DUNEDIN CITY COUNCIL | kaunihera a-rohe o Ōtepoti

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Tēnā koutou

SUBMISSION ON THE PLANNING BILL AND NATURAL ENVIRONMENT BILL

The Dunedin City Council (DCC) welcomes the opportunity to submit on the Planning Bill and the Natural Environment Bill, part of the wider resource management reforms aimed at replacing the Resource Management Act (RMA) 1991.

The DCC acknowledges that replacing the RMA is a significant undertaking, and has a keen interest in RMA reforms, as these will fundamentally change the way in which local government delivers resource management functions across New Zealand.

This submission has been prepared on behalf of the DCC to reflect the experience of staff in delivering resource management functions, councillors' experience as hearing commissioners, and the views of council members. Staff from a range of departments across the DCC have been involved with the drafting of this submission, and the comments in this submission reflect the recent experiences of staff in developing the Dunedin City Second Generation District Plan (2GP), several variations and plan changes to the 2GP, and the more recent development of the Future Development Strategy (FDS). Our submission also includes feedback specific to the local context of Ōtepoti Dunedin (Dunedin).

This submission focuses primarily on the Planning Bill (the Bill), as this is the principal piece of legislation through which the DCC would work to deliver its resource management functions. However, the submission also touches on broader themes that apply to both Bills and the resource management system overall.

1 INTRODUCTION

1. Dunedin City Council (DCC) recognises that change is needed within the resource management system and acknowledges the scale and complexity of reform. DCC supports key elements of the proposed system – particularly a strengthened role for spatial planning and clearer national direction – where these improve coordination, provide certainty, and enable more consistent approaches to genuinely nationwide issues.

2. However, DCC considers several aspects of the current proposals create significant governance, delivery and cost risks for local government and communities. These risks are substantial enough that, without amendment, they may undermine both the effectiveness and affordability of the new system.

3. DCC's key concerns are:

   - Regulatory relief: The proposed regime would impose significant, uncertain and potentially unquantifiable financial liabilities and resourcing demands on councils, which conflicts with the Government's stated intention to reduce rates and the proposed rates-capping policy. DCC recommends these provisions be removed or, if retained, accompanied by clear funding mechanisms and amendments to ensure the regime is workable and fair.

   - Transition sequencing, timeframes and implementation funding: The proposed timeframes and sequencing are not realistic for producing high-quality spatial plans and land-use plans, particularly while national direction, standards and methodologies are still being developed. Rushed implementation increases the likelihood of rework, dispute, and poor outcomes, and creates immediate pressure on council budgets that may not be provided for in Long Term Plans (LTPs).

   - Local democratic decision-making and public participation: DCC supports national consistency where appropriate but does not support a model that removes local policy judgement and reduces local government to implementing centrally determined settings regardless of local evidence, constraints, and trade-offs. National direction and standardised provisions must include sufficient flexibility to reflect genuine variations between places.

   - Affordability and deliverability of infrastructure and the cost of growth: The new system must explicitly enable growth to be sequenced and directed in a way that is infrastructure-efficient and financially sustainable for communities. Without clear ability to consider infrastructure affordability, funding pathways, and long-term operational implications, councils risk being pushed toward inefficient servicing decisions that increase costs to ratepayers and undermine delivery of agreed infrastructure priorities.

   - Fragmentation of environmental management across two Bills: DCC is concerned about the division of environmental effects management between the Planning Bill and the Natural Environment Bill. Where effects span both regimes, the current framework risks gaps, duplication, and uncertainty about which matters can be considered, when, and under which statutory tests. This fragmentation is likely to increase complexity, litigation risk, and administrative cost for councils, applicants, and communities, and may result in important cross-cutting effects not being appropriately addressed within either regime.

- Impacts on Iwi Māori: the Māori interest goal is too narrow and results in an insufficient focus on matters of concern to Māori. Further, the absence of a specific Treaty provision risks diluting the commitment to giving effect to the principles of the Treaty of Waitangi.
- Economic competitiveness and place outcomes (amenity, landscape and heritage): DCC considers the current approach underweights the tangible contribution that amenity, landscape and heritage make to Dunedin's visitor economy and its ability to attract businesses and skilled migrants. DCC recommends these matters be retained but tightly framed around evidenced economic contribution and outcomes.

4. DCC's detailed submission focuses on amendments that improve workability, legal coherence, and delivery certainty, while ensuring the system remains affordable for councils and communities and maintains appropriate democratic accountability.

2 ROLES AND RESPONSIBILITIES IN THE NEW SYSTEM

2.1 Role of local government

5. Dunedin City Council supports the intent of the Planning Bill to establish a more integrated, nationally consistent planning system with clearer outcomes and limits. However, the effectiveness of the new system will depend critically on the clarity, feasibility, and appropriateness of the role assigned to local government, as councils will be the primary institutions responsible for implementing the system in practice.

6. Local government should not simply be a delivery agent for national policy and pre-determined regulation. Councils are democratically accountable bodies with statutory responsibilities for land use planning, infrastructure provision, service delivery, and community wellbeing. They hold detailed local knowledge and are responsible for managing the long-term financial and infrastructure consequences of planning decisions. Local government's role in the new system should reflect their democratic accountability to their communities for land use decisions, infrastructure investment, and long-term financial sustainability. The planning system must respect the role of elected members in setting strategic direction and making trade-offs within nationally defined limits.

7. For the new system to function as intended, the role of local government must be more clearly defined, realistic in scope, and aligned with councils' function, organisation, and funding.

8. The Bill shifts a significant proportion of substantive policy making from regional and district planning processes into the development of national instruments. While this may streamline local planning processes, it also compresses complex policy debates into nationally led processes that may be less accessible to local communities and councils.

9. National instruments will be expected to resolve difficult trade-offs (for example, between development capacity, environmental protection, infrastructure constraints, and amenity

effects) at a national level. However, these trade-offs often have place-specific implications that are best understood and tested locally. There is a risk that nationally set solutions will not reflect local evidence or lived experience, particularly in smaller or slower-growing regions.

10. The DCC is concerned that the proposed framework narrows the scope for councils to exercise professional judgement and local democratic choice, even where locally tailored solutions would better achieve the objectives of the legislation.

11. The establishment of spatial plan committees introduces a new governance layer that cuts across existing council decision-making structures. While collaboration is supported, there is a risk that poorly defined governance arrangements will create uncertainty about decision-making authority or undermine councils' ability to discharge their statutory responsibilities. There is also concern about the ability of local authorities to influence matters outside of the local areas where there is no tangible effect on their local area – for example it makes no sense for Dunedin elected members to influence the planning for Queenstown (over 250km away) or vice versa.

12. The Bill also often assigns responsibility to local government without sufficient clarity, sequencing, or resourcing. For regional spatial plans, councils are required to make decisions and commitments in advance of national direction, environmental limits, and funding clarity. This places councils in a position of bearing delivery risk for matters outside their control and blurs accountability between central and local government.

13. These matters are also discussed further in Section 6 (Spatial Plan provisions).

Recommendation:

14. Provide clearer statutory direction on the establishment of spatial plan committees including how their role interacts with elected councils' statutory decision-making responsibilities and make the relationship with the Long Term Plan (LTP) and its ability to delegate authority clear. This is necessary to avoid friction and delay during establishment, and improve confidence in decision-making processes.

2.2 Management of biodiversity

15. Under section 221 of the Natural Environment (NE) Bill, management of indigenous biodiversity will be the responsibility of regional councils. This represents a change from the current RMA framework, under which indigenous biodiversity is managed jointly by territorial authorities and regional councils.

16. DCC acknowledges both benefits and drawbacks to the proposed management approach. As a positive, having indigenous biodiversity solely managed under the Natural Environment Bill would provide clarity, as both landowners and councils would only need to refer to a single piece of legislation. It would also reduce duplication of roles and responsibilities between regional councils and territorial authorities, offering a simpler and more transparent framework for indigenous biodiversity management.

17. However, there are potential drawbacks. One key concern is that applicants may now be required to obtain a consent from both the territorial authority and a separate permit from the regional council for a development in a significant natural area. Under the current system, they may only need a single consent from the territorial authority. This change could increase the consenting burden and result in higher costs for both applicants and the local authorities involved.

2.3 Links between the Planning Bill and the Natural Environment Bill

18. The Planning Bill is primarily focused on enabling development and regulating land use, while the Natural Environment Bill is directed at managing the effects of natural resource use and protecting the natural environment from harm. The scope of the "environment" addressed by each Bill differs: the Planning Bill applies to the "built environment," while the Natural Environment Bill applies to the "natural environment," both of which are defined terms within their respective Bills.

19. There is a risk that some activities may generate effects that fall outside the defined "environment" regulated by either Bill. For example, when considering land use consent applications under the Planning Bill, local authorities may be unable to assess adverse effects on the natural environment or indigenous biodiversity, as these matters do not appear to fall within the scope of the "built environment." Therefore, if a separate consent is not also required under the Natural Environment Bill, there is a risk that such effects may not be able to be considered at all.

20. A further issue arises from the reciprocal exclusions in each Bill. Under the Natural Environment Bill, decision-makers are prohibited from considering effects regulated under the Planning Bill (s14(b)). Similarly, when exercising functions under the Planning Bill, decision-makers are precluded from considering "any matter where the land use effects of an activity are dealt with under other legislation" (s14(1)(j)). This creates a potentially significant gap, particularly where matters overlap across both regimes (for example, natural hazards), as decision-makers will be unable to consider effects that are regulated under the other Act.

21. For example, under the NE bill, regional councils can only consider the effects of natural hazards on natural resources. Effects on natural hazards as they relate to land-use are managed by territorial authorities. So, if a permit is sought to discharge stormwater to a stream, it appears that regional council will not be able to consider the potential impacts on the discharge on flooding of houses downstream. This is a concerning gap that needs to be remedied.

22. A further potential example could relate to zoning new growth areas that will require an on-site wastewater solution. The impacts of the wastewater discharge would be considered at the subdivision or development stage, through the need for any permits under the NEA. However, the ability of the area to absorb future wastewater discharge should be considered at the zoning stage, before any time and money is invested in its redevelopment. However, the effect of wastewater discharge cannot be considered under the Planning Act.

23. While the regional spatial plan should identify any environmental limits (such as ability to absorb wastewater discharges), to allow this to be considered at the rezoning stage, as

outlined later in this submission this will not be possible for the first regional spatial plan. Even for later spatial plans, it is possible that the appropriate limit is not identified because new housing is not anticipated in a particular area or because the level of information required cannot be collected at a regional level efficiently (it requires site level soil testing). Therefore, there should be an ability to consider effects under the NEA when making zoning decisions under the Planning Act.

Recommendation

24. DCC recommends that further consideration be given to the interface and alignment between the two Bills. In particular, consideration is needed as to whether dividing the environment into two distinct subsets is appropriate. Further work is also required to ensure that all significant environmental effects of an activity can be considered, including effects that fall outside the defined scope of either Bill, and to avoid circumstances where activities or effects are effectively excluded from consideration under both legislative frameworks.

2.4 Links between Planning Bill and other legislation

25. DCC holds a similar concern with the relationship to other non resource management legislation, for example where the Heritage New Zealand Pouhere Taonga Act 2014 applies and requires an archaeological authority, then the land use effects of that activity – e.g., adverse effects on significant historic heritage – might be out of scope, despite the objectives of each legislation being significantly different.

26. This clause requires rephrasing to ensure that it only applies where the effects are being managed to address the same issue or achieve the same outcome, for example minimum floor levels under the Buildings Act to manage natural hazards effects.

Recommendation

27. DCC recommends that this clause is deleted or reworded as "(j) any ~~matter where the land use~~ environmental effects of an activity are managed ~~dealt with~~ under other legislation to achieve a similar outcome."

3 IMPLEMENTATION

28. The DCC appreciates the Government's desire to fast-track reform, however, it feels that the pace of reform is both unnecessary given other changes that have been made (such as fast-track consenting) that are being used to address issues with the pace of certain consenting and because the risks and costs of rushing reform do not outweigh the benefits.

3.1 National direction

29. The proposed system relies heavily on the timely development, sequencing, and quality of national instruments. DCC is concerned that delays, gaps, or future changes in national instruments could significantly disrupt development of the new plans that will be required under the Planning Act. This could result in local planning processes being stalled or constrained while councils wait for national instruments to be developed or finalised. Future amendments to national instruments (e.g. if there were to be a change in government) could

require repeated changes to the new combined plans, and would result in additional uncertainty and cost.

30. Furthermore, councils may be required to implement national standards that assume levels of resourcing, data availability, or infrastructure capacities that simply do not exist uniformly in different areas of the country.

3.2 Sequencing, time frames and funding implications

31. The proposed development of national instruments, the regional spatial plan and land-use plans is swift. While timely transition is supported, the proposed sequencing needs further consideration to ensure speed does not come at the cost of quality.

32. Schedule 2, cl.2(2)(a) of the Bill requires a regional spatial plan to be consistent with environmental limits. However, environmental limits are established either through the natural environment plan (ecosystem health limits), or by the Minister in national standards (human health limits). Ecosystem health limits must be determined using a methodology provided by the Minister in national standards.

33. This sequencing creates both legal and practical difficulties. Regional spatial plans cannot be required to be consistent with limits that are not yet identified, yet these cannot lawfully be set because methodologies are not available, or are not sufficiently advanced to shape spatial decisions.

34. The likely consequence is either councils must “guess” at limits and constraints (creating risk of misalignment and rework), or they must use placeholders and caveats, reducing the usefulness of the documents and creating interpretive uncertainty. Either approach increases the likelihood of rework, legal challenge, and loss of public confidence when the first generation of regional spatial plans must be revisited.

35. The time allowed to prepare the regional spatial plan is insufficient unless the first generation of spatial plans are limited to a ‘stapling together’ of existing FDSs or equivalent spatial strategies with only limited changes to the contents.

36. The draft regional spatial plan for each region must be publicly notified within 15 months after Royal Assent of the Planning Act, or 6 months after the first national policy direction is issued. This includes setting up new and complex governance arrangements for regional spatial plan development. The national policy direction will be critical in developing the regional spatial plan, so the timeframe for developing the regional spatial plan is realistically 6 months, not 15.

37. DCC considers that this timeframe is impractical and unworkable and is not consistent with the time taken to develop similar documents under the RMA. For example, development the Dunedin Future Development Strategy (FDS) took around 18 months to notification, excluding time required to set up governance arrangements.

38. Meaningful spatial planning requires substantial technical analysis, modelling, engagement with mana whenua and communities, coordination with infrastructure providers and central government agencies, and internal governance and assurance. As the first major instrument

being produced under a new statutory regime, there will also be unavoidable implementation overheads such as establishing committees, delegations, secretariat arrangements, work programmes, and shared evidence bases.

39. It is unrealistic to expect local government to scale up early ahead of enactment given the levels of uncertainty and risk of change. The proposed timing also creates funding issues in that existing Long Term Plans are unlikely to have identified funding for significant work on new regulatory plans within this time period (the regional spatial plan is expected to be developed during 2026 and 2027, with notification in the third quarter of 2027).

40. Further, these expectations to do more work faster (and commitment of significant additional expenditure towards developing regional spatial plans) comes at a time when councils face significant workforce constraints, financial pressures, and multiple concurrent reform programmes. Without realistic assumptions about capacity and resourcing, most councils will not be able to deliver the quality and consistency of outcomes expected under the new system.

Recommendation

41. DCC recommends that the statutory framework is re-sequenced so that regional spatial plans are prepared after all necessary national direction is released and environmental standards confirmed. This would require release firstly of national direction that sets environment limits methodologies, development and confirmation of those limits, then development of regional spatial plans. This will ensure councils are not required to make binding decisions or commitments until all national direction is in place, and will also ensure councils are not required to “fill gaps” in national policy or bear disproportionate delivery risk.

