

# Environment Committee Meeting

9 March 2023

This Report relates to Item 9 in the Agenda

**“Submission on Natural and Built Environment Bill  
and Spatial Planning Bill”**

## **Submission on Natural and Built Environment Bill and Spatial Planning Bill**

**3 February 2023**

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### **Introduction**

1. The Marlborough District Council (**MDC**) is supportive of the reform's objectives to improve efficiency and effectiveness, and reduce complexity, while retaining local democratic input.
2. MDC is concerned with ensuring the Natural and Built Environment Bill (**NBE Bill**) and Spatial Planning Bill (**SP Bill**), together with the Climate Adaptation Act (**CAA**), achieves those objectives. As a local authority, MDC knows from experience that the effectiveness of the new system will ultimately depend on its implementation, and the support from community, iwi, and stakeholders.
3. MDC's submission focusses on key areas of importance to Marlborough.
  - (a) MDC strongly supports Marlborough remaining one of the 15 regions required to develop a Regional Spatial Strategy (**RSS**) and a Natural and Built Environment Plan (**NBE Plan**) under the SP Bill and NBE Bill respectively, separate from Nelson and Tasman.
  - (b) Marlborough is best suited to become one of the first three regions to be part of the Ministry for the Environment's (**Mfe**) model project and commence working on its RSS and NBE Plan.
  - (c) To improve efficiency, and reduce complexity, there should be an option to combine the RSS and NBE Plan into one planning document.
  - (d) There needs to be clear direction in the National Planning Framework (**NPF**) as to how the principles of te Tiriti o Waitangi are to be interpreted and implemented by persons exercising the powers and functions under the NBE Bill and SP Bill.
  - (e) Local government participation is required on the Freshwater Working Group to understand the local or regional context for freshwater allocation. Clearer direction is also required in respect of allocation statements, as well as their timing and sequencing with the current freshwater planning process to ensure efficient and effective integration into RSS and NBE Plans.
  - (f) MDC is concerned with ensuring the requirements under the NBE Bill and SP Bill are operationally workable. Areas of concern are highlighted with respect to freshwater farm plans, contaminated land, biodiversity and coastal management.
  - (g) The CAA needs to progress without delay and with input from local government. The CAA needs to be aligned and integrated with the NBE Bill, SP Bill and the NPF to effectively respond to climate change and meet the objectives of the reform.

4. MDC's submission should be read in conjunction with the tables summarising MDC's position in respect of specific provisions of the NBE Bill and SP Bill and attached as **Appendix 1** and **Appendix 2** respectively.
5. MDC wishes to be heard in support of its submission.

### **Marlborough region**

6. MDC is pleased to see the NBE Bill and SP Bill both recognise and provide for Marlborough as a separate region, responsible for creating its own RSS and NBE Plan. MDC strongly submitted in favour of retaining the status quo, and against the proposal to combine it with Nelson and Tasman (see submission attached at **Appendix 3**).
7. MDC supports Marlborough remaining a separate region under the new regime:
  - (a) Marlborough has the largest geographical size of the five unitary councils: a land area of over one million hectares, and almost a fifth of New Zealand's coastlines, at approximately 2000km, including the Marlborough Sounds.
  - (b) Marlborough is geographically separated from Nelson and Tasman by two alpine mountain ranges. There are no cross-boundary issues. It has its own strong and unique identity, distinct from Nelson and Tasman. Its world-renowned wine industry and the idyllic Marlborough Sounds are just two prime examples of this.
  - (c) This geographical separation has led to Marlborough having both a distinct physical environment, as well as communities of interest. This mix has resulted in bespoke management responses to the resource management issues that exist in Marlborough. Those responses include frameworks for the allocation of natural resources.
  - (d) Over the past 30 years, Marlborough has consistently demonstrated that integrated planning can be achieved through its unitary model, within its current regional boundary. This integration has enabled the development of a strong and productive primary production sector in Marlborough, while ensuring environmental values are preserved and protected.
  - (e) Marlborough has extensive experience planning for its natural and physical resources. Retaining Marlborough as a separate region enables it to retain key planning staff and environmental scientists with key local knowledge of the environmental issues facing Marlborough.
  - (f) Marlborough's second-generation plan, the Proposed Marlborough Environment Plan (**PMEP**) is now well into advanced stages, based on good data and embodies the integrated planning model recommended in the Randerson Report. It went through a thorough submission and hearings process. Appeals before the Environment Court are currently being mediated, with approximately half of the appeal points now resolved by consent. There has been substantial community and iwi involvement and investment in the PMEP process, with a large percentage of the PMEP now in its finalised form and able to be used as sound base for planning under the new system.
  - (g) Combining Marlborough with Nelson and Tasman would risk unravelling good environmental outcomes in Marlborough that have been years in the making. A change to Marlborough's regional boundary, catchment management and allocation regimes, would significantly impact permit holders and users operating within existing allocation regimes, and create complexity and uncertainty.

- (h) Marlborough's successful primary production sector, including agriculture, viticulture and aquaculture, has been built on understanding the allocation regimes that have been developed, and the stability those regimes have provided. A fundamental change would ultimately result in uncertainty for Marlborough's community and potentially impact on the economic wellbeing of the region.
- (i) Any transition to a combined plan across the three Councils would take significant time and money, as well as a substantial political effort, with no certainty of better outcomes. There would be significant implications in terms of administration, governance, and finance arrangements as well.

### **Model project**

8. MDC supports Marlborough being one of the first three regions to develop its RSS and NBE as part of Mfe's model project. Marlborough is a prime candidate to be part of the model project:
  - (a) It is a unitary authority with extensive experience carrying out both territorial and regional functions.
  - (b) Its second-generation plan has been developed with substantial community and iwi involvement, in accordance with the integrated planning model and is in advanced stages; and
  - (c) It successfully utilises digital systems to deliver information to the public and is innovative in introducing new digital systems to enhance public usability.
9. Marlborough contains only one local authority. As a unitary authority, MDC has experience in carrying out the functions of both a regional and territorial authority. It has consistently demonstrated that vertical integration can be achieved through its unitary model at a regional level. It has also achieved successful coordination within MDC to ensure the management of land use (territorial function) is integrated with the management of other natural resources (regional function). The model project should contain at least one unitary authority to understand how the new regime will be implemented for a unitary model, as opposed to regions with separate territorial and regional authorities.
10. Marlborough's second-generation plan, the PMEP, is an integrated planning model and aligns with the reform's objectives. MDC notified its decisions on the PMEP in February 2020 and approximately half of the appeals on the PMEP have now been resolved through mediation. The PMEP is a sound base for the preparation of Marlborough's RSS and NBE Plan. MDC has worked with the community and iwi on the PMEP over a long period of time and considers that those relationships will ensure a successful transition to the new regime.
11. MDC has extensive knowledge and expertise in utilising digital systems to deliver information to the public. The digital tools used by MDC enhance public access to electronic records and services, simplify complex processes, particularly through spatial mapping, and ensure greater transparency. In MDC's submission on the NBE Bill exposure draft, MDC set out further opportunities to incorporate digital systems into the reform, to make the new system more efficient, proportionate, affordable, and less complex.<sup>1</sup> MDC can assist with developing the digital platform to be incorporated as part of the new planning system and has inhouse appetite to deliver on this.

