Te Uru Kahika Regional and Unitary Councils Aotearoa

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ENVIRONMENT SELECT COMMITTEE
PARLIAMENT BUILDINGS
WELLINGTON

VIA EMAIL TO: EN.LEGISLATION@PARLIAMENT.GOVT.NZ

Tēnā koutou katoa

Te Uru Kahika (Regional and Unitary Councils Aotearoa) thanks the Environment Select Committee (the Select Committee) for the opportunity to submit on the Resource Management (Consenting and Other System Changes) Amendment Bill.

Te Uru Kahika is the collective voice of New Zealand's 16 regional and unitary councils. It is underpinned by an extensive network of subject-matter experts. Together, we play a vital role in championing best practice, information sharing and collaboration across regional government. As implementation agents for New Zealand's resource management system, we also work with central government to deliver better outcomes for local people and their environment.

This submission draws on our collective expertise to present a perspective on behalf of regional government. Many regional and unitary councils will make individual submissions, reflecting their own local circumstances. Should our positions diverge on specific points, we respect the authority of councils to express their own views. Where differences arise between regions, we trust this supports you in understanding the complexity of the issues being considered.

In setting up for system change under Phase 3 of the Government's programme, Te Uru Kahika recognises the opportunity for legislative changes which bridges to RMA replacement. We acknowledge this, and recommend pragmatic adjustments to the Bill in our submission, in a manner that ensures the trajectory towards the Government's overall goals is maintained: improving efficiency, saving costs, and reducing regulatory burden on users of New Zealand's natural resources. In doing so we recognise the importance of providing greater certainty to consent applicants, including businesses and property owners across many sectors.

Again, we acknowledge that there are certain aspects of the current regime which are overly cumbersome and complex, and at the same time we want to avoid additional complexity and uncertainty for regulators and system users being introduced.

We welcome the opportunity to give feedback on the Bill to the Select Committee and our contribution aims to ensure its provisions can be successfully implemented, and resource management system goals achieved.

This submission is approved by the regional and unitary council chief executive officers.

On matters arising from this submission, contact in the first instance should be made with:

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We wish to be heard in support of our submission.

Nāku iti noa, nā

Michael McCartney
CONVENOR – REGIONAL CHIEF EXECUTIVE OFFICERS GROUP
TE URU KAHIKA – REGIONAL AND UNITARY COUNCILS AOTEAROA

INTRODUCTION

1. Te Uru Kahika is the Regional and Unitary Councils' collective voice, representing New Zealand's 16 regional and unitary councils. These councils are charged with the management of land, air, and water resources, supporting biodiversity and biosecurity, providing for regional transport services, and fostering resilient communities in the face of climate change and natural hazards.

2. This submission:
   - Is approved by regional and unitary council chief executives.
   - Provides a platform for productive engagement with Central Government, via the Environment Select Committee, for further refinement and implementation.

3. In providing this submission, Te Uru Kahika has sought to present an aligned sector view regarding the Resource Management (Consenting and Other System Changes) Amendment Bill (the Bill) and the matters it raises. However, where there are diverging views, these have also been identified.

4. Furthermore, we acknowledge that many regional and unitary councils will make individual submissions, reflecting their own local circumstances. We respect the authority of councils to express their own views where positions and specific points diverge. Where differences arise between regions, we trust this supports you in understanding the complexity of the issues being considered.

5. This submission discusses and identifies positions on a number of proposals set out in the Bill primarily under three of the five main topics, namely:

   System improvements:

   - Ministerial intervention on plan making
   - Certain consent processing provisions aimed at improving efficiency and cost-recovery
   - Compliance Monitoring and Enforcement provisions

   Farming and primary sector:

   - Freshwater farm plan functions
   - Controls on fishing methods
   - Permitted discharges (s.70 matters)

   Natural hazards and emergencies:

   - All provisions

6. This submission is structured in the following manner:

   A. **Executive summary** to highlight our higher-level position.

B. A **summary table of specific Te Uru Kahika positions**, including recommended solutions.

C. **Key issues**, which explain our specific positions including rationale and evidence.

D. **Suggested amendments**, providing suggested redrafting for a small number of clauses.

7. In our submission, we highlight potential improvements to the Bill that warrant further consideration and will ultimately ensure better outcomes for our communities and the environment.

8. In making this submission we reiterate our role as an integral partner in the resource management system. We have substantial experience in implementing a broad range of legislation, including the Resource Management Act 1991. As regional government, we bring an in-depth understanding of our respective regions, including their environments and communities.

9. We offer our expertise at a practical level in advancing solutions, and encourage the Government to continue working closely alongside us to leverage off our capability in this space, through the development and implementation of any legislation responding to the overall reform of the resource management system.

10. Te Uru Kahika and our member councils are also clear on the importance of iwi/hapū participation in Resource Management decision-making. We are committed to Te Tiriti and to working in genuine partnership with mana whenua in our regions to inform our view on system reform, and we encourage the government to keep working with iwi, hapū and councils to ensure the resource management system gives effect to Te Tiriti and Treaty Settlements.

11. We remain committed to working with the Government to ensure that legislative reform is workable, efficient, delivers for our communities and at the same time protects and enhances Māori rights and interests as guaranteed by Te Tiriti. These aims are not and do not need to be mutually exclusive.

12. **Te Uru Kahika requests the opportunity to speak to its submission**.

EXECUTIVE SUMMARY

12. Te Uru Kahika congratulates the Government on the introduction of the Resource Management (Consenting and Other System Changes) Amendment Bill.

13. Our submission emphasises the need to focus on system outcomes, and on robust policy supported by good evidence. To that end, we provide detailed responses to a range of proposals, discuss implications and present pragmatic solutions, mindful of achieving a more efficient, lower-cost, workable and effective system.

14. Our intention is to ensure that the Bill's proposals are capable of meshing with the types of system changes envisaged in the RMA replacement legislation. In our submission, we highlight potential improvements to the Bill that warrant further consideration and will ultimately ensure better outcomes for our communities, tangata whenua and the environment.

15. This submission covers proposals in the three of the five topic areas identified: system improvements, farming and primary sector, and natural hazards and emergencies. Furthermore, we have focussed on those proposals which align with Te Uru Kahika's strategic priorities including system improvements, kaupapa Māori, freshwater, and climate adaptation.

16. We are very pleased with system improvement initiatives which support more effective **compliance monitoring and enforcement**, which will greatly enhance pragmatic practices.

17. Most of our member councils support the sensible use of **ministerial intervention in plan making**, guided by good decision-making criteria and consultation with affected councils ahead of exercising these powers. We provide suggestions for improvements in this regard.

18. Te Uru Kahika supports proposals which improve the efficiency of the **consenting process**, also underscoring current good practice. However, we raise concerns relating to restrictions on notified consent hearings, and bespoke arrangements for specific types of applications and make suggestions to help improve efficiencies.

19. Te Uru Kahika supports the Government's intent to make the **Freshwater Farm Plan (FWFP) system** more flexible and cost effective and supports enabling industry organisations to provide certifier and auditor services provided appropriate checks and balances are in place. To better enable these proposals to work more effectively, we make a number of recommendations covering extended functions for the National Appointment Body, information provision obligations, common standards, and cost-recovery.

