers or performing its functions or duties (including those delegated or transferred by it), including matters such as timeliness,	Partially support	The Māori Trustee supports s 783(3)(b) to enable monitoring and reporting strategies that comply with mātauranga Māori and tikanga Māori methods at a local level. The Māori Trustee has identified the following issues with the current drafting of s 783: **s 783(4)** • The Māori Trustee considers s 7834(4) to be vague. The subsection also seems to be redundant considering that the monitoring and reporting undertaken by the local authority is presumably the reason that an action was deemed appropriate and shown to be necessary. **s 783(5)** • The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that s 783(5) should be amended to reference mana whakahaere. **s 783(7)** • The Māori Trustee considers subsection (7) to be ambiguous as the wording could be interpreted that a RPC must publish an assessment on the 'state' of	The Māori Trustee considers the following amendment should be made to s 783: **Amendments** (1) A local authority must monitor— (a) the state of the whole or any part of the environment of its region or district— (i) to the extent that is appropriate to enable the local authority to effectively carry out its functions and responsibilities under this Act; and (ii) in addition, by reference to any indicators or other matters prescribed by regulations made under this Act, and in accordance with the regulations; and (b) the efficiency and effectiveness of policies, rules, or other methods in its plan content in— (i) upholding any natural environmental limits that apply in its region; and (ii) promoting the system outcomes under **subpart 1 of Part 1**; and (iii) addressing or managing other matters of regional or local significance that have been identified within its plan; and (c) the exercise of any functions, powers, or duties delegated or transferred by it; and (d) the efficiency and effectiveness of processes used by the local authority in exercising its powers or performing its functions or duties (including those delegated or transferred by it), including matters such as timeliness, cost, and the overall satisfaction of those persons or bodies in respect of whom the powers, functions, or duties are exercised or performed; and (e) the exercise of the resource consents that have effect in its region or district, as the case may be; and

cost, and the overall satisfaction of those persons or bodies in respect of whom the powers, functions, or duties are exercised or performed; and (e) the exercise of the resource consents that have effect in its region or district, as the case may be; and (f) in the case of a regional council, the exercise of a protected customary right in its region, including any controls imposed on the exercise of that right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and (g) permitted activities that have effect in the region or district. (2) Monitoring required by this section must be undertaken in accordance with any regulations under this Act. (3) For the purpose of **subsection (1)(a)**, the local authority must— (a) prioritise monitoring of natural environmental limits and targets, other matters identified in the national planning framework, and regionally significant matters identified in its plan; and (b) conduct monitoring in a way that complies with any requirements on mātauranga Māori and tikanga Māori methods that are included in the regional monitoring and reporting strategy, and may voluntarily adopt further mātauranga Māori and tikanga Māori methods that are not included in the regional monitoring and reporting strategy. (4) The local authority must take appropriate action (having regard to the methods available to it under this Act) where this is shown to be necessary. (5) The local authorities in the region must provide iwi authorities and groups that represent hapū within the region with opportunities, in relation to the state of environmental monitoring under **subsection (1)(a)** and plan effectiveness monitoring under **subsection (1)(b)**, to— (a) be involved in the development and implementation of mātauranga Māori, tikanga Māori, and other monitoring methods and approaches; and (b) be involved with the development of policy and guidance on the detailed ways in which the regional monitoring and reporting strategy is to be operationalised; and		their environmental monitoring. The Māori Trustee considers it to be more accurate to amend this section to refer to the 'state of the environment'.	(f) in the case of a regional council, the exercise of a protected customary right in its region, including any controls imposed on the exercise of that right under Part 3 of the Marine and Coastal Area (Takutai Moana) Act 2011; and (g) permitted activities that have effect in the region or district. (2) Monitoring required by this section must be undertaken in accordance with any regulations under this Act. (3) For the purpose of **subsection (1)(a)**, the local authority must— (c) prioritise monitoring of natural environmental limits and targets, other matters identified in the national planning framework, and regionally significant matters identified in its plan; and (d) conduct monitoring in a way that complies with any requirements on mātauranga Māori and tikanga Māori methods that are included in the regional monitoring and reporting strategy, and may voluntarily adopt further mātauranga Māori and tikanga Māori methods that are not included in the regional monitoring and reporting strategy. (4) The local authority must take ~~appropriate~~ action (having regard to the methods available to it under this Act) where ~~this is shown~~ *monitoring shows this* to be necessary. (5) The local authorities in the region must provide ~~iwi authorities, and groups that represent hapū~~ *mana whakahaere* within the region with opportunities, in relation to the state of environmental monitoring under **subsection (1)(a)** and plan effectiveness monitoring under **subsection (1)(b)**, to— (a) be involved in the development and implementation of mātauranga Māori, tikanga Māori, and other monitoring methods and approaches; and (b) be involved with the development of policy and guidance on the detailed ways in which the regional monitoring and reporting strategy is to be operationalised; and (c) carry out the actual monitoring work where agreed with the relevant local authority. (6) The local authority must make available or accessible to the public the results of its state of environment monitoring activities under **subsection (1)(a)** to enable the public to be informed and participate under this Act. (7) The regional planning committee must, every 5 years, publish an assessment of the state of *the* environment~~al~~ *and the* monitoring conducted under **subsection (1)(a)** in its region that demonstrates the environmental changes, trends, pressures, emerging risks, and outlooks within the region.

(c) carry out the actual monitoring work where agreed with the relevant local authority. (6) The local authority must make available or accessible to the public the results of its state of environment monitoring activities under **subsection (1)(a)** to enable the public to be informed and participate under this Act. (7) The regional planning committee must, every 5 years, publish an assessment of the state of environmental monitoring conducted under **subsection (1)(a)** in its region that demonstrates the environmental changes, trends, pressures, emerging risks, and outlooks within the region.			
784 Local authorities and planning committees to take action in significant risk situations and other circumstances If monitoring shows a risk that a local authority or regional planning committee considers is a significant risk to ecological integrity or human health exists in its region or district, the local authority or regional planning committee must take appropriate action to respond to the risk.	Partially support	The Māori Trustee considers the use of 'appropriate action' to be ambiguous. It is uncertain what would be considered an 'appropriate action' in response to a significant risk identified through monitoring. Furthermore, it is not clear who defines what an appropriate action consists of. The Māori Trustee therefore considers that guidance needs to be prescribed to define what an appropriate action would be in response to significant risks.	The Māori Trustee, therefore, considers that guidance should be prescribed to define what an appropriate action would be in response to significant risks.
785 Regional monitoring and reporting strategies (1) A regional planning committee must prepare a regional monitoring and reporting strategy to describe how the local authorities in its region are to carry out their monitoring functions under this Part. (2) A regional monitoring and reporting strategy must— (a) ensure that monitoring and reporting is comprehensive and well-co-ordinated; and (b) describe the monitoring responsibilities of each local authority in the region; and (c) describe when and how mana whenua (if agreed) are to be involved in local authority monitoring activities. (3) The regional planning committee must— (a) publish the regional monitoring and reporting strategy within the 4-year time frame for plan making; and (b) keep the strategy up to date and review the strategy when the full plan review evaluation is conducted; and (c) invite the local authorities to provide input to assist the committee to prepare the strategy.	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that s 785(2)(c) should be amended to describe when and how mana whakahaere are to be involved in local authority monitoring activities.	The Māori Trustee considers the following amendment should be made to s 785: **Amendments** (1) A regional planning committee must prepare a regional monitoring and reporting strategy to describe how the local authorities in its region are to carry out their monitoring functions under this Part. (2) A regional monitoring and reporting strategy must— (a) ensure that monitoring and reporting is comprehensive and well-co-ordinated; and (b) describe the monitoring responsibilities of each local authority in the region; and (c) describe when and how mana *whakahaere* ~~whenua~~ (if agreed) are to be involved in local authority monitoring activities. (3) The regional planning committee must— (a) publish the regional monitoring and reporting strategy within the 4-year time frame for plan making; and (b) keep the strategy up to date and review the strategy when the full plan review evaluation is conducted; and (c) invite the local authorities to provide input to assist the committee to prepare the strategy.

Schedule 3 Principles for biodiversity offsetting

Provision	Position	Submission	Relief Sought
The following sets out a framework of principles for the use of biodiversity offsets. Principles 1–12 must be complied with for an action to qualify as a biodiversity offset. Principles 13–14 should be met for an action to qualify as a biodiversity offset.	Oppose	The Māori Trustee considers that all principles for biodiversity offsetting must be complied with, including principles 13 and 14. Stakeholder participation and transparency will be critical principles for biodiversity offsetting to ensure Māori are meaningfully engaged.	The Māori Trustee considers the following amendments should be made: **Amendments** The following sets out a framework of principles for the use of biodiversity offsets. Principles 1–~~12~~*14* must be complied with for an action to qualify as a biodiversity offset. ~~Principles 13–14 should be met for an action to qualify as a biodiversity offset.~~
1 Adherence to mitigation hierarchy A biodiversity offset is a commitment to redress more than minor residual adverse impacts. It should only be contemplated after steps to avoid, remedy, and mitigate adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual indigenous biodiversity impacts.	Partially support	The Māori Trustee considers that a biodiversity offset should have to be determined to be culturally acceptable by mana whakahaere before the action is contemplated. This would recognise that, in many instances, the cultural and spiritual relationship that Māori have with the natural environment and its values cannot be offset.	The Māori Trustee considers the following amendments should be made to Principle 1: **Amendments** A biodiversity offset is a commitment to redress more than minor residual adverse impacts. It should only be contemplated after *engagement with mana whakahaere determines it to be culturally acceptable and after* steps to avoid, remedy, and mitigate adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual indigenous biodiversity impacts.
2 Limits to offsetting Many biodiversity values cannot be offset and if they are adversely affected then they will be permanently lost. These situations include where— (a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected: (b) there are no technically feasible or socially acceptable options by which to secure gains within acceptable time frames: (c) effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse. In these situations, an offset would be inappropriate. This principle reflects a standard of acceptability for offsetting and a proposed offset must provide an assessment of these limits that supports its success.	Partially support	The Māori Trustee considers that a culturally accepted option should be included as part of any assessment of biodiversity values. This would recognise that, in many instances, the cultural and spiritual relationship that Māori have with the natural environment and its values cannot be offset.	The Māori Trustee considers the following amendments should be made to Principle 2: **Amendments** Many biodiversity values cannot be offset and if they are adversely affected then they will be permanently lost. These situations include where— (a) residual adverse effects cannot be offset because of the irreplaceability or vulnerability of the indigenous biodiversity affected: (b) there are no technically feasible or socially *or culturally* acceptable options by which to secure gains within acceptable time frames: (c) effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse. In these situations, an offset would be inappropriate.

3 No net loss and preferably net gain The values to be lost through the activity to which the offset applies are counterbalanced by the proposed offsetting activity which is at least commensurate with the adverse effects on indigenous biodiversity so that the overall result is no net loss and preferably a net gain in biodiversity. No net loss and net gain are measured by type, amount and condition at the impact and offset site and require an explicit loss and gain calculation.	Partially support	The Māori Trustee considers that measuring no net loss and net gain by 'type, amount and condition at the impact and offset site' does not account for Māori values. Māori values such as the mauri of indigenous biodiversity cannot be narrowly measured by 'type, amount and condition at the impact and offset site'. Māori values are intrinsic; they cannot be measured in isolation from each other. Therefore, the Māori Trustee proposes that Principle 3 needs to include an appropriate assessment of Māori values when offsetting biodiversity.	The Māori Trustee considers that there should be Māori values included as part of any assessment of biodiversity offset, and these values should be established by those within the region that have tino rangatiratanga. The Māori Trustee therefore considers the following amendments should be made to Principle 3: **Amendments** The values*, including Māori values,* to be lost through the activity to which the offset applies are counterbalanced by the proposed offsetting activity which is at least commensurate with the adverse effects on indigenous biodiversity so that the overall result is no net loss and preferably a net gain in biodiversity. No net loss and net gain are measured by type, amount and condition at the impact and offset site and require an explicit loss and gain calculation.
6 Landscape context Biodiversity offset actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development or within the same ecological district, and must consider the landscape context of both the impact site and the offset site, taking into account interactions between species, habitats and ecosystems, spatial connections and ecosystem function.	Partially support	The Māori Trustee considers that any biodiversity offset actions undertaken as part of Principle 6 must be within the same ecological district.	The Māori Trustee considers the following amendments should be made to Principle 6: **Amendments** Biodiversity offset actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development ~~or~~ *and* within the same ecological district, and must consider the landscape context of both the impact site and the offset site, ~~taking into account~~ *having particular regard to* interactions between species, habitats and ecosystems, spatial connections and ecosystem function.
9 Trading up When trading up forms part of an offset, the proposal must demonstrate that the indigenous biodiversity values gained are demonstrably of higher value than those lost, and the values lost are not indigenous taxa that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable.	Partially support	The Māori Trustee reiterates the point made in principle 2 that there is a need to expressly state that Māori values be included as part of any assessment of biodiversity values. This is particularly important with regards to the values lost that are considered to be vulnerable or irreplaceable. Therefore, the Māori Trustee also considers that the appropriate people should be determining whether the biodiversity values lost are considered vulnerable or irreplaceable.	The Māori Trustee considers the following amendments should be made to Principle 9: **Amendments** When trading up forms part of an offset, the proposal must demonstrate that the indigenous biodiversity values*, including Māori values,* gained are demonstrably of higher value than those lost, and the values lost are not indigenous taxa that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable*, including to mana whakahaere*.
12 Science and mātauranga māori The design and implementation of a biodiversity offset must be a documented process informed by science, including an appropriate consideration of mātauranga māori.	Partially support	The Māori Trustee considers that a documented process may be difficult to achieve for mātauranga Māori. Mātauranga Māori is a fundamental concept that evolves overtime and generations as environments change. It is based on the knowledge and experiences of individuals and can vary between individual Māori landowners, whānau and hapū. Therefore, it cannot be limited and narrowed to fit within a 'documented process' on how to design and implement a plan for biodiversity offsetting. Furthermore, the Māori Trustee also considers that there needs to be more than just an appropriate consideration of mātauranga Māori. It should be viewed equally as	The Māori Trustee considers the following amendments should be made to Principle 12: **Amendments** The design and implementation of a biodiversity offset must be a documented process informed by science~~, including an appropriate consideration of~~ *and* mātauranga Māori.

		science, as mātauranga may be the only appropriate mechanism to inform how biodiversity can be offset.	
13 Stakeholder participation Opportunity for the effective participation of stakeholders should be demonstrated when planning for biodiversity offsets, including their evaluation, selection, design, implementation and monitoring. Stakeholders are best engaged early in the offset consideration process.	Partially support	The Māori Trustee considers that it is critical that the opportunity for the effective participation of stakeholders is in fact demonstrated. Amending the principle in this way will provide confidence that Māori will be engaged in planning for biodiversity offsets and that that planning will be informed by mātauranga Māori.	The Māori Trustee considers the following amendments should be made to Principle 13: **Amendments** Opportunity for the effective participation of stakeholders ~~should~~ *must* be demonstrated when planning for biodiversity offsets, including their evaluation, selection, design, implementation and monitoring. Stakeholders are best engaged early in the offset consideration process.
14 Transparency The design and implementation of a biodiversity offset and communication of its results to the public should be undertaken in a transparent and timely manner. This includes transparency of the loss and gain calculation and the data that informs a biodiversity offset.	Partially support	The Māori Trustee reiterated her point in respect of principle 13. The principle should be that the design and implementation of a biodiversity offset (and its communication to the public) must be undertaken in a transparent and timely matter. Transparency and timeliness underpins the principle; they are not a nice to have.	The Māori Trustee considers the following amendments should be made to Principle 14: **Amendments** The design and implementation of a biodiversity offset and communication of its results to the public ~~should~~ *must* be undertaken in a transparent and timely manner. This includes transparency of the loss and gain calculation and the data that informs a biodiversity offset.

Schedule 4 Principles for biodiversity redress

Provision	Position	Submission	Relief Sought
1 Adherence to mitigation hierarchy Biodiversity redress is a commitment to provide redress for more than minor residual adverse impacts. It must only be contemplated after steps to avoid, remedy, mitigate and offset adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual biodiversity impacts.	Partially support	The Māori Trustee considers that a biodiversity redress should have to be determined to be culturally acceptable by mana whakahaere before the action is contemplated. This would recognise that, in many instances, the cultural and spiritual relationship that Māori have with the natural environment and its values cannot be redressed.	The Māori Trustee considers the following amendments should be made to Principle 1: **Amendments** Biodiversity redress is a commitment to provide redress for more than minor residual adverse impacts. It must only be contemplated after *engagement with mana whakahaere determines it to be culturally acceptable and after* steps to avoid, remedy, mitigate and offset adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual biodiversity impacts.
2 Limits to biodiversity compensation In deciding whether biodiversity redress is appropriate, a decision-maker must consider the principle that many indigenous biodiversity values are not able to be redressed because— (a) the indigenous biodiversity affected is irreplaceable or vulnerable: (b) there are no technically feasible or socially acceptable options by which to secure proposed gains within acceptable time frames:	Partially support	The Māori Trustee considers that a culturally accepted option should be included as part of any assessment of whether biodiversity redress is appropriate.	The Māori Trustee considers the following amendments should be made to Principle 2: **Amendments** In deciding whether biodiversity redress is appropriate, a decision-maker must consider the principle that many indigenous biodiversity values are not able to be redressed because— (a) the indigenous biodiversity affected is irreplaceable or vulnerable: (b) there are no technically feasible or socially *or culturally* acceptable options by which to secure proposed gains within acceptable time frames:

(c) effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.			(c) effects on indigenous biodiversity are uncertain, unknown or little understood, but potential effects are significantly adverse.
3 Scale of biodiversity redress The values to be lost through the activity to which the biodiversity redress applies must be addressed by positive effects to indigenous biodiversity that are proportionate to the adverse effects on indigenous biodiversity.	Partially support	The Māori Trustee considers that not all values lost through an activity can be addressed proportionately to the adverse effects created on indigenous biodiversity. This is particularly evident with regards to Māori values lost, such as mauri. Therefore, the Māori Trustee proposes that guidance needs to be given with regards to lost Māori values and if the redress is deemed proportionate by mana whakahaere.	The Māori Trustee considers that a guidance note should be provided with Principle 3 to address loss of Māori values. Any redress sought should have to be deemed proportionate and appropriate by mana whakahaere.
4 Additionality Biodiversity redress must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the compensation, including that gains are additional to any remediation and mitigation undertaken in relation to the adverse effects of the activity. The design and implementation of redress must avoid displacing activities harmful to indigenous biodiversity to other locations.	Partially support	The Māori Trustee notes that compensation and redress appears to be used interchangeably within this schedule. It is preferential that a singular term be used.	The Māori Trustee considers the following amendments should be made to Principle 4: **Amendments** Biodiversity redress must achieve gains in indigenous biodiversity above and beyond gains that would have occurred in the absence of the ~~compensation~~ *redress*, including that gains are additional to any remediation and mitigation undertaken in relation to the adverse effects of the activity. The design and implementation of redress must avoid displacing activities harmful to indigenous biodiversity to other locations.
5 Landscape context Biodiversity redress actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development or within the same ecological district. The actions must consider the landscape context of both the impact site and the redress site, taking into account interactions between species, habitats and ecosystems, spatial connections and ecosystem function.	Partially support	The Māori Trustee considers that any biodiversity redress actions undertaken as part of Principle 5 must be within the same ecological district.	The Māori Trustee considers the following amendments should be made to Principle 5: **Amendments** Biodiversity redress actions must be undertaken where this will result in the best ecological outcome, preferably close to the location of development ~~or~~ *and* within the same ecological district. The actions must consider the landscape context of both the impact site and the redress site, ~~taking into account~~ *having particular regard to* interactions between species, habitats and ecosystems, spatial connections and ecosystem function.
6 Long-term outcomes The biodiversity redress must be managed to secure outcomes of the activity that last as least as long as the impacts, and preferably in perpetuity.	Partially support	The Māori Trustee considers that outcomes of biodiversity redress should last in perpetuity, they should not be limited to last as long as the activity.	The Māori Trustee considers the following amendments should be made to Principle 6: **Amendments** The biodiversity redress must be managed to secure outcomes of the activity ~~that at a minimum persists the length of last as least as long as the impacts, and preferably~~ in perpetuity.
8 Trading up When trading up forms part of biodiversity redress, the proposal must demonstrate the indigenous biodiversity values gained are demonstrably of higher indigenous biodiversity value than those lost. The proposal must also show the values lost are not indigenous taxa that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat	Partially support	The Māori Trustee reiterates the point made in principle 2 that there is a need to expressly state that Māori values be included as part of any assessment of biodiversity values. This is particularly important with regards to the values lost that are considered vulnerable or irreplaceable.	The Māori Trustee considers the following amendments should be made to Principle 8: **Amendments** When trading up forms part of biodiversity redress, the proposal must demonstrate the indigenous biodiversity values*, including Māori values,* gained are demonstrably of higher indigenous biodiversity value than those lost. The proposal must also show the values lost are not indigenous taxa