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<sup>1</sup> Submission of MDC to the Environment Select Committee on the Exposure Draft of the NBE Bill, at Appendix One.

## Combined RSS and NBE Plan

12. MDC supports the concept of combining plans at a regional level. It promotes efficiencies and enhances useability for the public. The Randerson Report identified a lack of vertical integration between the hierarchy of regional and district planning documents as one of the key drivers for recommending combined plans.<sup>2</sup>
13. Marlborough has had a long and successful history of administering combined plans. Its current operative plans are a combined regional, coastal plan, regional plan and district plan.<sup>3</sup> It knows from experience that integrated planning provisions achieve benefits for resource users, not only in terms of a simplified planning regime and reduced costs, but also improved environmental outcomes. Combined plans simplify the process for resource users and the remainder of the community, as they do not need to consider the provisions of the regional plan and the district plan in multiple planning documents.
14. MDC publicly notified its second-generation plan in 2016. The PMEP's plan structure is the very model the Randerson Report recommended. It is a combined regional policy statement, a regional coastal plan, a regional plan, and district plan, with the one planning document containing all regional and district provisions in an integrated way. This structure, authorised by s 80 of the Resource Management Act 1991 (**RMA**), is unique in the country.
15. Currently under the NBE Bill and SP Bill, every region must have one RSS and one NBE Plan, thus requiring 30 planning documents nationwide. MDC considers further efficiency and integration would be achieved if there was an option for regions to combine their RSS and NBE Plan into one planning document on a digital platform. This could be achieved by either:
  - (a) A combined planning process, that enabled the RSS and NBE Plan to be developed together into one document; or
  - (b) The adopted RSS and operative NBE Plan be combined into one document.
16. In regions where there is a unitary authority, like Marlborough, a combined planning process would be efficient, promote vertical integration and ensure local democratic input.
17. Any combined planning process would still incorporate the key steps required under Schedule 4 of the SP Bill and Schedule 7 of NBE Plan but could also be tailored to suit. For example, under clause 35 of the SP Bill, the process for preparing a RSS may include a hearing. Hearings on the RSS and NBE Plan could be heard concurrently, allowing for key matters to be heard together and for local public input. The resultant planning document would then have clear indicators as to whether a particular provision is a RSS or NBE Plan provision.

## Te Tiriti o Waitangi

18. The SP Bill and NBE Bill propose a requirement to *give effect to* the principles of te Tiriti o Waitangi by all persons exercising any of the powers and functions under the SP Bill and NBE Bill.
19. The words *give effect to* have been used in the RMA to direct local authorities on the use of national policy in regional planning documents.<sup>4</sup> The Supreme Court found that the words

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<sup>2</sup> Report of the Resource Management Review Panel, *New Directions for Resource Management in New Zealand*, June 2020, at p 226.

<sup>3</sup> The Marlborough Sounds Resource Management Plan and the Wairau Awatere Resource Management Plan.

<sup>4</sup> RMA, ss 55, 62, 75.

*give effect to* was a strong direction, akin to a requirement to implement the national policy's provisions.<sup>5</sup> The direction has been treated as something less than apply, as one must do for regulation, but not by much, leaving minimal scope for choice. Where there are conflicting policies, precedence is determined based on textual analysis.

20. The delegation of functions by the Crown to local authorities that requires those authorities to act as sub-delegates of the Crown and *give effect to* the principles of te Tiriti o Waitangi would not be established governance, does not uphold the rule of law and creates unacceptable uncertainty and difficulties for local authorities. The practical implications on local authorities from such delegation must be carefully thought through and clear direction and parameters given by the Crown on how to successfully implement that delegation.
21. The principles of te Tiriti o Waitangi were first established as a relevant statutory matter in the State-Owned Enterprises Act 1986. This made sense as the obligation was owed by the Crown and related to the divestment of assets, some of which were obtained under the Public Works Act from tangata whenua. The Court of Appeal identified, in very general language, the principles concerning the Tiriti's *spirit* in that context.<sup>6</sup> Managing the resources of private individuals and resource commons such as freshwater is a different context.
22. There is no established authoritative text encapsulating the principles. Accordingly, they continue to evolve, and can be very context-dependent, governing process requirements and substantive outcomes. The inevitable arguments about what the principles are and how they are to be applied often become corrosive, unresolvable by objective means and not focussed on environmental outcomes. The proposed clauses in the Bills will be hard to administer and exposes local authorities to unnecessary litigation risk.
23. In the context of private resources, such as land, if private rights were to be curtailed on cultural grounds, standards and requirements must be set out by the Crown, rather than leaving local authorities with an unclear obligation affecting other New Zealanders. The rule of law requires plain requirements written for the resource management context where Tiriti matters are relevant. These need to be written by the Crown as te Tiriti signatory in national policy, as seen in the case of the National Policy Statement for Freshwater Management 2020 (**NPS-FM**).
24. This is appropriate because the Crown is where the accountability of te Tiriti matters lies. Also, in this way the principles find expression in planning instruments developed through public process and do not emerge unexpectedly, for example, in resource consent discretions. That would undermine the very concept of sound planning, which is well constructed policies identifying the issues or outcomes that will apply. The requirement to consider te Tiriti matters in discretions also cultivates an unequal management system where instead of discretions influencing outcomes based on stated policy that might incorporate explicit te Tiriti concerns, the influence moves to the views of iwi of particular applications.
25. There needs to be clear direction from the outset as to how the principles of te Tiriti are to be interpreted and implemented. Central Government needs to set this out in the NPF. If there is no national direction, it will lead to uncertainty for local authorities and applicants, with the clause needing to be relitigated each time a person is carrying out powers and functions under the SP Bill and NBE Bill.

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<sup>5</sup> *Environmental Defence Society Incorporated v The New Zealand King Salmon Company Limited & Ors* [2014] NZSC 38 at [77].

<sup>6</sup> *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641.