20. We acknowledge the intent of proposals to address **controls on fishing methods**, and make a number of suggestions supporting efficient and effective practice (including current arrangements), covering ministerial oversight functions, alignment with regional planning including existing controls, fair participation, and effective working between agencies.

21. We support proposals to provide clarity for the development of regional planning **rules for permitted discharges** to manage and reduce adverse effects over time, in combination with other methods; and note that these provisions are subject to full participation of all parties in the development of related regional plan provisions.

22. Te Uru Kahika supports the inclusion of comprehensive proposals to support more effective **management of natural hazards**, and the significant **natural hazard emergencies** both during an event and in their aftermath, and make suggestions to improve workability. We look forward to the National Policy Statement for Natural Hazards to support this area.

23. As **local government organisations with longstanding relationships with tangata whenua**, we see that iwi/hapū participation in the resource management system is essential for delivering core council business and for helping achieve cost and process efficiencies. Reform needs to enable participation by those Māori groups who have not yet had the opportunity to settle, and where settlements were completed a long time ago, in addition to where Treaty Settlements which provide for participation are in place. In this submission we refer to some specific concerns related to inconsistencies in how Māori groups are identified across the Bill, and changes which provide different rights of participation between Māori groups, and make practical suggestions which would go some way to addressing them.

24. Our position on proposals is summarised in the table in the next section below.

SUMMARY OF TE URU KAHIKA POSITIONS INCLUDING PROPOSED CHANGES

	SUMMARY OF TE URU KAHIKA POSITIONS INCLUDING PROPOSED CHANGES
SYSTEM IMPROVEMENTS **1. <u>Support in part:</u> Ministerial intervention in plan making**	
1.1	a) We accept the intent of the amendments (clauses 6 & 7 amending section 25A) enabling government to take compliance action if national policy statements are not given effect to via plan changes and other required documents. b) Government will need to exercise care around any perceived over-use of these powers. c) RMA planning costs and deliverables are substantial for ratepayers and one of several pressing priority areas for regional and unitary councils. Councils need sufficient flexibility to package up national direction through plan changes in a way that is most cost-effective and practical for their communities, responding to region-specific circumstances and ensuring value for ratepayers. d) The powers should be applicable only where a timeframe is expressed in primary or secondary legislation (e.g., national policy statements or national planning standards) by which it must be implemented by way of plan changes, or by which a document must be prepared (and those timeframes should only be applied after a robust assessment of implications). e) Government should be required to consult with the local authority about the timing, resourcing, and prioritisation implications before exercising this power.
	Recommendations We **recommend:** • That Ministerial intervention be limited to set circumstances, including where there is clear evidence councils are not giving effect to national direction within prescribed time-frames. • That Government be required to consult councils about timing, resourcing, and other costs implications for communities before ministerial power is exercised.

SYSTEM IMPROVEMENTS **2A. <u>Support in part</u>: consent processing provisions (consenting efficiency) and consenting cost recovery**	
2.1	a) We **support** improved tools provided in clauses 30 to 33, such as proposed section 92AA (which allows a consent authority to return a resource consent application for various reasons, and incentivises an applicant to promptly respond to further information requests and pay the actual and reasonable processing costs), and amendments to section 92A(3) and section 92B(2) (to replace 'must' with 'may'). b) **Support** with amendments clause 28 (s.88) and clause 38 (s.107G). Amendments are to ensure that the information is proportionate to the effects of the activity rather than the scale of the activity itself; formalising of applicant input into the drafting of consent conditions to remove unnecessary restrictions on the consideration of comments on draft conditions; and provide for sufficient timeframes for a reiterate process on draft conditions. – c) **Support** with amendments clause 44 (s.127) to provide for change or cancellation of consent conditions on application by consent holder to be a restricted discretionary activity. A restricted discretionary activity status is an appropriate status for a change, however a controlled activity is not.
	Recommendations We **recommend:** • Clauses 30 – 33 be adopted. • That clauses 28 and 38 be amended to make the scale of effects the subject rather than the scale of the proposal. • That changes to consent conditions be provided for as restricted discretionary activities, not controlled activities.
2B. Some concerns over particular consent process provisions	
2.2	The proposed change to **section 100 obligation to hold resource consent hearings (cl. 34 and 35)** is a major change to New Zealand's consenting framework. We **support** that changes to consent hearings may improve consenting efficiency in both time and cost. However, the change needs to be progressed with a comprehensive review of all the relevant provisions including statutory processing timeframes and pre-hearing meetings to ensure that efficiencies are achieved and workable, alongside reasonable participation by communities and tangata whenua in notified consenting processes.

	Rights to participation expressed through Treaty settlements must be adhered to, and we also suggest participation be broadened to tangata whenua who have already submitted and requested to heard (cl. 34 s.100(3)). Without changes to other provisions in the RMA, the proposed change to s.100 is expected to result in more consent appeals as submitters' issues are not resolved through the hearing process and so they are driven to lodge appeals to the Environment Court.
	Recommendations We **recommend** that the change to the obligation to hold a consent hearing is postponed till the full RMA review so that a comprehensive review of all the related provisions is undertaken, and the change does not result in more consent appeals. However, as **an alternative** we would recommend: • **Further refinement** of clause 34 and changes to section 99 (pre-hearing meetings), s99A (mediation) and timeframes (ss 88C and 115C) to enable this part of the system to work more effectively. • Where **tangata whenua have submitted and requested to be heard**, the consent authority must consult the submitter before making a determination that it has sufficient information to decide the application.
2C. Infrastructure and Energy: concerns over provisions	
2.3	The proposed changes to consent processing for renewable energy and wood processing activities (cl. 29, s.88BA) are considered unnecessary and do not achieve simplification of the planning system. To be more workable this proposal needs to provide for flexible practices such as the applicant placing the application on hold to resolve affected parties' concerns etc. Otherwise as currently worded, the proposal has potential to result in more stringent application of timeframes and information requirements, more applications being rejected or declined and more appeals. The other clauses being applied in this Bill will act to keep consent applications moving through the process and so the proposed change is unnecessary. Furthermore, different provisions for different types of applications adds complexity to the consenting framework and results in a less efficient system overall. If this amendment is adopted, at the very least, the applicant should be able to place the application on hold and the time on hold at the applicant's request should be excluded from the one-year timeframe (s.91A and s.88E). Whilst we support the initiative to provide a timeframe extension at the request of Māori groups, we consider the listed parties and purpose in clause 29 are too narrow.

