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Committee Secretariat  
Environment Committee  
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Tēnā koutou

## Submission on the Planning and Natural Environment Bills

### Overview

Thank you for the opportunity to submit on the Planning (PB) and Natural Environment (NEB) Bills (together, the Bills). This submission reflects the views of Engineering New Zealand and has been developed with support from technical experts across a range of engineering disciplines. Engineering New Zealand is the largest professional body for engineers in New Zealand, with over 23,000 members. We have both regulatory and membership functions. Many of our members regularly engage with the resource management system across all forms of infrastructure (including housing), environmental management and natural hazard resilience.

Engineering New Zealand is supportive of the general direction of reform and welcomes the Government's ambitions for a faster, more integrated and outcomes focused system. Strong, integrated spatial planning has the potential to transform how we create communities and how infrastructure is planned and delivered in Aotearoa.

While we support the general direction of the Bill, it is our view that amendments are required to support implementation, provide legislative clarity, ensure resourcing and reduce the extent that critical policy detail is deferred to secondary legislation.

Our submission focusses on systemic issues that we consider will have a significant impact on the ability to develop thriving, liveable communities while protecting and preserving our natural resources. Our key points include:

- **Support for the overall direction:** We support the overall reform direction (faster, more integrated system; stronger spatial planning) but consider the Bills need material amendment to improve clarity, workability, resourcing, and certainty.
- **Primary legislation needs to be strengthened:** Too much is deferred to future national direction, creating uncertainty and litigation risk. Core policy settings should be clearer in the Bills, with more directive drafting and provision of critical definitions. For this reason, it is difficult to accurately comment on, or understand, how the proposed system will work without a better understanding on National Policy Direction and subsequent standards. This detail is critically important, particularly environmental limits and what will be covered by National Policy Direction, also how the system will function and if it will be effective.
- **Better integration of mātauranga Māori:** The proposed system needs to better integrate mātauranga Māori and preserve the role of iwi.
- **Implementation:** Sequencing and transition are too compressed which will create profound risks for development and the environment; national direction must be developed, aligned and operative before regional planning processes progress, with more realistic timeframes and contingencies.

- **System capability and capacity:** Success depends on sufficient capability and resourcing across the system, particularly for local authorities and in the enforcement space. It also requires continued technical input throughout design and implementation.
- **Planning requirements verses market forces:** Urban planning under the new system must place stronger emphasis on creating liveable, human-centred environments. The current drafting, risks enabling development that is shaped primarily by market forces, rather than requiring that development contribute positively to resilient, healthy, and socially connected communities.
- **Requirements on environmental limits:** Environmental limits must be evidence-based and implementable, supported by prescribed methodologies and guidance developed with expert technical input. Ideally this will have partisan support and can only be amended to align with changes in science.
- **Risks of regulatory relief:** There are concerns that regulatory relief will have a chilling effect and result in local authorities not protecting areas of significant value and importance to our communities.

Our submission has the following structure:

- General and System-Level Comments
- Infrastructure Planning, Provision, and Consenting
- Enabling Housing and Urban Development
- Natural Hazards and Climate Resilience
- Environmental Limits and Permits under the NEB
- Regulatory Relief
- Heritage considerations

## General and system-level comments

### **There is an over-reliance on national policy direction resulting in a lack of key detail within the Bills**

The Bills currently place extensive reliance on future national direction to provide much of the substantive policy framework. While in principle Engineering New Zealand supports the use of national direction, we are concerned that deferring so many core elements creates uncertainty and increases the risk of litigation. Without visibility of the substance of the national policy direction and standards, it is difficult to fully assess the Bills' implications.

Engineering New Zealand considers that key requirements, definitions and policy direction should be set out more explicitly in the Bills themselves. This will help to reduce uncertainty and avoid unnecessary reliance on the courts to resolve gaps or ambiguities. Examples of essential policy detail and other foundational matters that should be addressed directly in the Bills instead of being deferred to national direction include:

- Explanation of how to rationalise the goals of each Bill and potential conflicting policies within national direction.
- Guidance on the evidential requirements for combined plans and the development of standardised plan provisions (PB, clause 58).
- Setting the detail of human health limits for freshwater, coastal water, land and soil, and air (NEB, clause 49).
- The hierarchy for avoiding, minimising, remedying, offsetting, or compensating for adverse effects and when it may be appropriate to compensate (vs offset) (PB, clause 15(2)(a)–(c)).
- Clarification of which effects are to be managed under each Bill (PB, clause 15(2)(d)).
- Specification of methodologies for plan preparation, including regulatory relief frameworks (PB, Part 4, Schedule 3).
- Establishment of ecosystem health limits (PB, clause 54).

### **Limited clarity and specificity of drafting issues increase potential litigation risk and reduce certainty**

In several instances, the Bills rely on aspirational language, creating uncertainty about what must actually be met and significantly weakening clauses that are intended to be directive - most notably the obligation to “seek to achieve” the goals in clause 11. This language risks weakening the intent of the goals, potentially causing inconsistent application between regions, and ultimately contributing to avoidable infrastructure or environmental failures. Clearer and more directive language (such as requiring that outcomes “must be achieved” or “must be given effect to” subject only to defined and limited exceptions) would provide stronger statutory direction and greater certainty for decision-makers, infrastructure providers, and communities.

The Bills also include many cross-references to one another. In particular, the NEB often relies on processes as set out in the Schedules to the PB (see clauses 94, 126, 181, 297 of the PB for some examples). For natural resource permits the NEB contains section 126 that sets out how that should be modified to apply to the NEB. For all the other cross references it is not clear how processes are to operate in a different context – by virtue of different terms and definitions being used across each of the Bills. Where a provision of the PB is not expressly referred to in the NEB it is not clear what its relevance will be.

Clarity of drafting would be beneficial to ensure that the provisions are easily applied. This could be achieved by using more consistent terminology across the Bills and providing general guidance in a section of the NEB about how to apply the extensive cross references to the PB and how the PB might otherwise be relevant when not directly applied in. For example, if an application only requires a permit under the NEB, will the goals of the PB be relevant at all? If not, the NEB would not provide any goal on infrastructure despite infrastructure commonly requiring NEB permits such as for discharges and water takes.