Classification System lists, or considered vulnerable or irreplaceable.		Therefore, the Māori Trustee considers that those with mana whakahaere should determine whether the biodiversity values lost are considered vulnerable or irreplaceable.	that are listed as Threatened, At-risk or Data deficient in the New Zealand Threat Classification System lists, or considered vulnerable or irreplaceable*, including to mana whakahaere.*
9 Environmental contributions Environmental contributions must only be considered when there is no effective option available for delivering indigenous biodiversity gains on the ground. These contributions must be related to the indigenous biodiversity impact. When proposed, environmental contributions must be directly linked to an intended indigenous biodiversity gain or benefit.	Oppose	The Māori Trustee is concerned that principle 9 provides a free pass for users of the system to pay their way out of indigenous biodiversity gains on the ground. The Māori Trustee considers that this defeats the purpose of protecting indigenous biodiversity and should therefore be removed as a principle.	The Māori Trustee considers Principle 9 should be removed from Schedule 4. **Amendments** ~~Environmental contributions must only be considered when there is no effective option available for delivering indigenous biodiversity gains on the ground. These contributions must be related to the indigenous biodiversity impact. When proposed, environmental contributions must be directly linked to an intended indigenous biodiversity gain or benefit.~~
11 Science and mātauranga māori The design and implementation of biodiversity redress must be a documented process informed by science, including an appropriate consideration of mātauranga māori.	Partially support	The Māori Trustee considers that a documented process may be problematic to achieve for mātauranga Māori. Mātauranga Māori is a fundamental concept that evolves overtime and generations as environments change. It is based on the knowledge and experiences of individuals and can vary between individual Māori landowners, whānau and hapū. Therefore, it cannot be limited and narrowed to fit within a 'documented process' on how to design and implement a plan for biodiversity offsetting. The past few decades have only seen a modest amount of publicly funded research into using mātauranga Māori based methods, and this lack of research may lead to mātauranga Māori based methods not being considered due to being poorly understood. Furthermore, the Māori Trustee also considers that there needs to be more than just an appropriate consideration of mātauranga Māori. It should be viewed equally as science, as mātauranga may be the only appropriate mechanism to inform how biodiversity can be redressed.	The Māori Trustee considers the following amendments should to be made to Principle 11: **Amendments** The design and implementation of biodiversity redress must be a documented process informed by science~~, including an appropriate consideration of~~ *and* mātauranga Māori.
12 Stakeholder participation Opportunity for the effective participation of stakeholders should be demonstrated when planning for biodiversity redress, including evaluation, selection, design, implementation, and monitoring. Stakeholders are best engaged early in the process.	Partially support	The Māori Trustee considers that it is critical that the opportunity for the effective participation of stakeholders is in fact demonstrated. Amending the principle in this way will provide confidence that Māori will be engaged in planning for biodiversity redress and that planning will be informed by mātauranga Māori.	The Māori Trustee considers the following amendments should be made to Principle 12: **Amendments** Opportunity for the effective participation of stakeholders ~~should~~ *must* be demonstrated when planning for biodiversity redress, including evaluation, selection, design, implementation, and monitoring. Stakeholders are best engaged early in the process.
13 Transparency The design and implementation of biodiversity redress and communication of its results to the public should be undertaken in a transparent and timely manner.	Partially support	The Māori Trustee reiterates her point in respect of principle 12. The principle should be that the design and implementation of biodiversity redress (and its communication to the public) must be undertaken in a transparent and timely matter. Transparency and timeliness underpins the principle; they are not a nice have.	The Māori Trustee considers the following amendments should be made to Principle 13: **Amendments** The design and implementation of biodiversity redress and communication of its results to the public ~~should~~ *must* be undertaken in a transparent and timely manner.

Schedule 5 Principles for cultural heritage offsetting redress

Provision	Position	Submission	Relief Sought
1 Adherence to effects management framework A cultural heritage offset is a commitment to redress any more than minor residual adverse effects and should be contemplated only after steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.	Partially support	The Māori Trustee considers that a cultural heritage offset should have to be determined to be culturally acceptable by mana whakahaere before the action is contemplated. This would recognise that, in many instances, the cultural and spiritual relationship that Māori have with cultural heritage and its values cannot be offset.	The Māori Trustee considers the following amendments should be made to Principle 1: **Amendments** A cultural heritage offset is a commitment to redress any more than minor residual adverse effects and should be contemplated only after *engagement with mana whakahaere determines it to be culturally acceptable and after* steps to avoid, minimise, and remedy adverse effects are demonstrated to have been sequentially exhausted.
2 When cultural heritage offsetting is not appropriate (1) Cultural heritage offsetting is not appropriate if— (a) cultural heritage values cannot be offset to achieve a net enhancement outcome: (b) cultural heritage values are adversely affected so that they will be permanently lost. (2) This principle reflects a standard of acceptability for demonstrating, and then achieving, a net enhancement in cultural heritage values. Examples of where offsetting will be inappropriate include where— (a) residual adverse effects cannot be offset because the cultural heritage affected is irreplaceable or vulnerable: (b) effects on cultural heritage are uncertain, unknown, or little understood, but potential effects are significantly adverse.	Partially support	The Māori Trustee considers that there is a need to expressly state that Māori values be included as part of any assessment of cultural heritage values. This is particularly important with regards to the values lost that are considered to be 'irreplaceable or vulnerable' as described in principle 2(2)(a). Furthermore, the Māori Trustee also considers that the appropriate people should be determining whether the values lost are considered to be 'irreplaceable and vulnerable', particularly with regards to Māori values.	The Māori Trustee considers that there should be Māori values included as part of any assessment of cultural heritage offsetting by the appropriate people. The Māori Trustee considers the following amendments should be made to Principle 2: **Amendments** (1) Cultural heritage offsetting is not appropriate if— (a) cultural heritage values*, including Māori values,* cannot be offset to achieve a net enhancement outcome: (b) cultural heritage values*, including Māori values,* are adversely affected so that they will be permanently lost. (2) This principle reflects a standard of acceptability for demonstrating, and then achieving, a net enhancement in cultural heritage values*, including Māori values.* Examples of where offsetting will be inappropriate include where— (a) residual adverse effects cannot be offset because the cultural heritage affected is irreplaceable or vulnerable *, including to mana whakahaere*: (b) effects on cultural heritage are uncertain, unknown, or little understood, but potential effects are significantly adverse.
3 Net enhancement The cultural heritage values that would be lost through the activity to which the offset would apply are counterbalanced and exceeded by the proposed offsetting activity, making the result a net enhancement.	Partially support	The Māori Trustee is generally comfortable with ensuring that a cultural heritage offset activity results in a net enhancement. However, this needs to be culturally appropriate. The Māori Trustee therefore proposes a requirement to include a culturally appropriate standard, which should be developed and measured by mana whakahaere within the region that the cultural heritage offset applies.	The Māori Trustee considers that a guidance note should be provided with principle 3 to address loss of Māori values. Any redress sought should have to be deemed proportionate and appropriate by mana whakahaere.

6 Landscape context Cultural heritage offset actions are undertaken— (a) where this will result in the best heritage outcome, preferably close to the impact site or within the same district; and (b) where the landscape context is considered for both the impact site and the offset site.	Partially support	The Māori Trustee considers that any cultural heritage offset actions undertaken as part of principle 6 must be within the same ecological district.	The Māori Trustee considers the following amendments should be made to Principle 6: **Amendments** Cultural heritage offset actions are undertaken— a) where this will result in the best heritage outcome, preferably close to the impact site ~~or~~ *and* within the same district; and b) where the landscape context is considered for both the impact site and the offset site.
7 Long-term outcomes Cultural heritage offsetting is managed to secure outcomes from the activity that last at least as long as the impacts, and preferably in perpetuity.	Partially support	The Māori Trustee considers that outcomes of cultural heritage offsetting should last in perpetuity, they should not be limited to last as long as the activity.	The Māori Trustee considers the following amendments should be made to Principle 7: **Amendments** Cultural heritage offsetting is managed to secure outcomes from the activity that last ~~at least as long as the impacts, and preferably~~ in perpetuity.
9 Conservation principles and mātauranga māori The design and implementation of a cultural heritage offset is a documented process informed by heritage conservation principles and mātauranga māori (where applicable).	Partially support	The Māori Trustee considers that a documented process may be difficult to achieve regarding mātauranga Māori. Mātauranga Māori is a fundamental concept that evolves overtime and generations as environments change. It is based on the knowledge and experiences of individuals and can vary between individual Māori landowners, whānau and hapū. Therefore, it cannot be limited and narrowed to fit within a 'documented process' on how to design and implement a plan for cultural heritage offsetting.	N/A
12 Adherence to effects management framework Cultural redress compensation is a commitment to redress more than 1 minor residual adverse impact and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.	Partially support	The Māori Trustee notes that compensation and redress appears to be used interchangeably within this schedule. It is preferential that a singular term be used.	The Māori Trustee considers the following amendments should be made to Principle 12: **Amendments** Cultural redress ~~compensation~~ is a commitment to redress more than 1 minor residual adverse impact and should be contemplated only after steps to avoid, minimise, remedy, and offset adverse effects are demonstrated to have been sequentially exhausted.
13 When cultural heritage redress is not appropriate Cultural heritage redress is not appropriate where cultural heritage values cannot be compensated for, because, for example,— (a) the affected cultural heritage is irreplaceable or vulnerable: (b) the effects on the cultural heritage are uncertain, unknown, or little understood, but potential effects are significantly adverse:	Partially support	The Māori Trustee considers that there is a need to expressly state that Māori values be included as part of any assessment of cultural heritage values under principle 13(c). This is particularly important with regards to the values lost that are considered to be 'irreplaceable or vulnerable' as described in principle 13(a). However, the Māori Trustee also considers that the appropriate people should be determining whether the values lost are considered to be 'irreplaceable and vulnerable', particularly with regards to Māori values.	The Māori Trustee considers the following amendment should be made to Principle 13: **Amendment** Cultural heritage redress is not appropriate where cultural heritage values*, including Māori values,* cannot be compensated for, because, for example,— (a) the affected cultural heritage is irreplaceable or vulnerable: (b) the effects on the cultural heritage are uncertain, unknown, or little understood, but potential effects are significantly adverse: (c) there are no technically feasible options, *or social or cultural options*, for securing proposed enhancements within an acceptable time frame.

(c) there are no technically feasible options for securing proposed enhancements within an acceptable time frame			
14 Scale of cultural heritage redress The values lost through the activity to which the cultural heritage redress applies are balanced by positive effects to the cultural heritage, outweighing the adverse effects on the cultural heritage.	Partially support	The Māori Trustee considers that principle 14 does not appropriately account for Māori values and needs to directly address this.	The Māori Trustee considers the following amendment should be made to Principle 14: **Amendment** The values*, including Māori values,* lost through the activity to which the cultural heritage redress applies are balanced by positive effects to the cultural heritage, outweighing the adverse effects on the cultural heritage.
17 Landscape context Cultural heritage redress compensation actions are undertaken— (a) where this will result in the best heritage outcome, preferably close to the impact site or within the same district; and (b) where the landscape context is considered for both the impact site and the offset site.	Partially support	The Māori Trustee also considers that any cultural heritage redress actions undertaken as part of Principle 17 must be within the same ecological district. Furthermore, the Māori Trustee reiterates her point made in respect to Principle 12 that one singular term should be used with regards to 'redress' and 'compensation'.	The Māori Trustee considers the following amendments should be made to Principle 17: **Amendments** Cultural heritage redress ~~compensation~~ actions are undertaken— (a) where this will result in the best heritage outcome, preferably close to the impact site ~~or~~ *and* within the same district; and (b) where the landscape context is considered for both the impact site and the offset site.
18 Long-term outcomes Cultural heritage redress is managed to secure outcomes of the activity that last at least as long as the impacts, and preferably in perpetuity.	Partially support	The Māori Trustee considers that outcomes of cultural heritage redress should last in perpetuity, they should not be limited to last as long as the activity.	The Māori Trustee considers the following amendments should be made to Principle 18: **Amendments** Cultural heritage redress is managed to secure outcomes of the activity that last ~~at least as long as the impacts, and preferably~~ in perpetuity.
20 Trading up If trading up forms part of cultural heritage redress, the proposal demonstrates that the cultural heritage values enhanced are greater than those lost. The proposal also shows that the values lost are not considered vulnerable or irreplaceable.	Partially support	The Māori Trustee reiterates the point made in principle 2 that there is a need to expressly state that Māori values be included as part of any assessment of cultural heritage values. This is particularly important with regards to the values lost that are considered to be vulnerable or irreplaceable. Therefore, the Māori Trustee also considers that the appropriate people should be determining whether the cultural heritage values lost are considered vulnerable or irreplaceable.	The Māori Trustee considers that there should be Māori values included as part of any assessment of cultural heritage redress by the appropriate people. The Māori Trustee also considers the following amendments should be made to Principle 20: **Amendments** If trading up forms part of cultural heritage redress, the proposal demonstrates that the cultural heritage values*, including Māori values,* enhanced are greater than those lost. The proposal also shows that the values lost are not considered vulnerable or irreplaceable*, including to mana whakahaere.*
21 Financial contributions Financial contributions are only considered when there is no effective option for delivering cultural heritage enhancements. Any contributions related to the cultural heritage impacts must be directly linked	Oppose	The Māori Trustee considers that an activity should not be allowed if there is no effective option for cultural heritage enhancement. This principle appears to enable an activity to continue despite the fact that it should not.	The Māori Trustee considers principle 21 should be removed from Schedule 5. **Amendments**

to an intended cultural heritage enhancement or benefit.			~~Financial contributions are only considered when there is no effective option for delivering cultural heritage enhancements. Any contributions related to the cultural heritage impacts must be directly linked to an intended cultural heritage enhancement or benefit.~~
22 Conservation principles and mātauranga māori The design and implementation of cultural heritage redress is a documented process informed by heritage conservation principles and mātauranga Māori (where available).	Partially support	The Māori Trustee considers that a documented process may be difficult to achieve for mātauranga Māori. Mātauranga Māori is a fundamental concept that evolves overtime and generations as environments change. It is based on the knowledge and experiences of individuals and can vary between individual Māori landowners, whānau and hapū. Therefore, it cannot be limited and narrowed to fit within a 'documented process' on how to design and implement a plan for cultural heritage redress.	N/A

Schedule 6 Preparation, change, and review of national planning framework

Provision	Position	Submission	Relief Sought
2 Pre-notification engagement (1) Before public notification of an NPF proposal— (a) the chief executive of the Ministry for the Environment must invite the National Māori Entity to collaborate with the Ministry on the proposal; and (b) the responsible Minister must engage with— (i) iwi authorities and groups that represent hapū on the proposal; and (ii) individuals or organisations that the Minister considers representative of the local government sector. (2) The responsible Minister may engage with any other person that the responsible Minister considers appropriate before public notification of the proposal.	Partially support	The Māori Trustee supports the chief executive of the Ministry for the Environment being required to invite the NME to collaborate on the NPF proposal prior to public notification. The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that cl 2(1)(b)(i) should require the Minister to engage with mana whakahaere not just iwi authorities and groups that represent hapū. Not amending this clause could unacceptably result in the rights and responsibilities held by mana whakahaere, who may have interests separate to iwi and hapū (e.g. ahi kā/Māori landowners), being ignored. The Māori Trustee also considers that there should be an express requirement for the responsible Minister to engage with her office during the pre-notification process. The Māori Trustee administers approximately 7% of Māori freehold land from Cape Reinga to Bluff and across to the Chatham Islands. It amounts to nearly 88,000 hectares for around 1,750 Māori land Trusts with over 250,000 ownership interests. The Māori Trustee's portfolio provides a good cross-sectional reference of whenua Māori in Aotearoa and the impacts that Māori land and Māori landowners directly experience through policy change. The Māori Trustee sees direct engagement with her office prior to public notification of the NPF beneficial to both parties and will ensure that the NPF is fit-for-purpose from a whenua Māori perspective. The Māori Trustee administers significant tranches of land across a number of the 14 regions (**refer Appendix B)** but there is no requirement within this NBE Bill for RPC's to directly engage. The clause therefore needs to be amended to include express reference to the Māori Trustee's.	The Māori Trustee considers the following amendments should be made to clause 2: **Amendments** (1) Before public notification of an NPF proposal— (a) the chief executive of the Ministry for the Environment must invite the National Māori Entity to collaborate with the Ministry on the proposal; and (b) the responsible Minister must engage with— (i) ~~iwi authorities and groups that represent hapū~~ *mana whakahaere* on the proposal; and (ii) *the Māori Trustee; and* (iii) individuals or organisations that the Minister considers representative of the local government sector. (2) The responsible Minister may engage with any other person that the responsible Minister considers appropriate before public notification of the proposal.

3 Limits and targets review panel (1) If the NPF proposal contains limits or minimum level targets, the responsible Minister must appoint a panel to advise the Minister on the extent to which those limits or targets— (a) provide effective, reliable, and sufficient measures to protect human health and the ecological integrity of the natural environment, and (b) can be monitored, reported on, and evaluated; and (c) are underpinned by evidence that is inclusive, rigorous, transparent, and accessible. (2) The responsible Minister must consider the panel's advice before the public notification of the proposal. (3) When appointing members of the panel, the responsible Minister must be satisfied that the panel, collectively have knowledge and expertise in relation to— (a) ecological integrity: (b) the interplay between the natural environment and human health: (c) mātauranga māori: (d) environmental science: (e) environmental and natural resource management. (4) The responsible Minister may set terms of reference for the panel.	Partially support	The Māori Trustee considers that environmental limits will form a core part of the new resource management system and supports the appointment of a limits and targets review panel. However, the Māori Trustee is concerned that the panel's functionality is purely advisory and that the Minister, a political actor, is only directed to consider their advice prior to public notification. This leaves a great deal of political will to be utilised in setting what should be objective, scientific biophysical measurements of the natural environment. The Māori Trustee considers that the responsible Minister must have regard to any advice provided by the NME when making decisions on environmental limits. This advice if provided, including from the limits and targets review panel, should be implemented if it is necessary to achieve the purpose (once amended) of this NBE Bill.	The Māori Trustee considers that the responsible Minister must have regard to any advice provided by the NME when making decisions on environmental limits. This advice if provided, including from the limits and targets review panel, should be implemented if it is necessary to achieve the purpose (once amended) of this NBE Bill. The Māori Trustee considers the following amendments should be made to clause 3: **Amendments** (1) If the NPF proposal contains limits or minimum level targets, the responsible Minister must appoint a panel to advise the Minister on the extent to which those limits or targets— (a) provide effective, reliable, and sufficient measures to protect human health and the ecological integrity of the natural environment, and (b) can be monitored, reported on, and evaluated; and (c) are underpinned by evidence that is inclusive, rigorous, transparent, and accessible. (2) *If necessary to achieve the purpose of this Act*, the responsible Minister must ~~consider~~ *implement* the panel's advice before the public notification of the proposal. (3) When appointing members of the panel, the responsible Minister must be satisfied that the panel, collectively have knowledge and expertise in relation to— (a) ecological integrity: (b) the interplay between the natural environment and human health: (c) mātauranga māori: (d) environmental science: (e) environmental and natural resource management. (4) The responsible Minister may set terms of reference for the panel.
9 Board of inquiry (1) The responsible Minister must establish a board of inquiry to— (a) enquire into an NPF proposal; and (b) make recommendations on the proposal. (2) The responsible Minister may— (a) appoint the members of the board; or (b) decide that a convenor appoint the members of the board. (3) Before appointing the board, the responsible Minister or convenor (as the case may be) must— (a) request nominations to the board from the National Māori Entity; and (b) consider nominations (if any) made within 20 working days after the request. (4) When appointing members of the board, the responsible Minister or convenor (as the case may	Partially support	The Māori Trustee reiterates her point made in **paragraph 4(e) in this submission**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA. The Māori Trustee considers that the NME is better suited to assess whether board members collectively have knowledge and expertise in relation to te Tiriti o Waitangi, tikanga Māori and mātauranga Māori (cl 9(4)(b) and (c)).	The Māori Trustee considers the following amendments should be made to clause 9: **Amendments** (1) The responsible Minister must establish a board of inquiry to— (a) enquire into an NPF proposal; and (b) make recommendations on the proposal. (2) The responsible Minister may— (a) appoint the members of the board; or (b) decide that a convenor appoint the members of the board. (3) Before appointing the board, the responsible Minister or convenor (as the case may be) must— (a) request nominations to the board from the National Māori Entity; and (b) consider nominations (if any) made within 20 working days after the request.

be) must be satisfied that the board collectively have knowledge and expertise in relation to— (a) resource management issues and processes; and (b) te Tiriti o waitangi and its principles; and (c) tikanga māori and mātauranga māori.			(4) When appointing members of the board, the responsible Minister or convenor (as the case may be) must be satisfied that the board collectively have knowledge and expertise in relation to — resource management issues and processes. ~~(a) resource management issues and processes; and~~ ~~(b) te Tiriti o waitangi and its principles; and~~ ~~(c) tikanga Māori and mātauranga Māori.~~ *(5) When appointing members of the board, the responsible Minister or convenor (as the case may be) must be satisfied that the National Māori Entity considers the board to collectively have knowledge and expertise in relation to –* *(a) te Tiriti o Waitangi; and* *(b) tikanga Māori and mātauranga Māori.*
11 Board of inquiry membership (1) A board of inquiry must have at least 4 members including the chairperson. (2) The chairperson of the board must be a current or former Environment Judge. (3) A member of the board of inquiry is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board. (4) Board members are entitled to be— (a) paid fees at a rate set by the responsible Minister, in accordance with the Cabinet Fees Framework: (b) reimbursed for actual and reasonable travelling and other expenses, in accordance with the Cabinet Fees Framework.	Partially support	The Māori Trustee considers that the minimum number of members on a board of inquiry should be 5, including the chairperson. The Māori Trustee notes that the chairperson, when there is an equality of votes, gets the casting vote. The Māori Trustee is not opposed to the chairperson being afforded the casting vote in general however, as the minimum membership of a board of inquiry is 4 members (including the chair), there is a risk that many decisions may be made at the will of the chairperson.	The Māori Trustee considers the following amendments should be made to clause 11: **Amendments** (1) A board of inquiry must have at least ~~4~~ *5* members including the chairperson. (2) The chairperson of the board must be a current or former Environment Judge. (3) A member of the board of inquiry is not liable for anything the member does, or omits to do, in good faith in performing or exercising the functions, duties, and powers of the board. (4) Board members are entitled to be— (a) paid fees at a rate set by the responsible Minister, in accordance with the Cabinet Fees Framework: (b) reimbursed for actual and reasonable travelling and other expenses, in accordance with the Cabinet Fees Framework.
14 Chairperson has casting vote If there is an equality of votes between members of a board of inquiry, the chairperson has the casting vote.	Partially support	The Māori Trustee is not opposed to the chairperson of a board of inquiry having a casting vote. However, as the minimum membership of a board of inquiry is 4 members (including the chair), there is a risk that many decisions may be made at the will of the chairperson. The Māori Trustee considers that the minimum number members on a board of inquiry should be 5 including the chairperson.	**Refer to relief sought in clause 11.**
21 Minister's decision (1) The responsible Minister must make a decision on the final content of the NPF proposal. (2) Before making the decision, the responsible Minister must— (a) have particular regard to the evaluation report that is notified with the NPF proposal; and (b) have regard to—	Partially support	The Māori Trustee reiterates her point made in **paragraph 4(e) in this submission**, in that it is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA. This would better give effect to te Tiriti o Waitangi through ensuring Māori are able to exercise their tino rangatiratanga over their whenua, kāinga and taonga.	It is desired that the NME is afforded the same powers as the Minister for the Environment under the NBE Bill, however as this would require constitutional change, it is suggested the NME could have similar functions to a Commission or the EPA. This would better give effect to te Tiriti o Waitangi through ensuring Māori are able to exercise their tino rangatiratanga over their whenua, kāinga and taonga.