	Likewise, we support the allowance in cl. 42 (new s.123B) for a shorter consent duration after considering a request from Māori groups but consider the definition of 'relevant group' (new s.123B(5)) should be extended to provide simply for tangata whenua rather than singly out specific groups.
2.4	There are some changes proposed that are unnecessary and of little consequence, including the lapse and duration provisions for renewable energy and long-lived infrastructure. These add complexity to working under the legislation.
	Recommendations We **recommend:** • Enabling applicants to be able to place applications on hold and the timeframe be paused or excluded from the one-year timeframe (s.91A and s.88E). • Extending the definition of 'relevant group' under section 123 B and the similar allowance in section 88BA (3), as described above.
SYSTEM IMPROVEMENTS **3. <u>Support</u> for compliance monitoring and enforcement provisions**	
3.1	**Support changes** to the compliance, monitoring, and enforcement provisions. In particular, clause 65 (s.339) to reduce the term of imprisonment for RMA offending to 18 months; setting it below the threshold for electing jury trial is beneficial in moving cases through the judicial system with reduced court time and legal costs. Other changes that we **support** include: • **Increasing** fines for environmental offending (also cl.65, s.339). • **Amending** section 36 – fixing administrative charges for certain compliance activities, allowing cost recovery for permitted activity monitoring • **Amending** section 104 and section 108– enabling compliance history to be considered in consent applications • **Amending** section 128 – enabling a council to initiate a review of consent conditions in response to non-compliance • Clause 59 introducing new section 314A – enabling the Environment Court to issue an enforcement order revoking or suspending a resource consent. Our position is **neutral** in relation to clause 66 (s.342A), which proposes to make insurance for fines unlawful.

	No recommended changes
FARMING AND PRIMARY SECTOR **4. <u>Support in part</u> Freshwater Farm Plan Functions**	
4.1	We understand and **support** the need for a nationally consistent and administered process to approve and oversee Industry Organisations (IO) who provide FWFP certification and audit programmes. However, we would prefer to have the power to assess IO applications, and to decide on approvals and revocations, rest with the existing National Appointment Body (adapted for this purpose) rather than the Minister (s.217KA). We have **two concerns** about the proposed amendment as they are currently worded. • **First**, this moves IO providers' accountability away from councils that are primarily responsible for achieving freshwater outcomes. It significantly reduces a council's ability to directly influence AIO programme provider's performance. • **Second**, this provides for a political decision to be made on what should be a strictly administrative decision-making function. This could undermine the Freshwater Farm Plan (FWFP) system's credibility in the public's eyes.
	Recommendations We **recommend:** • The power to approve and revoke approvals rest with the existing National Appointment Body adapted for this purpose. As a regional government shared service, this could be readily adapted for the purpose, including a governance structure to improve lines of accountability. • Should our recommendation to vest the decision-making responsibility in the National Appointment Body not be accepted, it is **recommended** that the decision-making power rest with the Secretary for the Environment.
4.2	We are concerned that the proposed changes reduce the **emphasis currently placed on information provision** by parties undertaking functions in the system. • **Proposed changes** to section 217H remove obligations on farm operators to provide information to auditors and obligations on auditors to provide information to councils. • While councils are given the function of monitoring the performance of AIOs (s.217H), Part 9A as proposed, puts no obligations on the AIOs to provide councils with the information needed to do this. Indeed, it explicitly provides

	only for councils to **request** information from AIOs (s.217I(2)(b)). This may preclude creating a regulation that would **require** that this information be provided. • We also remain concerned that neither Part 9A nor the regulations provide councils with adequate access to on-farm action information needed to assess policy effectiveness. If insufficient information is made available through this national system, councils may seek it through regional plan provisions, which risks continuing a disjointed approach nationally. Given the importance of information provision to the building and maintenance of a robust and credible system, it is recommended that information provision obligations of all parties be set out in Part 9A.
	Recommendations: We **recommend that** Part 9A set out the information provision obligations of certifiers, auditors, approved IOs and councils to ensure that all parties have access to information reasonably necessary for them to fulfil their role.
4.3	Te Uru Kahika supports Part 9A providing for variation in the processes applying to certifiers and auditors appointed by IOs and those appointed by councils. However, we are concerned that the proposed inclusion of section 217M(2A) will open the way for variability in standards and outcomes, not just processes. The standards expected of certifiers and auditors and the systems to support them should be consistent regardless of whether a council or an AIO appoints them. We understand and support ministers' and industry's desire for flexibility. However, this should be flexibility in the process, not standards or outcomes.
	Recommendations: We **recommend** that section 217M(2A) be worded in such a way that it allows for variation in process but not variation in standards or outcomes.
4.4	It is noted that the proposed amendments make no provision for recovering the cost of assessing IO applications and for overseeing IO programmes. The Regulatory Impact Statement proposes that the costs of an initial application evaluation and the ongoing monitoring of AIOs not be cost-recovered but instead be absorbed by Central Government. Te Uru Kahika considers that assuring markets, the community, and regulators that prescribed standards are being maintained is a legitimate cost of doing business and

	should be borne by the industry. The initial application and the ongoing monitoring are essential components of that assurance.
	Recommendations: We **recommend** that a specific provision be made in the amended section 217KA to allow a National Appointment body to recover the costs of assessing IO applications and managing the system. If the recommendation to have the National Appointment Body assess approval applications and oversee their operation **is not accepted**, then an amendment to section 36 administrative charges should be made to enable councils to recover costs of monitoring AIO programmes.
FARMING AND PRIMARY SECTOR **5. <u>Oppose in part</u>: controls on fishing methods**	
5.1	a) **Note** and appreciates overall intention of the proposal, yet wish to highlight that existing legislative provisions already require pre-notification engagement of proposed planning rules with central government Ministers (Environment, Conservation, Transport, Fisheries), and that regional councils already work with Fisheries New Zealand on mutually identified items of interest to ensure that any future proposals are sound and fairly evaluated. b) **Note** that regional and unitary councils are generally taking a more deliberate and progressive assessment of potential new or revised rules for the coastal marine area. Only three regional councils have advanced relatively discrete proposals through to completion in recent years to safeguard ecologically significant areas at risk from specific fishing practices, while other councils are likely to consider possible rules for significantly adverse fishing impacts once the review of regional coastal plans is due. c) **Oppose** in part section 71 amendment: There is concern the proposed provisions limit fishing rule proposals to that specified in plan notifications, constraining local democratic processes and potentially restricting tangata whenua rights and interests. Retaining some ability for decision-makers (e.g., a hearing panel) to modestly (cf. minor changes) and reasonably adjust notified proposed rules (section 71(3)), or the area that they apply too, would enable improved outcomes and targeted spatial coverage, provided not altering the findings of the fishing impact assessment. d) Most councils **support** controls on rules (i.e., categorisation of activity status such that consents would not be required, where such rules would be

	categorised as predominantly a 'prohibited activity' in effect) provided by section 71(4) and the clarification provided by a definition of fishing (s.2B). e) **Oppose** clause 4B amending Schedule 1 processes. We believe this addition adds extra regulatory burden to councils, unnecessary ministerial oversight, and duplication of ministerial consultation processes already in place. Some councils have suggested that the use of specified timeframes in the planning process may capably achieve the desired results intended by this clause. f) **Oppose** section 86B preventing fishing rules from having immediate effect. Instead, an amendment that uses a specified timeframe would serve to achieve the desired outcome.
	Recommendations: We **recommend:** • **Relying on** existing processes and practices which are evolving in a mutually collaborative way, at less cost and risk for interested parties, and without the additional complexity introduced by sub-processes within a regional planning construct. This is suggested as an alternative to many of the current proposals. If this is not an option, then we **make the following recommendations to moderate approach and achieve some efficiencies and improvements** in clarifying procedural steps. • **Considering** the need for proposed new requirements for preparing and publishing evaluation reports that control fishing (section 32(2A)) where generalised section 32 requirements may suffice, and provide the flexibility required to consider the matters covered in proposed new section 32(2A) through alternative means (e.g., guidance). • **Considering** the appropriateness of amending proposed new 32(2A)(b) to examine the provisions of any regional policy statement, regional plan, or proposed regional plan under the RMA, and the nature and extent of those measures in meeting objectives to address biodiversity issues in the coastal marine area. • **Amending** section 71(2)(a) to provide a level of flexibility on the final nature and extent of the fishing rules adopted from those proposed and notified. • **Amending** section 71 (2)(b) to clarify the intent, as it is not clear on first reading – perhaps that could be a matter for the explanatory note? • **Supporting** section 71(4) as that articulates the activity status of fishing control rules (mainly prohibited activity), such that consents are not envisaged.