Relatedly, there is a need to define key terminology across the Bills. Clear definitions will be central to the efficient and effective implementation of the system; without them it is likely that the courts will be left to define critical terminology. While the intention might be to define terms within National Policy Direction, Engineering New Zealand considers this inappropriate. Terms used throughout the Bills should be defined in them.

The current ambiguity in drafting risks appeals and litigation, with courts being required to resolve matters that could be addressed through clearer statutory language. If these matters are not resolved, litigation may prolong implementation of the new regime.

The PB’s heavy reliance on Schedules rather than ‘Parts’ of the Bill as a drafting technique makes cross references and navigation significantly less user friendly. It also gives the implication that they are less important. For example, it is not clear why Schedules 5, 8, 9, 10 of the PB could not be a ‘Part’ of the Bill.

### **The proposed system needs to better integrate mātauranga Māori and preserve the role of iwi**

Natural resources (especially water) are widely recognised as taonga under Te Tiriti o Waitangi. Māori hold kaitiaki responsibilities in respect of many of Aotearoa’s most significant natural resources, supported by mātauranga Māori and traditional environmental management practices developed and refined over generations. The role of Māori as kaitiaki must be maintained throughout the resource management system. Projects developed in partnership with iwi, and informed by mātauranga Māori, can deliver better environmental outcomes as well as high quality design that supports and reflects local communities. The connection between the built environment and socio-cultural needs is fundamental. When designs do not resonate with cultural values and are not welcoming to the local community, they are of little value.

Engineering New Zealand is concerned that provisions relating to iwi participation and the incorporation of mātauranga Māori have been diminished across the Bills compared with the position under the RMA. For example, there do not appear to be equivalents to RMA sections 6(e), 7(a) and 8 of the RMA. We feel that a reduction in meaningful engagement with Māori or a reduction in the ability to take mātauranga Māori into account in decisions, is a disservice to communities and may result in a lesser ability for infrastructure to meet local needs and to incorporate culture and history into design.

Engineering New Zealand recommends that the existing approach to iwi participation and mātauranga Māori under the current resource management system is retained, enhanced, and embedded within the new framework. Engineering New Zealand supports the integration of mātauranga Māori through tangata whenua participation, particularly in environmental management, and is concerned that reduced project engagement may lead to poorer environmental, cultural, and community outcomes.

## **Central government should be more accountable in this system to better reflect the role they play**

A key limitation of the current Resource Management Act is the inability to sanction the Central Government. While the Central Government can be found to have breached the act, it is not subject to any penalties. This is clearly inequitable, especially in cases such as the contamination of water sources by Defence Force PFAS foam. This is also inequitable as Local Government is not exempted from penalties.

The Bills as they are currently drafted do not specify that central government is liable for penalties under the system. We believe this is an oversight and welcome additions into both Bills on the roles and accountability of central government. It is our view that the addition of such provisions would result in more caution and consideration throughout all decision-making processes, better reflecting the impact of Government decisions.

## **Sequencing and timing**

The scale of this reform and change required to implement it is unprecedented. In our view, implementing the new system within compressed timeframes creates a significant risk of inconsistent implementation, gaps in decision making, and is likely to lead to increased litigation. The success of the reform requires a slower transition to ensure each stage is well considered, implemented carefully and adequately resourced.

The implementation provisions need to be reworked so that all documents under the Bills are prepared in an appropriate manner and with technical input. We are concerned that, as currently drafted, the provisions will likely lead to rushed documents that lack quality and integrity, which may undermine the intended outcomes of the system. Based on proposed phasing, it is likely that there will be a significant amount of rework required and unnecessary plan changes.

*Transition timeframes are too short and will likely require significant rework or result in poor quality plans*

The proposed transition timeframes found in Schedule 1 of the PB – particularly in relation to preparing regional spatial plans (RSPs), land use plans (LUPs), and natural environment plans (NEPs) – appear very short, given the complexity of the task and current resourcing constraints. In our view, these timeframes are too ambitious and need to be extended to prevent rushed integration.

There is also a risk that work undertaken at an early stage in the transition will need to be redone once further national direction or standards are released. For example, the first draft RSP must be publicly notified within 15 months of Royal assent or 6 months after the first national policy direction is issued (PB, Schedule 1, Part 1, clause 5(4)). However, other national instruments that may include environmental limits relevant to the RSP are due 6 months after public notification. We consider that this will result in lower quality draft RSPs and limit their proper consideration in the first instance. Even more concerning is the risk that a RSP may give effect to development related goals over environmental ones due to the absence of environmental limits. This may have irreversible effects that cannot be addressed later as it is too difficult or costly to do so.

For a model relying significantly on national direction to work, there must be sufficient time for that national direction to be developed, aligned and tested to ensure the resulting policies are coherent and workable. It is also essential that these steps are carried out before key decisions are made about planning processes that must implement the national direction, including RSPs. Engineering New Zealand is concerned that the timeframes and sequencing in the Bills do not provide for that. For example:

- PB Schedule 1, Part 1, clause 5(4) requires public notification of the first draft RSP within 15 months of Royal assent, or 6 months after the first national policy direction is issued. The problem with this approach is that national direction will still be incomplete and untested at that point in time.
- PB Schedule 1 sets parallel or overlapping timeframes that assume national direction will be ready. They do not make RSP/LUP/NEP preparation contingent on national direction being in place.
- NEB clauses 48-54 impose obligations to set national limits and targets, but the timing is after RSP processes begin under the PB.

Therefore, we seek amendments to ensure that all relevant national direction and standards that inform RSPs, LUPs and NEPs are introduced before the preparation period begins. Allowing time to consider their implications and ensuring plans consider all relevant direction, reducing the risk of time-consuming plan change processes.