(i) the board of inquiry's report; and (ii) any recommendations in the most recent report (if any) on any review of the national planning framework; and (iii) any other matter the Minister considers relevant. (3) The responsible Minister must ensure that their decision on the NPF proposal is— (a) in accordance with— (i) the purpose of this Act; and (ii) the purpose of the national planning framework set out in **section 33**; and (iii) the purpose of setting environmental limits set out in **section 37**; and (iv) the purpose of setting targets set out in **section 47**; and (b) not inconsistent with any provisions in an emissions reduction plan or national adaptation plan identified as relevant to this Act or the Spatial Planning Act **2022**. (4) The responsible Minister may,— (a) make any changes, or no changes, to the proposal; and (b) withdraw all or part of the proposal.			
24 What streamlined process involves The streamlined process is the standard process with the following modifications: (a) the board of inquiry has a minimum of three members including the chairperson: (b) the closing date for public submissions must not be earlier than 20 working days (instead of 40 working days): (c) the board of inquiry must not hold a hearing, but instead consider submissions on the papers: (d) there is no hearing of public submissions and submitters are not required to indicate in their submissions whether or not they wish to be heard: (e) the responsible Minister and National Māori Entity are not entitled to appear before the board but they may each may provide information to the board: (f) the board of inquiry must provide its report on the NPF proposal on a date specified by the Minster that is no earlier than 30 working days after the closing date for public submissions.	Partially support	The Māori Trustee appreciates the intent to provide an avenue to expedite the amendment of the NPF (in accordance with cl 23) through a streamlined process. However, the Māori Trustee is concerned that providing a shorter closing date for submissions will result in the default submission period to be 20 working days. If the amendment to the framework is likely to impact Māori land and Māori landowners, this timeframe will significantly reduce the opportunities that the Māori Trustee has to represent the views of the over 100,000 Māori landowners who she administers whenua on behalf of. The Māori Trustee is further limited by clauses 24(c) and (d) that direct that hearings cannot be held, and submitters cannot be heard, respectively. This weakens the public's ability to have meaningful input on streamlined framework amendments. The Māori Trustee also considers that the NME, in their capacity to ensure adherence to te Tiriti o Waitangi, should be able to appear before the board if they wish to.	The Māori Trustee considers the following amendments should be made to clause 24: **Amendments** The streamlined process is the standard process with the following modifications: (a) the board of inquiry has a minimum of three members including the chairperson: (b) the closing date for public submissions must not be earlier than 20 working days (instead of 40 working days): (c) the board of inquiry must not hold a hearing, but instead consider submissions on the papers: (d) there is no hearing of public submissions and submitters are not required to indicate in their submissions whether or not they wish to be heard: (e) the responsible Minister ~~and National Māori Entity are~~ *is* not entitled to appear before the board but ~~they may each~~ may provide information to the board: *(f) the National Māori Entity is entitled to appear before the board to ensure te Tiriti o Waitangi is given effect to:* (g) the board of inquiry must provide its report on the NPF proposal on a date specified by the Minster that is no earlier than 30 working days after the closing date for public submissions.

31 Preparation of first national planning framework (1) The first national planning framework must be prepared in accordance with the standard process subject to the following modifications: (a) any engagement of a kind described in **clauses 2 and 4** that has been carried out on the NPF proposal before the commencement of the Act counts as engagement for the purposes of those clauses; and (b) a limits and targets review panel is not required to be appointed to advise the responsible Minister on any environmental limits or target in the NPF proposal; and (c) **section 50(1) and 58(a) and (b)** do not apply; and (d) **clauses 2(1)(a) and 9(3)** do not apply; and (e) for the purpose of facilitating a smooth transition from the Resource Management Act 1991 to this Act,— (i) the first national planning framework must be prepared on the basis of the RMA national direction; and (ii) the board of inquiry must, when considering the matters specified in **clause 19**, also have particular regard to maintaining consistency with the policy intent of the RMA national direction to the extent it is compatible with this Act; and (iii) the responsible Minister must, when considering the matters specified in **clause 21**, also have particular regard to maintaining consistency with the policy intent of the RMA national direction to the extent it is compatible with this Act. (2) In this clause, **RMA national direction** means the national direction prepared under the Resource Management Act 1991, and includes the medium density residential standards set out in Schedule 3A of the Resource Management Act 1991.	Partially support	The Māori Trustee is concerned that cl 31(1)(a) does not provide sufficient assurances that Māori will be adequately engaged in the preparation of the first national planning framework. The clause currently requires "any engagement of a kind" with the NME (who will not exist during the preparation of the first NPF) and as currently drafted iwi authorities and groups that represent hapū (cl 2). The drafting of clause 31(1)(a) therefore provides significant flexibility for the Ministry for the Environment and the responsible Minister to avoid adequately engaging with Māori. This would be an early and direct breach of te Tiriti o Waitangi during the first stages of implementing the new resource management system. The Māori Trustee understands that the first NPF will be prepared based on current national direction produced under the RMA (cl 31(1)(e)(i)). However, as current national direction has not expressly required the setting of environmental limits and targets, excluding the NPS-FM, the integration of current national direction under the RMA may not be fit for purpose once incorporated into the NPF. This is concerning as cl 31(1)(b) does not require a limits and targets review panel to be appointed to advise on any environmental limits or targets in the first NPF proposal. This could mean that environmental limits and targets are inappropriately set in the first NPF due to expert advice not being provided through the review panel. Considering that the NPF is only required to be reviewed once at least every 9 years poses a significant risk to ecological integrity and potential further degradation of the natural environment. The success of the NPF, and the NBE Bill in general, is reliant on setting appropriate environmental limits and targets. If this is not prevalent in the first NPF, the whole system could be set up to fail. The Māori Trustee considers a limits and targets review panel must be appointed during the preparation of the first NPF to advise on limits and targets. The Māori Trustee considers that national direction on s 58(a) and (b) should apply to the first NPF. As already stated, the NPF is only required to be reviewed once at least every 9 years. Excluding the requirement to provide national direction on non-commercial housing and papakāinga on Māori land could result in no direction being provided for 9 years. This would be unacceptable.	The Māori Trustee considers the following amendments should be made to clause 31: **Amendments** (1) The first national planning framework must be prepared in accordance with the standard process subject to the following modifications: (a) any engagement of a kind described in **clauses 2*, with the exception of subclause 2(1)(b)(i)*, and 4** that has been carried out on the NPF proposal before the commencement of the Act counts as engagement for the purposes of those clauses; and ~~(b) a limits and targets review panel is not required to be appointed to advise the responsible Minister on any environmental limits or target in the NPF proposal; and~~ ~~(b) **section 50(1) and 58(a) and (b)** do not apply;~~ and (b) **clauses 2(1)(a) and 9(3)** do not apply; and (c) for the purpose of facilitating a smooth transition from the Resource Management Act 1991 to this Act,— (i) the first national planning framework must be prepared on the basis of the RMA national direction; and (ii) the board of inquiry must, when considering the matters specified in **clause 19**, also have particular regard to maintaining consistency with the policy intent of the RMA national direction to the extent it is compatible with this Act; and (iii) the responsible Minister must, when considering the matters specified in **clause 21**, also have particular regard to maintaining consistency with the policy intent of the RMA national direction to the extent it is compatible with this Act. (2) In this clause, **RMA national direction** means the national direction prepared under the Resource Management Act 1991, and includes the medium density residential standards set out in Schedule 3A of the Resource Management Act 1991.

Schedule 7 Preparation, change, and review of natural and built environment plans

Provision	Position	Submission	Relief Sought

10 When engagement agreements must or may be initiated *Plan making* (1) A regional planning committee must initiate engagement agreements under **clause 11**,— (a) for its first plan, as soon as practicable after the committee is established; and (b) for subsequent plans that use the standard plan-making process, as soon as practicable after the regional planning committee has resolved to prepare a new plan. *Plan changes* (2) A regional planning committee may initiate engagement agreements when using a proportional or urgent plan change process as soon as practicable after the committee gives public notice of its intended programme of work for the next 3 years. (3) The regional planning committee must, in using the standard plan-making process for making plan changes, conclude any engagement agreement within 30 working days of the statement of major regional policy issues being notified. *Limits to application of this clause* (4) A regional planning committee does not need to initiate an engagement agreement for its first plan or for subsequent plan changes if an existing engagement agreement has been reached that also applies to subsequent plan changes.	Oppose	The Māori Trustee opposes the RPC being the only party who can initiate an engagement agreement. This clause is reliant on the RPC being aware of all Māori groups that should be engaged with within the region. Despite being one of the largest administrators of whenua Māori across Aotearoa[12], the Māori Trustee has found, through her engagement with local authorities, there is little known or understood about her governance of whenua Māori. The Māori Trustee therefore considers that all Māori groups should be enabled to initiate an engagement agreement with their respective RPCs.	The Māori Trustee considers the following amendments should be made to clause 10: **Amendments** *Plan making* (1) A regional planning committee must initiate engagement agreements under **clause 11**,— (a) for its first plan, as soon as practicable after the committee is established; and (b) for subsequent plans that use the standard plan-making process, as soon as practicable after the regional planning committee has resolved to prepare a new plan. *(2) A Māori group may initiate an engagement agreement under clause 10 if not already initiated by the regional planning committee under sub-clause (1).* *Plan changes* *(3)* A regional planning committee may initiate engagement agreements when using a proportional or urgent plan change process as soon as practicable after the committee gives public notice of its intended programme of work for the next 3 years. *(4) A Māori group may initiate an engagement agreement under clause 10 if not already initiated by the regional planning committee under sub-clause (1).* *(5)* The regional planning committee must, in using the standard plan-making process for making plan changes, conclude any engagement agreement within 30 working days of the statement of major regional policy issues being notified. *Limits to application of this clause* *(6)* A regional planning committee does not need to initiate an engagement agreement for its first plan or for subsequent plan changes if an existing engagement agreement has been reached that also applies to subsequent plan changes.
11 Initiation and formation of engagement agreements (1) A regional planning committee must initiate engagement agreements by inviting the following groups (**Māori groups**) to enter into 1 or more agreements: (a) iwi authorities, and groups that represent hapū, whose area of interest includes any part of the region: (b) customary marine title groups whose customary marine title area under the	Oppose	The Māori Trustee administers approximately 7% of Māori freehold land from Cape Reinga to Bluff and across to the Chatham Islands. It amounts to nearly 88,000 hectares for around 1,750 Māori land Trusts with over 250,000 ownership interests. The Māori Trustee's portfolio provides a good cross-sectional reference of whenua Māori in Aotearoa and the impacts that Māori land and Māori landowners directly experience through policy change. The Māori Trustee anticipates that her portfolio will be greatly impacted by NBE plans. The Māori Trustee administers significant tranches of land across a number of the 14 regions (**refer Appendix B)** but there is no requirement within this NBE Bill for RPC's	The Māori Trustee considers that the following amendment should be made to clause 11: **Amendments** (1) A regional planning committee must initiate engagement agreements by inviting the following groups (**Māori groups**) to enter into 1 or more agreements: (a) iwi authorities, and groups that represent hapū, whose area of interest includes any part of the region:

[12] The Māori Trustee administers, as trustee or agent, nearly 88,000 hectares of Māori freehold land on behalf of approximately 100,000 individual Māori landowners.

Marine and Coastal Area (Takutai Moana) Act 2011 includes any part of the region: (c) other Māori groups with interests in the region, if the committee considers that entering into engagement agreements with those groups is desirable to ensure that the views of all Māori groups with interests in the region are properly considered in preparing the region's plan. (2) In initiating and developing an engagement agreement, the regional planning committee must use its best endeavours to— (a) achieve the purpose of an engagement agreement; and (b) negotiate the terms of the agreement in good faith to achieve harmonious participation in preparing a plan for the region. (3) However, no Māori group invited to enter into an engagement agreement is required to respond to an invitation under **subclause (1)**. (4) Despite **subclause (1)**, a regional planning committee is not required to initiate an engagement agreement with a Māori if the committee and the Māori group— (a) are party to a Mana Whakahono ā Rohe; and (b) agree that the Mana Whakahono ā Rohe achieves the purpose of an engagement agreement. (5) A single engagement agreement may— (a) be entered into with 1 or more Māori groups: (b) deal with both the preparation of a plan and a regional spatial strategy.		to directly engage. The clause therefore needs to be amended to include express reference to the Māori Trustee. The current requirement of the RPC to determine the desirability of engaging with other Māori groups with interests in the region is inappropriate. All Māori groups that wish to be engaged should be afforded the opportunity. The Māori Trustee therefore considers that the RPC should not determine the desirability of engaging with other Māori groups with interests in the region and this wording should be removed. Although the Māori Trustee supports the intent of engagement agreements, she can see potential issues in their formation due to the ongoing capacity and capability difficulties Māori tend to experience. Historically, the interaction that Māori have had with local authorities has appeared to be inconsistent, protracted and labour-some. The NBE Bill needs to ensure that agreement is able to be achieved in a timely manner alongside good faith.	(b) customary marine title groups whose customary marine title area under the Marine and Coastal Area (Takutai Moana) Act 2011 includes any part of the region: (c) *The Māori Trustee*: (d) other Māori groups with interests in the region, ~~if the committee considers that entering into engagement agreements with those groups is desirable~~ to ensure that the views of all Māori groups with interests in the region are properly considered in preparing the region's plan. (2) In initiating and developing an engagement agreement, the regional planning committee must use its best endeavours to— (a) achieve the purpose of an engagement agreement; and (b) negotiate the terms of the agreement in *a timely manner and in* good faith to achieve harmonious participation in preparing a plan for the region. (3) However, no Māori group invited to enter into an engagement agreement is required to respond to an invitation under **subclause (1)**. (4) Despite **subclause (1)**, a regional planning committee is not required to initiate an engagement agreement with a Māori if the committee and the Māori group— (a) are party to a Mana Whakahono ā Rohe; and (b) agree that the Mana Whakahono ā Rohe achieves the purpose of an engagement agreement. (5) A single engagement agreement may— (a) be entered into with 1 or more Māori groups: (b) deal with both the preparation of a plan and a regional spatial strategy.
12 Form and content of engagement agreements If an engagement agreement is reached, the agreement must— (a) be in writing; and (b) identify the parties to the agreement; and (c) record the agreement of the parties as to— (i) how the parties will participate in preparing or amending the plan for the region; and (ii) how each party will be resourced to participate.	Partially support	The Māori Trustee is generally supportive of engagement agreements as a mechanism in the new resource management system. However, she reiterates her **submissions made to clauses 10 and 11**, particularly in that she can see potential issues in their formation due to the ongoing capacity and capability difficulties Māori tend to experience in this space. Historically, the interaction that Māori have had with local authorities has appeared to be inconsistent, protracted and labour-some. The NBE Bill needs to ensure that agreement is able to be achieved in a timely manner alongside good faith.	N/A

14 Identification of major regional policy issues (1) A regional planning committee must identify the major regional policy issues and, where practicable, the plan outcomes sought to be achieved through the committee's approach to the major regional policy issues. (2) For the purposes of this clause, major regional policy issues— (a) must include— (i) the approach to issues directed to be included in plans through the NPF or RSS: (ii) the draft zoning for the region: (iii) any other matters that are significant to the region or districts within the region; and (b) may include draft plan outcomes. (3) In identifying the major regional policy issues, the regional planning committee must have regard to— (a) any statement of community outcomes prepared by a territorial authority or unitary authority made under **section 645(1)b)**; and (b) any statement of regional environmental outcomes prepared by the regional council or unitary authority made under **section 643(1)(b)**.	Partially support	The Māori Trustee acknowledges that the RPC will need to make weighted decisions on major regional policy issues. However, the composition of the RPC will play a crucial role in determining whether matters of significance to Māori are considered to be major regional policy issues. The current membership requirements under schedule 8 of the NBE are unlikely to result in equal representation for Māori on RPCs. Allowing non-Māori to decide on what is considered major regional policy issues in the region for Māori is inconsistent with te Tiriti o Waitangi. The Māori Trustee is also concerned that the community's involvement in the identification of major regional policy issues is diminished by the RPC only being required to have regard to community outcomes and environmental outcomes statements. Although the outcomes statements will need to be given genuine attention and thought with that directive, they ultimately can be disregarded. The Māori Trustee therefore considers that the directive should be amended to 'recognise and provide for' to ensure communities have the opportunity to meaningfully participate.	The Māori Trustee considers the following amendments should be made to clause 14: **Amendments** (1) A regional planning committee must identify the major regional policy issues and, where practicable, the plan outcomes sought to be achieved through the committee's approach to the major regional policy issues. (2) For the purposes of this clause, major regional policy issues— (a) must include— (i) the approach to issues directed to be included in plans through the NPF or RSS: (ii) the draft zoning for the region: (iii) any other matters that are significant to the region or districts within the region; and (b) may include draft plan outcomes. (3) In identifying the major regional policy issues, the regional planning committee must *recognise and provide for* ~~have regard to~~— (a) any statement of community outcomes prepared by a territorial authority or unitary authority made under **section 645(1)b)**; and (b) any statement of regional environmental outcomes prepared by the regional council or unitary authority made under **section 643(1)(b**
15 Engagement register (1) A regional planning committee must establish and maintain an engagement register for the purpose of identifying any person who is interested in being consulted by the regional planning committee in the plan development process. (2) The planning committee is not obliged to consult the persons identified in the register, but must act in good faith when considering matters known to be of interest to particular persons. (3) The following groups, however, do not need to register but are included as having a right to be consulted under this clause: (a) government departments and ministries; and (b) local authorities in the region; and (c) requiring authorities; and (d) iwi authorities; and (e) customary marine title groups. (4) Except as provided in **subclause (3)**, a regional planning committee is not obliged to consult persons who are not registered under this clause.	Partially support	The Māori Trustee supports the requirement for RPCs to establish and maintain an engagement register. However, as the RPC is not obliged to conduct engagement with those who are registered, there is concern that if RPCs do not fully understand the interests of those registered they will not be engaged by the RPC during the plan development process. The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that cl 15(3)(d) should be amended to require the RPC to engage with mana whakahaere not just iwi authorities. The Māori Trustee also considers that there should be an express requirement for the RPC to engage with her office during the pre-notification process. The Māori Trustee administers approximately 7% of Māori freehold land from Cape Reinga to Bluff and across to the Chatham Islands. It amounts to nearly 88,000 hectares for around 1,750 Māori land Trusts with over 250,000 ownership interests. The Māori Trustee's portfolio provides a good cross-sectional reference of whenua Māori in Aotearoa and the impacts that Māori land and Māori landowners directly experience through policy change. The Māori Trustee sees direct engagement with her office during the plan	The Māori Trustee considers that a mana whakahaere engagement register should be developed at both the national and regional levels so central and local governments can better understand the separate and overlapping interests of all Māori rights holders and ensure they engage appropriately. The Māori Trustee considers the following amendments should be made to clause 15: **Amendments** (1) A regional planning committee must establish and maintain an engagement register for the purpose of identifying any person who is interested in being consulted by the regional planning committee in the plan development process. (2) The planning committee is not obliged to consult the persons identified in the register, but must act in good faith when considering matters known to be of interest to particular persons. (3) The following groups, however, do not need to register but are included as having a right to be consulted under this clause: (a) government departments and ministries; and (b) *The Māori Trustee; and* (c) local authorities in the region; and (d) requiring authorities; and (e) *mana whakahaere* ~~iwi authorities;~~ and