42. Significantly more time should be provided to develop the first regional spatial plan. In order to understand the new requirements and comprehensively develop them, DCC recommends a minimum of 12 months from release of the national policy direction, all relevant national standards and confirmation of environmental limits. This would allow plans to be developed that are of sufficient quality and detail to provide robust, defensible direction for regions as the remaining parts of the system are implemented.

43. Alternatively, the scope of the first regional spatial plan should be reduced significantly.

3.3 Preparation of regional spatial plans

44. As outlined in Part 3 of the Bill, all local authorities within each region must agree on how they will work together in relation to preparation of a regional spatial plan. This will include appointing a spatial plan committee, who will be responsible for development of the regional spatial plan. Under s69, there must be a publicly available document which will outline how the local authorities will work together in relation to various matters on development of the regional spatial plan.

45. From reading the Bill, DCC is of the view that the provisions do not preclude the option of each local authority being able to focus on specific parts of the regional spatial plan that are

relevant to their district. This was a point that the DCC strongly supported in its Going for Housing Growth submission.

46. DCC considers it would be inappropriate for Dunedin to be involved in Queenstown's spatial planning or vice versa. Given the strong focus on integrating land use and infrastructure planning, district councils must take the lead role in spatial planning for their districts and only those districts who are part of any urban area should be involved in planning for that urban area. Having said that, DCC supports working together, including across districts, on matters that extend beyond urban areas or cross local authority boundaries.

47. Section 71 outlines the requirement of local authorities in a region to have a spatial plan committee. This committee must appoint "a chairperson and a secretariat in accordance with regulations" in section 71(3).

48. It is unclear when these regulations will be made available. Since the timeframe for regional spatial plan development currently starts from Royal Assent, any delay in receiving the regulations after Royal Assent will reduce (the already short) timeframe, as spatial planning committees and secretariats cannot be established and work cannot commence.

49. The Council is concerned that the Bill provides insufficient statutory guidance on the practical establishment and operation of spatial plan committees, including membership and representation, voting/decision-making arrangements, delegations, and how potential tensions between councils are to be managed. The role, function, and composition of the secretariat also requires clarification. It is assumed that it would comprise council staff responsible for the day-to-day development of the regional spatial plan; however, this is not explicitly stated. This uncertainty creates problems with planning, resourcing and funding the preparation of the regional spatial plans.

Recommendations

50. DCC recommends that:

   a. To explicitly enable and encourage efficient work allocation, each territorial authority should lead the spatial planning work for its district, with collaboration focused on cross-boundary and region-wide matters.

   b. the Planning Bill be amended so that the timeframe for preparing the regional spatial plans commence from the release of any regulations governing the set-up of the spatial plan committee and the secretariat.

   c. The Planning Bill clarify the role, function, and composition of the secretariat.

51. This would:

   a. improve efficiency, respect accountability, reduce unnecessary duplication, and support better-quality spatial planning grounded in local knowledge

   b. avoid delay in establishing appropriate working relationships and commencing work on the regional spatial plan

   c. enable effective resourcing, role definition, and project mobilisation

3.4 Inconsistency in timing of decisions on regional spatial plans

52. There appears to be an inconsistency in the Bill regarding the timeframe for which decisions must be made on the regional spatial plan. Schedule 2, cl.21(3) requires that local authorities must make decisions on the recommendations of the independent hearings panel within 12 months of the date on which the draft regional spatial plan was notified.

53. However, Schedule 1, cl. 5(4)(b) states that a draft regional spatial plan must be decided within 6 months after it is publicly notified.

54. This inconsistency is presumably due to clause 5 in Schedule 1 being specifically related to the first set of national instruments, and that the timing in Schedule 2 would apply for subsequent regional spatial plans. If so, it seems counter-intuitive that a shorter time is allowed for decisions on the first regional spatial plan, which arguably will be more complex and time-consuming to develop at each stage than a subsequent regional spatial plan review.

3.5 Costs of implementation

55. The DCC is concerned about the significant costs associated with implementing the new resource management system. These costs are expected to include the evidence gathering, changes to IT systems, preparation of new regional plan chapters, governance and operational arrangements, updates to processes, templates and guidance documents, changes to administrative systems, and additional staff training and resourcing. There will also be legal costs including those borne due to litigation risk in the system. While there has not been time to appropriately estimate these costs, it is considered that the cost assessments in both the Supplementary Analysis Report[1] (published November 2025) and the Regulatory Impact Statement[2] (published March 2025) are too low.

56. At this stage, it is unclear what proportion of these substantial implementation costs will be borne by local government, as this will depend on Government decisions regarding any implementation funding package. However, councils across the country are already operating in a fiscally constrained environment, which is likely to be further exacerbated by the proposed rates capping. In this context, DCC has significant concerns about the affordability of the reforms and strongly urges the Government to carefully consider the funding and support mechanisms that will be required to enable local government to implement the new system effectively.

57. DCC encourage the Government to provide an appropriate funding package that includes a centrally procured e-planning system that efficiently and economically enables not only delivery but effective data capture for monitoring and ongoing system improvement; and centrally procured robust and comprehensive independent science and economic assessment to support appropriate management approaches that will achieve social and cultural well-being, environmental sustainability and economic prosperity.

[1] Supplementary-Analysis-Report_-Replacing-the-Resource-Management-Act-1991-Further-Policy-Decisions_Redacted.pdf
[2] Replacing the Resource Management Act

4 PURPOSE / GOALS OF PLANNING ACT AND CHANGES FROM THE RMA

58. The DCC understands and has sympathy for the Government's intent to reduce the costs of regulation within the land use planning system, however, it considers that the costs of the removal of some areas of regulation have not been well-enough considered or communicated to the public so that the costs and benefits of these changes can be appropriately considered and weighed. DCC also considers that there are less-extreme options that could achieve similar levels of benefit with less significant costs to the quality of our cities and places.

4.1 Removal of visual amenity

59. A key concern is the proposed changes to the matters managed under the new system, particularly the removal of visual amenity from the system (Section 14(e)) which excludes the consideration of effects of any activity including: "the visual amenity of a use, development, or building in relation to its character, appearance, aesthetic qualities, or other physical feature". DCC is concerned that eliminating amenity as an element of the planning system could undermine the ability to create attractive well-functioning urban environments that continue to support New Zealand's tourism economy, its reputation as an attractive destination for skilled migrants, and general liveability outcomes for residents. DCC does not believe that this change has wide-spread public support and that it represents a 'baby out with the bathwater' response to a much narrower problem of ensuring that public submissions and processes do not inappropriately constrain or delay development.

60. The removal of amenity from the system will allow both urban and rural areas (including key tourists routes and vistas) to become cluttered by commercial hoardings and other signage as common in other western countries where signage is not regulated.

61. The removal of the ability to manage landscape values (where not 'outstanding') will remove DCC's ability to manage the design of new development on areas identified as significant landscapes including important natural backdrops to the urban environment, such as ridgelines and headlands. In Dunedin, this will affect the management approach to new development in over 28,000 ha of significant natural landscapes, and a further 1,878 hectares of natural coastal character. Landscape vistas affected would include the Silverpeaks, Mahinerangi, and the lower slopes of both Mt Cargill and the Otago Peninsula. A large number of coastal areas would also be affected, including the entire southern coast from Taieri Mouth to Tunnel Beach, Aramoana, Blueskin Bay, and Waikouaiti.

62. It will also prevent requirements such as the screening of outdoor storage and the management of fences in front yards; evidence indicates that this will result in unattractive neighbourhoods that invite crime and anti-social behaviour such as tagging.

63. It would also prevent the ability to schedule protected trees which most plans have, and which many communities support as part of maintaining attractive urban places.

64. Our initial analysis indicates that no other countries in the Organisation for Economic Co-operation and Development (OECD) have completely excluded public amenity outcomes from their planning frameworks and most of the world's most attractive and successful cities manage it more strictly than New Zealand has. DCC considers that management of visual

amenity is a critical element and should be reinstated in the new system albeit with appropriate limits on notification / rights to submit and scope to prevent its use for NIMBYism or to delay development. DCC considers that there has been a lack of attention to, and proper analysis of, the importance of amenity to New Zealand's tourism economy, as well as its ability to attract skilled migrants.

Recommendation

65. DCC recommend that the matter of visual amenity be narrowed to focus on the tangible contributions this matter makes to the visitor economy and migrant attraction, rather than being removed.

66. For example, national planning standards could still set rules for fence heights, signage in different zones, screening of outdoor service areas/storage, and allow for the scheduling of protected trees but restrict public submission and/or appeal rights to ensure efficient processes.

4.2 Clarify how the management of shading and noise links to goals

67. There is a lack of clarity as to how certain aspects of amenity that have been signalled as not being removed – such as shading and noise amenity still fit into the system. The content of the Bill appears to be inconsistent with the accompanying commentary to the Bill (for example New-Planning-System-factsheet-05-Making-it-easier-to-build-and-renovate-your-home.pdf and New-Planning-System-factsheet-08-Simplifying-residential-development.pdf), both of which explicitly refer to shading and state that effects such as shading will continue to be considered through the consent process.

68. It is noted that the management of shading or noise effects does not appear to fit clearly under any of the goals other than the vaguely worded "land use does not unreasonably affect others, including by separating incompatible land uses". This goal statement is ripe for litigation as it is not clear about: what effects are captured (and does it include adverse effects on land values), how what is 'unreasonable' should be interpreted – is it what the land owner thinks is reasonable or unreasonable or someone else's opinion of reasonableness and what factors are considered in determining reasonableness, and finally who is captured by 'others' – neighbours, communities, visitors?

69. While 'amenity' by nature has a degree of subjectivity it is still more clear of a concept then what unreasonably affects others.

70. Finally, if the management of shading effects is intended to be maintained – this seems to be precluded by Section 14 (and the transitional provisions), which remove the ability to consider the "external layout of buildings on a site". Where buildings are placed on a site is a key determinant of shading effects, but this exclusion limits the management of shading to height limits.

Recommendation

71. DCC recommends that to ensure clarity, Section 14 should specifically state 'excluding height in relation to boundary where this results in shading effects' to avoid legal challenge for rules that manage height and distance from boundary together.

4.3 Removal of management of quality of homes

72. DCC is also concerned about the proposal to remove the management of the quality of homes for future residents, including the provision of minimum areas of outdoor living space. It is a fallacy that these effects are borne by the property owner and therefore not an externality, as in many cases the builder of a home is not the end occupier, and in many cases that future occupier is a tenant.

73. DCC accepts that if any plans genuinely prescribe the direction of a television, as claimed, that that is inappropriate and that only aspects of housing quality that have scientific research that indicates a tangible impact on health outcomes should be managed.

74. DCC is particularly concerned that the removal of appropriate requirements for outdoor living space will have detrimental impacts on people's health and wellbeing and add to the cost of living (for example, by removing access to secure outdoor areas to dry clothes). This view is supported research.

75. There are a wide range of studies that explore the positive relationship between both public and private outdoor green spaces, with increased health and wellbeing. This includes Cervinka et al.[3] who concluded that domestic gardens mitigate health deprivation more effectively than public green space at all levels of urbanity apart from the most rural areas. Brindley et al.[4] undertook a population-level survey which showed that garden size played a significant role in self-reported health, with areas with small gardens displaying greater income-related health inequalities. This study highlighted that garden access and quality may play a key role in the buffering effect of nature regarding health and wellbeing. Collins et al.[5] highlighted that access to a private garden substantially reduces the predicted probability of poor mental health issues in men, regardless of their access to local public green space. They also showed that having access to a private garden for older women reduces the predicted probability of poor mental health. These studies represent only a sample of the research literature available that have linked private outdoor space to improvements in health and wellbeing.

76. Access to quality outdoor living areas is recognised as important in a number of jurisdictions, including in Australia. For example, in Melbourne, outdoor living areas have quantifiable minimums and qualitative design guidance. New medium density rules strengthen garden / open space requirements beyond the conventional Residential Code minimums. Emerging provisions (Medium Density Codes) replace the older "outdoor living area" with consolidated primary garden area requirements (typically 20 – 40m², scaled to lot size) as

[3] R. Cervinka et al. (2016) My garden–my mate? Perceived restorativeness of private gardens and its predictors (Urban forestry & urban greening, 16 (2016), pp. 182-187).
[4] P. Brindley et al. (2018) Domestic gardens and self-reported health: A national population study (International Journal of Health Geographics, 17 (2018), p. 31)
[5] Collins et al. (2023) The relative effects of access to public greenspace and private gardens on mental health

part of amenity requirements for townhouses and terraces. These provisions require a larger outdoor area than the previous rules. Landscaping and soft landscaping/tree canopy targets are also introduced to improve amenity and outdoor quality. Design guidelines have been prepared to support these provisions.

77. DCC is concerned that the proposal to remove management of the quality of homes, particularly the provision of outdoor living space requirements, will lead to a number of adverse effects for future residents and lead to tangible adverse health outcomes for people and associated costs to the health sector.

Recommendation

78. DCC recommends that quality of homes is an important matter that should continue to be managed under the new resource management system. DCC strongly encourages a more robust, wide-ranging and objective cost and benefit analysis that includes analysis of international best practice and evidence before proceeding.

4.4 The management of historic heritage

79. Dunedin is considered Aotearoa New Zealand’s premier heritage destination. The high quality and extent of Dunedin’s built heritage is unique amongst Aotearoa New Zealand’s cities. Dunedin’s heritage buildings greatly contribute to liveability, vitality, and economy. Both residents and visitors highly value the city’s heritage. A 2023 resident survey indicated strong support for heritage buildings and their protection, while tourism surveys show that Dunedin’s historic heritage is a key factor contributing to the city’s distinctiveness relative to other destinations. DCC considers that there has been a lack of attention to, and proper analysis of, the importance of heritage character to New Zealand’s tourism economy as well as its ability to attract skilled migrants, for example in places such as Dunedin, Oamaru and other parts of Otago, and other locations in New Zealand such as Napier. DCC recommend that management of historic heritage should recognise the tangible contribution this makes to the visitor economy and migrant attraction.

80. DCC supports the goal of protecting identified values and characteristics of sites of significant historic heritage from inappropriate development (s11(1)(g)(iii)), subject to the threshold for significance being appropriately set to enable not just the most notable buildings, but also those buildings that cumulatively contribute to the collective heritage value of a broader area. While DCC recognises that not all heritage can be cost-effectively conserved, or in some instances its loss is necessary to achieve more strategically important goals or projects (for example, the loss of the Cadbury factory for the new Dunedin Hospital), those trade-offs or cost benefit assessments are very context specific and not the same city to city, or place to place. It is better to set an achievable threshold to identify historic places that meet the criteria of significance, and provide robust policy direction to assess trade-offs and the costs and benefits of protection on an individual basis, than to make country-wide assumptions about those costs and benefits and set the bar too high.

81. In terms of more minor comments DCC notes the following.

82. The drafting of s11(1)(g)(iii) includes the phrase “sites of significant historic heritage”; the inclusion of the word ‘sites’ appears to conflict with the definition of historic heritage. The

definition of historic heritage includes a variety of terms, specifically "historic sites, structures, places, and areas". To avoid confusion, DCC recommends that the word 'sites' should be removed, or the sentence be reworded to include a term such as 'item', e.g., 'Items of significant historic heritage' to provide clarity to the definition.

83. In addition, the new act is an opportunity to simplify the term used to describe heritage. Both the RMA and the Planning Bill use 'historic heritage'. For simplicity, this submission recommends 'historic heritage' be referred to as 'heritage' in the Bill. DCC notes the Heritage New Zealand Pouhere Taonga Act uses the term 'heritage' (e.g. Heritage List), noting that the purpose of that Act is to promote 'protection… of the historical and cultural heritage of New Zealand (s3 HNZPT). Removing the word historic from the title of the definition clarifies that the places specified in (b) (i), (ii), (iii), and (iv), include both historical and cultural heritage. The word historic is repeated as a prefix to 'sites, structures, places, and areas' in the definition which is a tautology.