*Timeframes should align with related changes*

Additionally, it would be helpful if implementation timeframes better aligned across all regulatory regimes/policy changes. Many of these anticipated changes require technical and community engagement work that will have a substantial impact on RSPs. An example is the upcoming changes under the Water Services Act (Stormwater Network Risk Management Plans, Water Services Strategies and assessment of the adequacy of services), some of these changes are not expected until 2029 but water networks play a significant role in the RSPs. Ensuring RSPs are developed in a way that aligns with related changes, occurs after critical national standards are introduced (ie. environmental limits) and allows for robust technical and community engagement will be critical to ensuring our communities are developed in an efficient, effective and well-planned way that reduced planning barriers instead of adding to them.

Increasing the timeframes included as part of the transitional provisions would also reduce the demand on councils and other system participants, many of whom are already at capacity and managing resourcing constraints, in many cases arising from engagement on fast-track consent applications which have very short timeframes.

### **Local government capacity is a significant concern and could impact implementation**

The local government sector is currently facing significant policy change and will be required to implement a wide variety of systemic changes that will have a profound impact on New Zealanders. For context, some of the changes facing councils include (but not limited to) resource management reform, earthquake prone building reform, local water done well, fast-track consenting changes, proposed changes to local government structure, infrastructure funding and financing changes, rates caps, emergency management reform, changes to development levies, upcoming changes on building liability and upcoming changes to Fire Safety regulations. Each rely on local government to work. This is not a new trend. Over the past year we've observed a marked increase in policy decisions being left to councils to implement, typically without any additional funding to support or enable the change.

Many of these changes are occurring on similar timeframes. Implementing a significant amount of systemic policy change within a short period creates substantial implementation risks and could lead to greater inconsistency between councils. This volume of change creates the additional risk that planned development may stall, be delayed or even cancelled while councils focus on imbedding reform changes.

#### *Local government capacity constraints often have unintended impacts on the infrastructure sector*

Beyond implementation concerns, Engineering New Zealand is concerned about the impact that policy change and lack of resourcing will have on the infrastructure pipeline. The constant policy change facing local government (particularly in the three waters space) has resulted in widespread postponement of infrastructure projects, even maintenance and renewals that need to occur to maintain service provision regardless of Government direction. Local government infrastructure projects are a critical to a healthy infrastructure pipeline, particularly in smaller regions, that supports the industry by providing consistency and predictability.

The halting of centrally funded infrastructure projects has significantly impacted skilled workers across the engineering profession. Many have lost their jobs or sought opportunities overseas. Over the past year, more than 2,000 roles have reportedly been lost across 60 engineering firms, while construction sector employment has declined by 12,000, further exacerbating the long-term shortage of engineers we are facing. Engineering New Zealand is concerned that substantial policy reform will exacerbate pipeline challenges we are already facing and more skilled workers (that we will need in the future) will lose their jobs and move overseas.

Engineering New Zealand has been consistently calling for increased implementation support for local government and a clear plan for how local councils should manage implementation timeframes and phasing across all regulatory regimes.

### **Success of the new system will require significantly more resources**

It is critically important that a system that is more permissive has robust enforcement to ensure compliance and rectifies issues before irreparable damage is done to our natural environment.

Engineering New Zealand supports the statement made by the Parliamentary Commissioner for the Environment, "The new system will require significantly more resources, at least from central government, for it to function properly. In particular, the setting and monitoring of environmental limits will require considerably

more information. In a system that seeks to enable more activities to be undertaken without regulatory scrutiny prior to commencement (e.g. through a raised threshold for effects and more use of permitted activities) significantly more effort and resource will need to go into assembling the information needed to support the standards that attach to permitted activities and then to monitor compliance with them.”<sup>1</sup>

More investment from central government will also apply to ensure effective enforcement, compliance and implementation support across the system.

### **Relevance of existing RMA plans in the transition**

The Bills do not provide any certainty about the relevance of existing operative or proposed RMA plans when making RSPs, NEPs, and LUPs. In many cases these plans reflect recent technical information that has been thoroughly tested. Most obviously relating to flood mapping and natural hazards. Councils can continue with plan changes related to natural hazards in the lead up to the implementation of the Bills.

In our view, the transition would also be significantly more efficient if the system made greater use of the substantial body of work already embodied in operative RMA plans. Existing plans contain valuable technical analysis, policy frameworks and locally tested provisions that can provide a strong foundation for new instruments. Allowing these to be carried over or adapted, rather than rebuilt from first principles, would significantly reduce the burden on system participants and help ensure a smoother and more cost-effective transition to the new system.

At the very least we recommend that when making decisions on the elements of the combined plans under the Bills, in clauses 80(4)(c) and clause 4 and 5(2) of Schedule 2 of the PB, and 97(4) of the NEB, an operative RMA plan should be regarded.

### **Infrastructure Planning, Provision, and Consenting**

The Bills place a strong emphasis on enabling infrastructure. Engineering New Zealand supports nationally consistent, technically robust and cost-effective processes for delivering infrastructure such as water, transport, energy, telecommunications and emergency services. The Bills would benefit from amendments to fully realise the potential for this.

### **General comments**

There is a lack of clear definitions across the NEB and the PB. Most notably is the lack of definition of ‘infrastructure’. The only definition appears in the designation provisions of the PB. This undermines the effectiveness of planning for infrastructure in the Bills. The definition needs to be consistent across regulatory regimes and ensure that references across the resource management system are consistent. Across the resource management system there are many references to infrastructure and infrastructure related definitions (ie. additional infrastructure), it would be helpful if there is a clear description of what is and is not infrastructure (ie. it is unclear if stormwater or green infrastructure is considered infrastructure or not in the existing system). We are similarly concerned about the definition of significant infrastructure.

As previously mentioned, Engineering New Zealand believes it is important that the Bills better acknowledge and navigate the interactions between the Bills. This is particularly true in the case of the goals of both Bills as they relate to infrastructure; they do not clearly work together and in some cases are in direct conflict. For example, clause 4 of the PB sets out that the purpose of the Bill is to establish a framework for planning and regulating the use, development and enjoyment of land. The PB’s drafting was guided by objectives that emphasise the enabling housing and business growth, delivering infrastructure, and supporting primary sector development. Although environmental considerations are acknowledged, they appear secondary to facilitating development. This is a concern as there appears to be an innate hierarchy between the goals that inadvertently places environmental outcomes behind development ones.