		development process beneficial to both parties and will ensure that regional planning is fit-for-purpose from a whenua Māori perspective. The Māori Trustee also sees merit in developing a mana whakahaere engagement register at both the national and regional levels so central and local governments can better understand the separate and overlapping interests of all Māori rights holders and ensure they engage appropriately.	(f) customary marine title groups. (4) Except as provided in **subclause (3)**, a regional planning committee is not obliged to consult persons who are not registered under this clause.
17 Planning committees to have engagement policy (1) A regional planning committee must prepare an engagement policy that states, at a minimum,— (a) how the committee will ensure that it engages with the constituents of each district of its region on the approach to the major regional policy issues; and (b) the different forms, methods, or techniques of engagement to be used by the committee (such as online methods or hui) to reach the constituents in innovative ways and obtain the views of its wider communities; and (c) how the committee will collect and record feedback and enduring submissions made under clause 20. (2) The purpose of an engagement policy is to ensure that the planning committee— (a) hears a diverse range of views on the approach to the major regional policy issues; and (b) ensures that the constituents of each district of its region can be heard and easily provide feedback on the approach to the major regional policy issues; and (c) identifies the degree of significance attached to particular issues or decisions set out in the approach to the major regional policy issues.	Partially support	The Māori Trustee supports the requirement for RPCs to prepare an engagement policy. However, this engagement policy should be written in collaboration with mana whakahaere to ensure engagement with Māori is fit for purpose.	The Māori Trustee considers that the following amendments should be made to clause 17: **Amendments** (1) A regional planning committee must prepare an engagement policy*, in collaboration with mana whakahaere,* that states, at a minimum,— (a) how the committee will ensure that it engages with the constituents of each district of its region on the approach to the major regional policy issues; and (b) the different forms, methods, or techniques of engagement to be used by the committee (such as online methods or hui) to reach the constituents in innovative ways and obtain the views of its wider communities; and (c) how the committee will collect and record feedback and enduring submissions made under clause 20. (2) The purpose of an engagement policy is to ensure that the planning committee— (a) hears a diverse range of views on the approach to the major regional policy issues; and (b) ensures that the constituents of each district of its region can be heard and easily provide feedback on the approach to the major regional policy issues; and (c) identifies the degree of significance attached to particular issues or decisions set out in the approach to the major regional policy issues. *In preparing a engagement policy under subclasue (1) the Regional Planning Committee must seek feedback from mana whakahaere.*
22 Consultation during preparation of plan (1) A regional planning committee must consult the following parties during the preparation of a plan: (a) the Minister for the Environment; and (b) the Minister of Conservation; and (c) the relevant regional conservator for the Department of Conservation; and (d) other Ministers of the Crown who may be affected by the plan; and (e) the constituent local authorities of the region; and (f) any adjacent local authorities; and	Partially support	The Māori Trustee supports consultation occurring during the preparation of a plan as this will provide an important opportunity for Māori to have their voices heard at the key policy writing stage. However, the current parties listed under cl 22(1) needs further expansion. The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is inappropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that cl 22(1)(h),	The Māori Trustee considers that the following amendments should be made to clause 22: **Amendments** (1) A regional planning committee must consult the following parties during the preparation of a plan: (a) the Minister for the Environment; and (b) the Minister of Conservation; and (c) the relevant regional conservator for the Department of Conservation; and (d) other Ministers of the Crown who may be affected by the plan; and *(e) the Māori Trustee; and*

(g) requiring authorities; and (h) iwi authorities of the region. (2) If a proposed plan or plan change relates to the coastal marine area, the regional planning committee— (a) must consult with— (i) the Minister responsible for aquaculture in relation to the management of aquaculture activities; and (ii) the Minister of Oceans and Fisheries in relation to fisheries management; but (b) does not have to consult either Minister in relation to minor plan changes, and (c) must consult with customary marine title groups in the area.		now amended to (i), should require the RPC to engage with mana whakahaere not just iwi authorities. The Māori Trustee administers significant tranches of land across a number of the 14 regions **(refer Appendix B**) but there is no requirement within this NBE Bill for RPC's to directly engage. The Māori Trustee sees direct engagement with her office during the preparation of a plan beneficial to both parties and will ensure that regional planning is fit-for-purpose from a whenua Māori perspective.	(f) the constituent local authorities of the region; and (g) any adjacent local authorities; and (h) requiring authorities; and (i) *mana whakahaere* ~~iwi authorities~~ of the region. (2) If a proposed plan or plan change relates to the coastal marine area, the regional planning committee— (a) must consult with— (i) the Minister responsible for aquaculture in relation to the management of aquaculture activities; and (ii) the Minister of Oceans and Fisheries in relation to fisheries management; but (b) does not have to consult either Minister in relation to minor plan changes, and (c) must consult with customary marine title groups in the area.
29 Planning committee to report to chief executive on compliance with NPF (1) A regional planning committee must submit a report to the chief executive (or the Director-General of Conservation in the case of plan provisions relating to the coastal marine area) with details about how the plan will— (a) give effect to the national planning framework; and (b) set and apply environmental limits. (2) The regional planning committee must submit the report at least 3 months before the date on which the plan must be notified. (3) **Subclause (2)** applies only in relation to the development of a full plan, a full review of a plan, and the standard process. (4) In the case of proportionate or urgent plan change processes, the regional planning committee must submit the report to the Ministry for the Environment or, as the case requires, the Department of Conservation, 20 working days before the proposed plan change is notified. (5) The chief executive or the Director-General of Conservation, as the case requires, must review the report and may take any action under this Act in respect of the report that they think appropriate. (6) The report must be in the form prescribed by regulations (if any) prescribed under **clause 140(1)(c).**	Partially support	The Māori Trustee considers that the RPCs should be required to report on how their plans give effect to te Tiriti o Waitangi and that the NME should be able to review and take any action necessary to ensure compliance is met. The Māori Trustee also considers that any action taken under cl 29 (5) should have to directly relate to achieving the purpose of this NBE Bill and give effect to te Tiriti o Waitangi.	The Māori Trustee considers the following amendments should be made to clause 29: **Amendments** **29 Planning committee to report to chief executive *and the National Māori Entity* on compliance with NPF** (1) A regional planning committee must submit a report to the chief executive (or the Director-General of Conservation in the case of plan provisions relating to the coastal marine area) *and the National Māori Entity* with details about how the plan will— (a) give effect to the national planning framework; and (b) set and apply environmental limits; *and* *(c) give effect to te Tiriti o Waitangi.* (2) The regional planning committee must submit the report at least 3 months before the date on which the plan must be notified. (3) **Subclause (2)** applies only in relation to the development of a full plan, a full review of a plan, and the standard process. (4) In the case of proportionate or urgent plan change processes, the regional planning committee must submit the report to the Ministry for the Environment or, as the case requires, the Department of Conservation, *and the National Māori Entity* 20 working days before the proposed plan change is notified. (5) The chief executive or the Director-General of Conservation, as the case requires must review the report and may take any action under this Act in respect of the report that ~~they think appropriate~~ *is necessary to achieve the purpose of this Act and give effect to te Tiriti o Waitangi*. (6) The report must be in the form prescribed by regulations (if any) prescribed under **clause 140(1)(c).**

30 Review of full plan development and review by appointing body (1) This clause applies only to a review by an appointing body (*see* **clause 1 of Schedule 8**) in respect of the development or review of a full plan. (2) Before the regional planning committee decides to proceed with a proposed plan, an appointing body for the region may request an opportunity to review the proposed plan for the purpose of— (a) familiarising themselves with the content of the proposed plan; and (b) identifying any errors; and (c) identifying any risks in the implementation or operation of the plan. (3) The regional planning committee must— (a) provide the appointing body with the most recent copy of the proposed plan for that purpose; and (b) specify a 3-month time frame for the review; and (c) ensure that the review has the same time frame as the report required by **clause 29**. (4) The appointing body must provide any comments on the proposed plan to the regional planning committee within the time frame for the review. (5) The regional planning committee may amend the proposed plan in response to those comments.	Partially support	The Māori Trustee considers further direction should be provided on what conditions the RPC must abide by when considering to amend the proposed plan in response to feedback from appointing bodies. If no direction is provided, the RPC could conceivably reject all feedback received on the plan and make the opportunity to review a plan a pointless exercise for appointing bodies.	The Māori Trustee considers further direction should be provided on what conditions the RPC must abide by when considering to amend the proposed plan in response to feedback from appointing bodies.
31 Planning committee to notify proposed plan (1) If a regional planning committee decides to proceed with a proposed plan, it must provide a copy of the proposed plan and the associated evaluation report to— (a) the Minister for the Environment; and (b) the Minister of Conservation and each appropriate regional conservator in the Department of Conservation; and (c) any affected local authorities, including the regional council of a region and every constituent local authority whose district is wholly or partly in the region; and (d) the regional councils adjacent to the affected region, and any affected local authorities in the adjacent regions; and (e) iwi authorities in the region. (2) The plan and its associated evaluation report must be publicly notified across the whole region including, at least,— (a) notice to every ratepayer in the constituent local authorities of the region—	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is inappropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that cl 31(1)(e) should require the RPC to provide a copy of the proposed plan and associated evaluation report to mana whakahaere not just iwi authorities. The Māori Trustee also notes that she administers an extensive portfolio of Māori land, the majority of which is leased. This often means that the ratepayer is the lessee, not the owner of the whenua. Therefore, clause 31(2)(a) should be amended to require RPCs to notify both the ratepayers and landowners of the plan and its associated evaluation report.	The Māori Trustee considers the following amendments should be made to clause 31: **Amendments** (1) If a regional planning committee decides to proceed with a proposed plan, it must provide a copy of the proposed plan and the associated evaluation report to— (a) the Minister for the Environment; and (b) the Minister of Conservation and each appropriate regional conservator in the Department of Conservation; and (c) any affected local authorities, including the regional council of a region and every constituent local authority whose district is wholly or partly in the region; and (d) the regional councils adjacent to the affected region, and any affected local authorities in the adjacent regions; and (e) *mana whakahaere* ~~iwi authorities~~ in the region. (2) The plan and its associated evaluation report must be publicly notified across the whole region including, at least,— (a) notice to every ratepayer *and landowner* in the constituent local authorities of the region— (i) by public notice:

(i) by public notice: (ii) by electronic notice, if a person is likely to be directly affected by the proposed plan; and (b) notice on the Internet site of each constituent local authority; and (c) access to a copy in the library of each constituent local authority. (3) Regional planning committees are not obliged to give notice to directly affected ratepayers under this clause. (4) However, there is an obligation to serve notice on directly affected ratepayers— (a) if the regional planning committee is undertaking a proportionate plan change that is given limited notification: (b) in the case of land that is subject to a requirement for, or modification of, a designation, if the regional planning committee is notifying land owners and occupiers likely to be directly affected. (5) The version of the proposed plan that is publicly notified must state which rules in the plan are intended to have immediate legal effect under **section 130**.			(ii) by electronic notice, if a person is likely to be directly affected by the proposed plan; and (b) notice on the Internet site of each constituent local authority; and (c) access to a copy in the library of each constituent local authority. (3) Regional planning committees are not obliged to give notice to directly affected ratepayers under this clause. (4) However, there is an obligation to serve notice on directly affected ratepayers— (a) if the regional planning committee is undertaking a proportionate plan change that is given limited notification: (b) in the case of land that is subject to a requirement for, or modification of, a designation, if the regional planning committee is notifying land owners and occupiers likely to be directly affected. (5) The version of the proposed plan that is publicly notified must state which rules in the plan are intended to have immediate legal effect under **section 130.**
34 Who may make primary submission (1) Once a proposed plan is publicly notified under **clause 31**, the persons described in **subclause (2)** may make a submission (a **primary submission**) on it to the planning committee. (2) The persons are— (a) affected local authorities, including the constituent local authorities of a region; and (b) the relevant regional planning committee; and (c) any other person, subject to **subclause (3)**. (3) A primary submission must— (a) be in a form (if any) approved for the purpose by the chief executive; and (b) identify each provision of the plan being submitted on; and (c) include all the evidence that the submitter intends to submit in support of the submission. (4) **Clause 20(4)** applies under this clause.	Partially support	The Māori Trustee acknowledges the intention to create efficiencies in the submission process through requiring all evidence intended to support the submission included with the primary submission instead of being introduced later at the hearings stage. However, this raises significant concerns that the new resource management system will continue to benefit those who can afford to participate. This clause is also of particular concern for the Māori Trustee as she administers significant amounts of Māori land across 14 regions (**refer to Appendix B**) and could be required to review, analyse, provide evidence and submit on multiple plans and plan changes at any one time. The requirement of evidence at this stage of the submissions process could therefore become impractical very quickly. The Māori Trustee therefore considers that cl 34(3)(c) should be amended to account for the practicality of providing all evidence at this stage of the submission process.	The Māori Trustee considers the following amendments should be made to clause 34: **Amendments** (1) Once a proposed plan is publicly notified under **clause 31**, the persons described in **subclause (2)** may make a submission (a **primary submission**) on it to the planning committee. (2) The persons are— (a) affected local authorities, including the constituent local authorities of a region; and (b) the relevant regional planning committee; and (c) any other person, subject to **subclause (3)**. (3) A primary submission must— (a) be in a form (if any) approved for the purpose by the chief executive; and (b) identify each provision of the plan being submitted on; and (c) *if practicable*, include all the evidence that the submitter intends to submit in support of the submission. (4) **Clause 20(4)** applies under this clause.
42 Availability of operative plan	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to	The Māori Trustee considers the following amendments should be made to clause 42:

(1) The regional planning committee must make a copy of its plan, once operative, on its Internet site and in every public library in its region. (2) The regional planning committee must also provide a copy of the operative plan to— (a) the Minister for the Environment; and (b) the Minister of Conservation; and (c) any affected local authorities, including— (d) the regional council of the region; and (e) every constituent district; and (f) the adjacent regional territorial authorities; and (g) iwi authorities in the region.		participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that cl 42(2)(e) should require the RPC to provide a copy of the operative plan to mana whakahaere not just iwi authorities. To ensure consistency and ease of use, RPCs should be required to make a copy of its operative plan available on its internet site that is in a standardised and searchable format.	**Amendments** (1) The regional planning committee must make a copy of its plan, once operative, on its Internet site *in a standardised and searchable format* and in every public library in its region. (2) The regional planning committee must also provide a copy of the operative plan to— (a) the Minister for the Environment; and (b) the Minister of Conservation; and (c) any affected local authorities, including— (d) the regional council of the region; and (e) every constituent district; and (f) the adjacent regional territorial authorities; and (g) *mana whakahaere* ~~iwi authorities~~ in the region.
44 Application of proportionate process for plan changes (1) If a regional planning committee is satisfied that a proportionate process is appropriate for a plan change, the committee must follow the requirements for the standard process, except as varied by this clause. (2) The committee must not— (a) provide information to an IHP (as required by **clause 39**), but a separate hearing process will be applied; or (b) give public notice of how it intends to deal with any major regional policy issues (*see* **clause 14**); or (c) give notice of an engagement register; or (d) Provide for secondary submissions (*see* **clause 36**). (3) A regional planning committee may, at its discretion,— (a) enter into engagement agreements: (b) send the proposed plan change to any adjacent (non-constituent) local authorities. (4) Proportionate plan changes must not be used to change the strategic content of a plan. (5) If the regional planning committee is using the proportionate process, it must undertake consultation with the following groups if the committee considers that they are affected by the matters covered by the proposed plan change: (a) iwi authorities and groups representing hapū within the region; and (b) constituent local authorities; and (c) Ministers of the Crown who may be affected by the plan change; and	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that cl 44(5)(a) should require the RPC to undertake consultation with mana whakahaere not just iwi authorities and groups representing hapū.	The Māori Trustee considers the following amendments should be made to clause 44: **Amendments** (1) If a regional planning committee is satisfied that a proportionate process is appropriate for a plan change, the committee must follow the requirements for the standard process, except as varied by this clause. (2) The committee must not— (a) provide information to an IHP (as required by **clause 39**), but a separate hearing process will be applied; or (b) give public notice of how it intends to deal with any major regional policy issues (*see* **clause 14**); or (c) give notice of an engagement register; or (d) Provide for secondary submissions (*see* **clause 36**). (3) A regional planning committee may, at its discretion,— (a) enter into engagement agreements: (b) send the proposed plan change to any adjacent (non-constituent) local authorities. (4) Proportionate plan changes must not be used to change the strategic content of a plan. (5) If the regional planning committee is using the proportionate process, it must undertake consultation with the following groups if the committee considers that they are affected by the matters covered by the proposed plan change: (a) *mana whakahaere* ~~iwi authorities and groups representing hapū~~ within the region; and (b) constituent local authorities; and (c) Ministers of the Crown who may be affected by the plan change; and (d) requiring authorities. (6) As a general rule, enduring submissions— (a) may be lodged from the time that the intended programme of work for the next 3 years is notified by the regional planning committee; but

(d) requiring authorities. (6) As a general rule, enduring submissions— (a) may be lodged from the time that the intended programme of work for the next 3 years is notified by the regional planning committee; but (b) may not be lodged after the proposed plan change is notified. (7) However, enduring submissions may be lodged before a plan change using a proportionate process is notified, as long as the submitter explains the submitter's interest in the matter. (8) Twenty working days before the regional planning committee notifies a proposed plan change, the regional planning committee must submit a report prepared under **clause 31** to the Ministry for the Environment and (if relevant) the Department of Conservation. (10) **Clause 39** applies to the proportionate and urgent plan change processes, except that submissions will be heard by commissioners, not by the IHP; (*see* **subpart 3 of Part 3** of this schedule). (11) A regional planning committee must give public notice of its decision to accept or reject the recommendations on a proportionate plan change within 2 years after the plan change is notified.			(b) may not be lodged after the proposed plan change is notified. (7) However, enduring submissions may be lodged before a plan change using a proportionate process is notified, as long as the submitter explains the submitter's interest in the matter. (8) Twenty working days before the regional planning committee notifies a proposed plan change, the regional planning committee must submit a report prepared under **clause 31** to the Ministry for the Environment and (if relevant) the Department of Conservation. (10) **Clause 39** applies to the proportionate and urgent plan change processes, except that submissions will be heard by commissioners, not by the IHP; (*see* **subpart 3 of Part 3** of this schedule). (11) A regional planning committee must give public notice of its decision to accept or reject the recommendations on a proportionate plan change within 2 years after the plan change is notified.
45 Proportionate process must use targeted or limited notification (1) After undertaking an early engagement process under **clause 44**, a regional planning committee may give limited notification of the proportionate process, but only if it is able to identify all the persons directly affected by the change. (2) If a regional planning committee is unable to identify all the persons directly affected by a plan change, the committee must, as an alternative for a proportionate process, give targeted notice, in order to avoid public notice being given where there is no legitimate interest in the change. (3) If either limited or targeted notification is given, the regional planning committee— (a) must provide a copy of the proposed change or variation, without charge, to— (i) the Minister; and (ii) the Minister of Conservation and the Director-General of Conservation, in the case of a change or variation that relates to the coastal marine area; and	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that cl 45(3)(a)(iv) should require the RPC to provide a copy of the proposed change or variation, without charge, to mana whakahaere not just iwi authorities and groups representing hapū. The Māori Trustee also notes that she administers an extensive portfolio of Māori land, the majority of which is leased. This often means that the ratepayer is the lessee, not the owner of the whenua. Therefore, clause 44(5)(a) should be amended to require RPCs to expressly give targeted notice to both the ratepayers and landowners if they are directly affected by the change.	The Māori Trustee considers the following amendments should be made to clause 45: **Amendments** (1) After undertaking an early engagement process under **clause 44**, a regional planning committee may give limited notification of the proportionate process, but only if it is able to identify all the persons directly affected by the change. (2) If a regional planning committee is unable to identify all the persons directly affected by a plan change, the committee must, as an alternative for a proportionate process, give targeted notice, in order to avoid public notice being given where there is no legitimate interest in the change. (3) If either limited or targeted notification is given, the regional planning committee— (a) must provide a copy of the proposed change or variation, without charge, to— (i) the Minister; and (ii) the Minister of Conservation and the Director-General of Conservation, in the case of a change or variation that relates to the coastal marine area; and (iii) each local authority responsible for the plan or part of the plan to which the change or variation relates; and

(iii) each local authority responsible for the plan or part of the plan to which the change or variation relates; and (iv) iwi authorities and groups representing hapū and customary marine title groups affected by the matters that the change or variation relates to; and (b) may provide any further information on the proposed change or variation that it considers appropriate. (4) If a regional planning committee has given targeted notice any person may make a primary submission. (5) Targeted notice must be given— (a) in a way that targets persons and communities that have an interest in the subject area to which the change relates, including to ratepayers and others likely to be directly affected by the change; and (b) on an Internet site of the local authority to whose jurisdiction the plan change relates. (6) **Clause 75** applies to the public notice required by **subclause (5)**, except that the closing date for primary submissions on a proposed plan change is 20 working days after the public notice is given.			(iv) *mana whakahaere* ~~iwi authorities and groups representing hapū~~ and customary marine title groups affected by the matters that the change or variation relates to; and (b) may provide any further information on the proposed change or variation that it considers appropriate. (4) If a regional planning committee has given targeted notice any person may make a primary submission. (5) Targeted notice must be given— (a) in a way that targets persons and communities that have an interest in the subject area to which the change relates, including to ratepayers*, land owners* and others likely to be directly affected by the change; and (b) on an Internet site of the local authority to whose jurisdiction the plan change relates. (6) **Clause 75** applies to the public notice required by **subclause (5)**, except that the closing date for primary submissions on a proposed plan change is 20 working days after the public notice is given.
48 Application of urgent process for plan changes (1) If a regional planning committee is satisfied that an urgent process is appropriate for a plan change, the committee must follow the requirements for the standard process. (2) However, the committee must not include the following steps: (a) giving public notice of how the committee intends to deal with any major regional policy issues (*see* **clause 20**) (enduring submissions); or (b) giving notice of an engagement register; or (c) providing for enduring submissions (*see* **clause 20**); or (d) providing for secondary submissions. (3) A regional planning committee may, at its discretion,— (a) enter into engagement agreements: (b) send the proposed plan change to any adjacent (non-constituent) local authorities: (c) elect whether commissioners are to hold hearings of submissions forwarded to commissioners under **clause 39**.	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that cl 48(5)(a) should require the RPC to undertake early engagement with mana whakahaere not just iwi authorities and groups representing hapū when using the urgent process.	The Māori Trustee considers the following amendments should be made to clause 48: **Amendments** (1) If a regional planning committee is satisfied that an urgent process is appropriate for a plan change, the committee must follow the requirements for the standard process. (2) However, the committee must not include the following steps: (a) giving public notice of how the committee intends to deal with any major regional policy issues (*see* **clause 20**) (enduring submissions); or (b) giving notice of an engagement register; or (c) providing for enduring submissions (*see* **clause 20**); or (d) providing for secondary submissions. (3) A regional planning committee may, at its discretion,— (a) enter into engagement agreements: (b) send the proposed plan change to any adjacent (non-constituent) local authorities: (c) elect whether commissioners are to hold hearings of submissions forwarded to commissioners under **clause 39**. (4) The urgent plan change process must not be used to change the strategic content of a plan, unless that course is directed by the national planning framework or by the Minister for the Environment.

