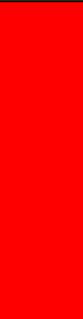


PCE Advice on Spatial Planning Bill Departmental Report and Tranches 1 & 2 of the Natural and Built Environment Bill

Spatial Planning Bill

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
Part 2 Regional Spatial Strategies (RSS)				
15 Scope of RSS	Amend clause 15 to require RSS to be consistent with: a. limits and mandatory targets set through NBE plans. b. all water conservation orders (WCOs) applying in the region to the extent they are relevant to the matters being considered in an RSS (or the part of an RSS that is being prepared or amended).		<p>This is an important addition that recognises that development must be consistent with environmental limits and targets. Wording is important here. “Consistent with” is a lower standard that “comply with” or “give effect to”. Given the importance of limits and targets as the principal tool for protecting the environment, stronger wording is preferable.</p> <p>Places of national (and regional) importance, in particular specified cultural heritage and significant biodiversity areas are also important environmental considerations when setting spatial plans. These should also be specifically included in the scope of RSS using strong drafting language.</p>	<p>Support MfE’s proposed additions but with stronger language (eg as “comply with”) <i>and</i> Add a subclause requiring RSSs to identify and “comply with the protection of” places of national (and regional) importance</p>
			<p>For RSS to be consistent with limits and targets, the limits and targets need to be identified prior to the RSS being developed. Yet current implementation plans would see the RSS developed prior. That exposes a serious risk because it will raise the expectation that certain developments can proceed despite limits, targets and places of importance not being in place as well as discourage the setting of appropriate limits</p>	<p>Delay preparation of RSS until limits, targets and places of importance have been set, <i>either by:</i> Delaying the commencement of RSS <i>or</i> Require that the first NPF and NBE plans set limits and targets and</p>

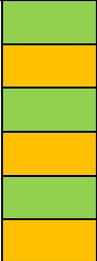
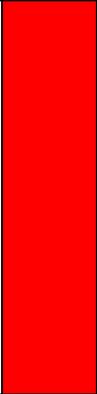
Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			and targets or identification of places of importance.	that the first NBE plans and RSSs are prepared together.
16 General contents and form of RSS	<i>Inter alia</i> <ul style="list-style-type: none"> provide a vision and objectives for key development, restoration, protection and adaptation shifts in the region to achieve the purpose of the SPA over the period of the strategy. outline the key actions and priorities to make progress towards the vision and objectives 		The additions put protection and restoration on a more even footing with development and require a sense of what is needed to achieve it.	Support
17 Contents of RSS: Key Matters	<i>Inter alia</i> <ul style="list-style-type: none"> clause 17(1)(a) relates only to areas that the RPC considers do (rather than may) require protection, restoration or enhancement 		Strengthening the language to include areas that need protection and restoration is positive bringing it into line with the development provisions. However, use of the word 'are' in subclauses (c), (d), (e) and (f) is too strong as it could imply that the environmental effect of those activities be ignored or downplayed in those areas. Use of the word 'may' provides a better indication that development in those areas is still dependent on meeting environmental standards. Using the term 'may' for all the subclauses provides an alert that does not then imply guaranteed approval.	<i>Either</i> Support the proposed change <i>or preferably</i> Replace 'are' with 'may' in subclauses (a), (c), (d), (e) and (f)
18 Contents of RSS: Other Matters	<i>Inter alia</i> <ul style="list-style-type: none"> Clarify, for the avoidance of doubt, that the identification of a nationally significant feature, area or activity under clause 18(1)(f) is not limited to 'places of national importance' (as defined in NBE Bill, clause 555). 			Support
19 Level of detail in RSS	Amend to make clearer that the decisions must be commensurate with the information available, not just the level of certainty about the information that is available.		The proposed change makes sense, but will depend on the precise drafting. There will always be uncertainty with information or lack of information. In those	Add a subclause referencing the precaution in favour of the natural environment.

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			situations caution should be applied in favour of the natural environment.	
24 General considerations Instruments	Various		Under the hierarchy proposed in clause 24, the Aotearoa New Zealand Biodiversity Strategy is only "have regard to". Given it is the key government direction on a major environmental issue, "must have particular regard to" would be more appropriate.	Amend to ensure "particular regard" needs to be taken of the Aotearoa New Zealand Biodiversity Strategy
25 General considerations Other Matters	<ul style="list-style-type: none"> delete subclause (3) and its sub-heading (matters that RPC must disregard) add a new provision to require that the RPC considers whether the proposed provisions in an RSS would be consistent with likely future states of the environment where dynamic environmental processes are operating. 		<p>The general intent of the proposed new provisions seems sensible, but it is difficult to determine the effect and any issues without seeing specific drafting.</p> <p>As drafted clause 25 requires RPCs to "have regard to -any cumulative effects of the use and development of the environment;". As cumulative effects can pose significant risks to the environment, the higher standard of "must have particular regard to" would be more appropriate.</p>	Support, in-principle, the proposed changes, depending on drafting <i>and</i> Strengthen language around cumulative effects to "must have particular regard to".
28 Quality of evidence and other information	More clearly reflect the precautionary principle Amend clause 28 to incorporate a new principle related to the way uncertainty in information should affect decisions.		Seems sensible, if well drafted.	Support
29 Incorporation of information from NBE plans	Amend to include limits and mandatory targets as matters an RPC can incorporate into its RSS from an NBE plan, without opening up that content to re-litigation.		It is important these points are not relitigated.	Support
30-36 Process for developing RSS	<i>Inter alia</i> clarify that the RPC can use a different process for different parts of the region or different issues. For example, how they might engage on a major urban growth issue would be different to how they might deal with a rural catchment		It is sensible that not all parts of a region need to be treated the same in an RSS because they will have very different issues and needs. However, the requirement that all parts of the region must agree on things that only affect	Support the proposed change <i>and</i> Provide for sub-regional plans (perhaps as sections of the overall plan) for sub-regional issues and

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
	restoration programme where there is an existing collaborative process.		<p>some parts still presents a real risk of horse trading.</p> <p>These clauses need more nuance to deal with both truly regional issues (eg network infrastructure and major areas for protection) and sub-regional issues (eg more detailed urban development) as a sub-regional plan.</p>	consider delegated decision-making to better align incentives.