## Freshwater allocation

26. The NBE Bill introduces three new allocation principles: “sustainability, equity and efficiency”.<sup>7</sup> These principles are to guide the development of allocation methods in NBE plans for freshwater resources.<sup>8</sup> These principles are not defined, and further guidance is needed on how these principles are to be implemented.<sup>9</sup>
27. The Crown has acknowledged Māori have rights and interests in freshwater, as well as geothermal resources.<sup>10</sup> The Government has therefore committed to not precluding Māori rights and interests in freshwater in this reform process.<sup>11</sup> That position has led to the inclusion of a preservation clause in the SP Bill and NBE Bill to clarify that they do not create or transfer any proprietary rights or interests or determine or extinguish any rights or interests that might exist.<sup>12</sup>
28. As a result, the NBE Bill provides for the establishment of a Freshwater Working Group (**Working Group**).<sup>13</sup> The purpose of the Working Group is to provide recommendations on matters relating to freshwater allocation and on a process for engagement between the Crown, iwi and hapū, at the regional or local level, on freshwater allocation.<sup>14</sup> This engagement may result in an agreed allocation statement that is then submitted to the Regional Planning Committee (**RPC**), who must then determine how the NBE plan is updated and update the NBE plan in a manner that is consistent with the NBE Bill.<sup>15</sup>
29. MDC acknowledges the Crown’s responsibility as te Tiriti partner and the interest iwi have in freshwater resources. It is, however, concerned with ensuring Working Group understands the local and regional context when engaging on freshwater allocation, as the outcome of that engagement will have widespread ramifications for water users in Marlborough. It is recommended local government should be part of the Working Group.
30. For many years now, MDC has implemented an allocation regime within its regional boundary. This has provided certainty for regional development, particularly the growth of Marlborough’s wine industry, New Zealand’s biggest wine producing region. There are multiple complex considerations that impact on how freshwater is allocated. MDC has invested in researching its aquifer systems to better understand those resources and their interconnectedness with its river catchments. MDC is currently undertaking its first round of public engagement on its freshwater planning process required by the NPS-FM. There needs to be an understanding by the Working Group of the current and proposed water allocation approaches in Marlborough.
31. If the Working Group is unaware of the Marlborough context, then it could lead to an allocation statement, or multiple allocation statements, for a particular freshwater resource being in direct conflict with the visions and values the region has for its freshwater resources, and the wider considerations that underpin its allocation frameworks, creating uncertainty and complexity for water users.

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<sup>7</sup> NBE Bill, Cl 36.

<sup>8</sup> NBE Bill, Explanatory Note.

<sup>9</sup> Pursuant to Clause 87 of the NBE Bill, the NPF may provide further detail on the meaning of the resource allocation principles.

<sup>10</sup> *New Zealand Māori Council v Attorney General* [2013] NZSC 6 at [145].

<sup>11</sup> Ministry for the Environment. 2022. *Our Future Resource Management System: Overview – Te Pūnaha Whakahaere Rauemi o Anamata: Tirowhānui*. Wellington: Ministry for the Environment, at p 38.

<sup>12</sup> SP Bill, Cl 65 and NBE Bill, Cl 814.

<sup>13</sup> NBE Bill, Cl 689.

<sup>14</sup> NBE Bill, Cl 690.

<sup>15</sup> NBE Bill, Cl 693.

32. There is also uncertainty as to the status or weight the RPC is required to give to an allocation statement. This is made more challenging if there are multiple allocation statements for the same freshwater resource that may seek different outcomes. Under the NBE Bill, while it is for the RPC to determine how the NBE plan is updated, any changes must be consistent with the Act. If the RPC is required to give effect to the Tiriti principles, then the flow on from that is that the allocation statements must be implemented in the NBE Plan, irrespective of the potential effect on other water users. Clearer direction is needed on the status of allocation statements relative to the RPC's Tiriti obligations under the NBE Bill.
33. MDC is concerned to also ensure there is clear direction regarding the timing and sequencing of the Working Group process, including the submission of allocation statements, with the freshwater planning process, to ensure both processes are efficiently and effectively integrated into RSS and NBE plans.

## **Water and contaminated land management**

### *Freshwater farm plans*

34. The primary objectives of the reform are to improve efficiency and effectiveness and reduce complexity. The NBE Bill should set up the overarching framework, from which the cascading hierarchy of planning documents should fall under, providing the detail. However, at times the NBE Bill attempts to be all encompassing, covering a wide range of matters that would be better located in the NPF, and subsequently given effect to by the RSS and NBE Plans.
35. One example of this is the freshwater farm plan provisions. It is acknowledged that these provisions come from Part 9A of the RMA, however, the level of detail provided by these provisions is akin to regulation. It is in many respects putting the cart before the horse. It would be more efficient and reduce complexity if these provisions were contained as regulations under the NPF and not replicated in the primary legislation. It otherwise creates another layer of complexity and confusion for farmers, who will need to ensure their farm plans are prepared in accordance both with the legislation and the regulations to be released as part of the NPF.<sup>16</sup> Regulations for freshwater farm plans should then align with other national directions, particularly NPS-FM, the National Environmental Standards for Freshwater (**NES-FW**) and the Stock Exclusion Regulations.

### *Contaminated land*

36. The NBE Bill introduces a new regime to deal with contaminated land. This new framework fundamentally changes the current approach. The NBE Bill proposes a "polluter pays principle", new obligations on landowners, as well new powers and responsibilities for the Environmental Protection Authority (**EPA**), Regional Councils and District Councils.<sup>17</sup>
37. Existing land uses are also now no longer protected. The NBE Bill enables the NPF or NBE Plan to extinguish existing use rights by requiring activities to comply with plan rules relating to the "natural environment" and "the reduction or mitigation of, or adaptation to, the risks associated with...contaminated land".<sup>18</sup>
38. The NBE Bill substantially widens the definition of "contaminated land". By replacing "hazardous substance" in the definition with "contaminant", the NBE Bill significantly widens the scope of what is potentially captured. This will likely lead to an expansion of the

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<sup>16</sup> NBE Bill, Cl 403(1)(a).

<sup>17</sup> NBE Bill, Cl 416 – 427.

<sup>18</sup> NBE Bill Cl 26.



Hazardous Activities and Industries List (**HAIL**), a greater number of contaminant limits for both human health and the environment, and a broader identification of contaminated land.