84. DCC note that the 'qualities' in the definition of historic heritage in the Bill are the same as those in the RMA. However, they are a subset of the criteria identified in the Heritage New Zealand Pouhere Taonga Act 2014 in s66(1).

Suggestions relevant to future national direction on Heritage

85. DCC acknowledges that further direction on the protection of significant historic heritage will be provided through national instruments.

Recommendation

86. For consistency and to avoid confusion, the terminology used in the Heritage New Zealand Pouhere Taonga Act 2014 and Planning Bill should be consistent.

87. DCC recommends that several matters could be usefully clarified or explored through the national policy direction or national standards. Clarification on these matters would ensure consistency of heritage protection across the country and reduce debate and litigation around whether places are 'significant' heritage and should be protected.

88. These matters include:

a. The process and information requirements for undertaking a heritage assessment.

b. How significance is to be determined, and what the threshold for 'significant' is, for each of the qualities (archaeological, architectural, historical, etc.).

c. The weighting to be given to other planning matters when proposing heritage protection.

d. Guidance on assessing significance at a local or regional level, and methods for doing so. While Heritage New Zealand Pouhere Taonga provides guidance on applying its criteria and thresholds, these do not carry through to local heritage, as they relate to national significance[6]. Additionally, as noted above, the Heritage New Zealand Pouhere Taonga criteria differ from the qualities in the Bill.

e. Guidance on identifying the protected parts of a place. Best practice is to protect the entire place (the interior and exterior of a building, and the setting, for example). Guidance should identify circumstances in which it is appropriate to omit part of the place from heritage protection.

f. A definition or method for identifying the 'surroundings', to support the definition of historic heritage clause (b)(iv). The method will need to anticipate a broad range of scenarios, with specific guidance for both individual places and groups of interrelated places with collective significance and their surroundings.

g. For heritage areas containing an interrelated group or groups of historic places, a method for identifying collective significance (for example, as an area or precinct), and quantifying the significance of buildings within that group, i.e. whether contributing, neutral, or detracting.

h. Clarification about whether heritage protection is to be 'tiered' as it is currently in many district plans (e.g. class I, class II), or whether 'significant' is a single category.

4.5 Removal of effects on retail distribution

89. The DCC is concerned that the Planning Bill's removal of the ability to consider retail distribution effects in planning decisions (refer s14(1)(c)) will have detrimental implications for Dunedin's transport network and parking management, and the vitality and vibrancy of the CBD and centres (which are important to overall economic performance of retail and hospitality in the city).

90. Firstly, with respect to parking management, DCC provides for a wide range of parking options across the city, including on-street paid parking and time restricted parking, along with off-street parking spaces and parking buildings. As would be expected, parking provision is primarily concentrated in areas that are most frequently visited by people, i.e. the CBD and other local centres around the city. Under the current district plan, retail is generally concentrated in these centres, enabling more efficient public transport, active transport, and car-parking opportunities. If DCC can no longer consider retail distribution effects, then there is potential that retail activity could become more widely dispersed across the city, resulting in increased private vehicle trips, increased congestion, inadequate parking options and increased costs for parking management, less effective public transport, and negative implications for the Council's environment strategy and zero carbon aspirations.

91. The DCC also highlights that concentrating retail locations in specific areas (CBD and centres) is fundamental to maintaining the vitality and vibrancy of these areas. Having a vibrant and successful CBD and centres directly contributes to the overall economic and social wellbeing of the city. Additionally, concentrating retail activities in these areas also acts to provide

[6] Significance Assessment Guidelines, Guidelines for Assessing Historic Places and Historic Areas for the New Zealand Heritage List/Rārangi Kōrero (2019), https://hnzpt-rpod-assets.azureedge.net/b2emu5pe/significance-assessment-guidelines.pdf

space for other activities that cannot easily locate in the CBD and centres. Research[7] undertaken in Auckland demonstrates that where retail activity is located within a city strongly shapes urban form and influences how efficiently people travel and use their time. Retail distribution also influences other patterns of land use, including those that contribute to the vitality and viability of centres that function both as key commercial hubs, and as places of social interaction which provide important community amenities and social infrastructure for the populations they serve. DCC received evidence[8] at its district plan hearings that a more permissive commercial environment does not necessarily result in better economic outcomes. For example, commercial activity may locate where land is cheapest, leading at a dispersal of activities, loss of agglomeration benefits, a decrease in the depth and breadth of the retail offering in the CBD, a consequent reduction in the attractiveness of the CBD as a destination and its social amenity (leading to adverse effects on remaining businesses), and less efficient travel patterns. Each individual out-of-centre commercial development has a small, but cumulative effect on centres, typically aggregating to significant effects over time.

Recommendation

92. The DCC recommends that the ability to consider the effects on retail distribution should remain in the Planning Bill, due to the implications this has on parking management, transport, the vibrancy and vitality of the CBD and centres, and the general contribution towards economic prosperity.

4.6 Effects on significant landscapes

93. The Planning Bill excludes consideration of effects on landscape, apart from outstanding natural landscape and features (s14). DCC is concerned that this proposal is too 'broad brush' and that consideration of effects on highly valued (but not outstanding) landscapes is excluded.

94. DCC's district plan contains a landscape classification of 'significant natural landscapes' (SNLs). These areas are intended to give effect to Section 7 of the RMA, which requires that the maintenance and enhancement of amenity values and the quality of the environment are given "particular regard to". There is currently 28,000 ha of land identified in the district plan as SNL. The DCC considers that the distinctiveness of Dunedin is not just about its key or outstanding features and landscapes. Rather, it is the broader landscape fabric of the city and surrounds, of which SNLs are an important part, that gives Dunedin its unique sense of place.

95. A planning framework that focuses only on quantifiable environmental outcomes without requirements to consider wider landscape character and amenity is likely to fail to protect the things that give places their unique identity and quality. These include landscapes that are not ONLs and ONFs, but remain highly valued. The quality of the broader landscape character values of Dunedin is important to residents and is a key attraction for tourists. The

[7] Fairgray, S. (2013). Auckland retail economic evidence base, Auckland Council technical report, TR2013/046. https://knowledgeauckland.org.nz/media/1529/tr2013-046-auckland-retail-economic-evidence-base.pdf?utm_source=chatgpt.com
[8] 2GP Hearings - Commercial Mixed Use - Economic Evidence Derek Foy Final.pdf

erosion of landscape character values has the potential to undermine strong tourism premiums based on Dunedin's distinctive landscapes.

96. At present, SNL areas cover large areas of the hills that surround the Otago Harbour and form the backdrop to the inner Otago Peninsula bays and West Harbour settlements. Combined, these areas provide a significant proportion of the setting, visual containment, and skyline for the harbour, which is enjoyed by residents of Dunedin and thousands of tourists who are attracted to these landscapes. The removal of SNL landscape planning provisions risks undermining the landscape values of these highly valued places.

97. In Australia, there are several comparable examples of regulatory controls on visual and landscape amenity. For example, the Sydney Harbour Foreshores and Waterways Area Development Control Plan enforces height limits and view corridor protections around Sydney Harbour. In addition, Heritage Conservation Areas (e.g. The Rocks, Paddington) and foreshore building setbacks and public access requirements manage different aspects of the visual quality of the harbour surrounds. These controls have been implemented with an understanding that Sydney Harbour's visual quality underpins its global branding and tourism and that a strong visitor economy (cruises, events, hospitality) relies on managing landscape character and visual amenity.

98. Similar protections are implemented in other regional and tourism focused cities such as the following:

- Byron Bay: height and character controls to protect coastal town identity;
- Hobart: heritage and waterfront controls to preserve historic character; and
- Noosa: low-rise and vegetation protections to support premium tourism.

99. As identified by the New Zealand Institute of landscape Architects (NZILA) in their submission on the Proposed changes to RMA National Direction, through Te tangi a te Manu (the Institute's landscape assessment guidelines) it is identified that people's relationships to landscape are expressed as place-specific character, attributes and values, all of which are necessarily ascribed by people and recognised by communities. This understanding extends beyond places of national importance (ONLs and ONFs) and across ordinary everyday landscapes where people mostly live, work and play.

100. DCC agrees with this NZILA submission, which notes that while addressing such qualitative and intangible matters can generate contested planning issues, effective resource management must continue to engage with communities and support positive relationships with place as an integral planning outcome (NZILA submission on changes to RMA National Direction, 25 July 2025).

101. As discussed in the introduction, DCC considers that there has been a lack of attention to, and proper analysis of, the importance of landscape, amenity and heritage to New Zealand's tourism economy as well as its ability to attract skilled migrants.

Recommendation

102. The DCC recommends that the management of effects on landscape, apart from outstanding natural landscape and features, be narrowed to focus on the tangible contribution these matters make to the visitor economy and migrant attraction, rather than be removed. This would narrow the focus of decision-making on evidence related to the positive effects of protection on the broader economy rather than NIMBY concerns, thereby addressing the root problem to the efficient operation of the resource management system (the ability of the system to be hijacked by NIMBY issues) while maintaining the ability to consider aspects that have broader potential economic effects.

103. For identified landscapes values (other than outstanding) this could be achieved by:

   a. Amending Section 11(1)(b) to read "to support and enable economic growth and change by enabling the use and development of land <u>and by protecting values that are important to economic activity</u>:

   b. Amending Section 14(2) by adding a new clause (f) "amenity, heritage and landscape effects where these significantly contribute to the visitor experience or migrant attraction.

4.7 Lack of clarity around the exclusion of "the type of residential use"

104. Section 14(1)(f)(i) excludes consideration of the type of residential use. It is unclear what this means and whether it captures anything that has a residential use component, for example air b and b, hotels and motels, working from home (and to what degree), supported living facilities, private hospital, nursing homes etc. There is a risk that it could be argued that the density of residential use falls under this concept.

105. This exclusion needs to be more specifically and accurately defined.

Recommendation

106. DCC recommends that the exclusion of the 'type of residential use' is more specifically worded and that s14(2) clearly indicates that it does not preclude management for reverse sensitivity effects (based on sensitivity) or density of residential use.

4.8 Lack of clarity around the meaning of "demand for or financial viability of a project unless it is a matter to which section 11(1)(b) or (d) relates"

107. While it is assumed that the meaning of Section 14(1)(d) is intended to capture the financial viability of a project for a developer/applicant with regards to the costs borne by them, this is not clearly articulated.

Recommendation

108. DCC recommends that Section 14(1)(d) is clarified to avoid litigation which may seek to argue that any public costs of a project cannot be considered, for example, the capital or operational costs of infrastructure that may fall on ratepayers, which should be able to be considered, particularly in light of the Government's desire to reduce rate increases.

4.9 Lack of clarity around the management of safety

109. Section 5 of the RMA sets out the purpose of the Act, which is to promote the sustainable management of natural and physical resources. Section 5(2) expands on the meaning of sustainable management, which includes "managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety".

110. As a result, safety is a matter that is currently managed through RMA plans, including in the Dunedin District Plan. Safety considerations apply to a wide range of matters, including transportation (e.g. how activities may affect the safe operation of the roading network for example standards requiring minimum sight distances for a new vehicle access from roads), people's health and safety from hazardous substances (e.g. ensuring that their type, volume and location ensure that they reduce risks to health and safety), high levels of noise or emissions, and other land-use activities (e.g. ensuring appropriate setbacks are in place to provide a buffer from potentially dangerous activities such a bulk fuel storage).

111. DCC is concerned that the Planning Bill does not include any goals that explicitly refer to safety, other than safety in relation to natural hazards. While safety could likely be considered as a general "adverse effect" under s15 (Considering adverse effects of activities), or through the duty in s25(1) to avoid, minimise, or remedy adverse effects on the built environment, this is not explicitly stated. Although the definition of "built environment" includes people and communities, DCC considers that greater clarity could be provided to ensure that public health and safety, including transportation safety, can be clearly and consistently managed under the new planning system.

Recommendation

112. DCC recommends that safety is expressly identified as a matter that can be managed under the Planning Bill. This could be achieved through the inclusion of a specific goal relating to the promotion of public health and safety, including transportation network safety, in in Section 11.

113. This will ensure that aspects of development including high fences and other boundary treatments that may impact on visibility for people and traffic entering and exiting driveways and the placement of driveways can continue to be managed.

4.10 The relationship between the Planning Bill and the Hazardous Substances and New Organisms Act 1996 (HSNO) and Health and Safety at Work (Hazardous Substances) Regulations 2017

114. On a related matter, an area of plan development that resulted in a number of appeals on Dunedin's district plan was to do with the management of hazardous substances and the relative roles of the Hazardous Substances and New Organisms Act 1996 (HSNO) and Health and Safety at Work (Hazardous Substances) Regulations 2017 legislation and the RMA.

115. Appellants argued that the district plan should not include rules relating to hazardous substances as these are covered by HSNO. DCC's position was that additional controls may

be required to, for example, manage potential effects on sensitive activities and sensitive natural environments, the effects of substances not managed by HSNO, cumulative risks and reverse sensitivity issues.

116. Different district plans have taken different approaches to managing hazardous substances. Clarity is required as to the appropriate approach.

Recommendation

117. DCC recommends that the Act, and any national direction clarifies this matter.

4.11 The need to manage growth based on long-term affordability of infrastructure to communities and the ability to efficiently deliver infrastructure to meet housing and business demand needs

118. DCC is concerned that it is not clear if the Planning Bill provides for effects of growth and development on the affordability of infrastructure (and therefore the financial sustainability of Councils) or the efficient delivery of infrastructure to be considered.

119. The wording of the goal in Section 11(1)(e) to plan and provide for infrastructure to meet current and expected demand is vague and open-ended and ripe for litigation. Dangerously, it could be interpreted to mean that if any developer for any development "demands" infrastructure a Council is obliged to provide it with no ability to consider whether it is affordable to provide or operate.

Recommendation

120. The DCC recommends that the planning system enables the consideration of the cost of infrastructure (beyond which will be paid directly by developers or landowners in a growth area directly) and for growth proposals that are inappropriate to service due to relative cost to service or impact on the ability to deliver other infrastructure according to priorities agreed in the regional spatial plan be able to be deferred through transition zoning mechanisms or, if more appropriate, declined.

121. DCC recommends that Section 11(1)(e) is rephrased as "to enable the effective and efficient provision infrastructure to support growth and development."

4.12 Climate change

122. The DCC is concerned that the Planning Bill does not clearly or strongly address matters relating to climate change. While the Bill's definition of 'natural hazard' includes the effects of climate change, aside from this there are very few references to climate change.

123. From the perspective of climate change adaptation, the DCC notes that the effects of climate can extend significantly beyond natural hazards, for example effects on primary production (e.g. agriculture, forestry, fisheries) and water availability for both urban and rural land uses.

Recommendation

124. The DCC recommends the Bill should contain a goal that explicitly relates to climate change adaptation. The National Climate Adaptation Framework includes a commitment to amend the Climate Change Response Act, to require local governments to prepare adaptation plans for certain priority areas. If these adaptation areas must be included in regional spatial plans, then inclusion of a goal that relates to climate change adaptation would help promote and strengthen the links between the different legislation and would help ensure that adaptation planning is specifically considered through the hierarchy of resource management documents.

125. The Planning Bill should also include a goal related to Climate Change mitigation. DCC notes that RMA requires decisions on regional and district plans to have regard to any emissions reduction plan (prepared under s5ZI of the Climate Change Response Act). DCC recommends an equivalent provision should be included in the Planning Bill.

4.13 Enjoyment of land

126. The purpose of the planning bill is 'to establish a framework for planning and regulating the use, development, and enjoyment of land'. The phrase 'enjoyment of land' also appears in Schedule 3 cl.66 in relation to assessing the materiality of impact when developing a regulatory relief framework.

