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## Christchurch City Council submission on the Planning and Natural Environment Bills

### Introduction

1. Christchurch City Council (the Council) thanks the Environment Committee for the opportunity to make a submission on the Planning and Natural Environment Bills.
2. Reforming the resource management system represents a once-in-a-generation opportunity. Decisions made through this reform will have enduring consequences – shaping the quality of our natural and built environments and directly influencing the health and wellbeing of present and future generations.
3. This cover letter provides our key submission points across the two Bills and summarises our general positions. Our detailed feedback and recommendations can be found in the attached appendices.

### Submission

#### General

4. Council recognises the need for a more efficient system and improved central government direction. The proposed system has the potential to create efficiencies, improve national consistency and provide clear direction for regulators and system users.
5. We acknowledge the Government's objective to provide for a more enabling system, premised on the enjoyment of private property rights. While we recognise the benefits that can be gained – particularly with unlocking housing and business development and facilitating infrastructure delivery – these must not come at the expense of achieving well-functioning environments, delivering good environmental outcomes alongside development, and ensuring appropriate public involvement and local voice in the planning process.
6. The Council recognises that the proposed changes have the potential to be positive for the Council in delivering public infrastructure. We also see value in strengthening the role of spatial planning within the new system, recognising the importance of integrated and strategic decision-making.

#### A more centralised and directive resource management system

7. The proposed system is intended to be more directive – driven from the top down. While this aims to provide greater certainty and consistency through nationally set goals and direction, which can be beneficial, it inevitably reduces opportunities for local decision-making and public participation at each level of the new system. Public participation is highly valuable to understand and to take into account local context, the

appropriate management of adverse effects, and maximise opportunities to achieve well-functioning urban and rural environments.

### Centralisation and standardisation

8. Whilst Council has sought clearer national direction on significant resource management issues, there is still a need to strike the right balance between standardisation and local nuance. We acknowledge the Bills' provision for councils to establish bespoke provisions in plan-making if national direction allows it, however, we have no knowledge about the scope of national instruments and whether it will allow for those bespoke provisions. This uncertainty makes it difficult to fully assess the impacts of the proposed top-down approach – noting that much depends on how the national direction is drafted and whether it allows for sufficient flexibility to reflect local context and circumstances.
9. Successful planning for communities requires an understanding of local context and identity, which may not be well served by standardisation. The Bills should provide sufficient scope for bespoke provisions, without undue restriction, so that local context can be applied to promote growth and support the development of great cities, townships, and neighbourhoods.
10. To provide greater clarity around the use of bespoke provisions we seek that the legislation be clear around when these provisions are applicable, rather than this being left to national instruments to detail. If it is to be left to national direction, then we expect local government to be involved and confirm the Council's commitment to the shaping of these instruments early, to ensure that the system is workable and allows for appropriate local flexibility.

### Goals and national direction

11. There are potential conflicts that the national direction will need to reconcile. The same tensions that exist in the RMA framework exist in the goals in the Bills. Clear national direction on how these tensions are to be reconciled will be important to avoid ambiguity and uncertainty in implementation.
12. We are also concerned by the Planning Bill not giving effect to its own goals. This is most evident regarding the goal to create well-functioning urban and rural areas and the restrictions in the Bills to regulate effects to achieve this outcome. This disconnect between the Bill's high-level goals and the provisions intended to implement them creates uncertainty around how it will be realised. This is discussed further below.
13. Climate change is an existential issue facing the country and the world. The absence of explicit goals related to its effects and mitigation of it is a significant gap in the Bills. We seek changes to the goals to reflect the importance of climate change issues. Our concern is further compounded by the 'out of scope effects', which as we interpret, will remove the ability for councils to regulate matters that contribute to climate change mitigation such as tree canopy cover. There is substantive evidence on the benefits of trees within the urban environment<sup>1</sup> and request that provision is specifically made for tree canopy cover.
14. We also note the change from 'historic heritage' in the RMA to 'significant historic heritage' in the Planning Bill. While we welcome a goal relating to significant historic heritage, this narrowing of scope will result in less protection of heritage that does not meet a threshold of 'significance'. We seek clarification in the Bill that "significance" will be assessed at a district and regional scale rather than being confined to those places of

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<sup>1</sup> [Christchurch City Council Urban Forest Plan](#)

national heritage value, as there are places of high heritage significance to districts and regions which are not necessarily of wider significance to the nation.