Natural and Built Environment Bill

Tranche 1

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
Purpose of Act				
Cl 3	<ul style="list-style-type: none"> • have a singular purpose statement that is to uphold Te Oranga o te Taiao • clarify the intent is to have a bottom line in the purpose that protects the health of the natural environment • subject to this bottom line, clarify that use and development is enabled in a way that supports intergenerational well-being 		<p>On the surface this is better for the environment, but dependent very much on actual drafting.</p> <p>Likely to bring purpose much closer to current RMA purpose. Question whether worth litigating all the new language</p>	<p>Support amendment of the purpose clause subject to adequate drafting. This will require rigorous attention. It is not easy and the temptation to use words to paper over ambiguity or disagreement should be resisted.</p>
Add clause	New clause to identify that the key mechanisms to assist in achieving the purpose. Move references to outcomes, limits, targets, RSS integration, decision making principles and provision for Places of National Importance (PNIs) and High Value Biodiversity Areas (HVBA) from cl 3 to new		No risks involved, although reference to managing effects seems to have been dropped. Management of adverse effects is still a key way to protect the environment from harm	Add reference to “managing adverse effects”
System Outcomes				
Cl 5	<p>Continue with having no prioritisation between outcomes, but clarify that:</p> <ul style="list-style-type: none"> • not all system outcomes are required to be achieved in all places at all times • conflict resolution occur at the highest practicable level in the planning regime • add a preference synergies between outcomes <p>Tweak wording to several outcomes and add a new standalone outcome on sustainable use of coastal marine</p>		<p><i>This was a major fault of the original draft that has not been addressed.</i></p> <p>Lack of prioritisation in primary legislation risks natural environment outcomes being de-prioritised or balanced out by development outcomes. This may be mitigated to some degree if the purpose clause (clause 3) gives clear priority to the natural environment</p> <p>Addition of a coastal outcome is good.</p>	<p>If left unchanged, this formulation will come back to haunt the Committee. Consider splitting into two clauses similar to s6 & 7 of RMA – with natural environment clauses in one and other clauses in the other.</p> <p>The reality is that the non-environmental outcomes are more relevant to spatial planning than the environment as most people understand it.</p>

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
Decision making principles				
Cl 6	<ul style="list-style-type: none"> ensure these principles must be applied by <u>all persons making recommendations or decisions</u> on the NPF and NBE plans Add new decision-making principle on the polluter pays principle add a new decision-making principle to require consider whether an approach to effects management 		All these additions are better from an environmental perspective, but could be stronger. Further additions would make for a much stronger focus on the environment.	Add principles to: require consistency with limits and targets; consider encapsulating the Te Mana o te Wai hierarchy.
Best Information				
805 Best information	<ul style="list-style-type: none"> relocate clause 805 so that it can be read alongside clause 6 simplify clause 805 by removing subclauses (2) and (3) with any consequential changes to the remaining wording as required 		While well-intended, the previous wording was confusing, difficult to interpret and provided a hierarchy that was not scientifically accurate. These are welcome improvements.	Support these proposed changes
	<ul style="list-style-type: none"> amend subclause 805(1) so it is a requirement for all decision-making to use the best available information at the time a decision is made, clarifying that the obligation is intended to be proportionate to the level of detail required in the particular context. utilise the phrase best available information, using wording similar to section 61(5) of the EEZ Act (ie “best available information means the best information that, in the particular circumstances, is available without unreasonable cost, effort or time”) 		Use of the EEZ Act wording seems sensible. Care is needed in redrafting subclause 805(1) to ensure it does not inadvertently preclude the use of information that, while not immediately available at the time, could be obtained at reasonable cost, effort and time and thus would improve the robustness of the decision.	Support these proposed changes, subject to actual drafting
Environmental Limits				
37 Purpose of limits	Use “baseline state” as the definition of environmental limit		<p>“Baseline state” is essentially the same as “current state” which was a major fault of the original draft.</p> <p>As noted by many submitters using “current state” will lock in already degraded environments.</p> <p>It is inconsistent with Te Oranga o te Taiao: No assessment of health of the environment is</p>	

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			required, yet health of the environment is a key arm of Te Oranga o te Taiao	
38 Domains	Add definitions of air, soil and estuary		<p>It is important to have this clarity of definitions. The definitions of air and soil could both be improved.</p> <p>The definition of <i>air</i> could clearer and is important to more than just people.</p> <p>Soil biota or living organisms missing from the definition of <i>soil</i>. Soil has five components — minerals, soil organic matter, living organisms (soil biota), gas, and water.</p>	<p>Support with these suggested changes:</p> <p>Air means the mixture of gases, vapour, and particulates, that surrounds the Earth in the lower atmosphere (troposphere) in which life lives.</p> <p>Soil means a natural, evolving body, which is the product of its environment formed on the land surface, and composed of five components: minerals, organic matter, living organisms, gas, and water.</p>
39 Minister to set limits	No recommended change		If limits are set at baseline state (which is effectively still the current state), it is unclear how the Minister what there is for the Minister to do since they cannot set the 'current state' – it is what the state of environment is. There may be a role to define how the 'baseline state' is to be <i>measured</i> and <i>determined</i> but not the setting the limit itself.	Clarify
40 Format of limits	Remove 'minimum' and 'maximum' from subclauses 40(2)(a) "biophysical state" and (b) "harm and stress" respectively, as it is inconsistent with the current state approach for the level of limits.		<p>Even if set at current state, 'minimum' and 'maximum' in this context are still important qualifiers to identify which side of the limit activities must occur on.</p> <p>Use the qualifiers 'minimum' and 'maximum' subclause 40(2) helps make it clear that activities cannot occur that would cause that state to be further impaired.</p>	Retain 'minimum' and 'maximum' qualifiers;
	the principle of favouring caution in subclause 6(2) does not apply to decisions on setting limits or minimum level targets		There will always be some uncertainty about what the current state of any environment is.	Clarify what 'caution' means with regard to limit setting