127. DCC is concerned firstly that the term 'enjoyment of land' is vague and subjective. Secondly, it is odd that only one aspect of 'use' is pulled out and seemingly creates an expectation that 'enjoyment of land' must be planned and regulated. Furthermore, it fails to recognise that that allowing one person greater development rights on their property ('enjoyment of') can be at the expense of the property rights of neighbouring properties. For example, permitting taller buildings may result in increased shading for adjoining properties, adversely affecting these neighbours' ability to use and "enjoy" their land and potentially depreciating its value for development. This may lead to arguments around effects on (private) amenity being replaced by arguments around "enjoyment" of land.

Recommendation

128. DCC recommends that the term is removed and the purpose is simplified to "a framework for planning and regulating the use~~,~~ and development~~, and enjoyment~~ of land. DCC considers that if there is a desire to have a goal around being able to enjoy land that should be appropriately worded in the goals section.

4.14 Procedural principles

129. DCC supports the inclusion of procedural principles in the bill. These will assist in the efficient functioning of the resource management system and benefit all users. However, DCC is concerned that the 5th principle – 'act in an enabling manner (for example being solution-focused)…' is open to interpretation, and has the potential to create more complexity and argument, which seems contrary to the reason for including principles.

Recommendation

130. While providing an example: 'being solutions-focused', is welcome, DCC recommends that additional guidance is required as to how this phrase should be interpreted. This should be provided through national direction at an early stage, alternatively this principle should be removed.

5 IMPACTS ON IWI MĀORI

5.1 Appropriate wording of Māori interests goal

131. DCC submits that the Māori interest goal is too narrow and results in a reduced focus on matters of concern to Māori. The lack of provisions equivalent to RMA sections 6(e) (in part), 6(g), 7(a), 7(d), 7(f), 7(g), and 7 (j) within the Bill highlights a significant gap in the consideration and understanding of the relationship Māori have with the environment and reduces the focus on environmental protection and sustainability that is imperative for mokopuna-focused thinking.

~~132.~~ The Bill, as it stands, does not cover the broad, holistic viewpoints of Māori interests or reflect the appropriate relationship needed to work with mana whenua (through iwi and hapū) in developing regional and national instruments and plans.

Recommendation

133. To ensure that Māori values are appropriately considered through development of the various planning documents, DCC recommends that goal 11(i)(i) is amended to read 'Māori participation in the development <u>and decision-making</u> on national instruments, spatial planning …'.

134. DCC also notes the drafting of s11(i)(iii) may mean that sites of significance to Māori is interpreted too narrowly. For example, sites of significance include mahika kai and nohoaka.

135. For clarity, DCC recommends that the wording of s11(i)(iii) is amended to "the identification and protection of sites of significance to Māori (including, <u>but not limited to</u>, wāhi tapu, water bodies, or sites in or on the coastal marine area)".

5.2 Absence of a specific Treaty provision

136. Section 8 of the Planning Bill outlines how the Treaty of Waitangi is provided for within the new system. This includes a Māori interest goal in s11, and requirements around the development of regional spatial plans and land use plans.

137. However, unlike the RMA (s8), the Planning Bill does not contain a specific Treaty of Waitangi provision that requires all persons exercising functions under the Act to take into account the principles of the Treaty of Waitangi. DCC understands this is because "…the

provisions required interpretation and, along with other aspects of the RMA, created uncertainty and complexity" (p. 33 of the consultation document[9]).

138. However, in DCC's view, the available legal jurisprudence and case law do provide an understanding of the principles of the Treaty of Waitangi. DCC agrees with the original Expert Advisory Groups (EAG) recommendations to include a general Treaty principles clause, similar to that in the RMA. This submission also highlights that the RMA has been criticised in the past for not being treaty-compliant, despite the requirement of s8 outlined above. DCC is concerned that the Planning Bill dilutes these commitments even further and represents a step backwards in giving effect to the principles of the Treaty of Waitangi.

Recommendation

139. DCC recommends that a general Treaty of Waitangi clause is reinstated into the Planning Bill.

5.3 Opportunities for iwi participation

140. DCC supports provisions that allow for meaningful engagement, recognising Kāi Tahu rakatirataka, that is undertaken in good faith. However, the consultation requirements (including time available for engagement) outlined in the Bill are minimal, and DCC questions whether this level of engagement will in fact be meaningful and enable iwi and hapū to undertake their role as kaitiaki. This approach is reflected in the use of the term 'participation' in goal 11(1)(i).

141. **DCC recommends** that the language used and the consultation requirements should be strengthened to ensure engagement is undertaken appropriately.

142. In relation to regional spatial plan development, s70 requires only that iwi authorities are provided with a copy of the draft regional spatial plan prior to notification and that their views on it must be sought. There is no requirement to involve iwi in development of the regional spatial plan. In addition, there is no mandatory iwi representation on spatial planning committees. This would ensure that Māori values were considered during the preparation process.

143. **DCC recommends** that these requirements are strengthened.

144. In relation to land use plans, territorial authorities must only 'have regard to' iwi management plans and statutory acknowledgements (s80(4)).

145. **DCC recommends** that these documents are 'taken into account' (the requirement in the RMA in relation to iwi planning documents) to allow them to better inform planning outcomes.

146. **DCC also recommends** changing references to "iwi" to "iwi and hapū" to recognise how different iwi structures interact with central and local government. For example, Section 15(2) of the Te Rūnanga o Ngāi Tahu Act 1996 states that "where any enactment requires consultation with any iwi or with any iwi authority, that consultation shall, with respect to matters affecting Ngāi Tahu Whanui, be held with Te Rūnanga o Ngāi Tahu". It is the

[9] Better-Planning-for-a-Better-New-Zealand.pdf

acknowledged practice of Te Rūnanga o Ngāi Tahu (TRoNT) that consultation in the first instance is with Papatipu Rūnanga (hapū rūnaka), rather than with TRoNT.

5.4 Sections 9 and 10 – Treaty Settlement Redress or Arrangements

147. DCC notes ss 9 and 10 of the Bill state that Treaty settlement arrangements will operate to the same or equivalent effect "...to the greatest extent possible…". DCC supports the intent to uphold these agreements, preserving the rakatirataka of mana whenua. However, the wording could create uncertainty and potentially allow settlement redress to be diluted if it is inconsistent or incompatible with the new system. It is unclear how "equivalent effect" will be measured.

148. **DCC recommends** that national instruments provide further direction and guidance on what 'the greatest extent possible' means in practice. It is critical that the context these agreements were entered into is not lost.

6 REGIONAL SPATIAL PLAN PROVISIONS

149. The role of the regional spatial plans will be critical in the new system. DCC supports the purpose and contents of regional spatial plans, including s67(d), which states regional spatial plans must support a co-ordinated approach to infrastructure funding and investment by central government, local authorities, and other infrastructure providers; and s67(e), which promotes integration of development planning with infrastructure planning and investment.

150. In particular, DCC is supportive of the integration of regional spatial plans with the transport planning and funding provisions under the Land Transport Management Act (LTMA) through the requirement for consistency between regional spatial plans and regional land transport plans, and the requirement that the Minister of Transport takes into account regional spatial plans when developing the government policy statement on land transport (sections 67(d), 68(1)(c) & (d), Schedule 11 changes to s14 and 67 of the LTMA).

151. DCC also supports the ability of spatial plan committees to make minor amendments to the regional spatial plan, as provided for in Schedule 2, cl.35. This will enable the efficient correction of minor errors.

6.1 Incorporation of information from RMA plans

152. Schedule 2, cl.6 allows the incorporation of information from the new operative land use and natural environment plans into subsequent regional spatial plans, without the need to consider submissions on this information (unless the environment has changed). The DCC supports this approach, as it provides for efficient use of information previously approved in these documents, without unnecessary reconsideration or formality. DCC considers that this provision (with the same caveats) could be extended for the first regional spatial plans to allow councils to incorporate operative parts of a plan made under the RMA, when such material is broadly consistent with new national direction. This incorporation should be a reasonably straight-forward exercise, without the need to provide onerous evidence or re-analysis beyond that undertaken at the time provisions were originally incorporated into the RMA plan.

153. Such an amendment would help ease the transition from current RMA plans to the new regional spatial plans, reducing costs and timeframes, avoiding duplication and ensuring continuity. Efficient regional spatial plan preparation will be particularly important given the tight timeframes in which they must be prepared (see above).

154. Specific examples where this would be helpful is the mapping of areas of outstanding natural landscapes (ONLs) and sites of significance to Māori, which have gone through a public process under the RMA, and will continue to be managed under the Act. Having to produce new comprehensive assessments of these would not be possible in the timeframe allowed for the first regional spatial plans. Provided the methodology used to identify them is broadly consistent with any new national direction, then a direct transfer this mapping into the regional spatial plan, without the ability for submissions (where the site/details have not changed), would improve the efficiency of regional spatial plan development and approval. For the sake of clarity, this process should allow councils to choose to review any of the provisions/mapping and, if changed, allow for submissions on those changes.

Recommendation

155. DCC recommends that Schedule 2, cl. 6 is extended to also apply to operative material in RMA plans, provided this is generally consistent with any national direction produced under the Planning or Natural Environment Acts.

6.2 Affordability testing / financial feasibility

156. As outlined in Schedule 2, cl.3(1)(d) and (e), regional spatial plans will be required to include existing and future key infrastructure, and other infrastructure that may be needed to serve future urban areas. While the broad intent of this is supported, DCC is concerned that the Bill does not explicitly require any affordability testing or financial feasibility assessments as part of the spatial planning process. While scenarios must be considered for the purpose of testing options, without explicit consideration of financial feasibility, there is potential that regional spatial plans could commit councils to infrastructure obligations that are unaffordable, creating legal, political, and practical pressure on council finances in the future.

157. This is a critical concern in the current fiscal and infrastructure context, where councils are managing significant renewal burdens and resilience challenges and must prioritise investment within constrained funding envelopes. Spatial plans that identify infrastructure without explicit attention to affordability and funding pathways risk becoming aspirational documents that raise expectations but cannot be delivered. That undermines trust and creates pressure for growth in locations that may be inefficient or impractical to service.

Recommendation

158. DCC recommends that the Planning Bill explicitly provides for affordability testing of any infrastructure identified in regional spatial plans. Alternatively, explicitly allow councils to decline or defer infrastructure commitments where funding is uncertain or unavailable. This will better align spatial planning with deliverability, improve credibility, protect financial sustainability, and reduce the risk of implied, unfunded mandates.

6.3 Relationship with water services strategies

159. Section 68 outlines how regional spatial plans integrate with other statutory documents. Long-term plans must set out steps to implement or progress the actions for which the local authority is a lead. However, under the Government's Local Water Done Well reform programme, the enduring regulatory framework for the management and delivery of water services infrastructure is now contained in the Local Government (Water Services) Act 2025. Amongst other requirements, this legislation will require that water service providers complete a water service strategy every three years, which will replace the water-related aspects of the LTP prepared under the Local Government Act.

160. While Schedule 2 cl.5(2)(a)(viii) of the Planning Bill states that the spatial plan committee must have regard to water service strategies prepared under the Local Government (Water Services) Act 2025, there is no equivalent reference to this document in s68.

Recommendation

161. DCC recommends that explicit reference to water service strategies prepared under the Local Government (Water Services) Act 2025 is included under s68 of the Planning Bill.

6.4 Mandatory matters

162. DCC supports the mandatory matters listed in Schedule 2 cl.3, subject to a clarification.

163. Item (g) includes 'infrastructure supporting activities'. DCC interprets this as activities that support infrastructure, such as roads that might provide access to power lines (rather than infrastructure that supports activities). However, it would be useful to clarify this.

Recommendation

164. DCC recommends that a definition for 'infrastructure supporting activities' is added to the Planning Bill (even if that definition refers to a definition that will be provided in relevant national direction).

6.5 Authority to notify the Spatial plan and decide on IHP recommendations

165. Under s73(e) and (f), the spatial plan committee has the powers to recommend public notification of the draft regional spatial plan to local authorities and also to provide advice to the local authorities in the region on the independent hearings panel's recommendations on the draft regional spatial plan after submissions and hearings. Under Schedule 2 cl.12 the local authority approves public notification, and under cl.21 it decides whether to accept the recommendations from the independent hearings panel.

166. DCC is concerned that this approach is inefficient, given the representation of all local authorities on the Spatial Planning Committee, and a clear directive for consensus decision-making. It is not inconceivable that, despite the spatial planning committee agreeing on the regional spatial plan content, one or more individual local authorities decide not to notify it. Likewise, different local authorities may choose to make different decisions on the IHP's recommendations on regional spatial plan submissions. While a dispute resolution process is

provided for in Schedule 2, this process may take a significant amount of time to complete. If a decision cannot be reached through that process, the matter must be referred to the Minister, which is also likely to introduce further delays. Given the Government's desire for rapid implementation of RM reform, such delays would mean the roll-out of the new system could take significantly longer. This could have significant knock-on implications for councils' work programmes.

167. DCC considers that it would be preferable, and more efficient overall, that any disagreement at a local authority level on the content of the regional spatial plan is addressed through submissions and, if necessary (and provided for), appeals.

Recommendation

168. DCC recommends that the decision to notify the regional spatial plan, and that IHP recommendations on the regional spatial plan, rest with the spatial planning committee.

169. Further, the Act should explicitly provide for local authorities to make submissions, and pursue appeals, on the regional spatial plan content. This will be particularly important in cases where costs of regional spatial plan implementation may be borne primarily by one Council who is out voted on a decision relating to that infrastructure.

7 ENABLING THE EFFECTIVE PROVISION OF MUNICIPAL INFRASTRUCTURE

7.1 Infrastructure delivery

170. The DCC supports the broad intention of the Bill in relation to enabling delivery of high-quality infrastructure for the future. One of the Bills' goals (section 11) requires that all persons exercising functions under the Bill "plan and provide for infrastructure to meet current and expected demand". This sits alongside supporting economic growth and well-functioning urban (and rural) environments. The DCC supports a system that may reduce unnecessary barriers and regulatory uncertainty as this can have negative impacts on infrastructure investment and delivery, as long as that improved efficiency of process does not prevent the appropriate management (and protection) of important natural environmental values.

171. In Dunedin, the proposed Smooth Hill landfill provides a local example of how difficult and time-consuming the nature of consenting essential infrastructure has been. Initial studies for a new landfill location were undertaken in the late 1980s and early 1990, and the Smooth Hill site was identified. This site was subsequently designated in the 2006 Operative Dunedin District Plan, and this designation was carried over into the Proposed Dunedin City Council Second Generation Plan (2GP). The resource consent application was first lodged in 2020, and further information supplied in 2021. The application was publicly notified in late 2021, with a public hearing being undertaken in mid-2022. Approval for the application was received later in 2022; however, two appeals were received by the Environment Court relating to this decision. By mid-2023, the final appeal had been resolved and the DCC is now able to proceed with progressing the project. However, the costs and timeframes have been significant. Measures that would enable this process to be more efficient, cost-effective, and provide more certainty to applicants, while still ensuring appropriate management of adverse environment effects is undertaken and public input considered, are supported.

172. The DCC also supports the Bill's provisions on regional spatial planning (and specifically the relevant matters listed Schedule 2, cl.3(1)) to require better consideration of existing and future key infrastructure, in order to better coordinate forward infrastructure planning with future urban development areas. In addition, the integration of regional spatial plans with other legislation as detailed in s68 of the Bill is also supported.

173. The Bill's provisions on designations are supported, with the designation process set out in the Bill intended to enable effective infrastructure provision and reduce the cost and complexity of the process. The ability to secure designations through the spatial planning process is particularly supported, as this allows spatial planning to better consider and integrate infrastructure, both existing and planned.

7.2 Growth and the affordability of infrastructure

174. Dunedin faces significant infrastructure challenges, particularly in its 3 waters network. Many of these constraints stem from the age of the city's infrastructure – some areas have pipes over a century old, with much of the network exceeding 50 years in age. There is a consequent lack of capacity, particularly in wet weather, and there is considerable work planned over the next 10 years (and beyond) to maintain or restore minimum levels of service and performance, as well as to provide for the development capacity that is enabled within our existing residentially zoned areas.