### Public participation

15. The new framework reshapes when and how the public can influence decision-making that affects how they live. We acknowledge the Bills direct intent to limit public involvement through the levels of the framework to achieve greater efficiencies in decision-making processes.
16. However, under the proposed ‘funnel approach’, with key decisions being made earlier in the process, there are fewer opportunities for the public to revisit them at a local level. In our experience, people are far more likely to engage in the planning process when a proposed activity is tangible and directly affects them, such as a development on a neighbouring site. National instruments will likely be disconnected from local context – making it challenging for the public to engage and fully comprehend the impacts on them. We question whether this proposed approach enables public participation at an appropriate level, specifically where the notification threshold for affected parties is changing to more than minor and the scope of effects that can be considered is limited.

### **Treaty Principles in the new resource management system**

17. The Council is concerned about the new system’s approach to upholding the Crown’s obligations under Te Tiriti o Waitangi. We are not supportive of the change from a general Treaty Principles provision to a descriptive provision.
18. We have significant reservations about the removal of reference to kaitiakitanga in the proposed legislation, with the goals only referring to Māori ‘interests’. We do not agree with this change and seek the reinstatement of kaitiakitanga through reference to the principles of te Tiriti o Waitangi in the goals. Whilst potentially enabling, the term Māori ‘interests’ is ambiguous and lacks clarity, leaving it open to varied interpretation depending on context, which could undermine certainty and result in litigation. National direction is the opportunity to provide clarity of this.
19. The proposed provisions shift the nature of our relationship with mana whenua, where instead of partnership, mana whenua are only involved in specific circumstances. This has the potential to impact on our relationships that we have developed with mana whenua and meaningful partnerships with mana whenua during the planning process. This risk being exacerbated by the compressed timeframes, volume of changed documentation, and for some planning instruments the expected complexity of implementing the proposed planning system, for example regulatory relief and setting of environmental limits.
20. The proposed Treaty provision risks limiting the voice of local mana whenua. While many planning activities occur at the hapū and Papatipu Rūnanga level, under the new system key trade-offs and decisions will be made at the regional level through iwi authorities. This shift could dilute local mana whenua perspectives and reduce the ability of mana whenua to influence decisions that directly affect them.

### **Regional Spatial Plan-making**

21. The Bills set out a process for regional spatial plan-making governance. However, the Government has indicated that an alternative approach may be adopted, subject to the outcomes of local government reform. For completeness, we provide comments on both.

### Spatial Planning Committees

22. In principle, we generally agree with the proposed governance arrangements set out in the Bill for regional spatial plan-making. While Spatial Planning Committees are formed to prepare and deliver the plans, local authorities retain decision-making on these plans. In a more centralised system, we see it as important that local authorities remain the final decision-makers to ensure accountability and responsiveness to local needs and requirements.
23. The discretion afforded to councils within a region to determine how they will participate in the Spatial Planning Committee, and ultimately jointly approve the plan, means that achieving consensus may require considerable effort and collaboration.
24. One potential way to mitigate this risk is for the Planning Bill to provide greater authority to councils where an issue directly affects a specific area. For example, where an issue solely affects an urban area – such as Christchurch City – then there should be autonomy for that local authority and the regional council to be the decision-maker on that aspect. We recommend that this could be achieved through establishing decision-making principles in the legislation to guide the agreements between councils on decision making rules for the Spatial Plans. This approach could streamline decision-making and ensure that localised issues are addressed efficiently – while still ensuring collaboration on region wide matters.
25. If councils in a region are unable to reach consensus and no decision is achievable, the Planning Bill proposes that the Minister be the decision maker on that regional policy dispute. We do not support the Minister having that power. It is more appropriate that the dispute be adjudicated and decided by planning and legal professionals through a quasi-judicial process such as arbitration or the Planning Tribunal.

### Combined Territories Boards and alignment with parallel local government reform

26. While not evident in the current drafting of the Bills, the Government have signalled that Combined Territories Boards (CTB) are to be the decision-making body for the new system during the transition period. At this stage, Government has not provided sufficient clarity around the relationship between the CTBs and the RM reform process in the transition. Consistent with Council's position on the *Simplifying Local Government* reforms, we are concerned about the use of CTBs in the RM reforms, due to the timeframes, scope and scale of role being asked of the CTB. Consequently, at this stage, we would not support CTBs being the decision-making body for Regional Spatial Plans in the new system. If this is progressed, we look forward to further engagement with councils on the role of CTBs in the new RM system.
27. Spatial planning is inherently strategic, place-based, and sensitive to scale. In Canterbury, many of the most complex and consequential planning challenges, including housing supply, infrastructure coordination, transport integration, climate adaptation, and economic development, operate at a metropolitan scale and cut across existing administrative boundaries.
28. Given the proposals to reform local government, we consider it necessary that the spatial planning framework retains flexibility to enable planning at the scale systems operate. This includes the ability to pursue metropolitan or unitary planning arrangements for Greater Christchurch, rather than binding spatial planning outcomes to a single regional governance structure. This aligns with our previous submission point, that decisions affecting local areas should sit with the relevant council.