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			Caution in this context would dictate that the limit be set at the level within the band of uncertainty most advantageous for the natural environment	
	Add a procedural principle to reduce reliance on resource consent processes should not be applied to setting limits or minimum level targets		This seems sensible	Support
41-43 Interim limits	<ul style="list-style-type: none"> Interim limits are removed from the Bill the relevant council must publicly notify the breach of any limit, along with other relevant information, including the cause (if known), extent of the breach, how it plans to manage the breach and when compliance is expected to be achieved 		Allowing further environmental degradation was a serious flaw of the first proposal	Strongly support removal
44-46 Exemptions to limits	Only minor tweaks be made to the exemption regime, which slightly broaden the ability to achieve an exemption		<p><i>This was a major fault of the original draft that has been continued.</i></p> <p>Limits remain the last line of defence for the environment in the Bill. Providing for exemptions is contrary to the protective outcome implied by the purpose. Exemptions could be granted for private projects that can show an identifiable public benefit. Most could qualify in that they would be achieving at least one of the outcomes proposed under the Bill.</p> <p>MfE's argument that "not enabling exemptions creates risk that limits lose certainty and effectiveness by coming under pressure to be set too low" does not carry much weight when the decision has been taken to set limits at essentially the 'current state'.</p>	<p>If the committee does see a need for exemptions, they should be strictly limited to <u>nationally significant public</u> projects (e.g. national projects that would meet Public Works Act 1981 criteria).</p> <p>Ensure the Bill makes it clear that an exemption should only be an option if it is needed and all alternative options for complying with an environmental limit have been exhausted. The wording of subclause 44(4) could be strengthened in this regard. An additional subclause 46(c) should be added to say the Minister must not direct an exemption unless all alternatives have been exhausted.</p>

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			MfE's point that "an exemption from a limit should only be an option if it is needed and all alternative options for complying with an environmental limit have been exhausted." Is a good point and the drafting needs to make that clear.	
47-49 Purpose of targets	<ul style="list-style-type: none"> • Replace 'combined targets' with separate 'mandatory targets' associated with limits, and 'discretionary targets' • Purpose of mandatory targets associated with limits is to define a desired future state to drive improvement in ecological integrity and reduce human health risk • rename mandatory targets associated with limits as simply mandatory targets, with "target attribute states" required for each aspect of the natural environment for which limits are required 		This distinction, proposed purpose and clarification seem sensible.	Support recommended changes
	Not to include a 'non-regression' principle, instead rely on the 'expectation' of maintain and improve.		<p><i>This was a major fault of the original draft that has been unaddressed.</i></p> <p>Many of the environments where the limit is set at 'baseline state' will be degraded. There is potentially a very large gap between that degradation and what certain Ministers might consider "unacceptably degraded". There is no other way to lock-in improvements in those degraded environments, even if the local community wants it. This is a serious environmental weakness in the Bill.</p> <p>Mandatory targets should automatically become the environmental limit once reached. RPCs would then have the ability to determine the degree of permanent improvement themselves as they can set that 'mandatory target' anywhere "at or above" the current limit.</p>	Consider making 'mandatory targets' once met the new 'environmental limit'

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
50 Minimum level targets	<ul style="list-style-type: none"> criteria set out in subclause 50(2) be reframed with more active language and be future focussed Minister should consider the impact of disaster events when determining unacceptable degradation 'maintain and improve' approach of the NPS-FM should be required for minimum level targets minimum level targets be renamed as 'minimum acceptable limits' or similar 		<p>MfE's proposed changes do not increase environmental risk, except possibly in relation to the impact of disasters. However, some faults with the original design have not been addressed.</p> <ul style="list-style-type: none"> The term "unacceptably degraded" is subjective and may be interpreted differently by different Ministers. There is a real risk a Minister might try to lower a minimum level 'limit' set by a previous Minister because they have a different view of what is "unacceptably degraded". Adding a clause that any new "minimum level limit" cannot be lower than previous limits and minimum level limits would help stop that. The criteria the Minister must consider around "local displacement or extinction" (50(2)(c)(i) seems too narrow and the "risk of irreversible or significant harm" (50(2)(c)(ii) is too high. We should never be even close to that bar. The power given to the Minister is broad so it should be subject to a requirement to <i>have particular regard to</i> advice from the Limits and Targets panel 	<p>Support MfE's recommended changes <i>and</i> Add a subclause stating that any minimum level limit cannot be lower than previous minimum level limits <i>and</i> Further strengthen the criteria in subclause 50(2) <i>and</i> Require the Minister to "have particular regard to" the advice of the Limits and Targets panel <i>and</i> Shift this clause to be with the other clauses on limits (possibly between clauses 38 and 39)</p>
51 Discretionary targets	<ul style="list-style-type: none"> clarify that the purpose of discretionary targets is to define the desired future state that will achieve improvement in a system outcome, a framework outcome or a plan outcome that discretionary targets cannot undermine a limit or a mandatory target 		<p>This distinction, proposed purpose and clarification seem sensible.</p>	<p>Support recommended changes</p>
No reference to Limits and Targets panel	Not addressed	-	<p>While the role of the Limits and Targets Panel is set out in Schedule 6, there is no reference to it in the clause about Limits and Targets.</p>	<p>Add reference to Limits and Target panel into relevant clauses of the main Bill (probably clause 39).</p>

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
in relevant clauses			This risks the advice provided being ignored. Adding a reference, probably in clause 39, to advice from the Limits and Targets Panel as something the Minister and RPC's must have regard to when setting limits and targets would ensure transparency and reduce the risk that a Minister could simply disregard expert advice. See also comments on Schedule 6 later in this table (which suggest <i>inter alia</i> having the PCE not the Minister appoint the panel)	
53 Monitoring of limits and targets	Minor changes		Original provisions were good. That said, a huge investment in data gathering and analytical capability will be needed to manage limits and targets properly. Our systems cannot cope with what we need from them now let alone what will be needed under the new Bill	The Committee should note the huge investment requirements in its report to the House. This matter has been drawn to the House's attention annually but little has been done about it.
54-55 Management units	<ul style="list-style-type: none"> the size and location of a management unit should be set to provide flexibility and to maximise opportunities for offsetting and other management approaches. the NPF may provide direction on management units for freshwater and air 		The term "maximise opportunities" implies large management unit areas. The larger the unit the higher the risk that pockets of it will be able to degrade. It also makes the units more difficult to monitor and manage for environmental protection. This is a serious risk to the integrity and ability to manage environmental limits. Allowing for direction in the NPF is no protection at all, particularly if a Minister is minded to maximise development opportunities.	Add "ability to adequately measure and monitor the environmental state of the management unit" as one of the matters to be considered when setting management units (clause 55)
NPF – Other required content				
58 Matters NPF must provide direction on	Add 'urban trees' to the list of matters in clause 58		Protecting urban trees and urban greenspaces generally helps provide environmental services to cities. Flexibility in how that is	Support