175. Due to these constraints, providing for 3 waters infrastructure to service growth, and in particular to new greenfield growth areas, is often more complex and challenging that simply extending existing pipes. Catchment wide programmes of works are often required.

176. DCC is concerned that the new planning system does not provide for an ability to say 'no' to growth where infrastructure constraints may make that growth unaffordable (in the short term due to capital upgrades and/or longer term in terms of increased operational costs) where sufficient alternative growth options are available that provide a more affordable outcome for communities. This will likely lead to urban expansion in locations where infrastructure is unable to be efficiently or cost-effectively provided, or where provision will delay other planned works from being achieved due to limited resources (money, plant, personnel). Such an approach risks undermining efficient public investment. Further, if this policy drives up the cost of infrastructure provision by limiting council's ability to strategically plan for growth in a way that considers infrastructure affordability, then housing costs will ultimately increase.

177. While privately delivered infrastructure is an option for some growth areas, DCC's experience is that privately delivered infrastructure is typically designed to meet the needs of a specific development and often lacks integration with broader network planning. In many instances urban expansion, unlike intensification and infill, results in fragmented and inefficient infrastructure systems (for example, subdivision-level schemes for stormwater management, local wastewater detention and/or pumping, pumping water supply to higher ground), which are less efficient than broader catchment-wide solutions, or have higher long term operational and maintenance costs that cannot be funded through development contributions.

178. For example, in the case of 3 waters, responsive planning is likely to result in pressure to establish small-scale, stand-alone water and wastewater treatment, reticulation and disposal systems that are disconnected from larger metropolitan systems. Or alternatively, require long network extensions for 3 waters servicing of rural areas that have been rezoned, distant from the urban boundary. Both of these approaches are less cost-effective or "infrastructure efficient" when compared to intensification of existing urban areas, rezoning within urban limits or at urban-rural boundaries. For example, growth in outlying townships and settlements of Dunedin may need major upgrades to network infrastructure that is likely to be difficult to finance due to relatively low rates of growth and development due to the limited market for people wanting to live that far from the main urban centre. This means that development contributions or similar funding is not an efficient means of paying for a large upfront capital investment where growth is slow and higher operational costs have no proportionate increase in rates in the area. The net effect of this change from a 3 waters perspective would be high levels of infrastructure capital costs relative to the number of services properties, and disjointed and fragmented infrastructure with higher costs to operate and maintain for the future.

179. Given Dunedin's already substantial programme of required 3 waters upgrades, and the city's relatively modest growth – all of which can be accommodated within existing zoned areas – it is essential that development should be able to be directed towards locations that represent the most cost-effective long term infrastructure outcomes (considering both capital costs for new infrastructure and long term operating and maintenance costs). While 3 waters represents the largest infrastructure cost, other infrastructure provided by councils such as roads, parks, recreation, public transport etc also all represent significant costs.

180. Providing for unanticipated or out-of-sequence development proposals can significantly affect the funding and delivery of public infrastructure. If Councils no longer have discretion to decline such proposals based on infrastructure or only approve them if they are fully funded (capital and operation) from the landowners without subsidising from other parts of the city, there is a heightened risk of inefficient and costly infrastructure solutions that may have an impact on rates for decades.

181. From a transportation perspective, growth in outlying townships and settlements and even in many parts of the urban-rural fringe is usually not affordable to service by public transport under current Government funding and cost sharing policies meaning those growth areas become car dependent and lead to increased traffic volumes that require roading upgrades to maintain safety and efficiency in the network.

182. The need to ensure infrastructure is cost effective to operate and has effective means of financing capital costs is particularly relevant in light of central government's proposal to implement a rates cap for councils. While this is currently proposed to exclude water charges, provision of other infrastructure still represents a considerable expense for councils. In Dunedin, the forward capital programme for infrastructure provision/upgrades over the next 10 years is substantial, and rates costs are projected to increase. These costs would be increased further still if Council was now required to service growth that requires expensive infrastructure upgrades and extensions and higher costs to operate. Now, with the potential for a rates cap, the reality is that DCC will simply be unable to afford the necessary infrastructure upgrades.

183. DCC considers that, if growth and urban expansion is to be promoted, there must be an ability to decline inappropriate and inefficient growth areas, and that there are suitable funding and financing mechanisms available, as discussed in the next section.

184. However, it is noted that even if appropriate funding mechanisms are in place, physical infrastructure upgrade works on the ground can still be constrained by what is delivered by the market. This matter is amplified when the infrastructure upgrades might be undertaken in a piecemeal and isolated manner.

Recommendation

185. DCC recommends that Section 11 of the Planning Bill include a goal "to support the cost effective delivery of infrastructure and public services by government and communities" (preferred) or, if that is not supported, that this concept is included in a definition of a well-functioning urban environment, which should be defined (as it is used in Section 11) in national direction.

186. Additionally, DCC recommends that the new planning system explicitly enable territorial authorities to require developer-provided infrastructure to be designed and constructed to accommodate the maximum density permitted by the base zoning, rather than the density proposed by the developer at the time of development. This is necessary to ensure that infrastructure capacity aligns with the full development potential anticipated by the planning framework. Where infrastructure is designed only for the initially proposed density, subsequent intensification may exceed available capacity, resulting in additional costs (to councils and ratepayers), disruption, and inefficiencies.

7.3 Funding and financing mechanisms

187. The DCC supports managed growth where this occurs in infrastructure-appropriate locations (refer to the discussion in section 7.2 above) and endorses the principle that growth should pay for growth. However, this support is conditional on the availability of effective and flexible financing options to fund the infrastructure required to support growth proposals.

188. Many infrastructure projects deliver both private and public benefits, which creates funding challenges. Councils have limited mechanisms to fund the public share of infrastructure costs. For example, infrastructure must be included in the Long Term Plan (LTP)—updated every three years—to be eligible for Development Contributions. If not included in the LTP, projects must be added through the annual plan process—an administratively complex approach, particularly for smaller projects. The system must provide Councils the ability to fund upgrades in a timely manner.

189. A recent example in Dunedin illustrates the funding challenges associated with infrastructure delivery in submitter-proposed growth areas (i.e. responsive planning). Four landowners sought a relatively large expansion to the urban boundary that was likely to require infrastructure upgrades. A transition zone was applied, subject to several technical studies to be completed (particularly related to stormwater management and discharge to a flood prone waterway). The integrated transport assessment showed the need for an intersection upgrade outside the site, which would have both public and private benefits. Funding for that project was included in the LTP. However, at the point of requesting the transition zone

uplift, the landowner identified that the internal roading also had public benefits and requested a Council funding contribution. Because this public component of internal roading was identified too late for inclusion in the LTP, determining a funding mechanism for the public share presented a challenge.

190. As the proposed reforms are resulting in a far more permissive planning system, it is crucial that Councils are equipped with appropriate funding tools to deliver infrastructure. The costs (and fair distribution of costs) of servicing growth will vary by location, and there must be an ability to recover higher costs from growth areas which have higher infrastructure costs. While targeted rates are one option, in our experience they are often administratively complex and burdensome. Any new funding mechanisms introduced should be simple to implement, adaptable to different situations, and capable of providing timely and reliable funding.

191. DCC also consider it essential that Councils have an ability to discount (or cap) development charges in certain areas. In our experience, smaller rural townships located outside the main urban area often incur significantly higher infrastructure servicing costs compared to growth areas within or near the city. If full infrastructure costs were passed on, charges in these townships would likely be prohibitively high—effectively preventing development. To ensure growth remains viable in these smaller communities, Councils must retain the discretion to limit the infrastructure costs charged in such circumstances.

7.4 Stormwater infrastructure and increased run-off

192. Section 14(1) outlines the effects outside the scope of the Act. Of note, s14(1)(a) includes that the internal and external layout of buildings on a site (for example, the provision of private open space) is excluded. Currently the Dunedin district plan requires a minimum amount of outdoor living space be provided in residential zones, which works in conjunction with rules related to maximum building site coverage, and maximum areas of impermeable surfaces to manage effects on the stormwater network. This is effectively a win-win framework as it ensures that parts of the required areas of impermeable surfaces (which are necessary to avoid pluvial flooding – a widespread issue in Dunedin) are able to be used for outdoor living and/or contribute to street amenity. This win-win outcome presents minimum additional costs on housing development then just having areas with gravel soak pits for stormwater that have no co-benefit for amenity or outdoor living.

Recommendation

193. DCC recommends that if local authorities no longer have the ability to require a minimum amount of outdoor living space as is proposed in the Bill currently, then it will be critical that impermeable surfaces standards are designed to deliver the same outcomes for stormwater management (the definition of impermeable surface does not allow for compacted gravel or other surfaces with poor permeability). However, a better outcome would be to keep the win-win of the required areas of permeable surfaces also contributing to housing amenity and liveability outcomes.

8 REGULATORY RELIEF PROVISIONS

194. The proposed regulatory relief provisions are a matter of particular concern for the DCC. Requiring councils to provide regulatory relief where a 'specified rule' in a plan has a 'significant impact on the reasonable use of land' represents a substantial and impractical departure from the current planning system.

195. To be clear, regulatory relief means compensation in one form or another. Under the Public Works Act 1981, councils are already required to compensate landowners if they need to purchase land for a public work. However, here, regulatory relief would apply even though no land is being acquired or taken. This would be a new and unfunded financial obligation on councils.

196. DCC strongly opposes these provisions for the following key reasons:

a. **Financial impact on councils** – It is unclear how councils will be expected to fund regulatory relief as there is no obvious funding mechanism. If the funding is to be through rates, then there would be less funding available for other council services, especially if there are rates caps.

   Councils are already operating under constrained budgets, and providing relief to a potentially large number of landowners would impose additional costs. This concern is further amplified if the proposed rates cap is enacted, placing additional pressure on council finances.

   There is no doubt that regulatory relief would have a significant financial impact on local authorities. In addition to the costs of relief/compensation itself, there would be substantial staff costs to implement the regime, costs for valuations and other costs.

   The uncertainty and unquantifiable nature of regulatory relief is highly problematic for councils' financial planning. DCC is already facing significant financial challenges that will need to be addressed as part of the next long-term plan (2027-2037).

b. **Conflict with councils' statutory obligations** – There is a conflict between councils' regulatory responsibilities and compensatory obligations. While councils will be required to regulate and manage matters such as outstanding natural features and landscapes, the obligation for regulatory relief is a potential disincentive for environmental and other protections. Councils will obviously need to meet their statutory obligations, but regulatory relief has the potential to disincentivise councils from doing more than the bare minimum in terms of protecting the environment.

c. **Unfairness to councils through requirements in national standards** – Through the development of national instruments, central government may require councils to manage and protect certain matters. However, if these requirements constitute a 'significant impact on the reasonable use of land,' councils would still be obligated to provide regulatory relief, despite having no discretion over these centrally mandated measures.

d. **Unfairness to councils through regulations** – Although councils are tasked with developing a regulatory relief framework, that framework must comply with regulations that councils have little to no control over. The regulations can include methodologies for defining levels of impact within a relief framework, classifying types of impact, setting the types of relief for different types and levels of impact, and identifying impacted landowners.

e. **Scale of regulatory relief** – The potential number of landowners eligible for regulatory relief is substantial. In Dunedin alone, there are:

    - 915 scheduled heritage buildings
    - 1,335 ha of Areas of Significant Biodiversity Value (ASBV) on private land
    - 144 ha of Urban Biodiversity Mapped Areas (UBMA) on private land
    - 56,289 ha of Outstanding Natural Landscape (ONL) on private land
    - 17 ha of Outstanding Natural Coastal Character (ONCC) on private land
    - 424 ha of High Natural Coastal Character on private land
    - 32,517 ha of wāhi tupuna (sites of significance to Māori) on private land

    This demonstrates the potentially enormous scale and corresponding cost associated with implementing regulatory relief.

f. **Retrospective nature** – The Planning Bill applies to specified rules in a proposed plan or plan change, <u>and</u> retrospectively where the requirements in clause 68(7) of Schedule 3 in the Planning Bill apply. DCC opposes the retrospective nature of the regulatory relief framework as it is administratively burdensome and the rules in the RMA operative plan have been through a robust process that involved public notification, hearings, and rights of appeal to ensure that the rules were appropriate. Repeating work seems counter-productive. It would be time-consuming and costly.

g. **Administrative burden** – The work required to assess <u>every individual property</u> affected by a specified rule is enormous. Apart from the cost of providing regulatory relief itself, there will be substantial staff costs associated with developing a regulatory relief framework, checking the history of ownership of each individual property that is potentially affected, assessing the impact on the "reasonable use of land", considering applications for review, and managing objections to the Planning Tribunal. There will also be other costs, such as title searches and consultants' costs (such as valuers and potentially planning or economic experts). This volume of work and the associated costs should not be underestimated. Resourcing is likely to be a major issue.

h. **Potential effect on other council services** – As mentioned above, funding regulatory relief through rates would mean less funding availability for other council services, especially if there are rates caps. Funds for regulatory relief would need to be diverted from other council services, such as libraries, parks, pools, waste collection, roading etc.

i. **One sided nature of the regime** – Although regulatory relief would allow landowners to be compensated if specified rules have a significant impact on the reasonable use of their land, there is no corresponding payment by landowners to councils when a landowner gets the benefit of a planning rule (e.g. if rural land is zoned residential).

j. **Potential for increased disputes and litigation** – Given the contentious nature of regulatory relief, it is highly likely that disputes will arise, leading to litigation. This would create additional costs and uncertainty for both councils and landowners.

   Disputes and litigation have the potential to arise in relation to many aspects of the process. For example:

   - There may be judicial review of the regulatory framework itself. It is difficult to know how a court would approach this given that the regulatory framework would inevitably involve decisions by councils regarding the competing allocation of public funds. This is an area where there has traditionally been judicial restraint, which is appropriate if councils are having to choose between funding for regulatory relief and funding for other public services (such as libraries, parks, pools, waste collection, roading etc).
   - There will inevitably be disputes around what is "reasonable use", what is a "significant impact" and what is "reasonably likely". Although the regulatory relief framework will need to identify what is "a significant impact on the reasonable use of land", the councils' decision on this will be subject to judicial review and will probably not be consistent across New Zealand.

   Given the Planning Tribunal will have the ability to alter the regulatory relief awarded to landowners, there is again financial uncertainty for councils.

k. **Voluntary incentives** - Regulatory relief has the potential to disincentivise landowners from applying to voluntary incentives (where Council has some ability to ensure that funds are used for the intended purpose) as this will adversely affect their access to regulatory relief. DCC (directly or indirectly) has several voluntary incentives, and the benefit of these is that the funds must be used for a specified purpose. It is unclear whether a regulatory relief framework could include such requirements for the funds to be used for a specified purpose. For example, the Dunedin Heritage Fund makes grants in relation to specified works intended to strengthen or enhance heritage buildings.

l. **Heritage buildings** – As mentioned earlier in this submission, regulatory relief has the potential to adversely affect New Zealand's heritage buildings. This is a matter of particular concern for DCC as Dunedin is renowned for its historic buildings, and this attracts visitors to the city. The financial burden associated with regulatory relief (i.e. compensation) has the potential to discourage the identification of significant historic heritage, which may lead to some properties not being recognised in the way that they should.

m. **Status quo** – Even without all the above downsides to regulatory relief, it is questionable whether regulatory relief can be justified given the uncertainties and financial risk for local authorities. There are already some mechanisms in place to prevent unreasonable planning rules (e.g. through application to the courts). Also:

- Clause 105 of the Planning Bill partially overlaps with Part 4 of Schedule 3.
- Landowners are already compensated, at least to some extent, as rates are predominantly based on land values. If a planning rule impacts the value of a property, then this will often be reflected in the property's rateable value, which means that those landowners pay less rates than they otherwise would.