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<sup>1</sup> Planning Bill - Parliamentary Commissioner for the Environment (Preliminary consideration questions for the Planning Bill and Natural Environment Bill) 2025 12 18

Another similar gap in the NEB is that there is no infrastructure goal. Infrastructure will commonly require NEB permits. We recommend including the infrastructure goal from the PB in the NEB.

### **National policy direction and standards**

As mentioned, national policy direction and standards will play a central role in setting outcomes and guiding implementation. Engineering New Zealand supports national standards in principle, but it is critical that these standards are technically sound, developed with strong practitioner input and sufficiently flexible to respond to local context. Given the importance of national direction, the processes for developing these instruments must allow for meaningful technical engagement and be adequately resourced. Without this, there is a risk that standards will be poorly designed or difficult to implement in practice.

#### *Technical input*

A key element of this concern arises from how national direction is made. The process is set out in clause 46 of the PB and 70 of the NEB. If the Minister proposes to issue a national instrument, they must follow a process that requires consultation with 'public and iwi authorities' only. This is a significant restriction on who will be able to provide feedback prior to national direction being made. There are substantial risks where national direction is technical and requires the impact of technical people to be implementable. An example of this is the National Policy Statement for Natural Hazards which contains a risk matrix model. For national directions such as this, there are clear benefits from engagement with individuals and groups beyond those listed in the current Bill. Broadening engagement requirements would allow groups such as Engineering New Zealand and its members to provide feedback that could improve the technical application and results achieved by national direction.

While a technical advisory group may be established when drafting guidance (cl 70(2) NEB and 46(4) PB), it does not have to be. There is no certainty about the level of technical input into the national direction that sets standards and practice across technical industries.

#### *Hierarchy of key instruments in decision-making*

Given the hierarchy of key instruments in decision making (Bills, clause 12), it is critical that the Bills clearly set out what is to be included in the documents that sit at the top of that hierarchy.

In our view, the clauses relating to national policy direction (PB, clauses 53-57) and national standards (PB, clauses 58-62) are lacking important detail. For example, the Bills do not specify:

- The minimum matters that national policy direction must address, such as environmental limits, natural hazard risk parameters, infrastructure capacity assumptions, sequencing principles, or integration requirements across land use, infrastructure and environmental management.
- The required structure or form of national standards, including whether they must prescribe methodologies, default planning provisions, data requirements or compliance pathways.
- How conflicts between different instruments are to be resolved, including where multiple national directions apply to the same activity or environment.
- The required level of technical content, including whether engineering, scientific and infrastructure modelling inputs must be incorporated into the national direction and standards.

To address these gaps, Engineering New Zealand considers that the Bills should be amended to include clear minimum content requirements for national policy direction and national standards (PB, clauses 55 and 60; NEB, clauses 79 and 84), including:

- Requiring national policy direction to set out mandatory elements, such as environmental limits, risk reduction approaches, infrastructure provision principles, network capacity assumptions and climate resilience expectations.
- Requiring national standards to specify prescribed methods or default technical specifications for matters such as hazard mapping, infrastructure design assumptions, water allocation methodologies and plan drafting requirements. We are also interested in how this will align/include proposed national standards under related regulatory systems (ie, the national engineering design standards within the water services regime).

- Requiring national instruments to identify any required datasets, modelling standards, and evidence bases so that implementing documents (particularly RSPs) are built on consistent technical foundations.
- Introducing a clear process for testing internal consistency before national direction or standards come into force, to avoid downstream conflicts.
- Expanded consultation requirements to ensure appropriate, and early, engagement with technical experts and industry bodies to ensure national policy direction contains enough technical detail and is implementable. Additionally, it is important to allow opportunity for interested and community groups to engage in this process to ensure a well-rounded and effective direction. It is important that sufficient time and transparency is afforded to this process.

These changes would give all system participants clarity about what national direction and standards must contain, ensure consistency across regions and provide the necessary certainty for those responsible for implementing the new system, particularly infrastructure providers and technical experts.

### **Infrastructure exception**

The NEB proposes that national standards will provide an ‘infrastructure pathway’ (clause 67 of the NEB). This is to be achieved through clause 86, which provides for national standards allowing a consenting pathway for ‘significant infrastructure’ that breaches environmental limits.

It is important to note that significant infrastructure projects also provide an opportunity to meet the Bill’s environmental goals. We have seen major infrastructure projects as a lever for significantly better environmental outcomes (i.e. Mt Messenger, Te Ara Tupua). We should ensure every opportunity to support innovative, sustainable solutions wherever possible.

The term ‘significant infrastructure’ is not defined. This could be a significant source of litigation and undermine the effectiveness of the consenting pathway. While the standard might define what is ‘significant infrastructure’ due to the ability to breach environmental limits, it is important that this is defined in the Bill. There are many ways this can be defined such as infrastructure that is critical, identified by the government as being nationally significant or having a significant public benefit. We understand that Infrastructure New Zealand has developed a proposed definition that could support further consideration in this space.

In our view the exception in the NEB for significant infrastructure is an important and necessary mechanism, if environmental limits are set sufficiently high. However, to be workable in practice, this exception must be clearly defined, technically robust and capable of consistent application. As currently drafted, clause 86 lacks sufficient clarity on the criteria, evidence requirements and decision-making tests that must be applied when considering an exception. Without greater specificity, there is a material risk that the provision will be interpreted inconsistently across regions, create uncertainty for infrastructure providers, damage the environment, and result in delays or litigation.

To address this, we recommend that clause 86 be amended to:

- Specify clear statutory criteria for when an exception may be granted, including the nature of “significant infrastructure,” the threshold for demonstrating functional or operational necessity, and the scope of acceptable effects.
- Clarify the relationship between clause 86 and other instruments, including environmental limits set under Part 2 Subpart 4 and national direction issued under the NEB and PB.
- Require national direction to provide guidance about how infrastructure exceptions should be evaluated, the information required, and the conditions or mitigation measures expected in such cases.