	• **Opposing** section 71(5) requiring Director-General (MPI) concurrence on a fishing impact assessment and seeks this clause's deletion, while relying on existing Ministerial procedural notifications already in place, and collaborative development of proposal as a result of the section 32 assessment • **Noting**, in the context of section 71(5), that should some level of regional council obligation to engage with the Director-General (MPI) further and specifically is deemed appropriate on any fishing assessment undertaken, that this is an obligation to consult rather than an obligation to obtain concurrence. • **Consider amending** section 4B such that the Director-General's decision to provide concurrence (or not) is cognisant of timeframes that the council may be working to for broader purposes in reviewing the regional coastal plan provisions, and that a maximum timeframe is specified in providing the decision to concur or not to concur with the fishing assessment. • **Amending** section 6B (1)(b) to recognise that some enlargement or addition of another area, where modest and reasonable, and within the ambit of the rationale for the fishing closure, may be entertained, perhaps if evidence provided at a hearing (including as a criteria of the fishing assessment, as proposed) suggested that any modest and reasonable addition would not raise concerns of substance to other fishery interests, and did not alter the key findings of the fishing impacts assessment. • **Amending** section 86B such that a rule described in subsection (3)(b) or (c), to the extent that it is a rule that controls fishing in a coastal marine area will have legal effect after 20 working days. • **Amending** section 86B to also include subsection 3(a), as there has been ongoing confusion about whether 'rules that relate to water' include all activities in the coastal marine area
5.2	Support changes to aquaculture activity consent conditions being restricted discretionary activities but oppose these being controlled activities. Currently all changes to conditions are discretionary activities but operate as restricted discretionary activities due to section 127 specifying that only the effects of the change are considered. This approach could be applied more broadly without National Environmental Standards.
	Recommendations We **recommend** that changes to aquaculture consent conditions be considered as a restricted discretionary activity only.

FARMING AND PRIMARY SECTOR **6. <u>Support</u> for S70 matters – permitted discharges**	
6.1	a) **Support** the intent of RMA section 70, that is, to establish baselines to avoid specified adverse effects requiring resource consent processes, for the management of significant adverse effects. b) **Support** the intent of the amendments in section 15 of the Bill. c) **Request amendments** to: • Allow a permitted activity rule where there are already existing adverse effects on aquatic life, where it can be demonstrated (during the plan making process) that adverse effects will be reduced over time by the permitted activity rule in combinations with other methods. • Remove requirement to specify a time period in the permitted activity rule, as it is likely to be beyond the scope of that activity to achieve reduction of adverse effects on its own.
	Recommendations We **recommend:** • **Allowing** permitted activities where it can be demonstrated adverse effects will be reduced over time by the permitted activity in combination with other methods. • **Removing** the requirement to specify a time period in the permitted activity rule.
NATURAL HAZARDS AND EMERGENCIES **7. <u>Support</u> natural hazards and emergency response provisions**	
7.1	a) **Support** in principle the proposed insertion of a new section (106A) reinforcing the ability for councils to refuse land use consents, and its related amendment to section 87A. b) We consider improvements to the wording of clause 37 could be made but accept that a full RMA review is occurring, and we hope that the NPS for Natural Hazards will be progressed to provide further guidance. c) **Support** clause 25 (changing s.86B) enabling new rules in a proposed plan to have immediate legal effect, which will strengthen a proactive approach to risk reduction.

	Recommendations We **recommend**: • **Providing for** land use consent to be declined due to natural hazards. • **Refining** the criteria for decline further including accounting for activities both subject to and enhancing exposure to natural hazards, potentially as part of the RMA review.
7.2	We **support** ongoing work to align this Bill and any proposed NPS-Natural Hazards to ensure they are consistent, aligned, and supportive of approaches to manage the risks from natural hazards with a risk-based approach.
7.3	We **support the inclusion of new emergency response and recovery provisions** which provides an increased suite of tools to deal with emergency events, and flexibility for councils (including regional CDEM groups) in enabling a range of critical activities during and post an event. • **We acknowledge** the intent of the regulation-making powers, including providing for appropriate checks and balances in the process of regulation development. These will be important in ensuring the Government and councils can act quickly while also enabling a fair process for input to propose regulation including by councils on behalf of their communities and Māori groups. • **We note**, among multiple needs, the process must be capable of considering a range of inputs from councils and iwi and hapū to support recovery efforts, while also being cognisant of longer-term cultural and environmental bottom-lines. To that end, decisions taken to override standard requirements should be done with caution, and only in more extreme circumstances. We request that timeframes for commenting on draft emergency regulations under section 331AA(4) be extended to 10 working days. This would enable a more reasonable timeframe for response by agencies involved in response and recovery activities, who are already working to full capacity, some added flexibility to engage and input. The same benefit applies to enabling participation relevant Māori groups under section 331AA(2)(f).
	Recommendations We **recommend:**

	• **Amending** clause 64: before recommending emergency response regulations, the Minister must consult any affected councils and relevant Māori entities, and invite them to provide written comments about the proposed regulations. • **Amending** clause 64: extending timeframes for commenting on draft emergency regulations under section 331AA(4) to 10 working days.

KEY ISSUES

SYSTEM IMPROVEMENTS

1. Ministerial intervention in plan making

22. The RMA currently contains ministerial powers to direct a regional plan, a change, or a variation to address an issue in relation to section 30. The Bill's proposed amendments (cl. 6 & 7) extend this power to also:
    a. direct a local authority to prepare or amend any document required by any national policy statement (cl.6).
    b. direct a local authority to prepare a plan change or variation to address any non-compliance with a national policy statement (cl.7).

23. We understand and accept the intent of these amendments is to enable the Minister to act if national policy statements are not given effect to via plan changes and other required documents.

24. However, Te Uru Kahika has some key concerns as outlined below.

25. There are already considerable costs falling on councils, ratepayers, and communities with the increasing list of national policy statements and their respective needs for implementation via amendments to plans and regional policy statements. This is likely to be compounded with the Government's intention to amend multiple national policy statements at once, plus introduce several entirely new national policy statements. All of these require staging and substantial resourcing to implement, funded by ratepayers, and some councils will be more able to achieve this sooner and swifter than others. Where no timeframe is specified in a national policy statement Councils will, and should have, discretion, within reason, around timing of implementation. RMA planning costs and deliverables are one of several pressing priority areas for Regional Councils (e.g., flood protection, land management, monitoring, and compliance). Councils need to retain the ability to make strategic prioritisation and resourcing decisions, with a strong focus on core functions and duties.