(4) The urgent plan change process must not be used to change the strategic content of a plan, unless that course is directed by the national planning framework or by the Minister for the Environment. (5) When using the urgent process, the regional planning committee must undertake early engagement with the following groups, if the committee considers that they are affected by the matters covered by the proposed plan change: (a) iwi authorities and groups representing hapū within the region; and (b) constituent local authorities; and (c) government departments and ministries; and (d) requiring authorities. (6) A regional planning committee must,— (a) 20 working days before the committee notifies the proposed plan change, submit a report prepared under **clause 29** to the Ministry for the Environment and (if relevant) to the Department of Conservation; and (b) give public notice of its decision to accept or reject the recommendations on an urgent plan change within 1 year after the plan change is notified.			(5) When using the urgent process, the regional planning committee must undertake early engagement with the following groups, if the committee considers that they are affected by the matters covered by the proposed plan change: (a) *mana whakahaere* ~~iwi authorities and groups representing hapū~~ within the region; and (b) constituent local authorities; and (c) government departments and ministries; and (d) requiring authorities. (6) A regional planning committee must,— (a) 20 working days before the committee notifies the proposed plan change, submit a report prepared under **clause 29** to the Ministry for the Environment and (if relevant) to the Department of Conservation; and (b) give public notice of its decision to accept or reject the recommendations on an urgent plan change within 1 year after the plan change is notified.
54 9-yearly review of plans (1) Each regional planning committee must undertake a review of its plan for the region at least every 9 years (a **9-yearly review**). (2) A 9-yearly review must cover the following matters: (a) whether the strategic direction of the plan is still appropriate; and (b) whether the plan gives effect to the national planning framework; and (c) whether the plan continues to be consistent with the regional spatial strategy for the region; and (d) whether there is a need to change or retain plan provisions that have not been reviewed in the previous 9 years; and (e) any other matter that the regional planning committee considers appropriate. (3) Each regional planning committee must, after completing its 9-yearly review, publish the results of that review, stating how it intends to respond to any matters requiring further consideration that are identified in it.	Partially support	The Māori Trustee is supportive of NBE plans being reviewed at least every nine years. However, the current matters listed under cl 54(2) do not require a review of whether the plan gives effect to te Tiriti o Waitangi or achieves the purpose of this NBE Bill. This needs amendment.	The Māori Trustee considers the following amendments should be made to clause 54: **Amendments** (1) Each regional planning committee must undertake a review of its plan for the region at least every 9 years (a **9-yearly review**). (2) A 9-yearly review must cover the following matters: (a) whether the strategic direction of the plan is still appropriate; and *(b) whether the plan achieves the purpose of this Act; and* *(c) whether the plan gives effect to te Tiriti o Waitangi; and* (d) whether the plan gives effect to the national planning framework; and (e) whether the plan continues to be consistent with the regional spatial strategy for the region; and (f) whether there is a need to change or retain plan provisions that have not been reviewed in the previous 9 years; and (g) any other matter that the regional planning committee considers appropriate. (3) Each regional planning committee must, after completing its 9-yearly review, publish the results of that review, stating how it intends to respond to any matters requiring further consideration that are identified in it.

(4) A regional planning committee must respond to its review, as appropriate, by— (a) making plan changes; or (b) notifying a wholly new plan; or (c) any other method that the regional planning committee considers appropriate.			(4) A regional planning committee must respond to its review, as appropriate, by— (a) making plan changes; or (b) notifying a wholly new plan; or (c) any other method that the regional planning committee considers appropriate.
56 Functions and powers of commissioners (1) The principal function of commissioners is to hear submissions and make recommendations on a proposed plan change, following the proportionate or urgent plan change process. (2) In doing so, they may (a) hold hearings; and (b) for the purposes of paragraph (a),— (i) hold or authorise pre-hearing meetings, and conferences of experts, and conduct or authorise alternative dispute resolution processes; and (ii) commission reports; and (c) make recommendations on a proposed plan change to the regional planning committee; and (d) carry out any other functions or exercise any powers conferred by this Act or that are incidental and related to, or consequential on, any of their functions and powers under this Act. (3) However, commissioners must not accept late submissions. (4) Commissioners may, except as expressly provided otherwise by or under this Act, regulate as they see fit how they conduct their proceedings. (5) If more than 1 commissioner is hearing a proceeding, the commissioners must 20 (6) select 1 of their number to chair the proceeding. (7) The commissioner acting as chairperson has the powers necessary to— (a) conduct the hearing; and (b) maintain order at the hearing; and (c) appoint a submitter to have a supporter at the hearing.	Partially support	The Māori Trustee is generally comfortable with the provisions under cl 56, however she notes that sub-clause (3) may unintentionally disadvantage Māori. The ability to submit submissions on time is reflective of the capability and capacity of individuals and organisations have to complete such a task. The requirements of Māori to participate within this NBE Bill have increased dramatically but the capability and capacity for them to do so remains the same. The Māori Trustee considers that some flexibility should be given to reflect this. The Māori Trustee therefore considers that commissioners should be allowed to accept late submissions up to 10 working days after the submission period closes on the conditions that there are no reasonable objections from other submitters to accept the late submission.	The Māori Trustee considers the following amendments should be made to clause 56: **Amendments** (1) The principal function of commissioners is to hear submissions and make recommendations on a proposed plan change, following the proportionate or urgent plan change process. (2) In doing so, they may (a) hold hearings; and (b) for the purposes of paragraph (a),— (i) hold or authorise pre-hearing meetings, and conferences of experts, and conduct or authorise alternative dispute resolution processes; and (ii) commission reports; and (c) make recommendations on a proposed plan change to the regional planning committee; and *(d)* carry out any other functions or exercise any powers conferred by this Act or that are incidental and related to, or consequential on, any of their functions and powers under this Act. *(3)* However, commissioners must not accept late submissions*, unless –* *(a) there are no reasonable objections from other submitters to accept the submission; and* *(b) the submission is received no later than 10 working days after the closing date.* (4) Commissioners may, except as expressly provided otherwise by or under this Act, regulate as they see fit how they conduct their proceedings. (5) If more than 1 commissioner is hearing a proceeding, the commissioners must 20 (6) select 1 of their number to chair the proceeding. (7) The commissioner acting as chairperson has the powers necessary to— (a) conduct the hearing; and (b) maintain order at the hearing; and (c) appoint a submitter to have a supporter at the hearing.
58 Recommendations by commissioners (1) Commissioners who have heard submissions on a proposed plan change must make their recommendations in written reports to the relevant	Partially support	The Māori Trustee is concerned that recommendations can be made by commissioners to RPCs that are out of scope of submissions. The Māori Trustee considers out of scope recommendations to not be in good faith and undermines public participation in a plan change process. The Māori Trustee is not opposed to out	The Māori Trustee considers any out of scope recommendations, made by commissioners and accepted by regional planning committees, should be required to undergo a public notification and consultation process.

regional planning committee not later than 40 working days after the close of the hearing. (2) Recommendations made under **subclause (1)** may include recommended changes to the provisions of the proposed plan change. (3) If no hearing is held, commissioners must make their recommendations in written reports to the relevant regional planning committee within 40 working days after the closing date for submissions. (4) Commissioners may make recommendations on matters within the scope of the submissions, but may also make recommendations on any matters outside the scope of the submissions, if necessary or desirable to preserve the policy and coherence of the plan.		of scope recommendations being made, however, if the RPC accept these recommendations they should be required to undergo a public notification and consultation process.	
61 Consideration of recommendations (1) When a regional planning committee receives a report of a commissioner in relation to a hearing on a plan change, the committee— (a) must decide whether to accept or reject each recommendation in the report: (b) may, if it rejects a recommendation, decide on an alternative to that recommendation: (c) may accept a recommendation but make a minor alteration to it or correct a minor error: (d) may accept a recommendation of the commissioner that is outside the scope of the submissions. (2) An alternative proposed under **subclause (1)(b)** may (but need not) include in part the proposed plan change and in part the commissioner's recommendations, as long as the alternative is within the scope of the submissions. (3) When making its decisions under **subclause (1)**, a regional planning committee— (a) is not required to consult any person or consider submissions of other evidence from any person; but (b) must not consider any submission or other evidence unless the commissioner had access to the submission or other evidence before they completed the report required by **clause 58**.	Partially support	The Māori Trustee is concerned that out of scope recommendations made by commissioners can be accepted by RPCs without the need for further public notification and consultation. The Māori Trustee considers out of scope recommendations to not be in good faith and that they undermine public participation in a plan change process. The Māori Trustee is not opposed to out of scope recommendations being made, however, if the RPC accept these recommendations they should be required to undergo a public notification and consultation process.	The Māori Trustee considers any out of scope recommendations, made by commissioners and accepted by RPCs, should be required to undergo a public notification and consultation process.

67 Appeals (1) If a regional planning committee has used either the proportionate or the urgent process to determine a proposed plan change, there is a right to appeal to the Environment Court for persons who made submissions on the proposed plan change. (2) Appeals may be made in respect of any of the following: (a) a provision included in the proposed plan change: (b) a matter not included in the proposed plan change: (c) a provision arising from a submission that is proposed to be— (i) included in the plan change: (ii) excluded from the plan change. (3) An appeal is permitted only if the submitter referred to the provision or matter in the person's submission on the proposed plan change. (4) Appeals must be lodged, in the prescribed form, not later than 30 working days after the regional planning committee's notice of its decision is served. (5) The appellant must serve a copy of the notice of appeal in the prescribed manner. (6) In the case of an appeal in relation to a independent plan change request, the requester has the same rights as a submitter.	Partially support	The Māori Trustee reiterates her **submissions made to clauses 58 and 61**. Although it is positive that out of scope recommendations can be appealed, this is a cost-prohibitive process and will not be able to be utilised by many submitters. It is also concerning that out of scope matters can be introduced after the public notification of a proposed plan, which inherently could not be anticipated during the writing of primary submissions, but can only be appealed if the submitter referred to the provision or matter in their original submission. Clause 67(3) should therefore exempt this requirement for out of scope matters. The Māori Trustee again considers that any out of scope recommendations, made by commissioners and accepted by RPCs, should be required to undergo a public notification and consultation process.	The Māori Trustee again considers that any out of scope recommendations, made by commissioners and accepted by RPCs, should be required to undergo a public notification and consultation process. The Māori Trustee considers the following amendments should be made to clause 67: **Amendments** (1) If a regional planning committee has used either the proportionate or the urgent process to determine a proposed plan change, there is a right to appeal to the Environment Court for persons who made submissions on the proposed plan change. (2) Appeals may be made in respect of any of the following: (a) a provision included in the proposed plan change: (b) a matter not included in the proposed plan change: (c) a provision arising from a submission that is proposed to be— (i) included in the plan change: (ii) excluded from the plan change. (3) An appeal is permitted only if the submitter referred to the provision or matter in the person's submission on the proposed plan change, *unless related to matters in* ***subclause (2)(b)***. (4) Appeals must be lodged, in the prescribed form, not later than 30 working days after the regional planning committee's notice of its decision is served. (5) The appellant must serve a copy of the notice of appeal in the prescribed manner. (6) In the case of an appeal in relation to a independent plan change request, the requester has the same rights as a submitter.
80 Hearings to be public and without unnecessary formality (1) The authority must hold the hearing in public (unless permitted to do otherwise by **clause 118** (which relates to the protection of sensitive information) or the Local Government Official Information and Meetings Act 1987), and must establish a procedure that is appropriate and fair in the circumstances. (2) In determining an appropriate procedure, the authority must— (a) avoid unnecessary formality; and (b) recognise tikanga māori where appropriate and receive evidence written or spoken in Māori, subject to Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016; and (c) not permit any person other than the chairperson or other member of the hearing body to question any party or witness; and (d) not permit cross-examination.	Partially support	The Māori Trustee considers that the directive under cl 80(2)(b) should be to recognise and provide for tikanga Māori. The Māori Trustee also considers that providing for tikanga Māori would be appropriate at all hearings and therefore the 'where appropriate' qualifier should be removed.	The Māori Trustee considers the following amendments should be made to clause 80: **Amendments** (1) The authority must hold the hearing in public (unless permitted to do otherwise by **clause 118** (which relates to the protection of sensitive information) or the Local Government Official Information and Meetings Act 1987), and must establish a procedure that is appropriate and fair in the circumstances. (2) In determining an appropriate procedure, the authority must— (a) avoid unnecessary formality; and (b) recognise *and provide for* tikanga māori ~~where appropriate~~ and receive evidence written or spoken in Māori, subject to Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016; and (c) not permit any person other than the chairperson or other member of the hearing body to question any party or witness; and (d) not permit cross-examination. (3) However, nothing in **subclause (2)(c) or (d)** applies to a hearing referred to in **clause 113**.

(3) However, nothing in **subclause (2)(c) or (d)** applies to a hearing referred to in **clause 113**.			
87 Directions to provide evidence within time limits (1) The authority may direct the applicant to provide briefs of evidence in writing or electronically to the authority before the hearing. (2) The applicant must provide the briefs of evidence at least 10 working days before the hearing. (3) The authority may direct a person who has made a submission and who is intending to call expert evidence to provide briefs of the evidence to the authority before the hearing. (4) Except in the case of a hearing where a proportionate or urgent process is being used, the person must provide the briefs of evidence at least 5 working days before the hearing. (5) Where a proportionate or urgent process is being used, all supporting information, including any expert evidence, must be provided with the submission.	Partially support	The Māori Trustee reiterates her **submissions made to clause 34** with regards to cl 87(5).	The Māori Trustee considers the following amendments should be made to clause 87: **Amendments** (1) The authority may direct the applicant to provide briefs of evidence in writing or electronically to the authority before the hearing. (2) The applicant must provide the briefs of evidence at least 10 working days before the hearing. (3) The authority may direct a person who has made a submission and who is intending to call expert evidence to provide briefs of the evidence to the authority before the hearing. (4) Except in the case of a hearing where a proportionate or urgent process is being used, the person must provide the briefs of evidence at least 5 working days before the hearing. (5) Where a proportionate or urgent process is being used, all supporting information, including any expert evidence*, where practicable*, must be provided with the submission.
90 Protection of sensitive information (1) An authority may, on its own motion or on the application of any submitter, make an order described in **subclause (2)** where it is satisfied— (a) that the order is necessary to avoid— (i) serious offence to tikanga māori or to avoid the disclosure of the location of wāhi tapu; or (ii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and (b) that in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available. (2) An order may— (a) require that the whole or part of a hearing session or class of hearing sessions at which the information is likely to be referred to must be held with the public excluded: (b) prohibit or restrict the publication or communication of any information supplied to, or obtained by, the authority in the course of any proceedings, whether or not	Partially support	The Māori Trustee is supportive of protecting sensitive information particularly where disclosure would cause serious offence to tikanga Māori or the location of wāhi tapu. However, the Māori Trustee considers it inappropriate that protection of tikanga Māori or the location of wāhi tapu can be overruled if an authority is satisfied that public interest outweighs it. This should not be a determination for the RPC to make. If Māori wish to have their sensitive information protected with regards to tikanga Māori and the location of wāhi tapu this should be upheld.	The Māori Trustee considers the following amendments should be made to clause 90: **Amendments** (1) An authority may, on its own motion or on the application of any submitter, make an order described in **subclause (2)** where it is satisfied— (a) that the order is necessary to avoid— (i) serious offence to tikanga māori or to avoid the disclosure of the location of wāhi tapu; or (ii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and (b) that in the circumstances of *cases relating* ***to subclause (1)(a)(ii),*** ~~the particular case~~, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available. (2) An order may— (a) require that the whole or part of a hearing session or class of hearing sessions at which the information is likely to be referred to must be held with the public excluded: (b) prohibit or restrict the publication or communication of any information supplied to, or obtained by, the authority in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement. (3) An order made under **subclause (2)(a)** is to be treated as a resolution passed under section 48 of the Local Government Official Information and Meetings Act 1987.