### **Regional spatial planning**

Engineering New Zealand would like to see refinements to the requirement to engage with infrastructure providers in the preparation of RSPs under clause 69(g) of the PB. The lack of detail about what this engagement must involve leaves doubt about whether it will be substantive or tokenistic, and whether it will occur early enough to influence outcomes before public notification. We seek that clause 69 requires:

- Is expanded to include technical experts. It is important that there is sufficient engagement with those who can provide technical expertise, this must be beyond those who simply provide infrastructure. Our reading of this provision would not explicitly require consultation with engineers.
- Early and ongoing engagement with the listed people and groups, to guard against the engagement being limited to a short opportunity to review and comment on a draft spatial plan.
- Access to relevant technical information, such as modelling inputs, spatial datasets and alternative development scenarios, so technical experts can provide informed and constructive input.
- That engagement obligations apply to providers of all relevant infrastructure, including three-waters, transport, energy, digital, flood protection and social infrastructure, to avoid gaps and inconsistent treatment.

Additionally, clause 144 allows a consent authority to grant a planning consent that effectively authorises a change to the spatial application of plan provisions. This is limited to applying standardised plan provisions (not bespoke ones) and only where the change would deliver significant benefits for housing, employment or infrastructure. The consent must clearly define the boundaries of the affected area and the standardised provisions that will apply. This mechanism is intended to accelerate development and infrastructure delivery by enabling targeted plan changes without a full plan review process.

While we understand and support the intent of this provision, there is a concern that plan changes will be made without full plan review process and that this may lead to unintended consequences of incremental development not in line with agreed plans or community aspirations. This clause would benefit from further consideration in how to avoid unintended consequences of poorly planned development.

### **Wastewater and stormwater performance standards**

Engineering New Zealand is concerned that the legislative framework for three waters, which is intended to operate across the NEB, PB and Water Services Act 2021 (WSA), remains incomplete and risks creating uncertainty for water network operators. To ensure the water related standards under the WSA (Standards) function as intended and provide a clear, nationally consistent consenting pathway, we recommend the following amendments to the NEB:

- Specification for a controlled activity status where Standards are complied with. For wastewater network operators, a fundamental issue with the current Standards regime has been the absence of any specified activity status for key activities undertaken in compliance with the Standards. To provide certainty and avoid inconsistent treatment between regions, the legislation must ensure that future iterations of the Standards specify an activity status. To maximise the efficiencies intended by the Standards, controlled activity status would be most appropriate (NEB, clause, 20-21 and 160, WSA, or a new provision).
- Expanding the scope of the Standards and clarifying notification and monitoring requirements (NEB, clause, 20-21 and 160, WSA, or a new provision). The current Standards do not cover the full range of matters typically addressed in wastewater discharge consents. Nor is it clear whether activities that comply with the Standards would be subject to notification, or how compliance is to be monitored. To address these gaps, we recommend the NEB (and/or the WSA) require that future Standards:
  - cover all relevant components of a wastewater discharge activity, including the full set of contaminants potentially present, discharge location, discharge structure design, operational parameters, receiving-environment considerations, and ancillary consents (ie. for construction and land use approvals).
  - specify that activities complying with the Standards are not publicly or limited-notified, recognising that the purpose of the Standards is to provide a complete and efficient alternative to case-by-case assessment; and
  - include clear monitoring and reporting requirements, enabling both operators and regulators to understand exactly how compliance will be measured.

### **Enabling Housing and Urban Development**

The PB places strong emphasis on enabling urban development (cl 11(1)(b)). While Engineering New Zealand supports the goal of increasing housing supply and enabling well planned urban development, we are concerned about potential unintended consequences arising from the PB as currently drafted.

### **Clarity is needed surrounding permitted activities and engineering oversight**

A shift toward significantly more permitted activities in both Bills may reduce the level of technical assessment for developments. In some cases, this could result in significant infrastructure or safety implications (particularly where natural hazards are involved). There are some activities that will require site specific considerations that may not be provided for in RSPs and must be enabled (i.e. retaining walls rely on site specific geotechnical reports and some water obstructing activities may require the expertise of a dam safety engineer).

Clause 38 of the PB and clause 39 of the NEB allows for certification by a qualified person, raises questions about the role, responsibilities and potential liability of engineers, particularly where certificates later prove to be incorrect or information changes. It is also not clear whether the certificate is to state that the activity is permitted only at a specific point in time. Given that permitted developments can have a significant cumulative effect on network infrastructure, ensuring the permitting system has appropriate safeguards is important.

Engineering New Zealand recommends the inclusion of safeguards to manage these risks arising from clauses 38 of the PB and 39 of the NEB, such as:

- Requiring certification only for activities falling within clearly defined low-risk thresholds, with higher-risk activities not being able to be permitted via an engineering certificate.
- Clarifying the competencies and experience required to act as a “qualified person” and requiring that they be subject to an appropriate professional regulatory framework (ie, chartered professional engineers (CPEng)).
- Providing statutory guidance on the purpose, effect and limits of certificates, to reduce uncertainty and help ensure that certificates are relied upon appropriately by councils and infrastructure providers. For example, do they only apply at one point in time? What if they recommend conditions or remediation as part of meeting permitted activity conditions?
- Providing a clear protection from civil liability for the issue of a certificate by a qualified person under clause 38(2)(b)(ii) of the PB and 39(2)(b)(ii) of the NEB.
- Enabling councils to require additional technical review where a permitted activity involves complex engineering or where potential impacts on infrastructure or public safety are significant.

We assume the requirement to registered permitted activities with local councils is similar to the intent of the recent granny flat changes (to ensure technical information is provided to future landowners via the LIM). If this is the intention, we recommend amending the Bill to:

- Clarify what information must be supplied and the intent of the information.
- Clarify whether the act of registration creates liability exposure, particularly where councils do not have the capacity to review the information provided.
- Ensure that registration requirements are proportionate to the scale and risk of the activity, with low-risk activities subject to simplified notification pathways.
- Clarify that councils may decline or delay registration where key technical information is incomplete, ensuring unsafe or poorly documented activities do not proceed by default.