26. The amendments proposed in this Bill would enable government to require documents and plan changes to be delivered even where no timeframe is specified in national policy statements. This provides undue reach into local government functions, without considering the accompanying duties for strategic planning and resourcing on behalf of ratepayers.

27. We also note the potential to inadvertently place pressure on communities and iwi/Māori to engage in preparation of required documents and plan changes if timeframes are unreasonably compressed.

28. Government needs to exercise care around use of the Ministerial intervention powers proposed in clauses 6 and 7 of the Bill as they can have significant impacts on council resourcing and priorities. The Ministerial powers should be exercised judiciously and based on a robust assessment of the individual circumstances for the relevant council. We submit that those intervention powers only be applicable where a national policy statement expresses the **timeframe** by which it must be implemented by way of plan changes, or by which a document must be prepared.

29. Te Uru Kahika also seek caution and proper assessment of implications in the setting of any such timeframes. We also think there is a positive opportunity in the proposals that Ministerial intervention powers could also be used to relax or defer timeframes in some appropriate circumstances (for example, relaxing of requirements to produce a document within a timeframe that might be unrealistic or irrelevant, say, in the aftermath of a severe weather event or other significant community disruption).

30. At the least, the section needs to include a requirement for government to consult with the council about the timing, resourcing, and prioritization implications of exercising this power. This could be similar to RMA section 25(2).

2A. Consent processing provisions (consenting efficiency) and consenting cost recovery

31. Te Uru Kahika supports the additional provisions for making consent processing more efficient – or aligning the RMA to current practice – including section 92AA, section 92A and section 92B. The provision of draft conditions to the applicant for review is best practice and many councils provide draft conditions as standard practice. Some of the details of proposed section 107G could be improved to ensure efficient processes regarding review of draft consent conditions.

32. Te Uru Kahika support increasing the timeframe for lodging a consent application for emergency works.

2B. Some concerns over particular consent process provisions

33. Te Uru Kahika support more efficient consent processing, including changes to consent hearings. However, the current proposal to prohibit consent hearings except when there is insufficient information is likely to result in more consent appeals. Undertaking a comprehensive review of the role of hearings and the related provisions, including pre-hearing meetings, mediation and timeframes is necessary to ensure that the other mechanisms respond to the change in obligation to hold a hearing and that benefits are achieved. Without a comprehensive review and changes to related provisions, we consider the proposed change to section 100 will increase the risk of consent appeals and judicial reviews. To address this, we consider changes are necessary to section 99 (pre-

hearing meetings), section 99A (mediation) and timeframes (ss. 88C and 115C) and further refinement to section 100 would be helpful.

34. While rights to participation expressed through Treaty settlements must be adhered to, limiting consultation to Treaty settlement entities with settlements that specify rights in regard to hearing participation (regarding whether to hold a hearing) increases the risk of appeal and we suggest this should be broadened to tangata whenua who have submitted and requested to be heard (cl. 34 s. 100(3)).

35. The existing pre-hearing and mediation provisions of the Act (ss. 99 and 99A) will be useful in trying to resolve submitters' issues and allow them an opportunity to be heard. However current practice is that pre-hearing meetings and mediation are undertaken on a without-prejudice basis, with only the agreed outcomes recorded and for this reason the decision-maker is generally not in attendance. Currently, the consent authority requires the approval of the applicant to hold a pre-hearing meeting and requires the approval of all involved parties (applicant and submitters) to refer a consent application to mediation. Consent authorities should be able to require pre-hearing meetings and mediation in response to the Bill's proposal to reduce the number of hearings. The statutory processing timeframe should exclude the pre-hearing meeting process (including reporting) and a section 92 further information request that occurs after submissions are received. The timeframe for deciding on a notified application which has not proceeded to a hearing needs to be increased. To contribute towards achieving a more cost-effective consenting system that does not increase the risk of more consent appeals, sections 88C, 99, 99A and 115C need to be amended.

36. Other provisions relating to Infrastructure and Energy topics are considered unnecessary. Proposed changes to consent processing for renewable energy and wood processing activities do not provide for flexible practices such as the applicant placing the application on hold to resolve affected parties' concerns etc. The change has potential to result in more stringent application of timeframes and information requirements which may not benefit the applicant, and it may result in more applications being rejected, declined, or appealed. Furthermore, different provisions for different types of applications adds complexity to the consenting framework and results in a less efficient system overall. If section 88BA is adopted, at the least it should exclude section 88E suspensions from the one-year (or two-year) timeframe to allow for mediation or for the applicant to request the processing be placed on hold. This is expected to help in reducing the risk of consent applications being declined or appealed.

3. Support for compliance monitoring and enforcement provisions

36. Te Uru Kahika supports more effective provisions for compliance monitoring and enforcement and welcomes the allowance for cost recovery of permitted activity monitoring, increasing maximum fines and allowing the Environment Court to suspend or revoke resource consents.

37. However, we note that fines imposed by the courts are well below the current maximum and did not significantly increase following the previous uplift in potential maximum fine under RMA amendments in 2009. This has raised some uncertainty about how the increase would be implemented and whether it would result in an uplift in penalties imposed by the courts. Setting out minimum fines for certain offences in legislation would be a further improvement.

38. Te Uru Kahika supports the ability to consider the compliance history of a consent applicant when setting conditions of consent, deciding to approve or decline an application and as a reason to review consent conditions.

39. We have some concerns in relation to the proposal to make insurance for fines unlawful. Prohibiting the use of insurance could potentially lead to more unpaid fines, meaning that the burden of investigation and legal costs of prosecuting non-compliance falls on ratepayers. It may also result in more defended cases, which adds cost and time. There have been occasions where uninsured defendants simply do not pay their fines, which are eventually remitted by the Ministry of Justice. We are however supportive of the intent of this clause.

General comment on tangata whenua participation

40. As a general comment on system improvement, there is a tendency in recent reform to rely on Treaty Settlements or other official agreements as the means for determining how a voice for iwi/hapū is provided. In many places however these are inadequate for ensuring appropriate participation in decision-making as it generally (and unfairly) excludes hapū and those iwi who have not yet had the opportunity to settle and groups whose Treaty settlements do not include provisions specific to consenting.
41. There is also a need to ensure that councils have flexibility in their work with iwi and hapū, drawing on innovative and practical mechanisms that suit the local context. We encourage the Government to consider drafting more inclusive provisions to enable appropriate participation and enable collaborative, region-specific relationships.

FARMING AND PRIMARY SECTOR

4. Freshwater farm plan functions

41. We accept and support the need for a nationally consistent and administered process for the approval and oversight of Industry Organisation (IO) programmes. However, we consider that there

still needs to be a clear and direct line of accountability between Approved Industry Organisations (AIO) and councils given that councils will, we assume, retain primary responsibility for the oversight of the FWFP system and for achieving freshwater outcomes. We do not support vesting in the Minister, the powers to approve and revoke approval for industry organisations to provide certifier and auditor services as proposed in the amended section 217KA. This is because it would significantly weaken the lines of accountability between councils and AIOs. It also provides for a political decision to be made on what should be a strictly administrative decision-making function. This could undermine the FWFP system's credibility in the public's eyes.