Recommendation

197. Given the above, DCC recommends that:

a. Section 92 and Part 4 of Schedule 3 of the Planning Bill should be removed in their entirety. They are highly problematic.

b. If the regulatory relief provisions are to remain (which is not supported), then they should be funded by central government, or there should be clear funding mechanisms available to councils (other than rates), for example the ability to collect funding where land is rezoned to enable higher levels of development.

c. If the regulatory relief provisions are to remain and be funded by councils (also not supported), then:

- Regulatory relief should only apply to new specified rules in a proposed plan or plan change. The relief regime should **not** be retrospective, as it will involve relitigating existing plan provisions. It is arguably unworkable. At best, it will stretch resources and divert funding from other council services.
- The onus should be on landowners to apply for relief. A portion of the population may support the rules or at least not be concerned about the rules applying to their land.
- It should be clear that compensation will only be payable once in respect of a property. For example, if a landowner is compensated and then that landowner sells their land, the new landowner should not be entitled to compensation. It would be helpful for councils to have the ability to have a memorial on a record of title recording that compensation has been agreed/paid so a subsequent purchaser is aware of this prior to purchase.
- There should be greater clarity and guidance around what will constitute a "significant impact on the reasonable use of land". For example, does "reasonable use" in clause 105 mean the same thing in Part 4 of Schedule 3? Why is "materiality" rather than "significance" used in clause 66(2) in Part 4 of Schedule 3. Are they intended to mean the same thing? What is an "impact"?
- There should be consideration of aligning the language in clause 105 with the language in Part 4 of Schedule 3. Otherwise, there will be disputes regarding the difference and whether they mean different things. For example, why does clause 105 refer to "severely impair" whereas Part 4 of

Schedule 3 refers to "significant impact". Are they intended to be the same level of impact?

- Clause 68 in Part 4 of Schedule 3 should be amended so that:
- Clause 68(1)(a) refers to "…land that is *significantly* impacted…."
- Clause 68(7)(c) refers to "…land is *significantly* impacted…."

- To avoid duplication and "double dipping", there needs to be alignment between clause 105 of the Planning Bill and Part 4 of Schedule 3. For example, while clause 105 accounts for any relief granted under Part 4 of Schedule 3, there should be an equivalent requirement so that Part 4 of Schedule 3 accounts for any relief granted under clause 105.

9 NATIONAL PLANNING DIRECTION

198. The DCC is, in principle, supportive of a resource management system that is more accessible to developers and communities and recognises that standardisation can help contribute to that outcome.

199. DCC also support standardisation where it can reduce unnecessary variation (e.g. to manage effects that are the same in all contexts) both for plan usability and to reduce the cost of plan making. An example is the cost to Councils that have occurred to develop standards for things like renewable energy generation and network utilities, Port activities, construction vibration, Māori land, roading and railway activities, and storage and use of hazardous substances that have been contentious and costly around the country.

200. However, for some issues there are advantages of flexibility in planning to enable bespoke provisions that can most effectively manage site level issues and effects with the least administrative and regulatory costs. Moving to a coarser set of options inevitably will lead to situations where the choice gets limited to either a too lenient regulatory approach which may unacceptable or the next option being something that is more strict/regulated then necessary. Care is needed so as not to reduce options so much that plans end up over-regulating as there is no 'in-between' option.

201. A common example is determining and appropriate zone for sites with historic lawful activities that are out of place with the surrounding zone. For example, in Dunedin there was a plan appeal for a site containing an historic brick works that was being used for a range of light industrial activities but was in the middle of a residential environment near a school. It was inappropriate to do a 'spot' industrial zone as the effects of a broader range of industrial activities would have been unacceptable in the residential environment but some light industrial with limited heavy vehicle movements could continue. The land owner appealed the residential zoning to enable them to have flexibility for future tenants and a bespoke structure plan with specific rules was agreed through the Environment Court process.

202. Another example was a former air force base outside Mosgiel that contained a mixture of residential and light industrial activities (due to variance in buildings and sites) that were managed through a bespoke zone and structure plan provisions.

203. There is also a risk with standardisation – that if you do it once you need to do it right, otherwise instead of problem that only effects one district that can be resolved through a change involving a single community – a problem that sits at the national level will affect the whole planning system and potentially require a more expensive and lengthy process to resolve, and one that is far less likely to be agile and responsive in a timely way to the issue it has created.

Recommendation

204. DCC recommends that if a nationally standardised system is to succeed, the development of the national framework, including national planning standards, must have a comprehensive internal quality assurance process with appropriate input from experienced practitioners and critical reviewers and must be subject to an effective submissions and hearing processes.

9.1 Need for options for standardised plan provisions

205. DCC is highly supportive of opportunities for territorial authorities to choose from options and/or set content from within parameters set out in national direction. Having some choice or variation in standardised plan provisions will better allow these provisions to be applied and potentially tailored to a local context. For example, plan provisions that are suitable for high growth areas (e.g. Auckland) may be far less suitable for lower growth councils such as Dunedin and even less so for small towns.

206. The DCC is concerned that the focus of much of the standardised plan provisions would be designed to address problems in fast growing parts of the North Island and will mean that less time and attention will be given to addressing issues that are important for towns and cities in the South Island. For example, even a detailed matter such as appropriate building height planes should account for the different sun angles, shorter winter days, and colder temperatures in the lower South Island compared with other parts of the country.

207. Another key example is impermeable surfaces provisions – there need to be a range of settings for impermeable surfaces limits and other provisions to manage stormwater discharge from sites. These options need to include the ability to require no change from the status quo (for example through on-site detention) in areas that are currently or likely to become increasingly prone to pluvial flooding or that may exacerbate flooding issues down stream. This is critically important for places like Dunedin whose topography and infrastructure age makes stormwater management particularly challenging.

Recommendation

208. Overall, DCC recommends that national instruments should provide appropriate options and variation to territorial authorities that account for the local contexts in which the standardised provisions will need to be applied. DCC also request meaningful opportunities to submit on national directions to ensure flexibility is provided appropriately.

9.2 Bespoke provisions

209. DCC is supportive of the ability for councils to be able to make bespoke provisions in land use plans (s79) and is also generally supportive of the need to support introducing such provisions through a justification report, explaining why a departure from the national approach is necessary.

210. As explained in the above section, DCC considers that bespoke provisions will be important to allow land use plans to respond to local issues and contexts. This matter is important not just for councils, but also for developers. To illustrate this, Dunedin's district plan contains a number of structure plans, which have been developed through recent plan changes and appeals, which contain site-specific rules and controls for individual growth areas. In many cases, agreement of these bespoke rules was critical for enabling a particular growth area to be included in the Plan, and without individual structure plans it is likely that a majority of these areas would be considered as unsuitable for development due to the presence of site specific environmental constraints.

211. While the Bill appears to allow structure plan type rules to be incorporated into new plans via bespoke provisions, DCC also considers that it would be beneficial and cost effective if there was a mechanism to transfer certain existing bespoke provisions (e.g. structure plans) over from RMA plans through to the new land use plans made under the Planning Bill. These structure plans are often complex, and have been agreed between multiple parties through a time consuming and expensive process, in some cases with a final determination by the Environment Court. Having to re-justify (and potentially re-litigate) such provisions would be extremely costly, for both councils, developers, and relevant other parties (e.g. s274 RMA parties in the case of appeals).

Recommendation

212. DCC recommends that consideration should be given to providing a mechanism to transfer over certain provisions (e.g. structure plans for discrete growth areas) into the new land use plans without having to go through a (re-)justification process in cases where this might be appropriate to do so.

10 DESIGNATIONS

213. DCC supports the ability to secure designations through the spatial planning process outlined in Schedule 5 Part 4. However, DCC would like more clarity around the provisions related to construction project plans in Part 5. At the time of regional spatial plan development, key infrastructure may be identified that is needed to support future growth; however, this infrastructure may not be intended to be delivered in the short term, and will generally require business case development, securing investment and detailed design before a construction project plan could be developed.

Recommendation

214. Rather than having construction project plans as a requirement for all proposed designations (albeit with an ability to waiver), DCC recommends that the provisions could be amended to require that only projects planned to be delivered in the short term would be required to

produce a construction project plan at the time of designation. Other designations (not delivered in the short term) could have a period of time to produce a construction project plan and, if not completed within an applicable timeframe, the designation could lapse.

215. DCC also recommends that, for the avoidance of doubt, the definition of infrastructure in Schedule 5 cl.1(h) should be amended to "structures for transport on land by cycleways, rail, roads, walkways, or any other means, <u>and also structures over water including bridges, boardwalks, and ferries (where these exist as a substitute for bridges)".</u>

216. Amending the definition in this way would allow designations for a wider range of relevant transportation infrastructure (e.g. the Tuapeka Mouth Ferry). As part of adaptation to climate change it may become increasingly difficult to provide roads to some coastal communities, and alternative options including the use of ferries may be necessary to provide a transport connection.

11 TRANSITIONAL PROVISIONS

11.1 Amendments to s104 of the RMA – language used

217. Schedule 11 of the Planning Bill outlines proposed amendments to other legislation, including amendments to s104 of the RMA, which provide for the proposed transitional arrangements. These amendments list a number of effects that a consent authority must not have regard to when considering a resource consent application during the transitional period. The intent of these amendments is to provide consistency with s14 of the Planning Bill, which identifies effects that are outside the scope of the Planning Bill.

218. However, the amendments to s104 of the RMA introduce language and terminology that is not currently used in many operative RMA plans. This will lead to uncertainty as to how these terms should be interpreted and applied in practice, and so introduces litigation risks and costs for councils. Three examples of this are discussed below.

219. Firstly, the term 'significant historic heritage' (s104(1A)(g)(iii)) is not used in section 6(f) of the RMA or in current plans (including the 2GP). As a result, there could be delays, costs and potentially litigation in determining which of the protected heritage items in district plans are 'significant' historic heritage, during the transition period.

Recommendation

220. DCC recommends that it is made clear that all protected heritage buildings and areas in RMA planning documents are considered 'significant historic heritage' during the transitional period, until a new methodology is released that provides a clear pathway for how 'significant' historic heritage is identified and assessed and this is implemented through the first land use plans (unless there is time to implement this reassessment built into the regional spatial plan stage).

221. Secondly, 'Areas of high natural character within the coastal environment…' (s104(1A)(g)(i)). In the 2GP, there are three categories of coastal character overlays:

a. Natural Coastal Character;

b. High Natural Coastal Character; and

c. Outstanding Natural Coastal Character.

222. These have all been identified because they are special areas, important to the community, and are worthy of protection. While Outstanding Natural Coastal character areas and High Natural Coastal Character (HNCC) areas could be expected to fit meet the classification of 'Areas of high natural character', without a methodology or direction as to what constitutes a 'high natural character', it is uncertain as to whether the 2GP's Natural Coastal Character areas would meet the threshold, and therefore how they should be treated in consent processes.

223. Similarly, DCC recommends that until guidance is issued to clarify how these new terms are to be used and interpreted in the context of existing RMA plans and these changes are implemented through the first land use plans (unless there is time to implement this reassessment built into the regional spatial plan stage), any existing mapped area of coastal character should be captured by s104(1A)(g)(i).

224. Thirdly, 'sites of significance to Māori' (s104(1A)(g)(iv)). Sites of significance to Māori in the 2GP are called 'wāhi tupuna' and have been identified by mana whenua. However, without clear understanding or guidance on how sites of significance are to be identified, or what they may comprise (see comments in Section 130 of this submission), it may be open to challenge whether these areas (which are more than just 'wāhi tapu, water bodies or sites in or on the coastal marine area') meet this classification. DCC recommends that the legislation is clarified to ensure any sites or areas of significance to mana whenua identified in existing RMA planning documents are included under this clause, regardless of the titles used.

225. DCC further recommends that the drafting of s104(1A) of the RMA should include wording such as 'or equivalent provisions / terms', to ensure that relevant plan provisions and overlays that use different terminology, but have the same intent and effect, can be appropriately recognised.

11.2 Processing of consents during the transitional period

226. The Planning Bill proposes a transitional period for the processing of resource consents until the RMA is fully replaced. That includes making amendments to section 104 of the RMA, requiring certain effects to be disregarded (which almost exactly follow the effects outside scope listed in proposed s14) when deciding a consent application lodged during the transition period.

227. Firstly, one month between Royal assent and commencement of this transitional period is extremely short, particularly when processes, templates and documents need to be reviewed and updated to accommodate the changes.

228. More importantly, this change seemingly only applies to the substantive decision. There does not appear to be any accompanying amendments changing the adverse effects that can be considered when making the notification decision.

Recommendation

229. DCC recommends that any relevant changes to the substantive decision are replicated for the notification decision.

230. DCC also notes its recommendations above related to how to interpret the new concepts introduced vis a vis existing plan content.

12 CONSENTING PROCESS

231. This section of the submission examines the proposed consenting process in greater detail. While it addresses a range of consenting-related matters (some of which are also discussed elsewhere in the submission), the primary focus is on consent processing and how this is expected to operate in practice, given that this will be a core function of DCC under the new resource management system.

12.1 Consenting – context and overarching comments

232. The resource consent system under the RMA is often described as being overly complex, costly and slow. The DCC's view is such criticism is unfair and often focusses on a small number of anecdotal examples. In Dunedin, the majority of resource consents get processed smoothly, very few proceed to a hearing, and it is extremely rare for applications to be declined.

233. The new consenting regime will be a significant departure from the current one under the RMA, which will potentially be disruptive for both applicants and Council staff during the transition. Past the transition period, it is important that the consenting system is designed correctly from the beginning, to minimise the need for large changes subsequently. Continued monitoring of the new system needs to be undertaken, with a view to implementing regular incremental improvements over time. Use of regulations to prescribe certain consenting processes is supported, as they are much easier to update, but proper consultation with those expected to implement and follow those regulations needs to occur.

234. Best practice in consent processing is dependent on many things beyond the legislation itself. To make the new consenting system work as expected, the **DCC recommends** that:

- National rules (being the equivalent of national environmental standards) are drafted so that they are clear, simple and easy to understand and to avoid any ambiguity or risk of different interpretations. National standards should never seek to rely on clarification through user guides as these are not considered by the Court to have legal standing. All drafting must be critically reviewed by experienced legal practitioners with a view to minimising any litigation risk.

- It should be a mandatory requirement for any national rules that permit, restrict or prohibit activities to be included in the land use plan. That is to reduce complexity and inefficiency by ensuring applicants and Council staff only need to refer to one document to determine whether planning consent is required. A less preferred alternative would be a requirement for the land use plan to have cross references in all appropriate locations to relevant national rules.

- Ongoing support should be given by central government to the interpretation of national rules and standardised plan rules. That support should include the ability for councils and applicants to apply for a determination as to the correct interpretation of a particular provision (similar to the determination process under the Building Act 2004), and for this to be shared amongst all councils.
- Drafting of standardised plan provisions is undertaken to reduce the areas of contention that might arise during the consent process. That includes ensuring information requirements for consent applications are precisely defined, making extensive use of notification and non-notification provisions, and having clear assessment criteria.
- Standardisation of consent application forms, assessment templates and decision reports across the country, along with standardised conditions of consent. This will help ensure consistency between applicants and amongst councils.

235. The proposed nationwide digital planning and consenting platform is supported, particularly as it will remove the burden of having to maintain our own consenting database. However, it needs to be built in a way that integrates with the Council's property database, GIS and filing systems.

236. One other thing that needs to be appreciated is that allowing one person greater development rights on their property can be at the expense of the property rights of neighbouring properties. For example, permitted greater building heights may result in increased shading for adjoining properties, adversely affecting these neighbours' ability to use and "enjoy" their land. The Council often gets caught in the conflict between these competing parties, and this may increase under the new regime where fewer consents will require neighbour involvement. The drafting of national rules and standardised plan provisions needs to minimise the need for Council staff to be drawn into ill-founded disputes, for example by being absolutely clear about effects on neighbouring properties that will and will not be considered.