the information may be material to any proposal, application, or requirement. (3) An order made under **subclause (2)(a)** is to be treated as a resolution passed under section 48 of the Local Government Official Information and Meetings Act 1987. (4) A party to a hearing session or class of hearing sessions may apply to the Environment Court for an order cancelling or varying an order made by the authority under this clause. (5) On an application made under **subclause (4)**, an Environment Judge sitting alone may, having regard to the matters to which the authority had regard and to any other matters that the Environment Judge thinks fit,— (a) make an order cancelling or varying any order made under the authority of this clause on any terms that the Judge thinks fit; or (b) decline to make an order.			(4) A party to a hearing session or class of hearing sessions may apply to the Environment Court for an order cancelling or varying an order made by the authority under this clause. (5) On an application made under **subclause (4)**, an Environment Judge sitting alone may, having regard to the matters to which the authority had regard and to any other matters that the Environment Judge thinks fit,— (a) make an order cancelling or varying any order made under the authority of this clause on any terms that the Judge thinks fit; or (b) decline to make an order.
97 Accreditation (1) All members of an IHP must be accredited, except— (a) an Environment Judge: (b) an Environment Commissioner: (c) any other person, if the Chief Environment Court Judge (or their delegate under **clause 99**) considers that there are special circumstances that apply and exempts the person from compliance with the requirement. (2) The Minister must approve a qualification or qualifications establishing a person's accreditation. (3) A notice under **subclause (2)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).	Partially support	The Māori Trustee considers that the Minister should obtain advice of the NME prior to approving a qualification or qualifications establishing a person's accreditation with regards to local kawa and tikanga Māori, mātauranga Māori, te Tiriti o Waitangi and Māori in the region alongside the Minister.	The Māori Trustee considers the following amendments should be made to clause 97: **Amendments** (1) All members of an IHP must be accredited, except— (a) an Environment Judge: (b) an Environment Commissioner: (c) any other person, if the Chief Environment Court Judge (or their delegate under **clause 99**) considers that there are special circumstances that apply and exempts the person from compliance with the requirement. (2) The Minister must approve a qualification or qualifications establishing a person's accreditation. (3) *The Minister must consult with the National Māori Entity before giving the Minister's approval.* (4) A notice under **subclause (2)** is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).
113 Hearing procedure (1) At each hearing session, no fewer than 3 members of the IHP must be present. (2) If the IHP is divided into 2 or more panels and the chairperson is not present at a hearing, the chairperson must appoint another member as chairperson for the purposes of the hearing session. (3) At the hearing session,— (a) a party may cross-examine any other party or witness only by leave granted by the	Partially support	The Māori Trustee considers that the directive under cl 113(4)(c) should be to recognise and provide for tikanga Māori.	The Māori Trustee considers the following amendments should be made to clause 113: **Amendments** (1) At each hearing session, no fewer than 3 members of the IHP must be present. (2) If the IHP is divided into 2 or more panels and the chairperson is not present at a hearing, the chairperson must appoint another member as chairperson for the purposes of the hearing session. (3) At the hearing session,—

chairperson and only after the members have had an opportunity to question the party or witness; and (b) the IHP must receive evidence written or spoken in Māori, in which case Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies as if the hearing session were legal proceedings before a tribunal named in Schedule 2 of that Act. (4) Otherwise, the IHP must establish a procedure for hearing sessions that— (a) is appropriate and fair in the circumstances (including in respect of the granting to a person of any waiver of the requirements of the IHP); and (b) avoids unnecessary formality; and (c) recognises tikanga māori where appropriate. (5) No chairperson or member of an IHP or hearing session may accept late submissions for any hearing. (6) The director of the regional planning committee secretariat must ensure that a full record of the hearing sessions and any other proceedings is retained, including on the regional planning committee's publicly available Internet site.			(a) a party may cross-examine any other party or witness only by leave granted by the chairperson and only after the members have had an opportunity to question the party or witness; and (b) the IHP must receive evidence written or spoken in Māori, in which case Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies as if the hearing session were legal proceedings before a tribunal named in Schedule 2 of that Act. (4) Otherwise, the IHP must establish a procedure for hearing sessions that— (a) is appropriate and fair in the circumstances (including in respect of the granting to a person of any waiver of the requirements of the IHP); and (b) avoids unnecessary formality; and (c) recognises *and provides for* tikanga māori where appropriate. (5) No chairperson or member of an IHP or hearing session may accept late submissions for any hearing. (6) The director of the regional planning committee secretariat must ensure that a full record of the hearing sessions and any other proceedings is retained, including on the regional planning committee's publicly available Internet site.
118 Protection of sensitive information (1) The IHP may, on its own motion or on the application of any submitter, make an order described in **subclause (2)** where it is satisfied— (a) that the order is necessary to avoid— (i) serious offence to tikanga māori or to avoid the disclosure of the location of wāhi tapu; or (ii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and (b) that in the circumstances of the particular case, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available. (2) An order may— (a) require that the whole or part of a hearing session or class of hearing sessions at which the information is likely to be referred to must be held with the public excluded: (b) prohibit or restrict the publication or communication of any information supplied	Partially support	The Māori Trustee is supportive of protecting sensitive information particularly where disclosure would cause serious offence to tikanga Māori or the location of wāhi tapu. However, the Māori Trustee considers it inappropriate that protection of tikanga Māori or the location of wāhi tapu can be overruled if the IHP is satisfied that public interest outweighs it. This should not be a determination for the RPC to make. If Māori wish to have their sensitive information protected with regards to tikanga Māori and the location of wāhi tapu this should be upheld.	The Māori Trustee considers the following amendments should be made to clause 118: **Amendments** (1) The IHP may, on its own motion or on the application of any submitter, make an order described in **subclause (2)** where it is satisfied— (a) that the order is necessary to avoid— (i) serious offence to tikanga māori or to avoid the disclosure of the location of wāhi tapu; or (ii) the disclosure of a trade secret or unreasonable prejudice to the commercial position of the person who supplied, or is the subject of, the information; and (b) that in the circumstances of *cases relating* ***to subclause (1)(a)(ii),*** ~~the particular case~~, the importance of avoiding the offence, disclosure, or prejudice outweighs the public interest in making that information available. (2) An order may— (a) require that the whole or part of a hearing session or class of hearing sessions at which the information is likely to be referred to must be held with the public excluded: (b) prohibit or restrict the publication or communication of any information supplied to, or obtained by, the IHP in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement.

to, or obtained by, the IHP in the course of any proceedings, whether or not the information may be material to any proposal, application, or requirement. (3) An order of the kind described in **subclause (2)(a)**— (a) must be treated, for the purposes of section 48(3) of the Local Government Official Information and Meetings Act 1986, as a resolution passed under that section; and (b) must be made available on the Internet site of the IHP. (4) On an application made under **subclause (3)**, an Environment Judge sitting alone may, having regard to the matters to which the IHP had regard and to any other matters that the Environment Judge thinks fit,— (a) make an order cancelling or varying any order made by the IHP under this clause on any terms that the Judge thinks fit; or (b) decline to make an order. (5) A party to a hearing session or class of hearing sessions may apply to the Environment Court for an order cancelling or varying an order made by the IHP under this clause. (6) If a party applies for an order, but the application is declined, the party may apply to the Environment Court under **clause 15 of Schedule 13**.			(3) An order of the kind described in **subclause (2)(a)**— (a) must be treated, for the purposes of section 48(3) of the Local Government Official Information and Meetings Act 1986, as a resolution passed under that section; and (b) must be made available on the Internet site of the IHP. (4) On an application made under **subclause (3)**, an Environment Judge sitting alone may, having regard to the matters to which the IHP had regard and to any other matters that the Environment Judge thinks fit,— (a) make an order cancelling or varying any order made by the IHP under this clause on any terms that the Judge thinks fit; or (b) decline to make an order. (5) A party to a hearing session or class of hearing sessions may apply to the Environment Court for an order cancelling or varying an order made by the IHP under this clause. (6) If a party applies for an order, but the application is declined, the party may apply to the Environment Court under **clause 15 of Schedule 13**.
124 IHP must make recommendations on proposed plan (1) The IHP must make recommendations on the proposed plan, including any recommended changes to the proposed plan, within 40 working days after the close of the hearing. (2) The IHP may make recommendations in respect of a particular topic after it has finished hearing submissions on that topic. (3) The IHP must make any remaining recommendations after it has finished hearing all of the submissions that will be heard on the proposed plan. (4) The IHP must make recommendations on any provision included in the proposed plan that relates to designations. (5) However, the IHP— (a) is not limited to making recommendations only within the scope of the submissions made on the proposed plan; and	Partially support	The Māori Trustee is concerned that out of scope recommendations made by IHPs can be accepted by RPCs without the need for further public notification and consultation. The Māori Trustee considers out of scope recommendations to not be in good faith and that they undermine public participation in a plan change process. The Māori Trustee is not opposed to out of scope recommendations being made, however, if the RPC accept these recommendations they should be required to undergo a public notification and consultation process.	The Māori Trustee considers that any out of scope recommendations, made by IHPs and accepted by RPCs, should be required to undergo a public notification and consultation process.

(b) may make recommendations on any matters beyond the scope of submissions, where necessary or desirable to preserve the policy structure and coherence of the plan. (6) In formulating its recommendations, the IHP must ensure that any substantive requirements for making decisions will be complied with, if the recommendations were accepted. (7) The IHP must not make a recommendation on any existing designations that are included in the proposed plan without modification and on which no submissions are received.			
127 Planning committees to consider recommendations and notify decisions on them (1) The regional planning committee must— (a) decide whether to accept or reject each recommendation of the IHP; and (b) for each rejected recommendation, decide an alternative solution, which— (i) may or may not include elements of both the proposed plan as notified and the IHP's recommendation in respect of that part of the proposed plan; but (ii) must be within the scope of the submissions; and (c) identify any decisions made on the basis of an exception to the requirement for consistency with the relevant regional spatial strategy. (2) The regional planning committee must make its decision within 40 working days after it receives the recommendations of the IHP under **clause 125**. (3) When making decisions under **subclause (1)**,— (a) the committee is not required to consult any person or consider submissions or other evidence from any person; and (b) the committee must not consider any submission or other evidence unless it was made available to the IHP before the IHP made the recommendation that is the subject of the committee's decision. (4) To avoid doubt, the committee may accept recommendations of the IHP that are beyond the scope of the submissions made on the proposed plan. (5) The committee must, no later than 40 working days after it is provided with the report (or, if there is more than 1 report, the last of the reports) under **clause 125**,—	Partially support	The Māori Trustee reiterates her **submissions made to clause 124.** The Māori Trustee also considers that the RPC should be equally required to provide reasons for why the accepted or rejected a decision. To ensure consistency and ease of use, RPCs should be required to make a copy of its plan available on its internet site with *tracked* changes.	The Māori Trustee again considers that any out of scope recommendations, made by IHPs and accepted by regional planning committees, should be required to undergo a public notification and consultation process. The Māori Trustee considers the following amendments should be made to clause 127: **Amendments** (1) The regional planning committee must— (a) decide whether to accept or reject each recommendation of the IHP; and (b) for each rejected recommendation, decide an alternative solution, which— (i) may or may not include elements of both the proposed plan as notified and the IHP's recommendation in respect of that part of the proposed plan; but (ii) must be within the scope of the submissions; and (c) identify any decisions made on the basis of an exception to the requirement for consistency with the relevant regional spatial strategy. (2) The regional planning committee must make its decision within 40 working days after it receives the recommendations of the IHP under **clause 125**. (3) When making decisions under **subclause (1)**,— (a) the committee is not required to consult any person or consider submissions or other evidence from any person; and (b) the committee must not consider any submission or other evidence unless it was made available to the IHP before the IHP made the recommendation that is the subject of the committee's decision. (4) To avoid doubt, the committee may accept recommendations of the IHP that are beyond the scope of the submissions made on the proposed plan. (5) The committee must, no later than 40 working days after it is provided with the report (or, if there is more than 1 report, the last of the reports) under **clause 125**,— (a) publicly notify its decisions under **subclause (1)**, on an Internet site maintained by the relevant local authorities in a way that sets out the following information:

(a) publicly notify its decisions under **subclause (1)**, on an Internet site maintained by the relevant local authorities in a way that sets out the following information: (i) each recommendation of the IHP that it accepts; and (ii) each recommendation of the IHP that it rejects and the reasons for doing so; and (iii) the alternative solution for each rejected recommendation; and (b) publish on its Internet site a copy of the plan that incorporates changes required to reflect the regional planning committee's decisions; and (c) electronically notify each requiring authority affected by the decisions of the committee under **subclause (1)** of the information referred to in **paragraph (a)** that specifically relates to the decision recommending that the authority confirm, modify, impose conditions on, or withdraw the designation.			(i) each recommendation of the IHP that it accepts *and the reasons for doing so*; and (ii) each recommendation of the IHP that it rejects and the reasons for doing so; and (iii) the alternative solution for each rejected recommendation; and (b) publish on its Internet site a copy of the plan that incorporates *tracked* changes required to reflect the regional planning committee's decisions; and (c) electronically notify each requiring authority affected by the decisions of the committee under **subclause (1)** of the information referred to in **paragraph (a)** that specifically relates to the decision recommending that the authority confirm, modify, impose conditions on, or withdraw the designation.
133 Right of appeal to Environment Court if regional planning committee accepts IHP recommendation beyond scope of submissions (1) This clause applies if— (a) the regional planning committee accepts an IHP recommendation on the proposed plan that results in the inclusion of a provision in, or exclusion of a matter from, the proposed plan; and (b) the IHP identified the recommendation as being beyond the scope of the submissions made on the proposed plan; and (c) any person is, was, or will be unduly prejudiced by the inclusion of the provision or exclusion of the matter. (2) Once the committee notifies its decisions on the proposed plan, the person may appeal to the Environment Court in respect of the inclusion of the provision or exclusion of the matter. (3) Notice of the appeal must be in the prescribed form and lodged with the Environment Court, and served on the planning committee, no later than 30 working days after the regional planning committee notifies the matters under **clause 130(3)**. (4) If the subject matter of the notice of appeal relates to the coastal marine area, the person must also serve a copy of the notice on the Minister of	Partially support	The Māori Trustee reiterates her **submissions made to clauses 124 and 127**. Although it is positive that out of scope recommendations can be appealed, this is a cost-prohibitive process and will not be able to be utilised by many submitters. The Māori Trustee again considers that any out of scope recommendations, made by IHPs and accepted by RPCs, should be required to undergo a public notification and consultation process.	The Māori Trustee again considers that any out of scope recommendations, made by IHPs and accepted by RPCs, should be required to undergo a public notification and consultation process.

Conservation no later than 5 working days after the notice is lodged with the Environment Court.			
136 Environment Court hearing (1) The Environment Court must hold a public hearing into any provision or matter referred to it under **clause 79, 80, 132, 133, or 134**. (2) The Environment Court must hear the appeals by way of a new hearing, subject to **subclauses (3) to (5)**. (3) In an appeal under **clause 79**, the Environment Court— (a) must consider only the record of the IHP proceedings (including all evidence or other material that was before the IHP), unless it allows fresh evidence under paragraph (b): (b) may consider fresh evidence if it considers that— (i) the record of the IHP is incomplete in a material way; or (ii) any evidence needs to be updated to properly reflect events or circumstances that have changed or arisen after the IHP hearing; or (iii) the interests of justice require that the additional evidence be admitted. (4) The limits described in **subclause (3)(b)** on the evidence that may be brought in an appeal under **clause 133** do not apply, unless the appellant made a submission. (5) In an appeal under **clause 133**, the Environment Court— (a) is not limited to the record of the IHP proceedings or the matters raised in submissions made to the IHP: (b) may consider fresh evidence on the same basis as that provided in **subclause (3)(b)**. (6) The limits in **subclauses (3) and (4)** on fresh evidence do not prevent parties from amending their position during any rehearing process. (7) If the Environment Court directs a regional planning committee under **clause 48**, the committee must comply with the court's directions.	Support	The Māori Trustee supports that new evidence can be considered during an Environment Court hearing if the matter being appealed was out of scope of submissions.	N/A

Schedule 8 Provisions relating to membership, support, and operations of regional planning committees

Provision	Position	Submission	Relief Sought
1 Interpretation In this schedule, unless the context otherwise requires,— **appointing body** means— (a) a local authority that appoints, or 1 or more local authorities acting jointly that appoint, a member of a regional planning committee: (b) any Māori appointing body: (c) the responsible Minister, for the appointment of a member for the purposes of participating as a voting member in any process, committee business, and decision-making under the Spatial Planning Act 2022 **iwi and hapū committee** means the committee formed by the iwi and hapū in a region for the purpose of— (a) agreeing with local authorities the composition arrangements for the region under **clause 3**; and (b) leading the process to determine the one or more Māori appointing bodies **Māori appointing body** means any body identified by the iwi and hapū committee to make appointments to the regional planning committee **responsible Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Spatial Planning Act 2022 **statutory deadline A, B, C, or D** means the deadline described as such in **clause 41**.	Partially support	The Māori Trustee reiterates her **submissions made under s 6(3)**, in that the NBE Bill seems to be drafted in a way that only recognises the rights and responsibilities of some Māori. It is not appropriate for the Crown to determine which Māori get to participate and have their voices heard within the resource management system. Giving effect to te Tiriti o Waitangi requires the rights and responsibilities of all mana whakahaere to be recognised. The Māori Trustee therefore considers that all mana whakahaere should be involved in leading the process for determining Māori appointing bodies, and further making appointments to the RPC.	The Māori Trustee considers the following amendments should be made to clause 1: **Amendments** **1 Interpretation** In this schedule, unless the context otherwise requires,— **appointing body** means— (a) a local authority that appoints, or 1 or more local authorities acting jointly that appoint, a member of a regional planning committee: (b) any Māori appointing body: (c) the responsible Minister, for the appointment of a member for the purposes of participating as a voting member in any process, committee business, and decision-making under the Spatial Planning Act 2022 ~~**iwi and hapū**~~ ***mana whakahaere*** **committee** means the committee formed by ~~the iwi and hapū~~ *mana whakahaere* in a region for the purpose of— (c) agreeing with local authorities the composition arrangements for the region under **clause 3**; and (d) leading the process to determine the one or more Māori appointing bodies **Māori appointing body** means any body identified by ~~the iwi and hapū~~ *mana whakahaere* committee to make appointments to the regional planning committee **responsible Minister** means the Minister of the Crown who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of the Spatial Planning Act 2022 **statutory deadline A, B, C, or D** means the deadline described as such in **clause 41**.
2 Members (1) A regional planning committee must comprise at least 6 members, but there is no limit on the total number of members. (2) Each local authority in the region of the committee may appoint at least 1 member. (3) Members appointed by a local authority must be appointed in accordance with a composition arrangement in accordance with this schedule. (4) Iwi authorities and groups that represent hapū must, by a process they determine themselves, set	Partially support	The Māori Trustee considers that in order for persons exercising powers and performing functions and duties under the NBE Bill to give effect to te Tiriti o Waitangi, the composition of RPC's must be based on an equitable 50/50, co-governance structure with Māori. The Māori Trustee would emphasise that such a structure in the resource management system is not unprecedented and the Greater Wellington Regional Council's 'Te Upoko Taiao – Natural Resources Committee' is representative of this[13]. Furthermore, the Māori Trustee supports sub-clause (4) in which Māori determine this process for themselves, however, this should not be limited to iwi authorities and	The Māori Trustee considers the following amendments should be made to clause 2: **Amendments** (1) A regional planning committee must comprise at least 6 members, but there is no limit on the total number of members. (2) Each local authority in the region of the committee may appoint at least 1 member. (3) Members appointed by a local authority must be appointed in accordance with a composition arrangement in accordance with this schedule.

[13] Te Upoko Taiao - Natural Resource Management Committee | Greater Wellington Regional Council (gw.govt.nz)

up an iwi and hapū committee for the purpose of determining the Māori appointing body or bodies. (5) At least 2 members must be appointed by 1 or more Māori appointing bodies of the region. (6) The responsible Minister may appoint 1 member to participate in the functions of the committee under the Spatial Planning Act **2022**.		groups that represent hapū and should be inclusive of all Māori who hold mana whakahaere in their respective regions.	(4)) *Those who hold mana whakahaere~~, Iwi authorities and groups that represent hapū must~~*, by a process they determine themselves, set up a~~n iwi and hapū~~ *mana whakahaere* committee for the purpose of determining the Māori appointing body or bodies. (5) At least 2 members must be appointed by 1 or more Māori appointing bodies of the region. (6) The responsible Minister may appoint 1 member to participate in the functions of the committee under the Spatial Planning Act **2022**.
3 Composition arrangement (1) The local authorities and the iwi and hapū committee in the region of a regional planning committee must reach agreement on a composition arrangement, which must include— (a) the total number of members of the regional planning committee of the region; and (b) how many members will be appointed by local authorities; and (c) how many members will be appointed by 1 or more Māori appointing bodies; and (d) who are to be the appointing bodies. (2) The composition arrangement must ensure that, having regard to the purpose of this Act and the purpose of the Spatial Planning Act 2022,— (a) the size of the committee supports effective decision making and efficient functioning; and (b) regional, district, urban, rural, and Māori interests are effectively represented; and (c) consideration has been given to the purpose of local government (as set out in section 10 of the Local Government Act 2002); and (d) in the case of a region with multiple local authorities, the local authority membership of the committees has been agreed with consideration of the different populations of the individual local authorities and the desirability of applying some weighting in respect of that. (3) When agreeing on a composition arrangement, the parties must ensure that consideration is given to any existing arrangements between— (a) iwi, hapū, and Māori groups with interests in the region; and (b) between those groups and local authorities in the region. (4) The regional council or unitary authority in the region must, by the relevant statutory deadline,	Partially support	The Māori Trustee reiterates her submissions made in clause 2 that the composition of RPC's must be based on 50/50 membership and mana whakahaere committees should be provided for. The Māori Trustee does not support subclause (2)(d) which essentially provides for proportional representation. Proportional representation has rarely achieved enhanced outcomes for Māori, as their voices are overwhelmed by dominate populations. Thus, the 50/50 membership of RPC's provides greater assurance that Māori rights, interests and responsibilities will be effectively represented.	The Māori Trustee considers the following amendment should be made to clause 3: **Amendment** (1) The local authorities and the ~~iwi and hapū~~ *mana whakahaere* committee in the region of a regional planning committee must reach agreement on a *50/50* composition arrangement, which must include— (a) the total number of members of the regional planning committee of the region; and (b) *an equal number of ~~how many~~* members ~~will be~~ appointed by local authorities; and (c) *an equal number of ~~how many~~* members ~~will be~~ appointed by 1 or more Māori appointing bodies; and (d) who are to be the appointing bodies. (2) The composition arrangement must ensure that, having regard to the purpose of this Act and the purpose of the Spatial Planning Act 2022,— (a) the size of the committee supports effective decision making and efficient functioning; and (b) regional, district, urban, rural, and Māori interests are effectively represented; and (c) consideration has been given to the purpose of local government (as set out in section 10 of the Local Government Act 2002); and (d) in the case of a region with multiple local authorities, the local authority membership of the committees has been agreed with consideration of the different populations of the individual local authorities and the desirability of applying some weighting in respect of that. (3) When agreeing on a composition arrangement, the parties must ensure that consideration is given to any existing arrangements between— (a) iwi, hapū, and Māori groups with interests in the region; and (b) between those groups and local authorities in the region. (4) The regional council or unitary authority in the region must, by the relevant statutory deadline, provide in writing to the Local Government Commission— (a) an outline of the agreed composition arrangement for the regional planning committee in their region; and (b) a statement of how the composition arrangements meet the requirements in clause 2 and give consideration to the matters listed in clause 3(2); and