42. We recommend that this responsibility rest with the existing National Appointment Body. We note that the analysis in the Regulatory Impact Statement rejected the option of a new national approval body because the costs of establishing an approval body would be high and it would be time-consuming to set up. We do not find this argument compelling as significant investment has already been made in setting up the National Appointment Body and process. This could be readily adapted for use in the approval of IO programmes and the cost is unlikely to be significantly different to that of setting up a new MfE process. This could be put under a governance structure that includes both council and Central Government representatives, providing a more direct line of accountability between the AIO providers and councils while avoiding the need for multiple approvals. It would also help ensure alignment between the standards required of AIO-appointed certifiers and auditors and those appointed by councils.

43. Should our recommendation to vest the decision-making responsibility in the National Appointment Body not be accepted, it is recommended that the decision-making rest with the Secretary for the Environment.

44. We are concerned that the proposed changes reduce the emphasis currently placed on information provision by farm operators and auditors and the lack of obligation on AIOs to provide councils with the information they need to fulfil their statutory function.
45. Amendments to section 217H remove obligations on farm operators to provide the auditor with an up-to-date copy of the farm plan and other relevant information for audit. It also removes the obligations of auditors to provide the council with their audit report and other relevant audit information.

46. While the amendments require councils to monitor the performance of AIO programmes, they put no obligation on AIOs to provide councils with the information needed to perform this function effectively. In fact, it only provides councils with powers to **request** information from AIOs (s.217I(2)(b)). For effective implementation we seek an amendment to **require** that the information is provided by AIOs upon request.

47. Neither Part 9A nor the regulations provide councils with adequate access to on-farm action information needed to assess policy effectiveness. While some of this could be addressed in regulations, we consider that information's importance to a robust and credible system warrants the inclusion of specific information provision obligations in Part 9A for farm operators, certifiers, auditors and AIOs.

48. The proposed inclusion of section 217M(2A) allows for regulations to apply to only some or all certifiers and auditors. Given that some regulations relate to the standards that must be met by certifiers and auditors, this opens the way for variation in the standards applying to those certifiers and auditors appointed under an AIO and those appointed by councils. This in turn, could lead to variations in outcomes achieved.

49. We agree that the legislation should provide sufficient flexibility to allow variability in the process but consider that the standards and outcomes should be consistent. We therefore recommend that the proposed inclusion be worded in such a way that allows for variability only in the processes used for appointing certifiers and auditors and for undertaking FWFP certification and audit.

50. It is noted that the Regulatory Impact Statement proposes that the cost of assessing IO applications and overseeing these programmes should not be cost recovered but absorbed by Central Government. Therefore, the proposed amendments make no provision for this.

51. We consider these to be legitimate business costs and should be borne by the industry. We recommend that a specific provision be made in the amended section 217KA to allow a National Appointment body to recover the costs of assessing IO applications and managing the system. If the recommendation to have the National Appointment Body assess approval applications and oversee their operation is not accepted, then an amendment to section 36 administrative charges, sub-clause (cd) is needed to enable councils to charge industry organisations for the monitoring of the AIO programme under section 217I (2) (b).

5. Controls on fishing methods

52. Te Uru Kahika supports cross-agency collaboration to achieve better outcomes for biodiversity, communities, and commercial interests where this also enables democratic, cohesive and transparent decision-making. The broad range of activities undertaken within the coastal marine area that impact ecosystem values should be assessed in a joined-up and complementary way, as primarily provided by well-rounded resource management legislation.

53. A distinct additional legislative subprocess for fishing controls envisaged under resource management legislation is not warranted to the level specified in the current proposal. Some

commonalities of assessment and evaluation apply to all activities, notwithstanding that some activities have a range of specific dimensions and other factors to consider.

54. Te Uru Kahika supports the overall intent of clause 16 (new section 71 insertion) to provide clarification on the interface between two Acts that have either broadly based or specific considerations for environmental outcomes. We have two specific areas of concern:
    a. the introduction of a Director-General (MPI) concurrence step (sub-clause 71(5)(b)) for councils wishing to make plan rules is unnecessary given existing procedural steps for Ministerial pre-notification, and that any proposal for a plan rule would be developed with due care and integrity and prior engagement with fishing interests and central government agencies.
    b. there is an inconsistency with the separation of distinct functions between central government and regional government. Given the breadth of issues encompassed by resource management outcomes, carving out specific sub-processes for certain sectors, gives rise to inefficient and potentially complex and disintegrated resource management processes.

55. Good practice has been to engage with the relevant government department or regional council on proposals of mutual interest. There is sufficient maturity and good faith between councils and relevant central government departments, such that existing obligations to consult in developing proposed rules would be sufficient to enable appropriate assessment.

56. Some councils oppose the scope of clause 16 (s.71) preventing plan change notification relating to proposed fishing controls, and submission and appeal processes seeking new areas where that might be modest and reasonable to consider at the decision-making stage. In a parallel process, we observe that the boundaries of the High Protection Areas (HPAs) defined in the Hauraki Gulf Marine Protection Bill were adjusted through the Select Committee stage (June 2024), and that was reasonable as they were contiguous with proposed boundaries. However, after the Committee stage, the prospect of limited commercial fishing in two proposed HPAs was announced (October 2024). This raised issues of process and expectation around whether the HPA's purpose was being diminished.

57. In considering clause 6B(1)(b) - not accepting a submission where it proposes to enlarge or add to the original area - some limited flexibility is desired by some councils. Interested parties (who are not already involved) cannot join the RMA plan change process at that latter stage. The proviso could be that adjustment sought by a submitter must be consistent with the objective being originally pursued; so that any change resulting from such a submission would not alter the general findings of the fishing impact assessment based on the final views of a panel hearing. Regional council planning processes ensure a transparent, democratic process is undertaken, and if anything, should lead to a more robust outcome involving all interested parties where there are no late

surprises, while also accommodating submissions that cover valuable insights on minor, modest and reasonable changes on proposed boundaries or controls.

58. Te Uru Kahika acknowledge that various hapū, iwi and local communities may wish to participate throughout the process when a fishing control rule is proposed. For Māori, it will be important to consider the roles and mandate that various parties have to speak on an issue, including those formally recognised through Treaty settlement legislation for fisheries. There may be other expectations arising from resource management mechanisms or policies in place that seek to facilitate hapū and iwi participation into decision-making processes (e.g. Mana Whakahono a Rohe, section 58M, RMA; Memorandum of Understanding etc). The value of local knowledge, and solutions and associated benefits these bring need to be aired through the appropriate channels. For instance, such input could include observations about sustainable mahinga kai, local employment, community education/engagement and positive outcomes for commercial fishing interests.