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			mandated is sensible. The NPF is a good place to provide that flexibility. The deletion of clause 125 (Tree Protection) proposed in Tranche 3A would provide flexibility to allow the NPF to determine the best way trees can be protected while balancing private property rights.	
Effects Management Framework (EMF)				
61 Effects management framework	<ul style="list-style-type: none"> • 'redress' is replaced with 'compensation' • offsetting and compensation is only allowed where it meets the requirements set out in Schedules 3, 4 or 5 (whichever applies) • if the requirements of the EMF are not met the activity cannot proceed unless it is authorised by a rule made under clause 64 that substitutes other requirements. 		Narrowing when offsetting and compensation can apply is an important improvement. The clarification that activities cannot proceed (unless exempted) is also stronger. <i>However, ongoing provision for exemptions is problematic from an environmental perspective. (See below)</i>	Support (except exemptions)
62 When EMF applies	Delete restrictions on EMF applying in areas, other than specified cultural heritage and significant biodiversity areas. This will give more freedom to apply the EMF in other areas		MfE's recommendation to allow more freedom to apply the EMF more widely is a positive for the environment. However, the EMF should also be required to be applied in all Places of National Importance (PNIs) not just specified cultural heritage and significant biodiversity areas. If a place is of national importance it is important that the adverse effects on that place to be as small as possible.	Support MfE recommendations <i>and</i> Require the EMF to apply to all PNIs.
63	Relocate the substance of clause 63 (Requirements when framework applies) into clause 61 so that the schedules become part of the EMF			Support
64 Scope of possible exemptions	Inter alia: <ul style="list-style-type: none"> • state that the framework rules can require effects to be managed in a way that is more stringent than the EMF 		Providing exemptions to the EMF which already provides significant flexibility for projects that must occur in protected areas is environmental risky. Narrowing the exemptions significantly could be a	<i>Highly conditional</i> support – dependent on adequate drafting

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
	<ul style="list-style-type: none"> state that the framework rules can only allow effects to be managed in a way that is less stringent than the EMF if [certain criteria are met] 		reasonable middle ground. Whether MfE's recommendation is narrow enough is highly dependent on the specific drafting proposed.	
	Make it clear that if an activity is covered by a framework rule made under clause 64 then its effects on the relevant PNI cannot be considered under any other rule or in decisions on a notice of requirement		There may be cases where the adverse effects a particular activity can managed appropriately in some PNIs but not others (eg PNIs that may be particularly ecologically sensitive). This provision might preclude more stringent control that would be appropriate for that particular environment.	Discuss with MfE how such a situation might be addressed.
66 Limits to exemptions	Keep the list of activities as proposed, with various minor drafting changes.		<p>As noted in the departmental report "the extent of the activities that should be eligible for exemptions is a value judgment for the Committee."</p> <p>The drafting changes proposed seem to be sensible clarifications, if those exemptions are to remain.</p> <p>Exemption from the effects management framework (EMF) essentially places no controls on the environmental impacts of those activities. This is very risky for the environment.</p> <p>The list of activities that could get an exemption is huge. They allow almost any activity to be exempt even from the already very flexible requirements of the EMF.</p> <p>Assuming MfE's proposed drafting changes are adopted, the activities in the PCE's view that pose the biggest risks if granted exemptions are:</p> <ul style="list-style-type: none"> (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 	Support MfE's recommended drafting changes <u>and</u> Consider removing specific activities, in particular (g), (i), and (o). Priority should be given to removing (o)

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			<p><i>Threat Classification System, unless the species is rare within the region or ecological area (Species are threatened for a reason)</i></p> <ul style="list-style-type: none"> (i) <i>subdivision</i> (The departmental report states “subdivision does not generate adverse effects in and of itself”. This is casuistry. No, lines on a piece of paper don’t have an effect. But they are only ever put their to permit activities with effects. If subdivision doesn’t generate adverse effects why does it need an exemption from the EMF? Creating this exception inevitably raises the expectation that other activities will be allowed. (o) <i>activities that will provide nationally significant benefits that outweigh any adverse effects of the activity</i> This is a particularly broad and subjective judgement to leave with the Minister of the day so it is potentially high risky. It could, for example apply, to a chemical factory if the Minister thought the benefit outweighed the adverse effect. The other exceptions already provide sufficient scope for large public good infrastructure and other public good projects so exception (o) is effectively redundant. 	
<i>Places of National Importance, significant biodiversity areas, high-value biodiversity areas</i>				
555 Interpretation	<p>Amend the definition of ‘place of national importance’ in clause 555 to cover:</p> <ul style="list-style-type: none"> an area of the coastal environment, or a wetland, or lake, or river or its margins that has outstanding natural character <u>exceptional value at the national scale</u> 		<p>The proposed change from ‘outstanding’ to ‘exceptional value at the national scale’ will severely narrow the sites that qualify, to the detriment of the environment. Moving away from the existing ‘outstanding’ definition which has jurisprudence to support</p>	Retain the original wording of clause 555.

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
	<ul style="list-style-type: none"> an outstanding natural feature or outstanding a natural landscape or natural feature (including geoheritage) that has exceptional value at the national scale 		<p>it will bring a fresh round of legal uncertainty in its wake.</p> <p>The change will also limit the ability of an RPC to protect areas that are outstanding or exceptional regionally (which would be covered by the 'outstanding' term). There does not appear to be another clear mechanism by which they can do that.</p>	
	Include specific mention of 'geoheritage' in the definition			Support addition of 'geoheritage' in clause 555
556 Identification of places of national importance	<p><i>Inter alia:</i></p> <ul style="list-style-type: none"> require the NPF (rather than NBE plans) to identify the outstanding natural landscapes and natural features (including geoheritage) places which qualify as PNIs; 		<p>While identifying PNIs in the NPF is a good idea, it should not be the only place they are required to be identified. It should be possible for outstanding landscapes and features to be identified in NBE plans, especially if they have not been identified in the NPF. Limiting it only to places identified in the NPF by the Minister will likely result in many places that deserve protection from not being protected.</p> <p>This proposed change highlights that these protections are only for places of national importance and ones that meet a very high bar. It seems to open a gap that would prevent places of regional importance being both identified and having similar protections. Not having mechanisms to identify and protection places of regional importance is a serious omission from an environmental protection perspective.</p>	<p>Allow PNIs to be identified in both the NPF and NBE plans.</p> <p>Redraft to allow for the identification and protection of places of regional importance, with the same protective measures available.</p>
	<ul style="list-style-type: none"> prevent the Minister from making a SBA exempt from the identification requirements if it has already been assessed by an RPC or regional council; 		If the Minister is satisfied that the work done by a RPC or regional council in identifying a SBA was sufficient they should have the	Do not support this proposed change