### **Ensuring liveable well-planned communities is critical to thriving development**

Engineering New Zealand considers that urban planning under the new system must place stronger emphasis on creating liveable, human-centred environments. Liveability involves more than simply allocating space for housing and business activity. It requires well-designed green spaces, play areas, active transport networks and public amenities that support community wellbeing and foster meaningful connections between people and places. When these wider elements of urban quality are overlooked in favour of narrowly framed economic or land-supply objectives, liveability is eroded and long-term social and environmental outcomes suffer. The PB as drafted, risks enabling development that is shaped primarily by market forces, rather than requiring that development contribute positively to resilient, healthy, and socially connected communities.

To address these concerns, we recommend that the PB provide clearer statutory direction on liveability and holistic urban planning. We seek:

- A stronger outcomes framework in clause 11 that expressly recognises liveability, access to quality public spaces, social infrastructure and community wellbeing as outcomes that decision-makers must achieve, not merely “seek to achieve.”
- Amendments to clauses 53-57 of the PB (national policy direction) to require that national direction set minimum expectations for urban form, green space provision, public realm quality, walkability and social infrastructure integration.
- A requirement in regional spatial strategy provisions (e.g. clause 69 and Schedule 3 of the PB) that RSPs must identify and protect areas needed for high-quality public open space, urban amenity, active transport networks and community facilities.
- That it be made clear in the plan-making requirements (especially for land use plans, clauses 80-85) that enabling development should not come at the expense of liveability or quality of the built environment, and that councils may require design standards, infrastructure sequencing and public-space commitments as part of implementation.
- A requirement that decisions on development capacity incorporate not only economic feasibility but also liveability and amenity considerations, ensuring that growth is well-supported, resilient and socially sustainable.

These amendments would help ensure that the planning system delivers genuinely liveable urban environments and that holistic community outcomes are not compromised by short-term development pressures or economic incentives.

#### **Public participation through notification should broaden in certain circumstances**

For activities requiring consent, the threshold for notification has been raised and the range of affected persons narrowed under the Bills. Limited notification has been replaced with targeted notification, which is only required where a proposal will have more than minor effects on identifiable persons. Public notification will occur only where a proposal has more than minor effects on “the built environment” under the PB and not all affected parties can be identified, and there are now additional qualifications on who may make submissions on a publicly notified application.

Although raising the notification threshold may reduce processing timeframes and provide greater certainty for applicants, we are concerned that overly targeted notification carries significant risks. These include infrastructure located in inappropriate or sensitive areas due to insufficient opportunity for input, reduced ability for communities or technical experts to identify design improvements and an increased likelihood of litigation where parties feel excluded from the process. In our view, public participation can materially improve project design, environmental outcomes and social acceptance. To address these risks, we consider that the PB should be amended to:

- Broaden the definition of “affected persons” to ensure that people with a legitimate interest (such as adjoining landowners, infrastructure providers, tāngata whenua and community groups) are not excluded merely because adverse effects can be narrowly characterised as “minor” or “identifiable.” These interested persons might provide technical information (including engineers) that is important to decision-making criteria.
- Expand the criteria for public notification- particularly for proposals that may affect natural hazards, infrastructure capacity, transport networks, public safety or significant public spaces where wider input can meaningfully influence outcomes and where infrastructure, resilience, safety or cumulative effects are key considerations.
- Clarify that councils (or an applicant) may choose to publicly notify applications where the nature, scale or technical complexity of the activity warrants broader participation, even if notification is not strictly required.
- Ensure a clear limited notification pathway for activities with moderate but localised effects is available, thereby avoiding the binary choice between no notification and full public notification.

These amendments would retain the efficiency benefits sought by the Bill while ensuring that notification

processes remain robust enough to support good decision-making underpinned by correct technical analysis and reduce litigation risk.

Comments within this section are focused on the PB but the sentiments do apply to the NEB as well.

### **Certain effects excluded from consideration could impact safety and network capacity**

Clause 14 of the PB sets out a list of effects that decision makers must disregard when exercising powers under the Bill. These exclusions include matters such as the internal and external layout of buildings, visual amenity, views, landscape and precedent effects. While the intention may be to reduce subjectivity and avoid over regulation, Engineering New Zealand is concerned that the clause, as drafted, may unintentionally constrain councils from considering matters that are fundamental to safety, infrastructure capacity, resilience and good urban design. For example, internal layout can directly influence fire safety, accessibility and evacuation performance. External design and site layout affect stormwater management, natural hazard exposure and infrastructure servicing; and visual and landscape effects can influence broader urban design or community wellbeing considerations.

To ensure that clause 14 does not inadvertently prevent decision makers from addressing these critical issues, we recommend the following amendments:

- Amend clause 14 to clarify that excluded effects do not apply where they directly relate to safety, infrastructure servicing, network capacity, natural hazard risk or resilience.
- Insert a new subclause providing that urban design and built form considerations may be taken into account where necessary to achieve outcomes in clause 11.
- Clarify that effects on infrastructure systems (e.g., transport, three waters, energy, digital networks) are not “disregarded effects”, even if they arise from building design or layout.
- Allow councils to consider cumulative effects, including those arising from repeated or poorly coordinated development patterns, where these could compromise infrastructure, hazard mitigation or community safety.
- Ensure national direction provides guidance on how clause 14 should be applied, particularly in relation to engineering and technical matters where built form elements directly affect system performance or public health and safety.
- Amending the clause 14 ‘disregarded effects’ list to clarify that, in addition to natural hazards, effects relating to safety, structural performance, egress and accessibility cannot be disregarded.

These amendments would retain the intended streamlining benefits of clause 14 while ensuring that essential engineering, safety, and urban design considerations remain within scope of decision making under the new system.

### **Natural Hazards and Climate Resilience**

Engineering New Zealand strongly supports the Bills’ emphasis on risk-based approaches to natural hazards.