29. Furthermore, in the context of concurrent reform processes, we note that there are issues with timing and sequencing for implementation that need to be reconsidered to avoid inefficiencies and confusion. Spatial planning is required to commence in 2027 and be completed within a compressed timeframe. However, it would be more efficient and effective that governance arrangements are fit for purpose from the outset and reflect the direction of local government reform.
30. If resource management reform proceeds ahead of local government reform, there must be flexibility to amend regional spatial plans through a streamlined planning process to reflect any new governance or boundary arrangements. However, the scope would need to be limited to the purpose of implementing the changed administrative boundaries. Furthermore, if the CTBs remain responsible for the functions of regional councils during the development of the regional spatial plan and the natural environment plan, further information is needed around how this would work operationally and how to reduce duplication as a result of the CTBs being represented by all the local authorities which are already involved in the regional spatial plan decision-making.

### **Regulatory relief**

31. The Council has concerns about the proposed mandatory regulatory relief framework and considers that, as drafted, it will have a number of adverse impacts for both the Council and ratepayers. If regulatory relief is retained, we propose a “no worse off” approach be applied which recognises restrictions under current RMA plans (further explained below).
32. Mandatory relief is wholly inconsistent with achieving the system goal articulated in clause 11(1)(g)<sup>2</sup>, and will make it more difficult to protect areas from inappropriate development. If national instruments direct councils to protect specific areas under clause 11(1)(g), then mandatory relief means councils essentially pay to comply with legislation or risk adverse planning and environmental outcomes. This inherent tension in the legislation and proposed framework makes clause 11(1)(g) challenging to apply and is a risk to councils meeting its legislative duties under the new system.
33. With the possibility of a rates cap being introduced, there is potential that mandatory relief will deter Councils from protecting important areas because they are not in a position to provide suitable relief. Without seeing the national instruments and understanding the standardised zoning, it is difficult to fully quantify what this means in a Christchurch context – however, we see that there is potential that this could lead to worse outcomes for the City regarding matters such as outstanding natural landscapes and heritage.
34. Furthermore, one of the triggers for regulatory relief is when land is protected as a site of significance to Māori. The Council is concerned that the prospect of providing relief to protect such sites undermines our ability to partner with local mana whenua and to protect sites of significance. This outcome would put iwi and our Council in a very challenging position, potentially impacting the relationship that has been built.
35. While the Bill does not require that mandatory relief be monetary compensation, there is likely to be extensive litigation on proposed Land Use Plan development on the regulatory relief framework. Even if the result of that litigation is that monetary compensation is not required, the Council remains concerned about the fiscal

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<sup>2</sup> Planning Bill 2025; 11(1)(g) to protect from inappropriate development the identified values and characteristics of—  
 (i) areas of high natural character within the coastal environment, wetlands, and lakes and rivers and their margins;  
 (ii) outstanding natural features and landscapes;  
 (iii) sites significant historic heritage:

impact. All the proposed mechanisms will still come at a cost to Council and our ratepayers, e.g. no-fees consents will mean that the cost of this service cannot be recovered by Council and will need to be through rates.

36. Given the uncertainty and ambiguity at this stage regarding what regulatory relief provisions will be in the Land Use Plan, it is difficult to fully understand the scale of the impact including fiscal, regulatory and environmental (built and natural). Notwithstanding this, we remain concerned around implementation and foresee the risk of applicants legally challenging how councils interpret and apply regulatory relief.
37. Moreover, the test for when a regulatory relief framework is required is not defined in the Bill. It is not clear what is a “significant” impact on the “reasonable use” of the land. Should “reasonable use” be measured against what is a permitted activity, there may be less tension between a provision seeking protection of an existing value and the requirement for any regulatory relief. However, if “reasonable use” is measured against what is a restricted or discretionary activity, then the tension with the Bills goals will be greater. We request that this be clarified in the legislation, together with more direction about how councils decide which relief mechanisms to use and what adequate relief constitutes.
38. Finally, the Council has reservations around the eligibility criteria. Specifically, where landowners with protected land under the current resource management system are eligible for regulatory relief if the Council wanted to apply those same protections in the new system. If the Government intends on progressing with the regulatory relief framework, the Council recommends that current landowners should not be compensated if the same protections are being placed under the new system, as their position has not been made significantly worse by the change. Without such a change, applying this eligibility criteria would be a significant administrative burden.