provide in writing to the Local Government Commission— (a) an outline of the agreed composition arrangement for the regional planning committee in their region; and (b) a statement of how the composition arrangements meet the requirements in clause 2 and give consideration to the matters listed in clause 3(2); and (c) if a party or parties have dissenting views and wish to have them listed, a list of the dissenting views. (5) If the parties cannot reach agreement on a composition arrangement, the regional council or unitary authority must, by statutory deadline A, provide to the Local Government Commission a proposed composition arrangement with dissenting views. (6) The regional council or unitary authority acts on behalf of the local authorities and iwi and hapū committee when writing to the Local Government Commission under **subclause (4) or (5)**.			(c) if a party or parties have dissenting views and wish to have them listed, a list of the dissenting views. (5) If the parties cannot reach agreement on a composition arrangement, the regional council or unitary authority must, by statutory deadline A, provide to the Local Government Commission a proposed composition arrangement with dissenting views. (6) The regional council or unitary authority acts on behalf of the local authorities and ~~iwi and hapū~~ *mana whakahaere* committee when writing to the Local Government Commission under **subclause (4) or (5)**.
4 Iwi and hapū dispute resolution process (1) Before any appointments to the regional planning committee are made under **clause 2**, the iwi and hapū committee must appoint, to provide for dispute resolution should that be needed,— (a) a person able to conduct an arbitration; and (b) 1 or more mediators. (2) A dispute as to the persons appointed under **subclause (1)** must be referred to the Māori Land Court for determination.	Support	The Māori Trustee supports and considers it is appropriate that the Māori Land Court determines Māori dispute resolution.	N/A
5 Māori appointing bodies (1) The Māori appointing body or bodies for a region must be treated as having been agreed if, by statutory deadline A, the Local Government Commission has received the information required by **clause 3(4)**. (2) An iwi and hapū committee or a Māori appointing body may engage an independent facilitator to assist the appointing body to make decisions on appointments. (3) The Crown must pay the reasonable costs and expenses of the facilitator. (4) Not later than 3 years after the first regional planning committee is established for a region, the Minister must—	Partially support	The Māori Trustee considers that Māori participation should be funded by central government itself, not at the helm of regional and territorial authorities which have historically underfunded Māori participation, resulting in inadequate provisions recognising and providing for Māori. In order to eliminate past inequities central Government needs to provide for the costs to fund Māori involvement. There is considerably more being asked of from Māori within the NBE Bill. Therefore, the Māori Trustee considers that Māori appointing bodies should be sufficiently resourced by central Government in order to carry out their duties within the NBE Bill effectively. The Māori Trustee also reiterates her submissions made in clause 2 mana whakahaere committees should be provided for.	The Māori Trustee considers the following amendment should be made to clause 5: **Amendment** (1) The Māori appointing body or bodies for a region must be treated as having been agreed if, by statutory deadline A, the Local Government Commission has received the information required by **clause 3(4)**. (2) A~~n iwi and hapū~~ *mana whakahaere* committee or a Māori appointing body may engage an independent facilitator to assist the appointing body to make decisions on appointments. (3) The Crown must pay the reasonable costs and expenses of the facilitator. (4) Not later than 3 years after the first regional planning committee is established for a region, the Minister must—

(a) commence a full review of the process for appointing Māori members to regional planning committees that is to be lead in accordance with subclause (5); and (b) notify iwi authorities and groups that represent hapū of the review. (5) Iwi authorities and groups that represent hapū must lead the review process in accordance with their own kawa and tikanga.			(a) commence a full review of the process for appointing Māori members to regional planning committees that is to be lead in accordance with subclause (5); and (b) notify iwi authorities~~, and~~ groups that represent hapū*, and mana whakahaere* of the review. (5) Iwi authorities and groups that represent hapū must lead the review process in accordance with their own kawa and tikanga.
7 Participation of iwi and hapū and other Māori groups (1) Before agreeing to a composition arrangement and identifying an appointing body, the iwi and hapū committee must engage with iwi and hapū and other Māori groups with interests in the region. (2) In order to meet the obligation under subclause (1), the iwi and hapū committee must— (a) hold 1 or more hui to discuss— (i) the composition arrangement; and (ii) Māori appointing bodies; and (iii) disputes resolution processes that are available to participants and may be followed in the event of a dispute in relation to the matters under **subclause (1)**; and (b) so as to ensure as far as possible that those attending the hui are properly informed by— (i) providing not less than 30 days' notice of the date of the hui; and (ii) giving details in the notice of the date, place, time, and agenda of the hui. (3) The iwi and hapū committee must— (a) keep records as to what hui were held, who attended, and the agreed outcomes of those hui; and (b) make the records available, if requested, to persons or groups who did attend, or could have attended, the hui.	Partially support	The Māori Trustee administers significant tranches of land across a number of the 14 regions (**refer Appendix B**) therefore has interests and responsibilities to with regards to the whenua she administers. There is currently no requirement within this NBE Bill to directly engage with the Māori Trustee, as she is not a representative of iwi, hapū or other Māori groups nor does she seek to speak on their behalf. Therefore, there is a need to include an express reference to the Māori Trustee in cl 7. Furthermore, due to the Māori Trustee significant portfolio across the 14 regions, it would be a massive undertaking for the Māori Trustee and her office to attend hui in person for every region that she administer whenua in. Therefore, the Māori Trustee considers there should be a requirement to hold hui online as well as in person for those who have interests in the region, however, cannot make hui in person. The Māori Trustee also reiterates her submissions made in clause 2 mana whakahaere committees should be provided for.	The Māori Trustee considers the following amendments should be made to clause 7: **Amendments** (1) Before agreeing to a composition arrangement and identifying an appointing body, the ~~iwi and hapū~~ *mana whakahaere* committee must engage with iwi and hapū*, the Māori Trustee,* and other Māori groups with interests in the region. (2) In order to meet the obligation under subclause (1), the ~~iwi and hapū~~ *mana whakahaere* committee must— (a) hold 1 or more hui to discuss— (i) the composition arrangement; and (ii) Māori appointing bodies; and (iii) disputes resolution processes that are available to participants and may be followed in the event of a dispute in relation to the matters under **subclause (1)**; and (b) so as to ensure as far as possible that those attending the hui are properly informed by— (i) providing not less than 30 days' notice of the date of the hui; and (ii) giving details in the notice of the date, place, time, and agenda of the hui. (3) *Hui may be held in person, by electronic means or a combination of the two*. (4) The ~~iwi and hapū~~ *mana whakahaere* committee must— (a) keep records as to what hui were held, who attended, and the agreed outcomes of those hui; and (b) make the records available, if requested, to persons or groups who did attend, or could have attended, the hui.
8 Role of Local Government Commission (1) The Local Government Commission must— (a) notify the local authorities, iwi authorities, and groups representing hapū in each region of the relevant statutory deadlines described in clause 41(2)(a); and (b) if requested by the local authorities or the iwi and hapū committee, facilitate the	Partially support	The Māori Trustee notes that the Local Government Commission decides on the number of members appointed to the RPC's if a composition arrangement is not agreed upon. If there comes a point when this is enacted, the Māori Trustee foresees that this will not give effect to te Tiriti and will disproportionately impact Māori as there appears to be an emphasis on 'proportional' representation in the NBE Bill which undermines Māori voices within the system. Therefore, the Māori Trustee	The Māori Trustee considers the following amendments should be made to clause 8: **Amendments** 1) The Local Government Commission must— (a) notify the local authorities, iwi authorities, and groups representing hapū in each region of the relevant statutory deadlines described in clause 41(2)(a); and

process between any of them, where appropriate, to assist in reaching agreement. (2) On being advised that the local authorities and iwi and hapū committee have agreed the composition arrangements for the planning committee, the Local Government Commission must— (a) confirm that the composition arrangement complies with this Part; and (b) make both the composition arrangement and the Commission's confirmation of it publicly available. (3) **Subclause (4)** applies if— (a) neither the regional council nor the unitary authority in the region complies with **section 820(1)**; or (b) the regional council or the unitary authority advises that the parties have been unable to agree the composition arrangement; or (c) the regional council or the unitary authority provides a composition arrangement that does not meet the requirements of this schedule. (4) If this subclause applies, the Local Government Commission must determine— (a) the total number of members on the committee; and (b) the local authority appointing bodies and the number of members to be appointed by those bodies; and (c) the number of members to be appointed by the Māori appointing bodies (but not to determine the Māori appointing bodies). (5) The Local Government Commission, when determining a planning committee's composition, must— (a) provide a draft determination to the local authorities, iwi authorities, and groups that represent hapū as soon as possible, by statutory deadline C; and (b) take account of written submissions from the local authorities, iwi authorities, and groups that represent hapū, and any other relevant information provided as a result of facilitation or mediation (such as reports from a Crown facilitator); and (c) if requested, convene 1 joint meeting with all the notified parties to discuss a draft determination; and		reiterates her submissions made in cl 2 that the composition of members for the RPC should be based on an equitable 50/50, co-governance structure with Māori. The Māori Trustee also reiterates her submissions made in clause 2 that mana whakahaere committees should be provided for.	(b) if requested by the local authorities or the ~~iwi and hapū~~ *mana whakahaere* committee, facilitate the process between any of them, where appropriate, to assist in reaching agreement. (2) On being advised that the local authorities and ~~iwi and hapū~~ *mana whakahaere* committee have agreed the composition arrangements for the planning committee, the Local Government Commission must— (a) confirm that the composition arrangement complies with this Part; and (b) make both the composition arrangement and the Commission's confirmation of it publicly available. (3) **Subclause (4)** applies if— (a) neither the regional council nor the unitary authority in the region complies with **section 820(1)**; or (b) the regional council or the unitary authority advises that the parties have been unable to agree the composition arrangement; or (c) the regional council or the unitary authority provides a composition arrangement that does not meet the requirements of this schedule. (4) If this subclause applies, the Local Government Commission must determine— (a) the total number of members on the committee; and (b) the local authority appointing bodies and the number of members to be appointed by those bodies; and (c) the number of members to be appointed by the Māori appointing bodies (but not to determine the Māori appointing bodies). (5) The Local Government Commission, when determining a planning committee's composition, must— (a) provide a draft determination to the local authorities, iwi authorities, and groups that represent hapū as soon as possible, by statutory deadline C; and (b) take account of written submissions from the local authorities, iwi authorities, and groups that represent hapū, and any other relevant information provided as a result of facilitation or mediation (such as reports from a Crown facilitator); and (c) if requested, convene 1 joint meeting with all the notified parties to discuss a draft determination; and (d) by statutory deadline D, publish a final determination that complies with the requirements in **clause 2** and gives consideration to the matters listed in **clause 3(2) and (3)**. (6) Section 35 and Schedules 4 and 5 of the Local Government Act 2002 apply with any necessary modifications to proceedings of the Local Government Commission under this schedule.

(d) by statutory deadline D, publish a final determination that complies with the requirements in **clause 2** and gives consideration to the matters listed in **clause 3(2) and (3)**. (6) Section 35 and Schedules 4 and 5 of the Local Government Act 2002 apply with any necessary modifications to proceedings of the Local Government Commission under this schedule.			
15 When regional planning committees treated as established (1) A regional planning committee must be treated as established and may commence operating on the earliest of the following: (a) statutory deadline B: (b) any time before statutory deadline B when all members have been appointed. (2) Any change to the composition arrangement arising from an appeal under Schedule 5 of the Local Government Act 2002 does not of itself invalidate the regional planning committee or its actions and decisions. (3) An unfilled appointment on a committee must be treated as a vacancy until filled by the appointing body. (4) A failure to identify an appointing body or a failure of an appointing body to make an appointment does not of itself invalidate the regional planning committee or its actions and decisions.	Partially support	The Māori Trustee notes that under subsection (4) that a failure to identify an appointing body or making an appointment does not of itself invalidate the RPC. Although the Māori Trustee understands the need for such a clause, there is an apparent risk that if Māori appointing bodies are not formed and subsequent appointments made (due to capability and capacity issues), decisions could be made by an RPC without any Māori representation.	The Māori Trustee considers that assurances need to be made to ensure that Māori will be represented on RPCs. Sufficient funding and resources will need to be provided to mitigate any capacity and capability issues that Māori may have in identifying an appointing body or an appointing body making an appointment.
33 Committee secretariats (1) A regional planning committee must appoint a director of the secretariat to support it in carrying out its functions, duties, and powers. (2) The director must appoint any employees necessary for carrying out its functions, duties, and powers. (3) The director and employees appointed under **subclause (2)** are employees of the host local authority. (4) Despite **subclause (3)** and section 42(2)(g) and (h) of the Local Government Act 2002, the host local authority must be treated as— (a) having delegated to the committee all rights, powers, and duties of the host local authority as employer of the director; and	Partially support	The Māori Trustee considers that a co-director Māori secretariat should be appointed by the Māori appointing bodies to sit alongside the secretariat. This will provide for co-governance of the new reform system at a regional level and enable Māori at place to participate more effectively as they are likely to be heard and more understood by a co-director Māori. Furthermore, this would be a step in the right direction to giving effect to te Tiriti o Waitangi and enabling Māori to ultimately exercise tino rangatiratanga at a regional level.	The Māori Trustee considers the following amendments should be made to clause 33: **Amendments** (1) A regional planning committee must appoint ~~a~~ *co-*director*s* of the secretariat to support it in carrying out its functions, duties, and powers. *(a) One co-director shall be appointed by local authority representatives; and* *(b) One co-director shall be appointed by mana whakahaere representatives.* (2) The director*s* must appoint any employees necessary for carrying out its functions, duties, and powers. (3) The director*s* and employees appointed under **subclause (2)** are employees of the host local authority.

(b) having delegated to the director all rights, powers, and duties of the host local authority that are reasonably necessary to carry out their responsibilities, functions, and duties, including the power to enter contracts, leases, and other agreements to enable the secretariat to operate efficiently and effectively, but which does not allow the director to commit to expenditure outside the agreed budget in the final statement of intent; and (c) not having those rights, powers and duties in relation to the director and employees appointed under subclause (2)**.** (5) The regional planning committee has all the rights, powers, and duties of an employer in relation to the director, but the host local authority is the legal employer of the director and is responsible for ensuring that the director's legal obligations in that role are met. (6) The director has all the rights, powers, and duties of an employer in relation to the staff of the secretariat, subject to **subclause (5)**, and the staff must be treated as employees of the host local authority.			(4) Despite **subclause (3)** and section 42(2)(g) and (h) of the Local Government Act 2002, the host local authority must be treated as— (a) having delegated to the committee all rights, powers, and duties of the host local authority as employer of the director*s*; and (b) having delegated to the director*s* all rights, powers, and duties of the host local authority that are reasonably necessary to carry out their responsibilities, functions, and duties, including the power to enter contracts, leases, and other agreements to enable the secretariat to operate efficiently and effectively, but which does not allow the director to commit to expenditure outside the agreed budget in the final statement of intent; and (c) not having those rights, powers and duties in relation to the director*s* and employees appointed under subclause (2)**.** (5) The regional planning committee has all the rights, powers, and duties of an employer in relation to the director*s*, but the host local authority is the legal employer of the director*s* and is responsible for ensuring that the director*s'* legal obligations in that role are met. (6) The director has all the rights, powers, and duties of an employer in relation to the staff of the secretariat, subject to **subclause (5)**, and the staff must be treated as employees of the host local authority.
34 Responsibilities of director of secretariat (1) The director of the secretariat of a regional planning committee is responsible for— (a) providing technical advice and administrative support to the committee: (b) establishing and facilitating collaborative working arrangements with and between local authorities and Māori in the region for the purposes of plan making: (c) ensuring that the secretariat has the technical expertise and skills in local kawa, tikanga, and mātauranga of the iwi and hapū in the region: (d) providing administrative support to independent hearings panels in a way that maintains the independence of panels. (2)The director must consult the regional planning committee on a resourcing plan for staffing the secretariat, and in preparing that plan must consider the expertise and skills available across all the groups represented on the planning committee.	Partially support	The Māori Trustee reiterates her **submissions made in respect to cl 33**, that a co-director Māori should be appointed to the secretariat and share the responsibilities described under cl 34.	The Māori Trustee reiterates her **relief sought in respect to clause 33**, that a co-director Māori should be appointed to the secretariat and share the responsibilities described under clause 34.

38 Statement of Intent (1) A regional planning committee must prepare and make publicly available an annual draft statement of intent for the next financial year and submit it to the appointing bodies within a time frame agreed by the local authorities. (2) The committee must prepare and make publicly available a final statement of intent for that financial year that reflects the budget agreed for the committee. (3) Draft and final statements of intent must include the information prescribed by regulations under **clause 41(1)(d)**. (4) The committees must include, in the statement of intent, provision of funding for Māori participation in the development, implementation, and monitoring of regional spatial strategies and plans, in accordance with any regulations under **clause 41(1)(f)**.	Partially support	The Māori Trustee supports provisions for funding Māori participation in RSS's and NBE plans. However, the Māori Trustee considers that Māori participation should be funded by central government itself, not at the helm of regional and territorial authorities which have historically underfunded Māori participation resulting in inadequate provisions recognising and providing for Māori. Therefore, in order to eliminate past inequities central government needs to front the costs to fund Māori involvement, as there is considerably more being asked of Māori within the Bill.	The Māori Trustee considers that Māori participation should be funded by central government itself, not at the helm of regional and territorial authorities which have historically underfunded Māori participation resulting in inadequate provisions recognising and providing for Māori. Therefore, in order to eliminate past inequities central government should front the costs to fund Māori involvement, as there is considerably more being asked of Māori within the Bill.
42 Transitional provisions relating to freshwater subcommittees (1) The Governor-General may, by Order in Council made on the recommendation of the Minister for the Environment,— (a) direct a regional planning committee to establish a freshwater subcommittee: (b) specify membership requirements in addition to those in **subclauses (2) and (3)**: (c) specify processes that relate to the establishment or operation of a subcommittee in addition those in **subclauses (4) and (5)**: (d) specify a date or dates by which a subcommittee— (i) must be established: (ii) may be disestablished: (iii) must be disestablished. (2) A regional planning committee to which an order under **subclause (1)** applies must establish a freshwater subcommittee from a pool of people nominated by— (a) the regional council or unitary authority (as applicable) and, in the case of the case of the Nelson and Tasman unitary authorities, by each unitary authority; and (b) the Māori appointing bodies in the region.	Partially support	The Māori Trustee considers that subclause (2) is ambiguous and needs to clearly state that a freshwater subcommittee must have representatives from both regional council/unitary authorities as well as Māori appointing bodies. The Māori Trustee considers it would be inappropriate to have representatives from one and not the other, particularly if this resulted in no Māori voice being on the subcommittee. If Māori are not represented on freshwater subcommittees, this would be considered a breach of te Tiriti o Waitangi.	The Māori Trustee considers the following amendments should be made to clause 42: **Amendments** (1) The Governor-General may, by Order in Council made on the recommendation of the Minister for the Environment,— (a) direct a regional planning committee to establish a freshwater subcommittee: (b) specify membership requirements in addition to those in **subclauses (2) and (3)**: (c) specify processes that relate to the establishment or operation of a subcommittee in addition those in **subclauses (4) and (5)**: (d) specify a date or dates by which a subcommittee— (i) must be established: (ii) may be disestablished: (iii) must be disestablished. (2) A regional planning committee to which an order under **subclause (1)** applies must establish a freshwater subcommittee from ~~a pool of~~ people nominated by— (a) the regional council or unitary authority (as applicable) and, in the case of the case of the Nelson and Tasman unitary authorities, by each unitary authority; and (b) the Māori appointing bodies in the region. (3) Membership of a freshwater subcommittee may include, but is not limited to, members of the regional planning committee (if nominated by all the relevant parties referred to in **subclause (2)**). (4) A freshwater subcommittee must, before the regional planning committee notifies its plan, provide advice and recommendations to the

(3) Membership of a freshwater subcommittee may include, but is not limited to, members of the regional planning committee (if nominated by all the relevant parties referred to in **subclause (2)**). (4) A freshwater subcommittee must, before the regional planning committee notifies its plan, provide advice and recommendations to the regional planning committee on the provisions of the plan that relate to freshwater. (5) The freshwater subcommittee must comply with the standing orders of the regional planning committee, and clauses 19 to 25, 29, and 30 of this schedule apply to its proceedings with any necessary modifications. (6) An Order in Council must not be made under this clause in respect of a region after the regional planning committee notifies its first plan under this Act. (7) An Order in Council under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).			regional planning committee on the provisions of the plan that relate to freshwater. (5) The freshwater subcommittee must comply with the standing orders of the regional planning committee, and clauses 19 to 25, 29, and 30 of this schedule apply to its proceedings with any necessary modifications. (6) An Order in Council must not be made under this clause in respect of a region after the regional planning committee notifies its first plan under this Act. (7) An Order in Council under this clause is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Schedule 13 Environment Court