59. Te Uru Kahika opposes the pre-notification Director-General concurrence requirement (clause 4B of Schedule 1) as it does not achieve efficiency, clarity, nor meet consultative requirements. In particular we have concerns in regard to:

    a. Central government control and restrictions on tangata whenua participation:

        1. Requiring the concurrence of the Director-General (MPI) may conflict with the Treaty principles of Māori participation in decision-making and acting in good faith, while recognising that certain Māori entities have specific responsibilities to give effect to the 1992 fisheries settlement, as articulated further through the Māori Fisheries Act 2004.

        2. This could limit tangata whenua's ability to achieve desired management outcomes through the RMA process, for example through iwi hapū management plans and customary marine title planning documents.

    b. Unnecessary complexity and duplication:

        1. The requirement for Director-General (MPI) concurrence adds unnecessary cost, risk, and complexity to the decision-making process, given that fisheries matters will be required to be appropriately considered under s 32(2A) by councils. The RMA already requires that prior to notifying a regional coastal plan, councils must consult the Ministers for the Environment, Conservation, Transport and Fisheries. They can provide scrutiny of the s32 assessment as part of that consultation.

        2. It remains unclear how the inherent 'conflict' or inter-relationship between the purpose of Fisheries and Resource Management legislation is proposed to be resolved to not impact decision-making by the MPI Director-General and how the term 'giving appropriate consideration' may be used.

3. Councils must already provide a section 32 cost benefit evaluation of proposed provisions.

60. The proposed new section 32(2A)(a) includes matters which a council must examine and include in an evaluation report assessing the impact of the proposed rules. Sub-clause (a)(i) refers to the local community's ability to take aquatic life for 'non-commercial' purposes. Clarity is sought on the following:
    a. Given that that clause 26 (inserting new proposed 86H) stipulates that the extent of proposed fishing rules do not apply to Māori customary non-commercial fishing (as otherwise provided for under either s186, 297 or 298 of the Fisheries Act), does sub-clause (a)(i) effectively only apply to amateur/recreational fishing?
    b. is it the intent for aquatic life taken under regulations of the Fisheries (Amateur Fishing) Regulations 2013, for the purposes of hui, tangi (regulation 50) or approved traditional non-commercial fishing use (regulation 52), to be similarly excluded, and not encompassed by use of the words 'non-commercial' purposes in sub-clause (a)(i)?
    c. What 'non-commercial' uses are encompassed so as to avoid omissions in any assessment report produced.

61. In terms of the matters of assessment envisaged by clause 8 (new section 32(2A)), Te Uru Kahika supports the use of the word 'may examine' in subclause (b), as this provides flexibility on applicable assessment criteria to be investigated.

62. Proposed section 4B (2) requires both quality assurance and threshold concurrence, contrary to official advice which preferred just quality assurance concurrence if such a requirement for concurrence were to be required by Ministers to be included in the Bill.

63. We note restrictive and unclear criteria: A lack of a specific maximum period for 'a reasonable time frame' (section 4B(1)(b)) could cause unnecessary delays, also in recognition that the Director-General (MPI) would also have needed to have consulted with Te Ohu Kai Moana as proposed (4B(2)(c)) - unless it should be the regional council having to undertake that engagement, and perhaps they will have done so informally anyway.

64. Most councils support the new definition for rules that control fishing (section 2B) as it provides clarification.

65. Most councils support new section 71(4) in the sense that a rule that controls fishing would not classify fishing as a controlled activity, a restricted discretionary activity, a discretionary activity, or a non-complying activity. A rule controlling fishing would be considered under the prohibited

activity category, or as a permitted activity where exceptions / permitted activities within the affected area needs to be provided.

66. Te Uru Kahika opposes amended section 86B preventing fishing control rules having immediate legal effect. An alternative solution for fishing control provisions would be to provide an additional step providing for ministerial approval from either MPI or DOC within a reasonable period e.g., 20 working days.

67. For clarity, if the section 86B amendment is retained, it should refer to 3(a) as well as 3(b) and (c). There has been ongoing confusion about whether 'rules that relate to water' includes all activities in the coastal marine area.

68. Te Uru Kahika supports section 86H reflecting Māori customary non-commercial fishing rights. A broader issue of enquiry is whether RMA enforcement officers would need to be deemed Fishery Officers (as authorised under Fisheries Act) for the purpose of regulating customary fishing within marine protected areas under regional rules, i.e., an RMA enforcement officer can require the production of a customary authorisation.

69. Te Uru Kahika supports the continuation of existing RMA fishing controls (within three regions, as part of future standard coastal planning procedures applying at the time. These provisions have been developed at considerable cost, have had a minimal impact on opportunities for commercial fishing, and have been tested through multiple courts judgements and findings. Significant technical work and investments (millions of dollars) have been made by Waikato Regional Council and Auckland Council over the last ten years, in collaboration with research providers, Fisheries New Zealand and Department of Conservation. There is a significant drive regionally to restore the Hauraki Gulf (a nationally significant area).

70. More generally, regional councils are taking a measured approach to future consideration of fishing controls under the RMA, learning from the three councils that have introduced rules through their respective regional coastal plan processes. This is on the basis that:
    a. There is a need to consider all activities causing significant adverse environmental effects and how certain significantly adverse fishing practices could be considered in an integrated way with other activities that impact the coastal marine area.
    b. The findings of Hearing Panels and/or development of relatively new case law pertinent to this topic informs approaches and how procedural matters are considered.
    c. For some regions valuable new information has become available on ecological values and uses in the coastal marine area since regional coastal plan provisions were gazetted.
    d. Regional and unitary councils are cognisant of broader planning review timeframes rather than wishing to introduce ad hoc proposals relevant to one sector (i.e., fishing) prematurely.

71. Formal regulatory proposals under the Fisheries Act to restrict the use of the bottom trawling and Danish seining fishing methods have significant public support although they have yet to be adopted. The Select Committee may wish to consider whether the impacts on the environment derived from these fishing practices are more appropriately evaluated through fishing controls under a regional coastal planning process, consistent with promoting the integrated outcomes expected of a regional coastal plan (section 64(2), RMA).

6. Section 70 matters - permitted discharges

72. Te Uru Kahika supports the intent of section 70 of the RMA, i.e., the imposition of environmental bottom lines to avoid allowing activities with significant adverse effects on aquatic life and other values without a resource consent. Where an activity individually causes such effects, it is appropriate that resource consent processes, and associated compliance, monitoring and enforcement are applied to manage them.

73. The application of section 70 in relation to cumulative effects of multiple discharges, including diffuse discharges that are incidental to land use and small or low risk individual discharges, is substantially more problematic. Recent interpretation by the Court will see every discharge that contributes or potentially contributes relevant contaminants to water (affecting aquatic life) requiring a resource consent. In some catchments, this is likely to capture a large range to activities currently managed through permitted activity rules (with size limits and performance standards), including small scale composting, silage pits, pit latrines, offal pits, onsite effluent treatment systems, earthworks and vegetation clearance, and drains. It may also require incidental discharges from every farm in a catchment to be managed through a resource consent (in addition to a freshwater farm plan) rather than permitted activity standards and other methods. Initial estimates of increased consent numbers in each region are in the range of 3000-10,000. In many cases, this will also create a disproportionately high cost given the risks associated with the individual activities.