39. The definition should remove the word “contaminant” and revert to “hazardous substance”. Otherwise, clear direction will be required in the NPF as to what is covered. For example, regional councils and unitary authorities specifically provide for the discharge of contaminants to land by way of permitted activity rules and discharge permits. If the definition is to remain, direction in NPF is therefore required on what is captured, appropriate limits and targets to avoid confusion and inconsistency across the country, and subsequent litigation.
40. The “polluter pays principle” shifts the costs of managing contamination to the “polluter”, while the landowner is required to manage the land to prevent harm to human health and the environment and to minimise further harm. While MDC generally supports the concept of the polluter pays principle, it has concerns about its practical ramifications.
41. MDC considers the principle could work for current or future activities, where the “polluter”, the person carrying out the HAIL activity, can be identified. Establishing who the polluter was for historic contamination raises serious questions of feasibility, in terms of availability and access to historic information and human resource time for investigations, and liability, especially where the past activity that caused the harm was mandated through legislation.
42. The definition of “polluter” is also very wide and further direction is needed as to what happens when more than one party is liable, that is when the contamination has been caused by more than one polluter.
43. MDC generally supports the requirement for a publicly searchable register of contaminated land from a transparency perspective however, that obligation should fall to central government and not regional councils. Substantial resourcing would be required from Councils to do this that many, like MDC, do not have. MDC considers a better solution is the provision of a centralised, national register that all councils could feed into. This has substantial merit both in data standardisation and public accessibility of information across the country.
44. The NBE Bill enables the EPA to recover costs from significantly contaminated sites from the local authority if costs cannot be recovered from the polluter.<sup>19</sup> MDC strongly opposes this. These costs could be substantial, and it is inappropriate to recover the cost from ratepayers. A better solution may be to provide the EPA with cost recovery functions similar to those provided for in clauses 235, 735 and 781 of the NBE Bill.
45. The role of the Bills should be to set up the framework and principles for the new regime. At points the NBE Bill becomes overly detailed and complex, providing such specificity that would ordinarily be contained in regulation. That complexity could be reduced, if the content of the Bills were to be refined, and the detail of how to implement the new regime provided through the NPF.

### **Significant biodiversity and Areas of highly vulnerable biodiversity**

46. MDC is acutely aware New Zealand’s indigenous biodiversity is in crisis. Marlborough is a region that contains areas of high biodiversity values and MDC has first-hand knowledge of the very real threats posed and the need to ensure its protection now and for future generations.

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<sup>19</sup> NBE Bill Cl 427.

47. Under the SP Bill, a RSS must provide strategic direction on key matters including “areas that may require protection, restoration and enhancement.”<sup>20</sup> The SP Bill, like the National Policy Statement for Indigenous Biodiversity Exposure Draft (**NPS-IB**) appears to be tenure neutral. In that, the RPC will be required to strategically plan, not just for private land but also Crown land, currently administered under the Conservation Act by the Department of Conservation (**DOC**). Clearer direction is needed on the interrelationship between the SP Bill and Conservation Act and strategic planning for conservation land.
48. Approximately 30% of land in Marlborough, 300,000 ha, is public land. The Molesworth Recreation Reserve, the Molesworth Station, for example, comprises 180,787 ha, about the size of Stewart Island. This land has a mix of values, conservation, farming, and recreation. DOC is responsible for the administration of this land and the provisions of its management plan.
49. The NBE Bill sets out provisions for the identification and protection of places of national importance, including places of significant biodiversity and areas of highly vulnerable biodiversity,<sup>21</sup> as well as Schedules for biodiversity offsetting and biodiversity redress.<sup>22</sup> There are terminology differences between the NBE Bill and the NPS-IB exposure draft. For example, the NBE Bill refers to “significant biodiversity areas” whereas the NPS-IB relates to “significant natural areas”. “Biodiversity redress” is used in the NBE Bill, where it is termed “biodiversity compensation” in the NPS-IB. An alignment is required to ensure consistency.
50. The NBE Bill also introduces the term “Areas of highly vulnerable biodiversity” (**HVBA**). An area is an HVBA if it meets one or more of the criteria listed, including an area that contains one or more nationally critical species.<sup>23</sup> If an activity has more than a *trivial* adverse effect on the attributes that makes that area an HVBA, it is essentially prohibited unless an exemption applies.<sup>24</sup> The concept of a “trivial” adverse effect is also a new addition, presumably sitting somewhere between a de minimis effect and a minor adverse effect, but as yet untested and ripe for litigation.
51. NBE plans will need to identify HVBA, including areas that are used by nationally critical species. Currently local authorities are responsible for habitat protection, not species management. DOC is responsible for species conservation and management under a range of legislation<sup>25</sup> and has been the lead agency in this area. It has the relevant knowledge, function, and resources best suited to this role. There is a number of nationally critical or threatened species (Flora and Fauna) in Marlborough. DOC is the agency responsible for managing these species while also maintaining a species register.
52. To effectively implement this part of the NBE Bill, clearer direction and guidance is needed on the roles and responsibilities of the Crown, through DOC, and local authorities in this space to enable appropriate collaboration and ensure the onus does not fall squarely on local government to fund and manage.

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<sup>20</sup> SP Bill Cl 17(1)(a).

<sup>21</sup> NBE Bill Cl 555 – 559.

<sup>22</sup> NBE Bill Sch 3 and 4.

<sup>23</sup> NBE Bill, Cl 562(1)(a).

<sup>24</sup> NBE Bill, Cl 563-566. Pursuant to Clause 7 an **adverse effect** does not include a trivial effect. Question the use of “trivial adverse effect” in Part 8, subpart 3 of the NBE Bill.

<sup>25</sup> For example, the Wildlife Act 1953, Wild Animal Control Act 1977 and Marine Mammals Protection Act 1978.

## Integration of coastal management

53. Under the SP Bill the RSS is to set out each region's approach to integrating land and coastal marine area planning, infrastructure provision, environmental protection, and climate change.<sup>26</sup> The Maritime Transport Act 1994 enables local regulation of maritime activity. Regional Councils may, for the purposes of ensuring maritime safety in their regions, regulate the ports, harbours and waters in their regions as well as maritime-related activities.<sup>27</sup>
54. MDC considers greater integration could be achieved if maritime planning under the Maritime Transport Act is required to be consistent with the directions contained in the RSS, just like planning for land transport.<sup>28</sup> There is substantial merit in ensuring there is a holistic approach for strategic and spatial planning in the coastal marine area, as there are often overlapping considerations across legislation, such as provision for navigational safety, transportation, access and anchorages.
55. In Marlborough there is necessary and ongoing collaboration between Harbours and Coastal Science. An example of this is the multibeam seafloor mapping in Queen Charlotte Sound and Pelorus Sound. From the Council's perspective this has been critical in assisting to identify and map important sites of marine biodiversity. It also serves a dual purpose to digitally map the depth profile of the Sounds, which can be used for navigation and maritime safety. There is also collaboration on the management of ship wake and on the navigational effects of marine farms and other coastal structures. Such management could be better integrated on a national basis through the provisions of the SP Bill.
56. A requirement for regulation under the Maritime Transport Act to be consistent the RSS developed for the region will promote the purpose of the SP Bill and provide for integrated planning in the coastal marine area.