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			flexibility to approve it as a PNI without having to redo that work.	
	<ul style="list-style-type: none"> require the NPF or plan provisions which identify a PNI to set out the attributes or values of a place that qualify the place as a PNI; require the Minister, in determining what SBAs must be identified in NBE plans, to consider: <ul style="list-style-type: none"> i. the costs of identification ii. the likelihood that the type of SBA may be affected by use or development; and iii. whether identification will improve investment certainty. 		<p>The requirement that the Minister consider costs of identification, potential use for development and investment certainly seem designed to ensure almost no PNIs get identified as they would tip the balance well in favour of development rather than the environment. Development interests are already covered by the proposed exemptions regime.</p> <p>Conversely, the proposed requirement to articulate the attributes of a place that qualifies is a good addition.</p>	Do not support the proposed additional requirements that the Minister must consider (ie cost, likelihood; investment certainty).
558 Considerations relevant to setting criteria	Amend subclause 558(2) to empower the Minister to determine whether and where the consideration of representativeness applies within the coastal marine area, and to apply it to a part or parts only of the coastal marine area.			Support the change
559 Protection of places of national importance	<ul style="list-style-type: none"> Define 'trivial' as 'de minimis' Clarify that consent authorities are required to confirm that an activity will have no more than trivial effect, including for permitted activities Clarify exemptions are via way of rules 		<p>Most of the points of clarification proposed by MfE seem sensible and reasonable. As the proposed changes are extensive, care will be needed in getting the drafting right, especially around treatment of exemptions, so as not to inadvertently create loopholes that would allow activities with more than trivial effects to proceed without adequate management protections.</p> <p>One way to do that would be to specifically require that any rule creating an exemption is required to specify how adverse effects must be managed.</p>	<ul style="list-style-type: none"> Close scrutiny of the proposed redrafting when available. Consider adding provision to specifically require that any rule creating an exemption is required to specify how adverse effects must be managed.
561	<ul style="list-style-type: none"> retain the clause as currently drafted except that the word 'significant' be changed to 'substantive' 			Support changes

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
Protection of significant biodiversity areas	<ul style="list-style-type: none"> relocate the content into clause 559 to improve navigability for readers 			
562 Criteria for identifying HVBAs	<p>No specific recommendations section, but in the text MfE recommended:</p> <ul style="list-style-type: none"> HVBAs should be appropriately identified in NBE plans if they have been identified areas that are not identified in NBE plans but are identified during consenting should be covered. some changes sought by the NZ Ecological Society be incorporated into the revised definition of HVBA, particularly clarity about how a nationally critical species is defined in accordance with the NZ Threat Classification System (which is periodically updated). The IUCN system is referenced instead in the context of ecosystems, as ecosystems are not included in the NZ Threat Classification System. 			Support these changes
563 Limits to activities within HVBAs	<p>Inter alia</p> <ul style="list-style-type: none"> require HVBAs in terrestrial and intertidal areas to be appropriately identified in the relevant plan require any other HVBAs known to the RPC to be appropriately identified in the relevant plan specify that RPC must treat the approach to identifying HVBAs as a 'major regional policy issue' (Clause 14 of Schedule 7) require that before issuing a permitted activity notice, granting a consent or making a notice of requirement, the consenting authority or requiring authority must take reasonable steps to confirm whether the activity will have a more than trivial effect on a HVBA. 			Support these changes
Schedule 3: Principles for biodiversity offsetting and Schedule 4: Principles for Biodiversity Redress				

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
Schedule 3: Principles for biodiversity offsetting and Schedule 4: Principles for Biodiversity Redress	<ul style="list-style-type: none"> Retain the substance of both Schedule 3 and Schedule 4 with the amendments described below; and merge the two schedules. Amend the introductory words for the schedules to make compliance with all of the principles mandatory in order for an action to qualify as offsetting or compensation (whichever applies). Replace all references to 'redress' with references to 'compensation to align with changes made to the EMF (see our advice on clause 64). 			Support these changes
Schedule 3, clause 1	<ul style="list-style-type: none"> Amend the title in Schedule 3 clause 1 to read "Adherence to Effects Management Framework" Amend to <i>A biodiversity offset is a commitment to <u>provide a measurable conservation outcome in accordance with the principles set out in this schedule to address redress</u> more than minor residual adverse impacts. It should only be contemplated after steps to avoid, remedy, and <u>minimise mitigate</u> adverse effects have been demonstrated to have been sequentially exhausted and thus applies only to residual indigenous biodiversity impacts.</i> 			Support these changes
Schedule 3 clause 2	Add definition of the term 'vulnerable' as follows: <i>Biodiversity that is listed as threatened within the New Zealand Threat Classification System</i>			Support these changes
Schedule 4 Clause 2 – Limits to biodiversity compensation	Redraft to make it clear when biodiversity compensation is not appropriate.			Support these changes
Schedule 3 clause 7	Amend Schedule 3 clause 7 to provide that 'The biodiversity offset must be managed to secure long-term outcomes of biodiversity that last as long as the impacts, and preferably in perpetuity'.			Support these changes
Schedule 3 Clause 8 and	Amend Schedule 3 clause 8 and Schedule 4 clause 7 as follows:			Support these changes

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
Schedule 4 Clause 7 – Time lags	<i>The delay between loss of indigenous biodiversity at the impact site and gain or maturity of indigenous biodiversity at the redress site must be <u>the least necessary and must not exceed the consent period or 35 years, whichever is earlier.</u> Minimised so that gains are achieved within the consent period.</i>			
Schedule 3 Clause 9 and Schedule 4 Clause 8 – Trading up	<ul style="list-style-type: none"> Delete clause 9 (Trading up) from Schedule 3 and that you renumber clauses 10 to 14 accordingly. Retain clause 8 in Schedule 4 as currently drafted. 			Support these changes
Schedule 4 Clause 9 – Environmental contributions	Retain Schedule 4 clause 9 as currently drafted		<p>Forest and Bird sought the deletion of clause 9 because it provides a direct loophole to the most crucial principle, the 'limits to redress'. The departmental report notes "<i>sometimes it will be preferable to require a contribution as opposed to nothing at all.</i>"</p> <p>The wider question is why should the activity go ahead if it cannot adhere to the effect management framework and cannot meet the other principles of redress?</p>	Delete this clause.
Schedule 3 Clause 11 – Proposing a biodiversity offset	Amend Schedule 3 clause 11 so that plans must include timebound requirements if necessary or desirable to ensure the long-term outcomes under Schedule 3 clause 7.			Support these changes
Schedule 3 Clause 14 and Schedule 4 Clause 13 – Transparency	Amend the introductory wording to Schedules 3 and 4 to state that all of the principles are mandatory; and that you replace the word 'should' with 'must' in principle 14 of Schedule 3 and principle 13 of Schedule 4.			Support these changes
Schedule 6: Preparation, change, and review of national planning framework				
Schedule 6, Clause 3 –	<ul style="list-style-type: none"> The limits and targets review panel be required to provide advice to the Minister on exemption applications including 			Support proposed changes and <u>and</u>