74. Te Uru Kahika supports the intent of amendments to section 70, to enable Councils to consider and apply more efficient and effective approaches to existing address adverse effects, especially cumulative and historic effects. For example, consider an instance where there are ongoing passive discharges moving gradually through groundwater systems from a historic activity that has ceased some time ago (e.g., historic timber treatment plants). These are often managed under Permitted Activity rules. We note the Regulatory Impact Statement is inaccurate, or at least simplistic or overly generalised, in stating that Councils seek the ability to manage activities with significant adverse effects through permitted activities.

75. Te Uru Kahika requests amendment to “over a period of time specified in the rule”**,** as this creates a future obligation on resource users that is not appropriate in a permitted activity rule and would

be difficult to enforce. There will be factors outside the resource user's control (e.g., environmental factors) that will influence whether significant adverse effects will be reduced by the timeframes set in the rule. These include environmental factors, contributions from other activities, the complexity of environmental systems, and the range of other rules and methods applied to address the issues. Instead, the clause should require that "the permitted activity rule, in combination with other methods, will reduce the adverse effects over time". This enables the right tools to be selected and justified. Te Uru Kahika acknowledges some regional councils are seeking additional amendments to section 70(3) and Te Uru Kahika remains neutral on those.

76. Te Uru Kahika acknowledges the importance placed on the ongoing protection of water quality and mauri by tangata whenua, and that plan-making decisions on proposals which enable adverse effects in the short term may conflict with tikanga Māori and kaitiakitanga. We support that the recognition of these values provided for through normal plan-making processes, which must be front and centre in informing decisions to permit discharges under section 70.

NATURAL HAZARDS AND EMERGENCIES

Natural hazard and emergency response provisions

77. We support in principle the proposed insertion of a new section 106A granting the ability for councils to refuse land use consents on the basis of risks from natural hazards and its related amendment to section 87A and creating continuity from section 106 that allows councils to refuse subdivision consent due to risks from natural hazards.

78. We look forward to the National Policy Statement for Natural Hazards providing greater guidance. Existing section 106 of the RMA provides for a consent authority to refuse a subdivision consent simply '*if it considers that there is a significant risk from natural hazards'* whilst the Bill proposes a similar but different approach for land use consents. We expect this will be further refined in the RMA review with the addition of criteria and definition of 'significant' natural hazards.

79. A substantial amount of work has been undertaken in preparing a National Policy Statement on Natural Hazards (NPS-NH) and Te Uru Kahika recommends that this work continues to proceed to support the ongoing implementation of a risk-based approach for natural hazards management in regional and district planning.

80. A key issue surrounds the interpretation of the word "significant" in sections 6 and 106 of the Act. The term is used again in proposed section 106A, and the NPS-NH can provide direction for how to interpret this term. It is important that any changes to the RMA and any proposed NPS-NH are consistent, aligned, and supportive of approaches to manage the risks from natural hazards with a risk-based approach.

81. We note that the emergency provisions proposed in this Bill align strongly with the purpose and provisions of the Civil Defence Emergency Management Act 2002 (CDEM Act) – this is very positive. We acknowledge the development of a replacement Emergency Management Bill, proposed to be introduced to Parliament late-2025. The aim of the Emergency Management Bill is to strengthen the country's emergency management system, and is intended to replace the CDEM Act and the development of the interlinked National Emergency Management Regulatory Framework Review Programme.

SUGGESTED CLAUSE AMENDMENTS

CLAUSE REFERENCE	SUGGESTED AMENDMENTS
TITLE	
Clauses 6 & 7 (Ministerial intervention to direct preparation of document giving effect to a NPS)	Request amendments to s.25A amendments to limit powers of intervention to circumstances where a timeframe set in national policy direction has been breached, and to require consultation with the local authority, along the lines of the following: *(3) If a national policy statement requires a local authority to prepare a document other than a plan or policy statement <u>within a stated timeframe</u>, and the authority has not prepared the document as required, the Minister—* *(a) may direct the authority to—* *(i) prepare the document; or* *(ii) amend the document to meet the requirements of the national policy statement; and* *(b) must specify in the direction a reasonable period within which the document must be prepared or amended.* (4) *The Minister—* *(a) may direct a local authority to—* *(i) prepare a plan change or variation to address any non-compliance with a national policy statement <u>after a timeframe stated in the national policy statement</u>; and* *(ii) use a planning process under this Act to prepare the plan change or variation; and* *(b) must specify in the direction a reasonable period within which the plan change or variation must be notified.* *<u>(5) The Minister shall not make a direction under this section until—</u>* *<u>(a) the local authority has been given written notice specifying the reasons why the Minister proposes to make the direction; and</u>* *<u>(b) the local authority has a reasonable opportunity to respond and propose an appropriate approach to address the resource management issue related to a</u>*

	direction under sub-clause (1) or (2), or to implement the requirements of the national policy statement related to a direction under sub-clause (3) or (4).
Clause 15, s.70 amended (Rules about discharges)	*(3) A regional council may include in a regional plan a rule that allows as a permitted activity a discharge described in subsection (1)(a) or (b) that may allow the effects described in subsection (1)((g) if—* *(a) the council is satisfied that there are already effects described in subsection (1) (g) in the receiving waters; and* *(b) the rule includes standards for the permitted activity; and* *(c) the council is satisfied that those standards will, in combination with other methods, contribute to a reduction of ~~the~~ those effects described in subsection (1) (g) over time.*
Cl.28, s.88(2AA) and s.88(2AB) Making an application	*S88 (2AA) An applicant must ensure that information required by subsection (2)(b) is provided at a level of detail that is proportionate to the ~~nature~~ scale and significance of the effects of the proposed activity.* Apply the same amendment to s88(2AB).
Cl.29 and 11, s.88BA and s.37	*37(1B) A consent authority must not extend, under subsection (1)(a), the time period specified in s.88BA for processing and deciding an application for a resource consent for a wood processing activity or specified energy activity. ~~(See section 88BA).~~* *88BA Certain consents must be processed and decided no later than 1 year after lodgement.* *(1) The time period in which a consent authority must process and decide an application for a resource consent for a specified energy activity or wood processing activity (the time period) is 1 year after the date the application is lodged excluding any time under s.88E.* *(3) ~~A Treaty settlement entity, iwi authority, or a recognised customary rights group~~ Tangata whenua may request an extension of the time period ~~for the purpose of recognising or providing for a Treaty settlement or other arrangement under—~~* *~~(a) a Mana Whakahono ā Rohe or Joint Management Agreement; or~~* *~~(b) the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019; or~~* *~~(c) the Marine and Coastal Area (Takutai Moana) Act 2011.~~*

Cl.38, s.107G Review of draft conditions of consent	*S.107G (2) If a request is made, a consent authority - (a) May suspend the processing of the application ~~but no more than once~~; and ....* *~~(4) A consent authority may take those comments into account only to the extent that they cover technical or minor matters.~~*
Cl.44 s.127(3A)	*S.127(3A).....a consent holder to change or cancel consent conditions must be treated as an application for a resource consent for a ~~controlled or~~ restricted discretionary activity.*