## Climate change and natural hazards

57. The NBE Bill and SP Bill are just two of the three pieces of legislation being proposed by Central Government in this reform. The third tranche, yet to be released in any form, is the CAA.
58. MDC is concerned about the rate of development of the CAA, as it will need to work together with the Spatial Planning Act and Natural and Built Environment Act to meet the Government's reform objective to *"better prepare for adapting to climate change and risks from natural hazards, and better mitigate emissions contributing to climate change"*.<sup>29</sup>
59. The CAA, along with the Government's current work on climate change, including its National Adaptation Plan (**NAP**) and Emissions Reduction Plan (**ERP**), needs to be aligned and integrated with the NBE Bill, SP Bill and the NPF to effectively respond to climate change and its impacts. Local government is increasingly being faced with responding to weather events that have been exacerbated by climate change. Marlborough is still recovering from the storm event that hit it in August last year, which caused substantial damage to property and the roading network.

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<sup>26</sup> SP Bill, Clause 16 – 18.

<sup>27</sup> Maritime Transport Act 1994, s 33C.

<sup>28</sup> SP Bill, Cl 4.

<sup>29</sup> Ministry for the Environment. 2022. *Our Future Resource Management System: Overview – Te Pūnaha Whakahaere Rauemi o Anamata: Tirowhānui*. Wellington: Ministry for the Environment, at p 7.

60. Under the RMA, local government is required to have regard to NAP and ERP when preparing policy statements and plans.<sup>30</sup> There is no equivalent requirement for the RPC to consider these documents when developing its RSS or NBE plan. MDC considers the NAP and ERP should be specifically provided for as matters to be had regard to by the RPC when developing its RSS and NBE plan.
61. Local government is at the forefront of dealing with the effects of climate change and natural hazards. Clarity is needed sooner, rather than later, on the CAA and how it will integrate into the new system. It is recommended the development CAA is progressed in the first half of this year with input from local government.
62. We also note for completeness that reforms are proposed to the emergency management system, with the development of a new Emergency Management Act to better prepare for, respond to and recover from natural disasters and other emergencies. In the NBE Bill, persons are excluded from the restrictions in clauses 17 and 19 – 22, and thus not liable for prosecution where there has been an adverse or sudden event that is likely to affect certain listed matters that requires emergency or remedial work.
63. From experience, MDC knows remedial action is often required to be quickly undertaken to avoid further damage. One example is where logs have come down a flooded river and a landowner needs to remove them before they cause damage to their property or access to their property. In that example the exclusion in the NBE Bill would not appear to cover the field and the landowner removing the log would still be at risk from prosecution. We appreciate this is a difficult area to legislate for especially as actions may have unintended consequences on other properties or on natural or physical resources.
64. MDC recommends there needs to be an alignment with the emergency management reform, and Three Waters, to ensure appropriate tools are in place for local government, iwi and the community to ensure effective management of natural hazards and climate change impacts.

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<sup>30</sup> RMA, ss 61, 66 and 74.

## APPENDIX 1: NATURAL AND BUILT ENVIRONMENT BILL

### Part 1: Purpose and preliminary matters

#### *Subpart 1 – Purpose and related matters*

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
4	Tiriti o Waitangi	Issue	The requirement to “give effect to” the principles of te Tiriti o Waitangi creates uncertainty about how it is to be implemented. Clear direction is required from central government through the NPF.
5	System Outcomes	Support in part	MDC supports the inclusion of outcomes. However there needs to be priorities or mechanisms in place to ensure any conflicts on competing outcomes can be appropriately reconciled. Direction in this regard under the NPF will be key to ensure the system is workable and avoid protracted litigation.

#### *Subpart 2 - Other preliminary matters*

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
7	Interpretation (definitions)	Contaminated land – Change	The use of the word “contaminant” significantly widens the scope of the definition, capturing more HAIL activities and contaminants.  “Contaminant” should be removed and replaced with “hazardous substance”. If not, then clearer

			direction in NPF about what is captured by the definition.
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#### Part 4: Natural and Built Environment Plans

##### Subpart 1 – Preliminary matters

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
95	Natural and built environment plans	Support	Support the requirement for there to be a NBE Plan for Marlborough, separate from Nelson and Tasman.
95-101	Purpose and scope of plans	Change	Amend to allow the option for RPCs to undertake a combined planning process that enables RSS and NBE Plan to be developed together into one document.

##### Subpart 2 – Contents of Plans

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
106	Te Oranga o te Taiao statement	Issue	<p>Under this clause, an iwi or hapu may provide a statement on te Oranga o te Taiao to the RPC, which may relate to allocation matters (clause 106(2)).</p> <p>It is unclear what the status of that statement is, how RPC is required to treat it, or what weight to give it.</p>

107	Considerations relevant to preparing and changing plans	Change	<p>Under clause 107(1) RPCs should be required <u>to give effect to</u> rather than 'have particular regard to' statement of community outcomes and statement of regional environmental outcomes.</p> <p>Under clause 107(2) include the requirement for RPCs <u>to have regard to</u> NAP and ERP.</p>
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*Subpart 3 – Rules in plans*

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
120	Imposition of coastal occupancy charges	Issue	The mechanism for setting coastal occupancy charges should be stipulated through regulation under the NPF.

**Part 6: Water and Contaminated land management**

*Subpart 2 – Freshwater Farm Plans*

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
399 – 411	Freshwater farm plans	Change	<p>It would be more efficient and reduce complexity if these provisions were contained as regulations under the NPF and not replicated in the primary legislation.</p> <p>It would achieve the same environmental outcomes and aid in enhancing useability for farmers if they were only required to refer to regulation, and not</p>

			<p>to legislation in order to understand the requirements for their farms.</p> <p>Regulations for freshwater farm plans should then align with other national directions, particularly NPS-FM, NES-FW and the Stock Exclusion Regulations.</p>
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*Subpart 4 – Contaminated land*

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
417	Polluter pays principle	Issue	This should not apply retrospectively, only to present and future activities. Clearer guidance is needed.
420	Obligations of regional council	Change	Clause 420(1)(e) requires regional councils to keep and maintain a publicly available register of contaminated land. This obligation should fall to central government, to provide a centralised system.
424	Identifying the polluter	Issue	The definition is wide but no further direction or guidance in the instance where there is more than one polluter and how liability is to be apportioned.
427	EPA may recover costs from local authority	Oppose	The EPA should not be able to recover costs from local authorities in circumstances where the polluter cannot pay. That is an unacceptable burden on ratepayers of what potentially could be significant costs.



**Part 8 – Matters relevant to natural and built environment plans**

*Subpart 3 – Places of national importance, including places of significant biodiversity and areas of highly vulnerable biodiversity*

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
556	Identification of places of national importance	Support	MDC supports the identification of places of national importance, a process which it has carried out through the development of its PMEP.
559	Protection of places of national importance	Issue	MDC supports the protection of places of national importance; however it is unclear what might constitute a <i>trivial</i> effect, as opposed to minor adverse effects.
562	Criteria for identifying HVBAs	Issue	To effectively implement this part of the NBE Bill, clearer direction and guidance is needed on the roles and responsibilities of DOC and local authorities to ensure appropriate collaboration, funding and management.
563	Limits to activities within HVBAs	Issue	MDC supports the protection of HVBAs; however it is unclear what might constitute a <i>trivial</i> effect, as opposed to minor adverse effects.