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
Limits and targets review panel	<p>whether the science and evidence underpinning an application is robust, advice on appropriate time limits and any conditions that it recommends are applied.</p> <ul style="list-style-type: none"> The limits and targets review panel be required to evaluate and advise on the overall sufficiency and comprehensiveness of both current and proposed limits and minimum level targets (potentially renamed) and provide advice to the Minister which must then be addressed in the evaluation report of the NPF proposal. The role of the panel is aligned with its functions set out in clause 557. 		<p>The recommendations in the departmental report are all sensible and should be supported.</p> <p>However, given the heavy lifting that limits and targets are required to do in ensuring environmental protection under the act, the proposed changes do not go far enough.</p> <p>As noted in the environmental limits and targets section (clauses 37-55) there should be reference to the panel in one of those clauses (possibly clause 39)</p> <p>The Minister should be required to do more than just <i>consider</i> the panel's advice. Rather, the Minister should have to <i>have particular regard</i> to the advice.</p> <p>As RPCs can also set limits and targets, they too should be required to set them based on appropriate scientific advice from the limits and target panel.</p> <p>The independence of the panel is paramount.</p> <p>Having the Minister appoint the panel could enable it to be stacked to align with the Minister's political perspectives. The Committee should consider whether appointment should sit with an independent body, such as the PCE. Or it could be the Secretary for the Environment acting independently (similar to the role proposed for the technical advisory panel proposed as part of amendments to the Environmental Reporting Act).</p>	<p>Amend so the Minister has to <i>have particular regard</i> to the panel's advice</p> <p><u>and</u></p> <p>For limits or targets set in NBE plans require the RPC to also have particular regard to the advice of the panel</p> <p><u>and</u></p> <p>Provide for independent appointment of the panel</p>
Clause 31 – Preparation of first national	<p><i>Inter alia:</i></p> <ul style="list-style-type: none"> exclude the limits and targets review panel from being required to be appointed to advise the responsible Minister 		<p>Environmental limits and targets are the primary form of environmental protection under the new legislation. Promulgating an</p>	<p>Require limits and targets to be set in the first NPF</p> <p><u>and</u></p>

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
planning framework <i>and</i> Clause 32 – NPF proposal containing minimum level targets must be notified by 1 January 2028	<p>on any criteria for identifying significant biodiversity areas for the first NPF.</p> <ul style="list-style-type: none"> a transitional provision to require the responsible Minister to notify an NPF proposal that contains environmental limits across all of the domains set out in subclause 38(1) by no later than 1 January 2028. 		<p>NPF (and NBE plans and SPAs) without them will leave a serious gap and risks environment degradation.</p> <p>While the argument that it is impractical to set limits and target under the timeframes proposed might seem sensible on the surface, the wider question is how can the system operate properly without them? So it should not be implemented until appropriate limits and targets are available.</p> <p>The proposal to use ‘baseline levels’ is already an environmental compromise that will speed up setting the limits. There is very little reason why those cannot be done quickly.</p>	Require that no NBE plan or spatial plan is promulgated without appropriate limits and targets

Tranche 2

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
<i>Appointment and Operations of Regional Planning Committees</i>				
Schedule 8 Clause 14 General obligations of all appointing bodies	A range of procedural changes but deliberately chose not to have a requirement to ensure RPCs have the right mix of skills and experience		<p>Members of RPCs represent ‘local voice’ <i>and</i> have a specialist job to make planning decisions and rules. Doing that part of the job requires expertise and experience. Clause 14 should contain a list of expertise relevant to environmental planning and require that any member appointed to an RPC have experience in at least one of those areas.</p> <p>That would not necessarily guarantee RPCs had a balance of expertise across all the areas, but would help ensure that all</p>	Add a requirement that all members appointed to an RPC have relevant expertise (as defined by a list of expertise added to clause 14 or elsewhere)

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			members had at least some relevant expertise.	
Compliance and enforcement				
694 Interpretation	<ul style="list-style-type: none"> Delete RPCs from the definition of 'NBE regulator' Various other definitional changes 			Support these changes
696 Scope and effect of declaration	Amend to clarify that the Environment Court has the ability to make a declaration in the course of proceedings where a formal application has not been made.			Support this changes
700 Scope of enforcement order	Amend to include the new civil remedies within the scope of an enforcement order, by enabling the courts to impose a monetary benefit order (clause 718), an adverse publicity order (clause 731), or pecuniary penalties (clause 776) as part of an enforcement order.			Support this changes
718 Monetary benefit orders	<ul style="list-style-type: none"> Amend to provide for a person to respond to the NBE regulator's submission regarding the amount of the monetary benefit order. Amend to enable an NBE regulator to apply to the District Court or Environment Court for a monetary benefit order. Amend to clarify the 'contravention' is a contravention of the requirements in the Bill. 		Monetary benefit orders would add a significant new tool to the compliance and enforcement toolbox	Support this clause and the proposed changes
719 Environment Court may revoke or suspend resource consent	<i>Inter alia:</i> <ul style="list-style-type: none"> amend clause 719 so that it is clear suspension or revocation of a consent may be in part or full. clarification that a resource consent holder is not entitled to any compensation or redress as a result of any losses that might be suffered by the revocation or suspension amend subclause 719(1) to include reference to the RMA, so that non-compliance under the Act and the RMA can be considered; and various other legal process improvements 		Revocation or suspension of consents would be a significant new tool to the compliance and enforcement toolbox.	Support this clause and the proposed changes
Enforceable undertakings Clauses 723 - 730	<i>Inter alia:</i>		Enforceable undertakings would add a significant new tool to the compliance and enforcement toolbox	Support these clauses and the proposed changes