12.2 Specific comments relating to planning consent processing

Quality of planning consent applications

237. One key frustration in the current system for both applicants and consent authorities is the level of information required in a consent application. There is an inherent tension between applicants wanting to avoid unnecessary costs when preparing their consent documentation and councils needing to ensure that they have all the information required to process the application.

238. Unfortunately, the information requirements in Schedule 6, specifying what needs to be included in planning consent application, is unlikely to significantly resolve this tension. Having standardised consent application forms that have greater detail than the current prescribed form for resource consents (Form 9 from the Resource Management (Forms, Fees, and Procedure) Regulations 2003) will help. However, to address this issue effectively, land use plan rules should also be required to detail what information is required for an application under that particular plan rule (for example, the situations under which a

specialist report is needed, the methodology for its preparation and the required content of the report). This is particularly necessary given that consents required under the Planning Bill are expected to be more towards the complicated end of the scale.

239. Examples of this type of requirement (Special Information Requirements) can be found in Dunedin's 2GP (district plan). The use of these types of provisions removes uncertainty for applicants and means consents are processed faster.

240. Section 119 of the Bill requires the consent authority to consider the cost and feasibility of obtaining further information before requesting it. DCC considers this provision as unworkable as it is not in the position to assess the cost of commissioning a report or the availability of specialist staff. Additionally, it is presumed that the consideration of cost and feasibility of obtaining the information in proposed s119, along with the additional requirement to consider the scale and significance of the matter, would need to be documented by the Council, which creates an administrative cost to councils that would need to be passed on to applicants or covered by rates.

241. Instead, if the intent is to reduce unnecessary or unreasonable further information requests, a better solution is the one offered above, as this both ensures that the type of information required is clear, removing uncertainty for the applicant and allowing them to consider the cost of preparing the application before making it, and it ensures councils receive adequate information to process the application and reduces the chance of applications being declined due to lack of information. Furthermore, it allows the appropriateness of requiring that information to be assessed and submitted on as part of the development of any national standards (or bespoke provisions if used).

Mandatory application of the permitted baseline

242. Sections 95D(b), 95E(2)(a) and 104(2) of the RMA state that a consent authority may disregard an adverse effect of an activity if a rule or national environmental standard permits an activity with that effect. This is known as the 'permitted baseline' and it can be applied when deciding whether to notify an application and when deciding whether to grant consent. Its purpose is to allow effects that are permitted on the site as of right to be disregarded or discounted in the assessment of the application, meaning the focus is only on the additional effects that will be generated.

243. Sections 127(2)(b), 128(3) and 138(1)(c) of the Planning Bill propose to make the application of the permitted baseline mandatory for both the notification and substantive decisions when processing a planning consent. That removes the current discretion that councils possess to apply or not apply the baseline.

244. The DCC supports this change, provided firstly that it explicitly incorporates the current exclusion of fanciful activities as established by under the RMA (refer to the Court of Appeal judgment in *Smith Chilcott Ltd v Auckland City Council* [2001] NZCA 210) otherwise, uncertainty and potentially litigation will result.

245. Secondly, it needs to be recognised that more permitted activities will be allowed in the new land use plans. This will potentially create multiple permitted baselines that must be

considered when assessing a planning consent application. This could make the assessment process more complicated and less efficient than it needs to be.

Recommendations

246. DCC recommends that Schedule 6 in the Planning Bill, which specifies information requirements for planning consent applications, is amended to require the applicant to detail the permitted baseline in their application, and for the effects assessment to be carried out against that.

247. DCC also recommends that exceptions to the permitted baseline can be identified in plan provisions in cases where it is considered they are inappropriate to apply. For example, it is uncertain whether plans will still be able to contain scheduled permitted activities, which are often historic activities that do not have current consents but are difficult to manage under existing rights provisions (for example quarries). It would be inappropriate for these permitted activities to set a permitted baseline for future activities (for example for a new quarry to set up adjacent to a neighbouring sensitive activity).

248. DCC also recommends that standardised plan provisions are carefully drafted so they are explicit about the adverse effects of concern. For example, the restricted discretion for a height limit contravention could be written as *"adverse effects of shading from exceedance of maximum height limit"*, essentially incorporating the baseline into it. For discretionary activities, assessment criteria can tease out the key effects for consideration.

Consideration of affected persons

249. In terms of affected persons, the Planning Bill excludes the consideration of certain effects under proposed s14, and s128 raises the threshold for affected persons to only adverse effects that are more than minor. This means that fewer people will be involved in the resource consent process.

250. However, deciding whether persons are to be treated as affected will still be a difficult decision and one that potentially exposes the Council to the risk of challenge (whether that be an informal challenge, judicial review in the High Court, or a review in the Planning Tribunal as proposed under the Bill).

251. One aspect that does not appear to be covered in the Bill nor in the existing RMA is the situation where a decision is made for targeted notification to identified affected persons, and written approval is received from one or more parties prior to the request for submissions being sent out. There is a legal argument that once a Council's notification decision has been made, it cannot be later changed or altered, as the Council is said to be *functus officio*.

252. Another matter that has arisen under the RMA is how does affected persons approval work in the case of natural hazards provisions where an argument is mounted that risk to property or safety is borne by the landowner and therefore that effect should be disregarded if affected party approval is given to oneself. It would seem illogical that this should be allowed and then a property on-sold to a person who is unaware that the consideration of risk was effectively waived.

Recommendation

253. DCC recommends that standardised plan provisions should include rules that state whether particular applications must be processed notified or non-notified, or guide how affected parties are to be decided.

254. DCC recommends that the Planning Bill should allow notification decisions to be rescinded and replaced with a new decisions.

255. DCC recommends that provisions prevent land owners being able to give themselves affected parties approval for natural hazards risk.

Disregarding of effects that are less than minor

256. Clause 15 provides that a less than minor adverse effect must not be considered unless the cumulative effect of 2 or more such effects creates effects that are greater than “less than minor”. Clause 15(4) defines a "less than minor adverse effect" as meaning an adverse effect that is "acceptable and reasonable in the receiving environment with any change being slight or barely noticeable".

257. DCC is concerned that the definition of less than minor adverse effect lacks clarity, and the use of the subjective terms “acceptable” and “reasonable” introduces uncertainty and is likely to result in inconsistent interpretation and increased litigation.

258. DCC also notes that determining whether less than minor effects may cumulatively lead to more significant effects as part of the assessment of planning consents could be challenging and time consuming. This assessment must be made for both the notification decision and the substantive decision, and it is only at the end of the effects assessment, once cumulative effects have been considered, that any less than minor effects can be disregarded.

Recommendation

259. To reduce uncertainty and focus the assessment on key matters, DCC recommends that restricted discretionary activities in the standardised plan provisions should, where practicable, identify which cumulative effects must be considered and assessed, noting that this must be flexible enough to deal with spatial variation of issues. For example, breaches of impermeable surfaces rules may have a low risk of less than minor effects accumulating into a significant effect in some parts of an urban area, but a high risk in other areas where pluvial flooding is already an issue. This clarification should make it easier to dismiss certain less than minor effects in restricted discretionary activities. For discretionary activities, solutions are not so clear, but having assessment criteria guiding the cumulative effects process could be beneficial.

Time limit for the processing of non-notified planning consents

260. Section 117 of the Bill amongst other things specifies a maximum processing time frame for non-notified planning consents of 45 working days, irrespective of whether there is a hearing.

261. This provision is supported for non-notified planning consents without a hearing. Under the new regime, more activities will be permitted, meaning those that need consent are likely to be more complex in nature. The existing 20 working day time limit in the RMA can sometimes be insufficient for complicated proposals, so increasing the time frame to 45 working days is appropriate.

262. For non-notified applications that do need to go to a hearing, the 45 working day limit is too short. Under the RMA as currently, two time frames are specified. The date for the commencement of the hearing must be within 35 working days after the date the application was first lodged. And the notice of the decision must be given within 15 working days after the end of the hearing. That totals 50 working days, not including the time for the actual undertaking of the hearing that has no time frame assigned to it.

263. Mandatory evidence exchange is not required under the RMA for non-notified hearings, but it is best practice because it enables the matters of contention between the applicant and the consent authority to be narrowed beforehand. Submitters are not involved if it is not notified, but the need for the officer's recommending report to be provided well in advance, and for the applicant's response to be provided 5 or 10 working days prior to the hearing can add about 15 working days to the process.

Recommendation

264. DCC recommends that a timeframe of around 60 working days for non-notified applications with a hearing would be more appropriate.

Obligation to hold a hearing

265. Section 135 of the Bill states that hearings must not be held for deciding a planning consent unless various exceptions apply.

266. The provision appears to have been drafted dealing with planning applications that have been notified, whether that be public notification or targeted notification. For non-notified applications, it is unclear how the clause is intended to apply.

267. DCC staff do not have the delegation to decline non-notified applications. That means that if an officer recommendation is to decline, the application has to proceed to a hearing (in theory, it could be considered on the papers by an independent commissioner, but it is more likely that the commissioner would still require a hearing for natural justice reasons). In such a case, the applicant would not be the one requesting a hearing. As to whether the hearing can proceed, this then comes down to the consent authority deciding whether the hearing is the *"most effective and efficient means to test the information"*.

Recommendation

268. DCC recommends that further guidance should be provided on Section 135. For example, would a lack of staff delegation to decline non-notified applications be sufficient to mean that a hearing is the *"most effective and efficient means to test the information"*?

269. The section could also be improved by having separate criteria for non-notified and notified planning applications. For non-notified applications, it should be because the applicant has requested or agreed to the hearing, or because the consent authority considers it necessary. The reasons for the consent authority to require a hearing do not need to be spelt out in the legislation, but can include situations such as diverging views between the applicant and council staff in terms of policy interpretation, the requirements of council departments (for example, in regards to servicing requirements), or the general imposition of conditions.

Consideration of planning consent application

270. Section 139(1)(a)(ii) of the Bill requires the consent authority to have regard to *"the built environment"*. This is to a certain degree similar to the requirement in section 104(1)(a) of the RMA the requires regard to be had to *"any actual and potential effects on the environment of allowing the activity"*.

271. Case law under the RMA has established that the environment that should be considered is the "existing and reasonably foreseeable future environment", both in relation to the subject site and to surrounding properties (refer in particular to the Court of Appeal judgment in *Queenstown Lakes District Council v Hawthorn Estate Ltd* [2006] NZCA 120). The existing environment includes lawfully established activities; the reasonably likely future environment includes activities permitted as of right in the plan, and unimplemented resource consents where they are likely to be given effect to.

Recommendation

272. If the intention was for this case law to continue to be relevant, then DCC recommends the section should be amended to say so, and outline what the existing and reasonably future environment includes. That will provide certainty to applicants and consent authorities as to what must be assessed when processing the planning consent.

273. Section 139(1)(b)(i) of the Bill requires the consent authority to have regard to any effect that is positive. It is noted that the intention under the Planning Bill is for less than minor adverse effects to be dismissed (refer s15), however in terms of positive effects, no such restriction has been imposed. That could mean undue attention being put on slight or barely important positive effects in the assessment. It is accepted that this is more of an issue for discretionary activities, because the positive effects for restricted discretionary activities will not be relevant unless they are included in the discretion.

274. For fully discretionary activities, it is uncertain whether the positive effects are expected to be considered in such a way that they allow an overall judgement or balancing approach against the adverse effects. This should be clarified. The expected role of positive effects in the consent assessment needs to be properly described when drafting standardised plan provisions for discretionary activities.

275. In regards to Schedule 6, which specifies the information to be included in a planning consent application, this makes no mention of positive effects. DCC recommends that applicants should include a statement on positive effects where relevant, with that statement connected to the Planning Bill's goals in s11.

276. It is not clear if it is intended that positive effects are also meant to be covered by the excluded effects listed in Section14. This seems improper as an application, for example, may have a positive effect in enabling the preservation of a heritage building that has not yet been assessed as significant, or on landscape values (for example through provision of landscaping).

277. DCC recommends that positive effects on the matters listed in Section 14should be able to be considered.

278. On a broader matter, there is potentially a disjunct between the decision making matters and in the information requirements in Schedule 6, which should be reviewed.

Issuing of record of title for separate allotment on existing survey plan

279. Schedule 7 clause 31(2)(c) of the Bill is from section 226(1)(e) of the RMA (which in turn comes from prior legislation). The clause allows the Registrar-General of Land to issue a record of title for a separate allotment shown on an existing survey plan, if the council has provided a certificate confirming the allotment is in accordance with the requirements of the land use plan.

280. The existing provision in the RMA is problematic, and the Planning Bill makes no improvement.

281. In terms of the problems with the provision, firstly it does not make any mention of the balance land having to comply with the requirements of the land use plan. When the Registrar-General issues a new title for the certified allotment, a second title is automatically generated for the balance land but no certificate is required for it. That means that land owners can obtain title for that balance land that does not comply with the land use plan, and might be undersized, unserviceable or unsuitable for future use.

282. Secondly, the provision does not describe what *"*the *requirements of the land use plan"* are. Is it all provisions of the plan that happen to apply to that site? Or is it intended to be for things like minimum lot size and shape factor, infrastructure servicing, and legal and physical access? What if there is an existing land use non-compliance, authorised by way of resource consent or existing use rights? What if the provisions in a proposed land use plan have not come into legal effect, do they need consideration as well?

283. A third issue is that natural hazard considerations are not available to be considered for either the certified allotment or the balance land under proposed s146 that allows refusal to planning consent because of natural hazard risk. That is because the process does not involve a subdivision consent.

Recommendation

284. DCC recommends one option is to remove the provision completely, because a normal subdivision consent should be a very simple process if the land use plan is being complied with. Alternatively, the provision in the Bill could be amended to specify precisely what is meant by *"*the *requirements of the land use plan"* and to ensure that a certificate is also required for the balance land as well. Another possibility could be to make it a mandatory

requirement for the land use plan to identify the specific provisions that need to be met for the provision to be used.

Establishment of Planning Tribunal for objections to consent processing procedures

285. The RMA currently allows consent applicants to object to the Council against various determinations or decisions made during the processing of an application. That includes objections against conditions that might be imposed on a consent, or to additional charges for the processing of consents.

286. Once a consent decision is released, the consent authority has no ability to rescind that decision, other than to correct minor mistakes or defects in the consent (currently this is allowed under section 133A of the RMA; the equivalent provision in the Planning Bill is s174). The scope for making amendments is extremely small. In our experience, the vast majority of objections to resource consent decisions are for very minor matters that happen to fall outside the scope of a minor mistake or defect. These are dealt with quickly under delegated authority without any contemplation of a hearing, with minimal information required from an applicant, and with no application fee.

287. The new proposal will take away the ability for simple objections to be easily and cheaply resolved between the applicant and the Council, and it is unclear whether that has been properly considered in the proposed establishment of the Planning Tribunal.

Recommendation

288. DCC recommends that one option would be to amend the Planning Bill so that objections to conditions could be lodged initially with the Council if the Council agrees. Otherwise, to avoid having to involve the Planning Tribunal, applicants might encourage consent authorities to process consent variations for free, or relodge their application requesting a re-issue of the consent for a nominal fee, however both of these alternative options are inefficient and inevitably more costly to both the consent holder and the Council.

12.3 Schedule 10 clause 16

289. Schedule 10 clause 16 of the Bill allows certain parties to challenge the decision made by a consent authority to notify or not notify a planning consent. This is a significant departure from the existing situation whereby such challenges have to be made by way of judicial review in the High Court.

290. The DCC understands why this change is being made, and sees how it allows applicants and third parties to hold the Council to account when it makes notification decisions on resource consents. However, the DCC is concerned about the time and cost that might be involved in defending such challenges, and whilst the Planning Tribunal might be able to award costs to the successful party, those are unlikely to cover full expenses.