**Part 10 – Exercise of functions, powers, and duties under this Act**

*Subpart 7– Freshwater Working Group*

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
693	Freshwater allocation matters	Issue	<p>Local government input is required on the Working Group. It is essential the local or regional context is understood, current and proposed water allocation approaches in Marlborough, and the considerations underpinning that policy framework.</p> <p>Clearer direction is required on the status of allocation statements, as well as the timing and sequencing of these provisions with the freshwater planning provisions to ensure efficient and effective integration into RSS and NBE Plans.</p>

## APPENDIX 2: SPATIAL PLANNING BILL

### Part 1 – Preliminary provisions

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
3	Purpose	Change	Add reference in clause 3(b) to the “ <u>Maritime Transport Act 1994</u> ”
4	How regional spatial strategies promote integration	Change	Include the requirement for regulation under the Maritime Transport Act to be consistent with the relevant RSS.
5	Tiriti o Waitangi	Issue	The requirement to “give effect to” the principles of te Tiriti o Waitangi creates uncertainty about how it is to be implemented. Clear direction is required from central government through the NPF.

### Part 2 – Regional Spatial Strategies

#### *Subpart 2 - Requirement for regional spatial strategies*

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
12	Every region must have a regional spatial strategy	Support	Support the requirement for there to be a RSS for Marlborough, separate from Nelson and Tasman.
17	Contents of regional spatial strategies: key matters	Issue	A RSS must provide strategic direction on key matters including ‘areas that may require protection, restoration and enhancement.’ (Clause 17(1)(a)).

			<p>Marlborough has large areas of indigenous vegetation. Approximately 30% of land in Marlborough, 300,000 ha, is public land. This is Crown land administered under the Conservation Act. Currently, strategic planning for conservation land falls within the responsibility of the Department of Conservation, not MDC.</p> <p>Clearer direction is needed on the interrelationship between the SP Bill and Conservation Act and strategic planning for conservation land.</p>
24	General considerations: instruments	Change	Under clause 24(3) include the requirement for RPCs to have regard to NAP and ERP.

*Subpart 3 – Preparation and review of regional spatial strategies*

Clause	Topic covered by clause	State position (support, oppose, change) or Issue	Reasons, or Recommendation/suggest amendment
30-35	Process for preparing regional spatial strategies	Change	Amend to allow the option for RPCs to undertake a combined planning process that enables RSS and NBE Plan to be developed together into one document.

**APPENDIX 3 – SUBMISSION BY MARLBOROUGH DISTRICT COUNCIL ON NATURAL AND BUILT ENVIRONMENT BILL PLANNING BOUNDARIES**



5 May 2022

Record No: 2285423  
File Ref: L150-019-R01  
Ask For: Mayor Leggett

Ministry for the Environment  
[rm.reform@mfe.govt.nz](mailto:rm.reform@mfe.govt.nz)

Kia ora koutou

## Resource Management Reform - Planning Boundaries

1. Further to our meeting on 29 April 2022, I enclose the submission by the Marlborough District Council (MDC) on the Resource Management Reform programme and proposed planning boundaries.
2. In summary, MDC's interim position is that it supports proposed Option 1:
  - a. Option 1 best achieves the Resource Management Reform objectives;
  - b. Options 2, 3 and 4 are inconsistent with the exposure draft of the Natural and Built Environments Bill (NBA), have had no public input and do not accord with the approach proposed for the rest of the country;
  - c. There has been no cost benefit analysis provided on how a combined Regional Spatial Strategy (RSS) and NBA plan for the Top of the South/Te Tau Ihu would improve efficiency and effectiveness and reduce complexity;
  - d. MDC has implemented an allocation regime within its regional boundary. This has provided certainty for regional development. A change to Marlborough's regional planning boundary would undermine established frameworks.
  - e. Any proposed changes to region boundaries or combining of regions needs to be undertaken with engagement, and consultation with local communities and iwi through Local Government reform.
3. The position of MDC is an interim one, on the basis it has had limited time to discuss the options proposed with its constituents or iwi. MDC is concerned with the lack of consultation and time afforded to councils and iwi to assess these options and provide a response.
4. It is of critical importance that the option chosen best serves the communities it will affect. That can only be achieved through considered consultation and analysis. In the absence of this, it is our view the status quo ought to proceed.
5. Marlborough has its own strong and unique identity, distinct from Nelson and Tasman. Its world-renowned wine industry and idyllic Marlborough Sounds are just two prime examples of this unique identity. In the past, attempts at combining Marlborough with Nelson and Tasman have been met with staunch community opposition. It is a fair assumption that such vehement opposition from the community will again transpire should Options 2 or 4 be selected.

6. Marlborough has consistently demonstrated that integrated planning can be achieved through its unitary model, the very model recommended in the Randerson report, within its current boundary. This model, together with the utilisation of its digital systems, best serves the Marlborough community.
7. Thank you for taking the time to consider our written submission.

Ngā mihi

A handwritten signature in blue ink, appearing to read 'John Leggett', with a stylized, cursive script.

**JOHN LEGGETT**  
**MAYOR**

## **Submission by Marlborough District Council on Natural and Built Environment Bill planning boundaries**

### **Introduction**

1. Further to the Mayors and Chairs Forum on the Natural and Built Environment Bill planning boundaries on 29 April 2022, the Marlborough District Council (MDC) wishes to provide additional feedback on the four options proposed by the Ministry.
2. MDC's interim position is that it **supports** proposed Option 1:
  - (a) Option 1 best achieves the Resource Management Reform objectives;
  - (b) Options 2, 3 and 4 are inconsistent with the exposure draft of the Natural and Built Environments Bill (NBA), have had no public input and do not accord with the approach proposed for the rest of the country;
  - (c) There has been no cost benefit analysis provided on how a combined Regional Spatial Strategy (RSS) and NBA plan for the Top of the South/Te Tau Ihu would improve efficiency and effectiveness and reduce complexity;
  - (d) MDC has implemented an allocation regime within its regional boundary. This has provided certainty for regional development. A change to Marlborough's regional planning boundary would undermine established frameworks.
  - (e) Any proposed changes to region boundaries or combining of regions needs to be undertaken with engagement, and consultation with local communities and iwi through Local Government reform.
3. Some of the matters listed above were recorded in the presentation by the Ministry, but others were not. Accordingly, the table of "*Possible pros and cons of options for discussion*" presented was not complete for the reasons outlined in these submissions.
4. As a second option, MDC's interim view is that it would be prepared to accept proposed Option 3. However, as the option impacts Nelson and Tasman Councils, it would be for those Councils to address this option further.
5. MDC's position is an interim one as it has not yet had the opportunity to discuss the options proposed with its constituents or iwi. Nor has it been afforded time to analyse the options and



run the various scenarios through its own processes to assess where the costs/benefits might lie.