## **Planning Bill**

39. We support the requirement for the proposed spatial planning framework. Our own experience in Christchurch has demonstrated the benefits of neighbouring councils and the regional council planning for growth in a coordinated and integrated way through spatial planning. Spatial planning will be critical in navigating the trade-offs required between enabling development and protecting environmental values. We are also pleased to see the changes which will help to facilitate efficient infrastructure delivery.

### Purpose of the Planning Bill

40. We raise two specific concerns with the proposed purpose. Firstly, we seek clarification on the intended interpretation of the ‘enjoyment of land’ and how this is expected to be achieved with the proposed ‘out of scope effects’. As drafted, the Bill fails to recognise that one person’s enjoyment of their land can impact on the ability of someone else to enjoy their land through the exclusion of effects that would directly impact neighbouring properties. Without the ability to regulate externalities, we cannot see how this will provide for enjoyment of land for all. This is discussed further below.
41. Secondly, we would expect the purpose statement to also include ‘protection’. While provisions in the Bill clearly provide for the protection - including outstanding natural landscapes and features, significant historic heritage, sites of significance to Māori, and the management of natural hazard effects - this is not reflected in the purpose. The omission of protection from the purpose clause creates a disconnect between the purpose and the substantive provisions of the Bill and contrasts with the use of ‘protection’ in the purpose of the Natural Environment Bill.

Out of scope effects

42. One of the core objectives of the reforms is to create a more enabling resource management system – giving landowners greater freedom to use their land for their enjoyment. We agree that there are benefits from greater enablement and accept effects internal to the site can be out of scope. However, we are concerned that if externalities are not managed appropriately at the boundary, that this may come at the expense of achieving well-functioning urban and rural areas and enjoyment of land for all – which counters the intent of the Bill.
43. To manage the development of sites and ensure appropriate mitigation is still able to be provided for, we seek that clause 14 be changed to allow consideration of external building layout (1)(a), visual amenity (1)(e), views from public property (1)(g), and clarify that the effect on landscape (1)(h) still provides for councils to regulate for tree canopy cover. We see that these matters could be better managed and standardised through national instruments, ensuring that Councils can still address effects through non-compliance with national standards.
44. The management of effects such as overlooking, overshadowing and loss of outlook is important to the enjoyment of land for all. This also extends to managing activities across all zones, and between zones, for example, industrial and commercial buildings and activities. Without this, there is a real risk that the balance between the enablement of private property development rights and the rights of neighbouring properties is not achieved – which subsequently means that it fails to deliver on the enjoyment of land for all.
45. We do not take issue that ‘minor matters’ of visual and aesthetics are not regulated e.g., the colour of a garage. We do, however, have concerns that visual amenity and aesthetics are unable to be managed, particularly, when landowners seek to push beyond permitted activity thresholds. When an applicant seeks to further increase their own enjoyment e.g., they want to build something bigger than baseline standards, then the Bill as currently drafted does not give consenting authorities the tools that enable the mitigation of externalities because they are deemed out of scope by clause 14. If that remains the case then it risks increasing complaints which the Council will have no means to address, or the amount of declined consent applications because that may be the only tool left (because effects cannot be mitigated).
46. As we interpret clause 14, standards related to internal or public boundaries cannot be set (restricts external layout) as these are out of scope. A change is required to ensure that effects at both a private property boundary and private and public property boundary interface must still be able to be considered when there is a breach of standards. Not addressing this will significantly affect both residential and commercial landowners: residents could be faced with buildings at the boundary in breach of building height with little to no recourse available, while a business owner may have all their waste management area on the street façade, negatively impacting on the commercial viability or adjoining businesses.
47. We are also concerned by the exclusion of retail distribution effects as it will undermine the goals to “...support and enable economic growth and change by enabling the use and development of land; create well-functioning urban and rural areas.”. Urban form in Christchurch has for a long time followed a centres-based approach, consistent with Policy 3 of the current NPS-UD. This has ensured economic activity is purposefully consolidated into centres to realise agglomeration benefits and achieve economic prosperity across the district. Our centres-based approach has provided for greater efficiencies and effectiveness in the funding of infrastructure, fostered investment certainty, and facilitated improved transport connectivity between centres. By excluding retail distribution effects in clause 14, this significantly risks drawing demand away from existing centres and diluting private and public investment, leading to less efficient infrastructure networks

and greater costs for infrastructure delivery. We seek that retail distribution is removed from the out-of-scope effects.