291. The number of consents might be less under the new regime, but the test for involving third parties will be higher, meaning more potentially aggrieved neighbours wanting to review the notification decision. If those challenges are frivolous or vexatious, significant time could be diverted to those matters, taking staff away from the processing of consents.

Recommendation

292. DCC recommends that to help minimise risk of challenge, the standardised plan provisions should liberally include rules specifying what consents must be notified and what consents must be processed non-notified. When it comes to affected parties, if these are required, rules should either state which third parties must provide written approvals, or specify a clear methodology for determining those. That will help reduce unjustified challenges, and provide certainty for everyone in the process (the applicant, third parties and the Council) about who can participate.

293. One thing that is not clear is what happens in the situation where a challenge to the notification decision is lodged prior to the final decision on the planning consent being made. Clarification as to whether the Council is required to continue processing or not would be beneficial, and what the impact on statutory timeframes would be.

12.4 Changes to permitted activity rules

294. DCC supports the continuation of the permitted consent category. However, unlike the RMA, the Planning Bill (s38 and s180) now requires that permitted activity rules must require an activity to be registered (unless it relates to a matter described in section 151 or Part 1 of Schedule 7). In addition, the person carrying out the permitted activity must either provide written approvals and/or certificates demonstrating compliance with specified standards and/or pay a fee and/or meet any other specified requirements.

295. Before an activity subject to a permitted activity rule can take place, the person undertaking it must notify and register the activity with the consent authority (s180). The consent authority must then consider the information provided to ensure that the permitted activity rule will be met, notify the applicant, and carry out any monitoring required. This appears to be an extension of boundary activities currently in the RMA. No effects assessment is required; instead, there is a verification process to ensure the required matters have been supplied or completed.

296. The definition of 'permitted activity rule' is 'a rule that specifies conditions for carrying out a permitted activity (see section 30(a)(ii))'. It appears, therefore, that two types or permitted activity may be intended – those that are subject to 'permitted activity rules' (i.e. the requirements outlined above) and those that are not. However, this is not explicit and needs to be clarified.

297. DCC broadly supports the proposed permitted activity rules for straightforward activities that currently require consent, as they enable simple development proposals to be dealt with efficiently, provided all relevant parties have given their approval. However, as discussed below, DCC does not support activities that are currently permitted with minimal effects to be subject to a more onerous registration and compliance process.

298. The benefits of a more enabling approach to straightforward development include:

    a. Councils are informed of an activity before it proceeds, and can check on it then, rather than having to deal with complaints after the development has commenced or been completed; and

b. Councils can charge a fee for monitoring the activity, and for the fee to be easily collected.

299. However, the DCC's support of this is subject to:

a. Extending the proposed 10 working day time limit in s180, which would be difficult to meet if information needs to be checked by Council departments;

b. Requiring the applicant to tell Councils when they intend to start work;

c. Enabling Councils to ensure that the fees paid by the applicant are sufficient for Council to cover its costs for both the checking of the initial registration and the required monitoring; and

d. Clarification about what happens if an activity fails to comply with the requirements. One option would be for it to become a restricted discretionary activity. Alternatively, each permitted activity rule would need to be written in a way to accommodate that situation.

300. However, as noted above, DCC does not support requiring minor activities that are normally permitted (including those permitted where performance standards are met) to be subject to this process. The requirements for these activities are significantly more onerous than the current approach, which requires no involvement from consent authorities.

301. For example, erecting a fence is typically a permitted activity subject to a height limit under RMA plans. A permitted rule with a height condition would appear to meet the definition of a 'permitted activity rule' under the Planning Bill, and so would also be subject to the other requirements under s38. Under the RMA, someone can simply build the fence, ensuring the height limit was met. Under the Planning Bill, they would have to file a notification with the Council, potentially pay a fee, obtain approval from the neighbour, wait while Council considers the notification and issues a determination, build the fence, and then potentially obtain a certificate from a qualified person that the fence complies with the rule. This is not efficient or effective compared to the status quo and so will not achieve the aims of the reform to remove red tape and enable development.

302. DCC is concerned that, unless the 'permitted activity rule' approach in s38 is limited to activities that currently require resource consent under the RMA, it will be frustrating and bureaucratic for landowners undertaking low-impact activities, and their costs will increase. Councils will also need significantly greater resources to process these activities.

Recommendation

303. DCC recommends that s38 / s180 are amended, so that either:

a. it is clear that there are two types of permitted activity – those subject to the requirements in s38 and those that are not (in this case DCC suggests using clearly different terms); and/or

b. clarifying that permitted activity rules <u>may</u> contain requirements for registration, fees etc, and that these powers are applied lightly when permitted activity rules are drafted.

304. A further alternative (which may be simpler for plan users to understand), is to reinstate the controlled activity status (with minimal or no effects assessment required), and identify activities that genuinely require registration and additional scrutiny (those that typically require consent under current RMA plans) as controlled activities, while permitted activities remain as they are under the RMA.

305. DCC also notes a further issue that should be considered in relation to permitted activities. If more activities are permitted or have simplified pathways, this is likely to result in an unplanned increase to infrastructure load. Permitted intensification and simplified consents may not provide councils with the information required to assess infrastructure impacts, particularly with respect to 3 waters and transport.

12.5 Removal of non-complying status

306. Under the Planning Bill, activity classification will be one of four categories: permitted, restricted discretionary, discretionary, and prohibited activities. This change means that the new system will no longer include the current RMA categories of non-complying and controlled activities.

307. Under the RMA (s104D), consent for a non-complying activity can only be granted if the adverse effects of the activity are minor, or the activity will not be contrary to the objectives and policies of a plan. A non-complying activity status has a number of benefits. Firstly, it signals to applicants and affected parties that an activity significantly departs from the intent of the plan provisions. Secondly, it provides a clear statutory test for decision making, and ensures that activities with potentially significant adverse effects are more rigorously assessed.

308. Removing the non-complying activity status eliminates a key mechanism for distinguishing activities of higher risk or strategic importance in the planning framework. Having a non-complying status gives applicants a clear indication of how these types of activities will be assessed and decided upon. Removal of this category may undermine the ability of plans to drive outcomes consistent with broader strategic objectives and policies, and may undermine environmental outcomes.

309. While the Planning Bill will retain prohibited activities (s33), no application for planning consent may be made for these types of activities. This means that activities which would previously have been non-complying under the RMA, will now likely be reclassified as discretionary or restricted discretionary under the Planning Bill. These activity statuses represent a less onerous hurdle for approval compared to non-complying activities in RMA Plans, and may lead to worse environmental outcomes. Additionally, if prohibited status becomes the only mechanism to absolutely preclude activities from occurring, then there is potential that this activity classification will be over-used.

Recommendation

310. DCC recommends that maintaining a non-complying activity pathway has benefits to both applicants, councils, and the environment, and that reinstatement of this activity status should be considered.

12.6 The ability to apply for plan changes via consent (s98, s144) areas

311. Under s144 of the Planning Bill, a consent authority may, if certain conditions are met, grant a planning consent that authorises a change to the plan provisions that apply to an area in accordance with s98. Section 98 allows, in certain circumstances, a territorial authority to change its land use plan provisions to those authorised by the planning consent, where the change would result in plan provisions that are more appropriate for the area than the operative plan provisions that apply to that particular area. Essentially, under the proposal, it would become possible to amend a land use plan via a planning consent.

312. DCC is concerned that allowing changes to plans via consent risks undermining the role of the regional spatial plans in strategically considering overall growth needs and future land use patterns and integrating that with infrastructure planning and funding. It also undermines the land use chapter plan-making process as the primary mechanism for plan changes with appropriate decision-making and public participation processes.

313. As detailed in Schedule 3 of the Planning Bill, the process for preparing and changing plans is significant, and includes broader consultation, notification, strategic evaluation, and generally integration with wider infrastructure and funding considerations. On the other hand, consent-based pathways are generally inherently site-specific and more effects-focused. Allowing for consent-driven plan changes may reduce transparency, weaken wider community input, and over time lead to piecemeal decision-making that can cumulatively erode plan coherence and long-term certainty for councils, infrastructure providers, and the community.

Recommendation

314. DCC is supportive of retaining the ability for applicants to undertake private plan changes as detailed in Schedule 3, Part 2, but is concerned, and does not support, the ability for applicants to change land use plan provisions through the consenting process unless this is purely to align plan provisions with pre-existing lawfully established land use activities.

315. DCC recommends that s144 of the Planning Bill be amended so it only provides for aligning plan provisions with pre-existing lawfully established land use activities and does not provide a consent pathway for essentially a zoning change.

12.7 Miscellaneous matters

316. Below are brief comments on a range of miscellaneous matters related to consenting for consideration.

317. Section 122 of the Bill allows applications to be returned to an applicant as incomplete if the applicant takes too long to respond to further information or report commissioning requests, to pay additional charges or to provide written approvals. This provision could potentially be moved to regulations, making it easier for the list of matters to be extended or altered in the future. In addition, the requirement for there to be an agreed date for paying of additional charges and to provide written approvals should be removed. This is because the need for the applicant to agree to a date will sometimes be unachievable, and will render the provision ineffective. Furthermore, the requirement regarding additional

charges should be extended to the more usual situations where extra fees are required for a deposit to proceed with public or limited notification, which is different from additional charges that can be sought over and above a deposit.

318. Section 152 of the Bill essentially repeats the process in section 107G of the RMA where applicants can make a request to review draft conditions of consent. Both the existing provision and the proposed provision are silent as to what happens if the applicant and/or any submitters do not provide comments by the date specified by the consent authority. DCC recommends that this is clarified.

319. Section 165 of the Bill relates to the lapsing of unimplemented consents (similar to s125 of the RMA). It is noted that the caselaw on "given effect to" is confusing and open to interpretation. Consideration should be given to trying to clarify or amend this. One option would be to provide a date for commencing establishment of an activity and another date for completion, not dissimilar to the implementation of building consents under the Building Act 2004. Both the proposed provision and the existing RMA are silent on whether a consent can be given effect to in part. This needs to be resolved. Consideration should also be given to amending the provisions to make it clear that an application to extend a lapse period must be lodged prior to the lapse date, but the decision to extend can be made by the Council after that.

320. Section 177 of the Bill states, like section 87BB of the RMA, that the Council can treat an activity as a permitted activity if there is a marginal or temporary non-compliance with conditions or requirements. However, there is no definition of 'marginal' or 'temporary'. The Ministry for the Environment publication *A Technical Guide to Deemed Permitted Activities* (2017) indicates that the policy intent was for 'marginal' to mean *"barely exceeding minimum requirements"*, with 'temporary' intended to mean *"of a short duration rather than less than permanent"*. Incorporating these into the Bill should be considered.

321. Schedule 7 clause 29 of the Bill requires a certificate for cross lease and unit title subdivisions confirming that buildings will comply with the Building Code in respect of fire rating and access requirements. Consideration should be given to whether freehold subdivisions that involve new boundaries being created closer to existing buildings should be assessed in terms of fire rating.

12.8 Enforcement

322. The provisions in the Planning Bill relating to compliance and enforcement are largely a carry-over from provisions already in the RMA (including recent changes from the Resource Management (Consenting and Other System Changes) Amendment Act 2025), and provisions that were in the Natural and Built Environment Act 2023. These changes are supported, particularly as they provide a wider range of enforcement tools to DCC staff for dealing with non-compliance. Additionally proposed s272 which requires councils to prepare and publish a compliance and enforcement strategy is also specifically supported.

323. Whilst not part of this Bill, part of the wider reform process is the proposed future transfer of local authority compliance, monitoring and enforcement functions to a national regulator. For the record, the DCC does not support that proposal. Investigation of complaints and non-compliances involves examining records held in our files, liaising with other internal Council

departments, and dealing with the public. As such, DCC is best placed to carry out these tasks.

Recommendation

324. Instead of transfer to a national regulator, DCC recommends that providing stronger support and guidance to the councils that need it most would lead to better outcomes. The new required compliance and enforcement strategies will also help ensure consistency and performance in compliance and enforcement, reducing the need for a central regulator to take over.

13 PLAN MAKING

13.1 Legal effect of rules in proposed plans

325. Schedule 3 clauses 57 to 61 deal with the legal effect of rules in proposed plans and are largely identical to the existing provisions in the RMA.

326. Clause 61(1)(a) states that rules in proposed plans that have no submissions in opposition are treated as operative from the day after the submission period closes. This is similar to RMA section 86F(1)(a). This has proved problematic where there have been many submissions lodged on a plan or plan change as it is time consuming to work through them to identify whether they are challenging a rule or not. Submissions opposing objectives or policies can also be deemed to be challenging the rules associated with those provisions. That means it is not possible to make an immediate determination on what rules are operative (and what previous rules are inoperative), leading to a period of uncertainty for applicants and the Council.

Recommendation

327. DCC recommend that one option is to set a later date after which rules with unopposed submissions are deemed operative. Logically that could be the date upon which the call for further submissions is made, being no later than 20 working days after the closing date for submissions. Consideration could also be given to making it mandatory for submitters to identify all rules that they are opposed to, if they are challenging an objective or policy in the plan.

328. An alternative is to reconsider when rules in proposed plans come into force. Requiring that all rules have legal effect upon notification of the land use plan would have benefits in that it would allow weight to be given to land use plans earlier in the transition to the new regime. Another option is to delay all rules having legal effect until the issue of decisions on the plan or plan change. While this would be easy to administer, that benefit may be outweighed by the delays in the effect of changes.

13.2 Clarity of submissions

329. Schedule 3 cl.18 outlines requirements for the form and content of submissions.

Recommendation

330. DCC recommends that these provisions could be expanded to better manage the detail provided within submissions. DCC has had difficulty assessing submissions on its district plan in the past where requests for changes are vague, for example requests to rezone a poorly defined area of land, or to "schedule the remnant podocarp trees at X address" without providing a map or other detail on which trees. These have caused delays and confusion as the exact nature of the request is confirmed. In addition, submissions without adequate supporting information are difficult to assess and provide an informed recommendation at the hearing. Time is wasted as hearings are adjourned to allow time to assess evidence or additional detail provided late in the process, particularly where technical review of evidence is required.

331. DCC recommends that minimum requirements for submissions and supporting information are included. The details around timing of exchange of evidence, and any requirement for council officers to provide a report and recommendations (similar to s42A of the RMA), do not appear to be in the Bill, and will presumably be provided through national instruments. These should include, for example, all submissions relating to an area of land, or seeking a change that is best described spatially, to include a map; and all submitters to provide adequate supporting information in a timely manner prior to a hearing, to enable submissions to be assessed appropriately. This would improve the efficiency of the submission and hearing process, reducing costs for councils and submitters, and avoid time wasted on submissions that contain insufficient information to be properly assessed and decided on, and that in the past have be used by some to provide a pathway to an appeal (and mediation process) that puts pressure on councils to carry the costs of assessment rather than a genuine attempt to provide evidence to support a submission at a hearing.

14 MISCELLANEOUS CLARIFICATIONS AND ERRORS

332. Section 73(f) currently says 'see section 18'. This should be "see clause 18 of Schedule 2".

333. There is a wording issue in s14 (1)(j) where it refers to "any matter where the land use effects of an activity are dealt with under other legislation". This is poorly expressed grammatically as the subject of the sentence "any matter" is not clear with respect to "where the land use effects of an activity are dealt with under other legislation" as it could be an unrelated matter. Instead reword so the subject is clear, for example: "An effect of land use that is managed under other legislation".

15 CONCLUSION

The DCC thanks you for the opportunity to submit on the Planning Bill. Please do not hesitate to get in touch if you would like to clarify any of the issues or comments raised in this submission. The DCC looks forward to working with the Government and other entities on this new chapter of resource management reform in New Zealand.

The DCC wishes to be heard in respect of this submission.

Nāku noa, nā

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