6. MDC is concerned with the lack of consultation and time afforded to Councils and Iwi to assess the options proposed and provide a response. The Ministry provided the Mayors and Chairs with the proposed options only one day before the meeting, with a timeframe of one further week to provide a written response. Given the scale and complexity of the options, and the potential for widespread ramifications, time must be taken to consider the implications of the options. In the absence of this time and analysis, the status quo should proceed.

## **Background**

7. MDC is a unitary authority with almost 30 years' experience of administering its combined plans.
8. It has a land area of over one million hectares – the largest geographical size of the five unitary councils. Marlborough also has almost a fifth of New Zealand's coastlines, at approximately 2000km, including the Marlborough Sounds.
9. MDC knows from experience that integrated planning provisions achieve benefits for resource users, in terms of a simplified planning regime and reduced costs, but also achieve improved environmental outcomes. MDC has demonstrated over many years that vertical integration can be successfully achieved in a unitary model. This integration has enabled the development of a strong and productive primary production sector in Marlborough, while ensuring environmental values are preserved and protected.
10. MDC's Proposed Marlborough Environment Plan (PMEP) was publicly notified in 2016 and its plan structure is the very model the Randerson Report recommended. It is a combined regional policy statement, a regional coastal plan, a regional plan and district plan. The PMEP went through a thorough submission and hearings process, with appeals on the PMEP now before the Environment Court.
11. Unlike the recommendation for the other unitary councils in the country, the Randerson Report contained a suggestion that there should be a single combined plan for Te Tau Ihu. However, there was neither justification nor analysis for this proposal within the report itself. The three councils have collectively expressed a concern regarding this proposal, especially as all three councils have successfully applied the vertical integration recommended as an outcome of the review process.

12. From MDC's perspective, its record of achieving integrated management of its natural and physical resources via combined plans, and the geographically distinct nature of its District and community, are reasons enough to allow the status quo to continue, albeit it in the context of the new purpose promoted in the NBA. This approach would align with the recommendations for the rest of New Zealand and be consistent with Local Government Act regional boundaries.

**Option 1 best achieves the Resource Management Reform objectives**

13. It is MDC's interim view that Option 1 best achieves the Resource Management Reform objectives.

**Objective 1** *Protect and where necessary restore the natural environment, including its capacity to provide for the well-being of present and future generations.*

14. MDC is best placed to achieve this objective through setting its own environmental limits and outcomes in plan development under NBA.
15. MDC has extensive experience planning for its natural and physical resources, with the PMEP now well into advanced stages, and based on good data. The purpose of the NBA is to manage environmental effects, which is a regional function. MDC has demonstrated that this can be delivered in the unitary model within its existing boundaries.
16. Option 1 enables MDC to retain key planning staff and environmental scientists with key local knowledge of the environmental issues facing Marlborough. A combined plan would risk unravelling good environmental outcomes that have been years in the making.
17. The Marlborough District is geographically separated from Nelson and Tasman District by two alpine mountain ranges. This geographical separation has resulted in a distinct physical environment and distinct communities of interest. There are generally no overlapping resource management issues between Marlborough and Nelson/Tasman.
18. The Takiwā approach is also not determined by catchment management for environmental management purposes. Adopting this approach would add unnecessary complexity to catchment management, potentially splitting catchments, in order to manage, protect and restore the environment.
19. Marlborough has developed its own unique identity, with its world-renowned viticulture industry and idyllic Marlborough Sounds being just two examples. This mix has resulted in bespoke management responses to the resource management issues that exist in Marlborough. Those responses include frameworks for the allocation of natural resources and

the allocations are reflected in resource consents, especially coastal permits and water permits, authorising use of resources for up to 35 years. Those allocations are unable to be “undone” for the sake of consistency across Marlborough, Nelson and Tasman.

20. MDC considers the continuation of this bespoke management regime for Marlborough best achieves Objective 1, and provides for the social, cultural and economic wellbeing of its community.
21. A change to Marlborough’s regional boundary, catchment management and allocation regimes, would significantly impact permit holders and users operating within existing allocation regimes, and create complexity and uncertainty. Marlborough’s successful primary production sector has been built on understanding the allocation regimes that have been developed. A fundamental change would ultimately result in uncertainty for Marlborough’s community and potentially impact on the economic wellbeing of the region.
22. In all other cases under the reform the regional planning boundary is also the regional council or unitary authority boundary. That means that allocation frameworks remain intact. There has been no justification given or analysis undertaken, as to why the arrangement is different for Marlborough, Nelson and Tasman.
23. There are limited cross-boundary issues for the three Councils to currently manage and therefore MDC disagrees Option 1 is more likely to draw on other legislative powers to address cross boundary issues.
24. The land on either side of the boundary is predominantly Crown land administered by the Department of Conservation for conservation purposes. Resource use at and across the boundary is limited to two state highways (managed under a combined Regional Land Transport Strategy), the National Grid (managed under the National Policy Statement for Electricity Transmission) and a limited area of exotic forestry (managed under the National Environmental Standard for Plantation Forestry). There are no shared freshwater catchments. The nature of the land tenure and freshwater catchments means this current situation will not change for the foreseeable future.
25. Given the physical separation between Marlborough and Nelson/Tasman, the unique management that has developed within Marlborough and the advanced stage of the PMEP, MDC considers Option 1 best ensures Objective 1 is achieved.

**Objective 2** *Better enable development within environmental biophysical limits including a significant improvement in housing supply, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure*

26. This objective would be achieved through the recommended RSS and NBA plans for Option 1. MDC does not consider a combined plan for Marlborough, Tasman and Nelson will contribute further to achieving this objective. A combined plan for Tasman and Nelson (Option 3) may support this objective due to cross boundary infrastructure.

**Objective 3** *Give effect to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori.*

27. MDC considers Option 1 would ensure Objective 3 is achieved through iwi representation on the RSS and NBA plan committees, as recommended for all other regions, and MDC welcomes iwi participation.

28. MDC appreciates it would require Ngāi Tahu to have a representative on multiple plan committees, however, that is not uncommon throughout New Zealand with a number of iwi having rohe in multiple regions.

29. The interests of iwi are more complex than boundary lines on a map.<sup>1</sup> Te Tau Ihu iwi have overlapping boundaries ad mana whenua. Iwi have aspirations and desired outcomes, outlined through individual iwi management plans, management of their tikanga, including allocations.