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
	<ul style="list-style-type: none"> • amend subclause 724(1)(b) to link the amount of compensation to the remediation of any actual or likely adverse effects arising from the contravention; • delete subclause 724(2) and replace it with a requirement for the NBE regulator to apply the amount collected under an undertaking to the purpose for which it was collected • amend subclause 724(4)(b) to require the notice to specify the compensation or action taken to avoid, remedy, or mitigate any actual or likely effects arising. • amend clause 724 to require the name of the person providing the undertaking to be published. • amend subclause 728(4) and/or 730(1) to make it clear that proceedings for the original contravention can be brought if the enforceable undertaking is not complied with. 			
731 Adverse publicity orders	<i>Inter alia:</i> <ul style="list-style-type: none"> • amend clause 731 so that adverse publicity orders can be made for all contraventions of the Bill 		Adverse publicity orders would add a significant new tool to the compliance and enforcement toolbox	Support this clause and the proposed changes
Financial assurances Clauses 732-750	<i>Inter alia:</i> <ul style="list-style-type: none"> • clarify the provisions so that it is clear that a financial assurance can be required by consent authorities as a condition of consent. • amend subclause 743(6) so that money recovered goes to the NBE regulator. • amend clause 745 to clarify that it applies in the event of immediate or serious risk to life or the environment. 		Financial assurances would add a significant new tool to the compliance and enforcement toolbox	Support these clauses and the proposed changes
766 Insurance against fines unlawful	No change, except clarify that the prohibition on insurance only relates to insurance arrangements and does not prohibit standard apportionment of liability via indemnities between commercial parties involved in an activity.			Support this clause and the proposed change
Pecuniary penalties Clauses 776-780	<i>Inter alia:</i> <ul style="list-style-type: none"> • amend clause 776 so that it aligns better with the wording of the other CME provisions, so that pecuniary 		Pecuniary penalties would add a significant new tool to the compliance and enforcement toolbox	Support these clauses and the proposed changes

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
	<p>penalty orders are available if the court is satisfied there has been a contravention or likely contravention of the Act.</p> <ul style="list-style-type: none"> amend clauses 778 and 779 by replacing natural and physical resources with natural environment. 			
781 Cost recovery	Amend to clarify that it would cover cost recovery for consent and permitted activity monitoring and taking enforcement actions, including any investigations or monitoring related to that enforcement action.			Support this clause and the proposed change
Enforcement functions of EPA Clauses 795-802	<p><i>Inter alia:</i></p> <ul style="list-style-type: none"> amend clause 796 so that the EPA can commence enforcement action against a regional council. 		The EPA has an important role as the backstop for environmental enforcement should councils not be able to do this effectively	Support these clauses and the proposed change
816 Duty to gather information and keep records	<ul style="list-style-type: none"> amend the Bill to make it clear that clauses referring to natural hazards include the effects of climate change on those hazards. amend subclause 816(b) to include reference to making information freely available on an Internet site wherever possible. amend subclause 816(3) to more explicitly refer to the public's right to access information. 		This is a critical duty in improving information and knowledge about the natural environment	Support this clause and the proposed changes
Preliminary matters: Definitions				
7 Interpretation <i>Natural hazards</i>	Clarify throughout the Bill that when considering natural hazards, the effects of climate change on those natural hazards are to be included.			Support
Duties and Restrictions				
13 Environmental responsibility	<ul style="list-style-type: none"> amend to state that the responsibility is not of itself enforceable, using the same wording as clause 14(2). amend to change the words "for the benefit of all New Zealanders" to "for the benefit of all present and future New Zealanders". 			Support
14 Duty to avoid, minimise, remedy, offset, or provide	Amend clause 14 by replacing the words 'take steps to provide redress for' with 'provide compensation for'.		Changing 'redress' to 'provide compensation' is supported but 'redress' should only be available when avoid,	Support proposed change <u>and</u> Amend to clarify that 'redress' only available when avoid,

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
redress for adverse effects			minimise, remedy, or offset are not possible.	minimise, remedy, or offset are not possible.
19 Restrictions relating to use of coastal marine area	<i>Inter alia:</i> <ul style="list-style-type: none"> • amend subclause 19(1)(c)(i) to expressly include 'anchoring'. • 209. We recommend that you amend clause (19)(1)(i) to state, "remove any sand, shingle, shell, or other natural material from the common marine and coastal area". 		Specific inclusion of anchoring is a good addition. Narrowing this provision back to the common marine area (even if it was an error) will provide less protection to a sensitive natural environment.	Not support narrowing this provision to the common marine area. <u>and</u> Support inclusion of anchoring
20 Restrictions relating to use of beds of lakes and rivers	No substantive change		Some submitters suggested extending this to include river margins. This is a sensible suggestion since rivers move and need to be able to move naturally. While, as the department report notes, there may be some overlap with land management areas, within a river's margins, what is land and what is water often changes naturally. This is an issue that recent events have highlighted and will likely become even more prominent with climatic disruption. The definition of 'river margins' should include braid plains.	Amend to include river margins <u>and</u> Ensure definition of 'river margins' includes 'braid plains'
24 Restrictions on discharging harmful substances in coastal marine area	<ul style="list-style-type: none"> • Amend clause 24(4)(b) to add the word 'aquatic' before the word 'life'. • amend clause 24 to add a provision which states that regulations or rules may be made prohibiting or controlling a discharge which would otherwise be permitted in accordance with subsection (2)(b) or (4)(b). • amend subclauses 24(2)(a) and 24(4)(a) to add 		The proposed changes are sensible. Clause 24(2)(b)(iv) should also be amended to add the word 'aquatic' before the word 'life'. This would bring it into line with the relevant RMA provision.	Support proposed changes and Add 'aquatic' to clause 24(2)(b)(iv)
26 Certain existing uses protected in relation to land	Various, including narrowing the circumstances when rules related to the natural environment can modify or extinguish existing use rights, to only cover situations where: <ul style="list-style-type: none"> a) a change is reasonably necessary to ensure compliance with a limit or achieve an associated target; or 		The proposed changes seem a reasonable balance.	