Provision	Position	Submission	Relief Sought
3 Environment Court continued (1) There continues to be an Environment Court. (2) The court is the same court as the court that was continued by section 247 of the Resource Management Act 1991. (3) The court is a court of record. (4) The court has— (a) the jurisdiction and powers conferred on the court by or under this Act or any other Act; and (b) all the powers inherent in a court of record.	Support	The Māori Trustee supports the continuation of the Environment Court.	N/A
6 Environment Court sittings (1) The quorum for the Environment Court is— (a) 1 Environment Judge and 1 Environment Commissioner sitting together; or (b) for the following purposes, 1 Environment Judge sitting alone: (i) to exercise any power described in **clauses 15 to 18** (which set out the	Partially support	The Māori Trustee considers that cl 6(1)(d) should also apply to the application of tikanga Māori not just a question of. The Māori Trustee also considers that all members of the Environment Court should be required to undertake education and training to ensure that they understand tikanga Māori in their own right. This knowledge will be crucial in the absence of a Māori Land Court Judge or an Environment Commissioner who has knowledge and	The Māori Trustee considers that all members of the Environment Court should be required to undertake education and training to ensure that they understand tikanga Māori in their own right. The Māori Trustee considers the following amendments should be made to clause 6: **Amendments** (1) The quorum for the Environment Court is—

powers of an Environment Judge sitting alone); or (ii) to exercise any power conferred by the Chief Environment Court Judge under **clause 19**; or (iii) to hear any proceedings under **Part 11** of this Act; or (c) 1 Environment Commissioner sitting alone to exercise any power conferred under **clauses 29 to 31**; or (d) for a proceeding that involves a question of tikanga Māori, a quorum specified in **paragraph (a), (b), or (c)** that— (i) includes at least 1 alternate Environment Judge who is a Māori Land Court Judge or an acting Māori Land Court Judge; or (ii) includes at least 1 Environment Commissioner who has knowledge and expertise in tikanga Māori; or (iii) receives advice on the question from a pūkenga. (2) When an Environment Judge sits with an Environment Commissioner or special advisor, the Environment Judge presides at the sitting. (3) A decision of a majority of the members of the court present at a sitting is the decision of the court. (4) However, if there is no majority, the decision of the presiding member is the decision of the court.		expertise in tikanga Māori. Although a Judge can still receive advice from a pūkenga, there is no guarantee that this advice will be followed. The Māori Trustee sees merit in deleting cl 6(1)(d)(iii) and inserting a new clause that provides for the Court to seek advice from a pūkenga when a proceeding involves a question, or the application, of tikanga Māori. The use of pūkenga should not be limited by the presence of a Māori Land Court Judge or Environment Commissioner who has knowledge and expertise in tikanga Māori.	(a) 1 Environment Judge and 1 Environment Commissioner sitting together; or (b) for the following purposes, 1 Environment Judge sitting alone: (i) to exercise any power described in **clauses 15 to 18** (which set out the powers of an Environment Judge sitting alone); or (ii) to exercise any power conferred by the Chief Environment Court Judge under **clause 19**; or (iii) to hear any proceedings under **Part 11** of this Act; or (c) 1 Environment Commissioner sitting alone to exercise any power conferred under **clauses 29 to 31**; or (d) for a proceeding that involves a question*, or application* of tikanga Māori, a quorum specified in **paragraph (a), (b), or (c)** that— (i) includes at least 1 alternate Environment Judge who is a Māori Land Court Judge or an acting Māori Land Court Judge; or (ii) includes at least 1 Environment Commissioner who has knowledge and expertise in tikanga Māori; or ~~(iii) receives advice on the question from a pūkenga.~~ *(1A) When a proceeding involves a question, or application, of tikanga Māori, the Court may seek advice from a pūkenga*. (2) When an Environment Judge sits with an Environment Commissioner or special advisor, the Environment Judge presides at the sitting. (3) A decision of a majority of the members of the court present at a sitting is the decision of the court. (4) However, if there is no majority, the decision of the presiding member is the decision of the court.
8 Appointment of Environment Judges and alternate Environment Judges (1) The Governor-General may appoint an eligible person (*see* **clause 10**) as an Environment Judge or an alternate Environment Judge. (2) An appointment may be made only— (a) on the recommendation of the Attorney-General; and (b) after the Attorney-General consults the Minister for the Environment and the Minister for Māori Development; and (c) in accordance with any requirements that apply under— (i) **clause 9** (which restricts the number of appointments); and (ii) **clause 10** (which set conditions for some appointments). (3) The Attorney-General must publish information explaining their process for—	Support	The Māori Trustee supports the requirement to consult with the Minister of Māori Development when appointing an Environment Judge or an alternative Environment Judge.	N/A

(a) seeking expressions of interest for the appointment of Environment Judges and alternate Environment Judges; and (b) nominating a person for appointment as an Environment Judge or an alternate Environment Judge.			
10 Who is eligible for appointment as Environment Judge or alternate Environment Judge *Environment Judges* (1) A person may be appointed an Environment Judge only if they are, or are eligible to be, a District Court Judge. (2) An appointee who is not a District Court Judge must be appointed to that office at the time of their appointment as an Environment Judge. *Alternate Environment Judges* (3) A person may be appointed as an alternate Environment Judge only if— (a) they are a District Court Judge, an acting District Court Judge, a Māori Land Court Judge, or an acting Māori Land Court Judge; or (b) both of the following apply: (i) they are a retired Environment Judge under the age of 75 years; and (ii) the Chief Environment Court Judge certifies to the Attorney-General that the appointment is necessary for the proper conduct of the Environment Court. (4) However, a person eligible for appointment under **subclause (3)(b)**— (a) may be appointed as an alternate Environment Judge only for a term of not more than 2 years; and (b) may be reappointed for 1 or more terms; but (c) must not be appointed— (i) for a term that extends beyond the date on which the Judge reaches the age of 75 years; or (ii) for multiple terms that collectively total more than 5 years.	Partially support	The Māori Trustee considers that to ensure that the Environment Court possesses a mix of knowledge and experience in matters coming before the court, the appointment of Environment Judges and alternate Environment Judges should be subject to the same requirements of Environment Commissioners as listed under cl 24(2).	The Māori Trustee considers that to ensure that the Environment Court possesses a mix of knowledge and experience in matters coming before the court, the appointment of Environment Judges and alternate Environment Judges should be subject to the same requirements of Environment Commissioners as listed under clause 24(2).
14 When an alternate Environment Judge may act (1) An alternate Environment Judge may act as an Environment Judge when the Chief Environment Court Judge considers it necessary for them to do so.	Partially support	The Māori Trustee considers that when an alternative Environmental Judge may act as an Environment Judge, there is an express need for clear direction as to whether one judge is more appropriate to consult than another. This will be particularly important when a matter regarding Māori land, rights, interests and responsibilities comes	The Māori Trustee considers it is pertinent that a guidance form is prescribed to provide direction as to the appropriateness of when a judge may act as an Environment Judge.

(2) The Chief Environment Court Judge must make their decision under **subclause (1)** in consultation with the Chief District Court Judge or Chief Māori Land Court Judge. (3) When an alternate Environment Judge acts as an Environment Judge,— (a) they are a member of the Environment Court for all purposes; and (b) they have the jurisdiction, powers, protections, privileges, and immunities of a District Court Judge under the District Court Act 2016.		before the courts. It is pertinent that a judge has expert knowledge of the issues faced by Māori and Māori landowners to ensure they are properly understood, and informed decisions can be made.	
22 Appointment of Environment Commissioner or Deputy Environment Commissioner (1) The Governor-General may appoint a suitable person (*see* **clause 24**) as an Environment Commissioner or a Deputy Environment Commissioner. (2) An appointment may be made only— (a) on the recommendation of the Attorney-General; and (b) after the Attorney-General consults the Minister for the Environment and the Minister for Māori Development. (3) A person— (a) may be appointed as an Environment Commissioner or Deputy Environment Commissioner for a period not exceeding 5 years; and (b) may be reappointed any number of times.	Support	The Māori Trustee supports the requirement to consult with the Minister of Māori Development when appointing an Environment Commissioner or a Deputy Environment Commissioner.	N/A
24 Who is suitable for appointment as Environment Commissioner or Deputy Environment Commissioner (1) This clause applies when the Attorney-General is considering whether a person is suitable to be appointed as an Environment Commissioner or Deputy Environment Commissioner. (2) The Attorney-General must have regard to the need to ensure that the Environment Court possesses a mix of knowledge and experience in matters coming before the court, including knowledge and experience in— (a) economic, commercial, and business affairs, local government, and community affairs: (b) planning, resource management, and heritage protection:	Partially support	The Māori Trustee considers that it unclear whether the suitability for an appointment of a potential Environmental Commissioner or Deputy Environmental Commissioner is dependent on the need to ensure that the mix of knowledge and experience in matters coming before the courts is possessed by the Environment Court in general or dependant on the case before the court. Furthermore, the Māori Trustee considers that the Attorney-General needs to have particular regard to knowledge and experience listed from (a) to (g) when appointing an Environmental Commissioner or Deputy Environmental Commissioner. Matters in (f) to (g) will be significantly important to ensuring a Te Ao Māori perspective is appropriately articulated.	The Māori Trustee considers the following amendments should be made to clause 24: **Amendments** (1) This clause applies when the Attorney-General is considering whether a person is suitable to be appointed as an Environment Commissioner or Deputy Environment Commissioner. (2) The Attorney-General must have *particular* regard to the need to ensure that the Environment Court possesses a mix of knowledge and experience in matters coming before the court, including knowledge and experience in— (a) economic, commercial, and business affairs, local government, and community affairs: (b) planning, resource management, and heritage protection: (c) environmental science, including the physical and social sciences: (d) architecture, engineering, surveying, minerals technology, and building construction: (e) alternative dispute resolution processes:

(c) environmental science, including the physical and social sciences: (d) architecture, engineering, surveying, minerals technology, and building construction: (e) alternative dispute resolution processes: (f) matters relating to the Tiriti o waitangi and kaupapa Māori: (g) matters relating to te ao māori, tikanga Māori, and mātauranga Māori.			(f) matters relating to the Tiriti o waitangi and kaupapa Māori: (g) matters relating to te ao māori, tikanga Māori, and mātauranga Māori.
32 Review of exercise of power by Environment Commissioners (1) Any party affected by the exercise of any power under **clauses 29 to 31** may, within 15 working days after the exercise of that power, apply in writing to an Environment Judge for leave to make an application for a review of the exercise of that power by a fully constituted Environment Court. (2) If an Environment Judge grants leave, the party may, within a further 7 working days, apply in writing for a review of the exercise of that power by a fully constituted Environment Court. (3) The court, after reviewing the exercise of the power, may substitute or set aside the Environment Commissioner's decision and make any further or other orders that the case requires.	Support	The Māori Trustee supports the review of the exercise of power by the Environment Commission.	N/A
36 Special advisors (1) The Chief Environment Court Judge may appoint, as a special advisor, a person who is able to assist the Environment Court in a proceeding before it. (2) A special advisor is not a member of the court but may sit with it and assist it in any way the court decides.	Partially support	The Māori Trustee is generally supportive of cl 36 that the Chief Environment Court Judge may appoint a special advisor to assist the Environment Court in a proceeding, on the basis that this does extend to special advisors on tikanga Māori and mātauranga Māori. However, the Māori Trustee considers a criteria needs to be established in order to provide clear direction for the requirements needed for particular special advisors. This will be important when selecting a special advisor on the basis of tikanga Māori and mātauranga Māori, as the advisor should need to have specific knowledge on the tikanga and mātauranga of the particular area of interest. Furthermore, the Māori Trustee also considers there is a need to specify in the criteria who is the most appropriate to make the final decision on the appointment.	The Māori Trustee considers a criteria for the appointment of a special advisor should be prescribed with appropriate groups to ensure relevant requirements are met.
40 Review of exercise of power by Registrar (1) A person directly affected by the exercise of a power by the Registrar may apply to an Environment Judge to reconsider the matter. (2) The application must be by notice to the Registrar and other persons affected. (3) The notice must be given within 10 working days after the Registrar's decision or action.	Support	The Māori Trustee supports the ability for a directly affected person to apply to an Environment Judge to review the exercising of a power by the Registrar.	N/A

(4) The Environment Judge may confirm, modify, or reverse the decision of the Registrar.			
50 Court procedure (1) Except as expressly provided in this Act, the Environment Court may regulate its own proceedings in the way it thinks fit. (2) However, the court must regulate its proceedings in a way that best promotes their timely and cost-effective resolution. (3) Court proceedings may be conducted without procedural formality where it is consistent with fairness and efficiency. (4) The court must recognise tikanga Māori where appropriate. (5) The court may, in any proceedings or any conference under **clause 57**, use or allow the use of any telecommunication facility that will assist in the fair and efficient determination of the proceedings or conference.	Partially support	The Māori Trustee considers that the directive under cl 50(4) should be to recognise and provide for tikanga Māori.	The Māori Trustee considers the following amendments should be made to clause 50: **Amendments** (1) Except as expressly provided in this Act, the Environment Court may regulate its own proceedings in the way it thinks fit. (2) However, the court must regulate its proceedings in a way that best promotes their timely and cost-effective resolution. (3) Court proceedings may be conducted without procedural formality where it is consistent with fairness and efficiency. (4) The court must recognise *and provide for* tikanga Māori where appropriate. (5) The court may, in any proceedings or any conference under **clause 57**, use or allow the use of any telecommunication facility that will assist in the fair and efficient determination of the proceedings or conference.
64 Local hearings Unless the parties agree otherwise, the Environment Court must conduct a conference or hearing at a place that is as near as the court considers convenient to the locality of the subject matter to which the proceedings relate.	Partially support	The Māori Trustee considers that cl 64 may unintentionally disadvantage Māori. The ability to attend hearings is reflective of the capability and capacity that individuals, groups and organisations have to participate in the process. The requirements of Māori to participate within this NBE Bill have increased dramatically but the capability and capacity for them to do so remains largely the same. Therefore, Māori tend to have limited resources to attend and participate in hearings and alternative dispute resolutions. The Court's ability to determine where to conduct a hearing or conference based on what they consider 'convenient' should expressly acknowledge the convenience for parties to participate. The Māori Trustee also notes that cultural appropriateness of the location, depending on the circumstances of the case, should also be regarded in the Court's decision.	The Māori Trustee considers the following amendments should be made to clause 64: **Amendments** Unless the parties agree otherwise, the Environment Court must conduct a conference or hearing at a place that ~~is as near as the court considers convenient to the locality of the subject matter to which the proceedings relate.~~ – *(a) is as near as to the locality of the subject matter to which proceedings relate; and* *(b) is culturally appropriate to the subject matter to which proceedings relate; and* *(c) recognises and provides for the capacity and capability for parties to participate in the proceedings.*
66 Evidence (1) The Environment Court may— (a) receive anything in evidence that it considers appropriate to receive; and (b) call for anything to be provided in evidence that it considers will assist it to make a decision or recommendation; and (c) call before it a person to give evidence who, in its opinion, will assist it in making a decision or recommendation. (2) The court may, whether or not the parties consent,—	Support	The Māori Trustee supports clause 66 relating to evidence.	N/A

(a) accept evidence that was presented at a hearing held by the consent authority under **clause 79 of Schedule 7**: (b) direct how evidence must be given to the court. (3) The court is not bound by the rules of law about evidence that apply to judicial proceedings. (4) The court may receive evidence written or spoken in Māori, and Te Ture mō Te Reo Māori 2016/the Māori Language Act 2016 applies accordingly.			
68 Hearings and evidence generally must be held in public (1) All hearings of the Environment Court must be held in public except as provided in this clause. (2) The court may do either or both of the following if it considers that the reasons for doing so outweigh the public interest in a public hearing and publication of evidence: (a) order that any evidence be heard in private: (b) prohibit or restrict the publication of any evidence.	Support	The Māori Trustee considers cl 68 should expressly provide for the protecting of sensitive information particularly where disclosure would cause serious offence to tikanga Māori or the location of wāhi tapu.	The Māori Trustee considers clause 68 should expressly provide for the protecting of sensitive information particularly where disclosure would cause serious offence to tikanga Māori or the location of wāhi tapu.

Appendices

Appendix A – The Māori Trustee and Te Tumu Paeroa

Who We Are

1. The Māori Trustee is appointed by the Minister for Māori Development under the Māori Trustee Act 1953. One of the principal roles of the Māori Trustee is to administer as trustee or agent whenua Māori and other client assets in accordance with the principles and obligations of trusteeship and agency, and relevant legislation including the Māori Trustee Act 1953, Trusts Act 2019 and Te Ture Whenua Māori Act 1993. The current Māori Trustee, Dr Charlotte Severne, was appointed for a three-year term in September 2018 and was re-appointed for a five-year term in October 2021.

2. Te Tumu Paeroa is the organisation that supports the Māori Trustee to undertake her statutory and other legal functions, duties and responsibilities.

3. The Māori Trustee administers approximately 88,000 hectares of Māori freehold land, as well as general land and other interests and investments, on behalf of over 100,000 Māori Land owners.

4. A primary objective of The Māori Trustee, is to protect, utilise and grow the assets of our Māori land owners. The organisation provides land administration and professional trustee services to one third of all Māori land trusts (over 1700 trusts), as well as targeted development and sector-specific expertise. The organisation is involved in the management of a number of Māori enterprises and development projects.

5. The Māori Trustee currently employs approximately 124 staff across five offices throughout New Zealand, with the Māori Trustee based in Te Whanganui-a-Tara

6. Te Tumu Paeroa is unique, in that it is the only nation-wide organisation that manages significant tranches of Māori land and assets on behalf of Māori landowners.

Our Vision and Priorities

7. Our vision is: *Ko Te Tumu Paeroa tēnei, te tauawhi nei, te taunaki nei, te tiaki nei ngā whenua Māori mō naianei, mō āpōpō hoki. Ensuring Māori land is protected and enhanced, now and for generations to come.*

8. Our vision requires a careful balance between protection of the whenua and taiao and enhancement of the whenua through a range of pathways, including commercial development.

9. Our purpose is to be a dedicated professional trustee service for Māori.

10. Our strategic priorities assist us to deliver on our vision and purpose:

    a. Enhancing operational excellence.

    b. Growing an inclusive culturally competent organisation committed to a greater understanding of Te Ao Māori.

c. Contributing to growth, development and future leadership in whenua Māori administration and governance.

d. Increasing the resilience and sustainability of the assets and whenua we administer.

11. Our responsibility as trustee in the context of the Natural and Built Environment Bill, is to ensure that the voices of the whenua that we are responsible for, and those landowners who whakapapa to that whenua, are heard and understood.

Our Portfolio

12. Our portfolio currently[14] consists of the following:

a. Number of trusts and other entities under administration – 1746.

b. Number of hectares under management – 88,000.

c. Number of owner accounts maintained - 102,502.

d. Number of ownership interests - 258,469.

e. Number of leases administered – 1,732.

f. Client funds under management (market value) - $ 130.1 million.

g. Māori Trustee equity - $ 170.7 million.

Our Mahi

1. The Māori Trustee has the responsibility to ensure that the best interests and outcomes for Māori land owners are advanced by Te Tumu Paeroa's mahi.

2. Our core services are:

a. Administration of trusts where the Māori Trustee is the responsible trustee.

b. Agreed trustee services where the Māori trustee is an agent or custodian trustee.

c. Keeping records for trusts we administer.

d. Managing finances and preparing financial statements.

e. Consulting with and convening meetings for advisory trustees.

f. Consulting with and convening meetings for beneficial owners.

g. Reporting to responsible trustees, advisory trustees and beneficial owners.

h. Administering trust distributions.

i. Filing applications with the Māori Land Court and attending associated hearings.

j. Property management, including leases and asset maintenance.

k. Reviewing land use and considering, where appropriate, alternative land use options.

l. Developing and enhancing land and assets; including the production and maintenance of Asset Management Plans and Farm Environment Plans.

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m. Responding to requests for information.

n. Managing and investing cash assets in the Common Fund.

o. Managing and providing support services for the General Purposes Fund.

p. Acquiring and paying for goods and services.

Appendix B – The Māori Trustee's Responsible Trustee Portfolio

Region	No. of Entities	Total Area (Ha)	Total ownership interests
Northland	40	1796	2,340
Auckland	14	303	410
Bay of Plenty	86	2,203	14,997
Waikato	128	4,908	13,692
Gisborne	284	16,678	44,006
Hawkes Bay	262	9,467	33,887
Horizons (Manawatu Whanganui)	174	6,296	19,665
Taranaki	138	4,210	10,198
Greater Wellington Regional Council	60	1,052	6,082
Marlborough	20	166	1,171
West Coast Regional Council	11	1,778	4,199
Environment Canterbury	55	1,145	8,295
Otago	18	252	2,507
Environment Southland	69	7,982	13,037
Chatham Islands	9	2,710	680

NB: Please note that these statistics are for trusts where the Māori Trustee is the Responsible Trustee only. It does not include those trusts that she administers under other arrangements.

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