30. Council and iwi have had very limited time to consider the Takiwā approach. MDC considers this option would put the onus on Te Tau Ihu iwi to resource plan committee processes for Canterbury and West Coast, in addition to Marlborough, Nelson and Tasman.

31. The ability of iwi to resource planning processes is not unique to Marlborough, it is a national issue and should not be a primary driver for a combined plan for Marlborough, Nelson and Tasman. There are eight Te Tau Ihu iwi, with multiple iwi management plans that need to be considered. Option 1 allows for these plans to be appropriately considered and implemented.

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<sup>1</sup> See *Ngāti Whātua Ōrākei Trust v Attorney-General* [2022] NZHC 843.

**Objective 4** *Better prepare for adapting to climate change and risks from natural hazards as well as mitigating the emissions which contribute to climate change.*

32. This is achieved through the Climate Adaptation Act. A combined plan for Marlborough, Nelson and Tasman would not contribute further to achieving this reform objective.

**Objective 5** *Improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input.*

33. Objective 5 is achieved by Option 1 through integrated district and regional plans and RSS. Again, Marlborough has successfully demonstrated integrated planning can be achieved through its unitary model.
34. Marlborough's PMEP embodies the integrated planning model recommended in the Randerson report. It has had extensive public input through the submission and hearing process, resulting in relatively few appeals (51) overall. MDC considers Option 1 ensures that its community's views are represented, appreciated, and listened to. It considers there is a real risk the views of Marlborough's community will not be adequately heard if there is one combined plan for Marlborough, Nelson and Tasman.
35. Certainly, the views of the community have not been sought for Options 2, 3 or 4. The exposure draft of the NBA, and the parliamentary paper on the exposure draft for public submission, do not align with options 2, 3 or 4. The parliamentary paper stated:
- "The intention is to consolidate over 100 RMA policy statements and regional and district plans into under 20 plans, simplifying and improving integration of the system."*
36. Options 2, 3 or 4 have not been circulated for public submission and insufficient time has been given to Councils and Iwi to provide a response. To propose these options at this late stage is of significant concern in achieving an open, transparent process, and risk pre-empting local government reform decisions.
37. There has been no cost benefit analysis shared by the Ministry on how the proposed combined RSS and NBA plan improve system efficiency. The Regulatory Impact Statement identifies the cost benefit in moving from 100 plans to 14. MDC does not dispute this overall cost benefit and increased efficiency. What is disputed is the cost benefit of 14 compared to 16 integrated plans, given the lack of alignment with existing Regional Council boundaries, current allocation regimes and permits, Marlborough's advanced plan process stage and community preference.

38. Transitioning to a combined plan across three Councils will take time and money, as well as a substantial political effort, with no certainty of better outcomes. There would be significant implications in terms of administration, governance, and finance arrangements as well. Integration and efficiencies are achieved where there is strategic planning, district/regional planning, funding, and asset acquisition/management occurring within one organisation.
39. The Takiwā approach would require MDC to provide additional resources for political representation in Canterbury and West Coast plan committee processes, as well as additional staff resource, increasing complexity.
40. As set out above, the integrated planning model recommended in the Randerson report has been implemented through the PMEPP. Changes to the regional boundary in the context of Marlborough's advanced plan making stage would be a backward step and increase uncertainty and complexity.
41. As MDC covered in its submission to the Environment Select Committee on the Exposure Draft of the Natural and Built Environments Bill, system efficiency and effectiveness can be improved by taking advantage of advances in digital technology to streamline the planning system.
42. MDC is widely regarded nationally for its use of digital systems, accessibility of electronic information and its openness of records and services. MDC has utilised these tools within its current boundary to serve the Marlborough community and to enable its people and community to provide for their social, economic and cultural wellbeing.
43. In the appendix to MDC's submission to the Select Committee, it provided three opportunities to incorporate digital systems into the planning system:
  - (a) The National Planning Framework be provided in a national digital format
  - (b) A single National Consenting and Processing System
  - (c) A single National Monitoring System for the benefit of all New Zealand.
44. These three systems would provide a common platform and therefore achieve alignment and consistency in administration of the NBA across the local government sector. This has the ability to reduce costs, not just for local government, but also for resource users and the community as a whole.

45. It's clear that digital tools are able to simplify complex processes and it would be a real advantage for the resource user as they engage with a new and unfamiliar planning system. The retention of data in a common format and the ability to represent that data spatially creates greater transparency of, and accessibility to, the planning system. The same data would also allow for efficient and effective monitoring of the success of the NBA.
46. To achieve efficiency, and for the systems to be effective and usable, they ought to be developed in tandem with the remainder of the reform process.

### **Alternative options proposed by the Ministry**

#### *Three Waters Boundaries*

47. The Marlborough and Tasman District Councils boundaries are not unique in traversing more than one three waters entity. The current Three Waters proposal also results in Manawatu Wanganui Regional Council and Hawkes Bay Regional Council both traversing two Three Waters entity boundaries (entity B & C).
48. Changing Marlborough and Tasman's regional boundary to align with a Three Water entity boundary would be inconsistent with other regional boundaries and entity boundary alignment. Three Waters relates to district issues and are more in alignment with district boundaries. The Three Waters boundaries are not justified to support environmental outcomes.

#### *District Health Board Boundaries*

49. District Health Board Boundaries are not linked to catchments for preservation and protection of the natural environment.
50. To align the Nelson, Tasman and Marlborough regions on this basis of these boundaries would be inconsistent with regional council and District Health Board boundaries for the rest of New Zealand. For example, the Southern DHB includes Southland and Otago Regional Council areas, in contrast other regional council boundary traverse multiple DHB's.

#### *Electoral Boundaries*

51. These boundaries are not aligned with regional Council boundaries throughout New Zealand and would not achieve the objectives of the Resource Management Reform.

*Te Puni kōkiri - map of Iwi regions*

52. Te Tau Ihu Iwi are not unique in crossing multiple regional council boundaries (Tasman, Marlborough, Nelson). By way of a few examples:
- (a) Hauāuru Iwi (18) traverse Taranaki and Manawatu Wanganui Regional Councils;
  - (b) Te Moana O Raukawa Iwi (7) traverse Wellington and Manawatu Wanganui Regional;
  - (c) Te Arawa Waka Iwi (17) traverse Waikato, Hawke's Bay and Bay of Plenty Regional Councils;
  - (d) Tākitimu Iwi (9) traverse Wellington, Hawke's Bay and Manawatu Wanganui Regional Councils; and
  - (e) Waipounamu-Ngāi Tahu traverse Southland, Otago, Canterbury, West Coast, Marlborough, Tasman and Nelson Regional Councils.