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
	b) the activity is generating adverse effects on the attributes that make an area a highly vulnerable biodiversity area; or c) the activity is causing or contributing to significant harm or damage to other aspects of the natural environment, human health, or property.			
27 When existing use rights may be lost	<ul style="list-style-type: none"> • amend subclause 27(2) to replace the word 'six' with the word 'twelve'. • amend the heading to clause 27 be reworded to 'When existing use protections may be lost'. 		The proposed changes seem a reasonable.	
Water conservation orders				
378 Purpose of water conservation orders	Proceed with clause 378 as currently drafted			Agree
379 Meaning of water conservation order	Amend to clarify that subsection (e) includes maximum contaminant concentrations as well as loads, similar to NPS-FM clause 3.29		The departmental report states "Clause 398 now requires a plan to be amended to incorporate the changes in relation to the WCO. Once changes are incorporated into the plan then the relevant monitoring and enforcement requirements of a local authority with respect to the relevant plan will apply." This should usefully clarify the role of regional councils.	Support
397 Relationship between plans and water conservation order	Clarify the relationship between subclause 396(2) and 397(2) and suggest these may be more clearly provided for in a single clause.			Support
Freshwater farm plans				
Part 6 subpart 2 as a whole	We do not support removing Part 6 subpart 2 or providing it as regulations under the NPF. ... It is important not to create uncertainty or impede progress in using freshwater farm plans to improve freshwater outcomes. We do not recommend any changes being made to the Bill in response to the general comments above.			Agree

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
Contaminated land				
417 Polluter pays principle	Work with PCO regarding the most appropriate placement of the definition currently in clause 417 so that it can be applied more widely across the Bill.		The reach of the polluter pays principle should be extended to have general application rather than just in respect of contaminated land.	Support
422 -423 Classification of significantly contaminated land & EPA's role in relation to contaminated land sites of national significance	<ul style="list-style-type: none"> Proceed with clause 422 as currently drafted. Update clause 423 to reflect the language used in clause 422 in respect of the classification of sites as significantly contaminated land sites. 		Providing provision for a national agency to deal with nationally significant contamination is sensible.	Support
			The provisions of clauses 416-427 set up a good system to dealing with one form of pollution (contaminated land). There is a huge, missed opportunity to extend these provisions to other forms of pollution. That would truly give effect to the polluter pays principle. (Such an extension was proposed in the PCE submission.)	Extend the provisions to other types of pollution.
Coastal matters (clauses 428-496)				
			No comment	
Exercise of functions, powers and duties of central and local government				
636 Functions of Minister of Conservation	Delete subclause 636(d) - the function "to monitor the effect and implementation of coastal permits".		The departmental report notes this was "an unintended expansion of the Minister of Conservation's role". While it may have been unintended it seems entirely appropriate given the general role the Minister of Conservation has in the coastal marine area.	Retain subclause 636(d)
Environmental Protection Authority Clauses 639-641	Proceed with clause 639 to 641 as currently drafted.		In addition to the functions proposed in the Bill, there is a missed opportunity to provide greater roles for the EPA (see PCE	Support departmental report <u>and</u>

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			submission). While not practical to address given the Committee's timeframes, policy work should begin to consider future changes.	Consider noting in the Committee's report the potential for a greater role by the EPA in future.
644 Matters for which regional councils and unitary authorities responsible	<ul style="list-style-type: none"> clarify that when regional councils (and territorial authorities in clause 646) are considering natural hazards, they must give- consideration to the effects of climate change as an exacerbator of those natural hazards. add 'avoiding' to 'mitigating or reducing the risks arising from natural hazards'. 			Support
646 Matters for which territorial authority or unitary authority responsible	<i>Inter alia:</i> <ul style="list-style-type: none"> amend subclause 646(a)(iii) to refer to maintaining and enhancing biodiversity. add the emission of light pollution and its effects as a responsibility for territorial authorities. 			Support
649 Local authorities to prepare compliance and enforcement strategy	<i>Inter alia:</i> <ul style="list-style-type: none"> amend subclause 649(2) to add how local authorities will monitor and enforce their own compliance. amend subclause 649(2) to add matters a local authority will consider when determining whether to waive compliance under clause 157. amend subclause 649(2)(a) to refer to 'how compliance monitoring will be carried out, including how mātauranga Māori and other specialist input is to be integrated'. 			Support
Provisions relating to monitoring, etc (clauses 782-787)				
783 Local authorities to monitor to effectively carry out their functions and duties under this Act	<ul style="list-style-type: none"> amend subclause 783(1)(g) to refer to monitoring permitted activities being carried out in the region or district, where monitoring of those permitted activities is required by the NPF or relevant NBE plan delete subclause 783(3)(b) to avoid duplication and overlap with sub-clause 783(5) proceed with subclauses 783(2), (5) and (6) as drafted 		Environmental reporting and monitoring are crucial to ensure we can understand and manage the environment.	Support this clause and the proposed changes

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
	<ul style="list-style-type: none"> amend subclause 783(7) to clarify that the RPC must produce an assessment of the 'state of the environment' and change the timeframe for reporting from five to six years. 			
784 Local authorities and planning committees to take action in significant risk situations and other circumstances	Delete clause 784 (because the Bill's general requirement to take action (under subclause 783(4)) provides a more straightforward and efficient way to require action in response to the several forms of monitoring that will be carried out under the NBA)		Deleting the clause would lose the sense of urgency and priority needed to respond to "significant risk to ecological integrity or human health" and hence undermine the purpose of the Act. Significant risk will likely already have a legal test defined in case law. If deletion is still preferred, perhaps subclause 783(4) should be amended to include wording along the lines of " , particularly to respond urgently if there is a significant risk to ecological integrity or human health."	<i>Either</i> Retain clause 784 <i>or</i> Redraft subclause 783(4) to reference urgent response to significant risk to ecological integrity or human health
785 Regional monitoring and reporting strategies	Amend clause 785 to require RPCs to develop the strategy in collaboration with local authorities and have particular regard to their input.			Support this clause and the proposed amendment
System performance				
836 & 837 Evaluation framework & Reporting	No changes recommended			Support these clauses
838 Parliamentary Commissioner for Environment to review evaluation reports	No change to proposed role of PCE proposed, other than to amend subclause 838(1) to clarify that the PCE's review is focused on reviewing the quality and scope of each evaluation report and making any findings or recommendations as necessary.		Imposing this as a non-discretionary requirement of the PCE is unnecessary and cuts across the framing of the Office in the Environment Act which provides all the powers needed. It is remarkable that in the informal engagement with my office on this point, no compelling reason has been advanced as to why the PCE's current legal powers fall short.	<i>Either</i> Delete the clause <i>or</i> Amend to make the review discretionary (not mandatory) using the formula found in the Environmental Reporting Act

Provision Clause(s)	Essence of MfE Recommendation		PCE Comment	PCE suggestion(s)
			<p>There would likely be significant resource implications for the PCE's office that could impinge on its ability to deliver other functions.</p> <p>I note that the Committee didn't raise the issue with me. This seems to be a classic case of adding something to the statute book to be seen to be doing something. If a future Commissioner decided to ignore an evaluation report, the select committee has the power to require him or her to take an interest. I think the Committee can be assured that evaluation reports will prove irresistible to Commissioners since these are almost inevitably likely to be more optimistic than realistic!</p>	