### **Natural Environment Bill**

48. In principle, the Council sees the benefit of having environmental limits and setting these at the front-end instead of finding where those limits lie on a consent-by-consent basis. The Council acknowledges that there will be benefits transferring the responsibility for managing indigenous biodiversity to regional councils, as this aligns with their broader environmental management function and recognises that habitats function at a broader spatial scale.
49. However, we raise potential issues with the interaction between the two Bills in terms of the different definitions of ‘environment’. Adverse effects are only relevant to an application where they impact a person or the defined environment – specifically, ‘the built environment’ for planning consents (clause 139) and ‘the natural environment’ for permits (clause 156). This represents a substantial departure from the Resource Management Act’s definition of ‘environment’ and presents significant challenges. For example, land-use activities that have significant adverse effects on the natural environment may not require a separate permit under the Natural Environments Bill, creating gaps in considering effects on the natural environment.
50. While the intention is for the regional spatial plan to provide for land use in a way that does not breach environmental limits, there needs to be mechanisms to address environmental harms caused by development when there are higher than expected adverse impacts. The current approach poses considerable risks that environmental effects will not be adequately assessed or managed across the two Bills.
51. Council is also seeking further guidance around managing the timing of the regional spatial plan and the natural environment plan – we are concerned that the regional spatial plan will be required to make trade-offs between land use and environmental management before the natural environment plan is developed. In doing so, it may fail to push councils to identify and comprehensively evaluate options that might better achieve or not compromise environmental limits.

### **Transitional arrangements**

52. The timeline for transitioning to the new RM system is extremely ambitious and poses a significant risk to the quality of decision-making and plan development. This truncated process places considerable pressure on councils to deliver system-wide change within an extremely short period, increasing the likelihood of unintended consequences and poorly integrated outcomes. We recommend that the timeframes be revised to better reflect the complexity and effort required, noting that the previous Government’s reform posed a 10-year transition timeframe. It also needs to be adaptable to local context, and timeframes extended as required. See Appendix 1 for recommendations on timeframes.
53. The timeframes also create substantial resourcing and capacity challenges for councils. These pressures are compounded by other major reforms occurring simultaneously, such as the rates cap legislation and amendments to the Local Government Act, which demand significant staff attention. Furthermore, because all councils are expected to transition at the same time, technical experts available to support plan development will be constrained. This shortage represents a risk to meeting deadlines and ensuring quality outputs. We recommend adopting a staged approach to help ease pressures, which could first start with Tier 1 councils.
54. Transitioning to the new resource management system will likely impose further fiscal costs on councils. The recent ‘intensification’ plan change cost Council \$8m, noting that our full District Plan Review in 2016 cost

\$40m. We acknowledge the proposed framework seeks to be more streamlined to reduce plan making costs compared to the current system, however it is likely that implementation costs in this new framework will still be significant. Local government is already operating in a fiscally constrained environment, with the proposed rates cap likely to further limit councils' ability to raise revenue. It is unreasonable for the full burden of these additional costs to fall on local government, especially as these additional costs would be placed on ratepayers. To ensure a smooth and effective transition, we recommend that the Government provide financial support to councils during this transition period.

55. Finally, we support the digitalisation of the resource management system and emphasise the importance of having these new IT systems in place in time for the e-Plans, especially the regional spatial plan.

### **Conclusion**

56. The Council appreciates the opportunity to submit on the replacement resource management legalisation.

57. While we support the underlying drivers of the reforms and agree with many aspects of the proposed legislation, we consider there are multiple areas that require review and change for a more effective and balanced resource management system. We seek changes to the transition period to ensure that timeframes are achievable and will ensure quality outputs. Without these changes, there remains significant risk that the benefits of reform are lost. This is a once-in-a-generation opportunity, and it's necessary to ensure the legislation will deliver for the well-being of present and future generations.

58. For any clarification on points within this submission please contact Ben Rhodes, Manager Planning.

Ngā mihi,



**Phil Mauger**

**Mayor of Christchurch**