We have previously provided comment on the National Policy Statement for Natural Hazards- we see this document as an important first step in moving to a more mature, risk-informed enabling environment. It is important that the National Policy Direction continues to build on this momentum and that risk and resilience settings are a foundation of regional spatial planning documents.

### **Risk-based consenting**

Clause 146 of the PB provides that authorities may refuse consents for significant hazard risks except where the activity is related to the construction, upgrade, maintenance or operation of infrastructure. Engineering New Zealand strongly supports the inclusion of this provision and has been advocating for such provisions for some time. Notably, clear guidance is needed on how hazard risk thresholds are set, how risks are assessed and what technical methodologies should be used. Nationally consistent guidance would help avoid regional variation and support better, more predictable outcomes.

Engineering New Zealand has concerns about the exceptions provided in clause 146 (4) of the PB where the primary provisions of clause 146 do not apply to the construction, upgrade, maintenance or operation of infrastructure; or primary production activities, as described in the national planning standards. While we understand the intent of this exception it is important that these activities plan for and are prepared for natural hazard risk. In the case of network infrastructure, people rely on the provision of these services, and their resilience post-emergency is critical to the recovery of communities. In the case of primary production, the land use risk is low but there is still a risk in relation to related infrastructure (sheds, processing facilities, etc). We believe this provision as currently drafted sends the wrong message and creates unintended risks to communities, further consideration should be given to how to minimise the burden on infrastructure providers while ensuring the resilience and continued services that communities depend on.

We would also like to see the provision of a central database that provides nationally consistent data and science to local authorities, so all local authorities are making decisions based on the same data and evidence. This has the additional benefit of the public being able to go to one place to access information, enhancing transparency and usability.

Relatedly, under the existing regime require natural hazards to be identified, mapped and allowed for the provision of this information. Under the current model this largely resulted in regional councils doing higher level assessments and providing their findings to territorial authorities and the public, with territorial authorities doing more detailed localised assessments. This ensured capture and consideration of localised risk and enabled appropriate planning in response. We recommend including a similar requirement be explicitly included in the proposed system. Additionally, this information should be stored in the recommended central database.

### **Integration with other statutory regimes**

Alignment with the Building Act 2004 and other hazard related frameworks is critical to avoid regulatory gaps or duplication. Engineering New Zealand considers that the Bills should more clearly articulate how these regimes interact with one another.

Planning decisions must be informed by the same hazard information, performance requirements and safety objectives that underpin the Building Act 2004 and Building Code, and planning provisions should not inadvertently undermine those protections. To achieve this, the PB could more explicitly define the relationship between planning and building regulation, including where each regime has primacy and how conflicts are to be resolved.

More detail is required in national planning direction (PB clauses 53-57) to set out how planning instruments are expected to integrate with the Building Act 2004 framework, including guidance on consistent hazard mapping methodologies, natural hazard avoidance, site suitability, minimum platform heights, climate-change adaptation, evacuation routes and infrastructure servicing and resilience.

On a broader note, we have some concerns around clause 14 (effects outside scope of this Act). The clause states “A person exercising or performing a function, duty, or power under this Act who is considering the effects of an activity must disregard ... any matter where the land use effects of an activity are dealt with under other legislation.” This may inadvertently create a regulatory gap or mean something that should be considered as part of the resource management system may be overlooked. Engineering New Zealand suggests that this risk warrants further consideration particularly in relation to the Building Act 2004.

### **Emergency work provisions**

The provisions relating to emergency works (PB clauses 275-280 and NEB clauses 301-306) are particularly important for lifeline utilities. We support the inclusion of these clauses but consider that further clarity on what constitutes permissible emergency works would provide certainty and support rapid response when needed.

It is important that these provisions are developed with the knowledge that emergency situations are increasing and come with increasingly complex responses. It is vital that these provisions enable robust planning and that environmental limits are set with expectation of emergencies, such that when events occur, responses can be quick, without undue overshooting of environmental limits.

We note that many of these points are covered in the Emergency Management Bill (02) which is currently before Select Committee. In our submission on the Emergency Management Bill, we encourage the Committee to

consider opportunities to strengthen provisions in the Bill for readiness. This dovetails into our comments in this section.

## Environmental Limits and Consenting under the NEB

Environmental limits and permit pathways will have a significant influence on infrastructure design, construction and operation. Engineering New Zealand generally supports having more standardisation in these matters where that is possible but is concerned that the proposals in the NEB may go too far and result in negative environment impacts.

### **Environmental limits should be based on scientific and technical foundations**

Environmental limits for air, water, soil and biodiversity must be technically achievable, evidence-based and supported by clear implementation guidance. Their practical implications for engineering design, construction feasibility, material selection and infrastructure operation must also be understood before limits are finalised. However, the current provisions for limit setting in the NEB, particularly in clauses 48-54, do not provide sufficient clarity about the scientific and technical basis on which limits must be established and how trade-offs between different domains will be managed.

To address these issues, Engineering New Zealand recommends the following amendments to the NEB:

- Require all limits be supported by prescribed methodologies or models (e.g. hydrological models, air-quality dispersion models, biodiversity assessment frameworks) to avoid inconsistent application across regions.
- Insert a new requirement in clause 49 (Human health limits) and clause 50 (Ecological limits) for limits to be accompanied by clear implementation guidance, including how the limits affect infrastructure design, land development, stormwater and wastewater systems, erosion controls, and construction methods.
- Amend clause 52 (Process for setting limits) to require mandatory consultation with engineering, scientific, and infrastructure experts, ensuring the limits are grounded in real-world system performance.

These amendments would ensure that environmental limits are robust, science-based and capable of being integrated into engineering design without creating uncertainty, inconsistency of application or unintended constraints.

Additionally, we would like to see a requirement for environmental limits to be based on science. Ideally, these limits would only change if science changed. Engineering New Zealand would also like to see partisan support for environmental limits, as it is critically important to the entire resource management system that environmental limits are based on science and are not subject to political change.

We have concerns about the enforcement of environmental limits, particularly in situations where limits are or are about to be breached. Engineering New Zealand questions if an action plan that takes a primarily non-regulatory approach is sufficient. In many cases breaches of environmental limits are very difficult to reverse and can be costly. We support a system that embraces polluter pays and has enough mechanisms to ensure the natural environment is not worsened (ideally improved).

### **Climate change and emissions considerations**

The resource management system should continue to align with New Zealand's domestic and international climate obligations (Climate Change Response Act 2002 and the Paris Agreement), including consideration of greenhouse gas emissions where appropriate. As drafted, the Bills do not provide a clear mechanism for integrating these obligations into decision-making. In particular, the NEB does not clearly require environmental limits, targets or national planning direction to reflect international climate commitments, nor does the PB provide for greenhouse gas emissions to be considered in planning or consenting decisions where this is appropriate.

Climate change mitigation and adaptation is not stated as a goal in clause 11 of the Bills. This creates a risk that the new system could operate in a way that is inconsistent with or fails to meaningfully contribute to, national climate objectives. It could create uncertainty for engineers seeking to work within the Bills, where best practice is to model for and consider climate change, but the Bills are unclear as to the role of climate change mitigation and adaptation in the Bills at a high level.

We seek amendments to require that national direction instruments explicitly give effect to New Zealand's international climate obligations, including emissions reduction targets and adaptation commitments (beyond the existing references to adaptation plans).

Additionally, we would like to see the goals in both Bills better reflect the importance of sustainable development. This would encourage and allow room for development that goes beyond minimum thresholds-supporting innovation and investment in solutions that support both development and the environment.

## Regulatory relief

The introduction of regulatory relief mechanisms in the Bills, both financial and planning-based, raises significant concerns. We understand the intent of regulatory relief, particularly in situations where landowners face significant losses to highly productive land or are unable to use large portions of their property.

However, the regulatory relief mechanism lacks material details on how it is supposed to function and leaves a significant portion of guidance to be determined by future national instruments and regulations. This raises a range of key issues:

- It effectively limits the influence that local authorities have in developing their regulatory relief frameworks, especially regarding the level and nature of relief that is to be granted,
- The public have limited time to test the content of proposed national instrument and regulations, as opposed to the opportunity that would be afforded had specifics been included in the PB.
- It is not clear what evidence someone would need to provide in order to seek regulatory relief. Further, the use of "reasonably likely to have a significant impact on the reasonable use of land" included in Schedule 3, clause 65 of the PB lacks certainty and is difficult to implement.
- Current drafting appears to apply retrospectively. If this is intended the potential ramifications of this are immense and must come with appropriate support from central government.

Engineering New Zealand is also concerned about the potential cost implications and perverse behavioural incentives created by regulatory relief. There is a risk that relief provisions could discourage the protection of heritage, cultural values, or other important environmental values. It is also unclear how such relief would be funded, particularly in the context of increasingly constrained local government finances.

Local authorities could be placed in difficult situations where they are required by law to impact someone's property but then would be required to provide regulatory relief that they cannot afford or haven't planned for based on a requirement they have no control over. As an example, a local authority may have to declare an area as a hazardous site and include the land on the listed land use register- having significant implications on property rights. This is particularly unfair when the requirements are set by central government without any obligation for central government to provide the regulatory relief.

Our primary request is that the regulatory relief provisions are removed and replaced with something more akin to section 85 of the RMA. If that request is not accepted and regulatory relief is retained in the Bills, it must be transparent, certain, predictable, efficiently administered and cannot apply retrospectively. Engineering New Zealand does not consider that these provisions are workable in their current form. Nor do we consider the implications of these provisions have been considered thoroughly enough to provide confidence that they will work properly and lead to appropriate outcomes.

## Heritage considerations

Engineering New Zealand supports the protection of significant historic heritage in the goals of the PB. As an organisation, we identify, celebrate and advocate for the protection of our engineering heritage. We also recognise and value sites of natural and cultural heritage.

We note that sites of heritage significance do not only apply to the built environment but also to the natural environment, therefore we recommend the inclusion of a similar goal in the NEB to ensure equal consideration is given to natural heritage.

The goals in the Bills carry over some of the "matters of national importance" from section 6 of the Resource Management Act 1991, albeit with some notable amendments such as emphasising the protection of "significant" historic heritage (rather than all historic heritage). The lack of a definition of "significant historic heritage" creates uncertainty for infrastructure and development planning, leading to discretion as to what is

significant to justify protection under the Bills. We recommend including a definition of significant heritage within the PB.

While we understand the intent of the Bills in relation to ensuring heritage of significant importance is protected rather than sites with only minor significance, we have concerns that a threshold which focusses on national importance may risk local authorities' ability to protect heritage areas of local importance. It is important that there is discretion available. We suggest that a provision is added (either to the PB or in subsequent national instruments) to allow this but that local discretion be based on a nationally consistent criteria to ensure a reasonable threshold is set and promote consistency nationwide. Many councils already have criteria they use to guide regional heritage protection that can be used to inform this.

Earlier in this submission we commented on guidance developed under the current resource management system. With regards to heritage, Engineering New Zealand understands that the intention has been to develop a national direction on heritage, yet it is unclear if this work will be continuing and in what form. Without this guidance, it is difficult to accurately comment further on the impact on engineering heritage sites.

When considering heritage specifically, we also note there is a direct link between heritage protection and our concerns raised in regard to the chilling effect of regulatory relief. Regulatory relief is likely to result in less areas of heritage significance being protected and are particularly concerned of the impact regulatory relief may have on communities with high levels of heritage (ie. Dunedin) if it is retrospective.

## Conclusion

Engineering New Zealand supports the objectives of resource management reform and the move toward a more integrated, outcomes focused system. However, achieving these objectives requires clear legislative drafting, realistic transition timeframes, adequate resourcing and strong technical input at all stages of implementation.

We appreciate the opportunity to provide feedback and welcome continued engagement as the reform programme progresses. Engineering New Zealand would appreciate the opportunity to appear at Select Committee to speak to our key points and answer any questions the Committee may have.

Nāku, nā



**Dr Richard Templer**  
Chief executive