

Submission

By

**THE
NEW ZEALAND
INITIATIVE**

To the

Ministry for Cities, Environment, Regions and Transport

on

**New Zealand's New Planning System: Testing the Approach to
National Policy Direction**

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SUBMISSION ON NEW ZEALAND'S NEW PLANNING SYSTEM: TESTING THE APPROACH TO NATIONAL POLICY DIRECTION

1. INTRODUCTION AND SUMMARY

- 1.1 The New Zealand Initiative (the Initiative) welcomes the opportunity to comment on the illustrative National Policy Direction (NPD) for the new planning system.
- 1.2 The Initiative is a Wellington-based think tank supported primarily by major New Zealand businesses. In combination, our members employ more than 150,000 people. We conduct research to support sound public policy development in New Zealand, and we advocate for a competitive, open, and dynamic economy, as well as a free, prosperous, fair, and cohesive society.
- 1.3 The NPD will be one of the most consequential elements of the new system. The Planning Act 2026 and Natural Environment Act 2026 deliberately leave much of their operative content to the NPD and national standards. Those instruments will determine how the legislation's broad, unranked goals are reconciled, how environmental limits are set, and how regional spatial plans and regulatory plans constrain the use of land and natural resources.
- 1.4 This submission's positions are informed by the Initiative's February 2026 submission on the Planning Bill and the Natural Environment Bill, its April 2026 research note RMA Reform: Getting the New System Right, and its 2025 submissions on National Direction Changes (July 2025) and Going for Housing Growth (August 2025).
- 1.5 Since the illustrative NPD was published, the Bills completed their committee stages with amendments, including giving the Planning Bill a statutory definition of a competitive urban land market, a duty on councils not to restrict developable land artificially, and an independent urban land market officer with determination powers. The Bills were passed on 22 September 2026, received Royal assent on 30 September and most provisions entered into force on 1 October, albeit with a lengthy transition period. This submission therefore confines its requests to what the NPD and national standards can lawfully do under the Acts as enacted. Where we consider the legislation itself falls short, we record our concern and recommend amendment by a future Parliament rather than proposing anything inconsistent with the Acts.
- 1.6 We support much of the substantive direction in the illustrative document, including its:
 - presumption in favour of enabling private land use, particularly its central purpose of recognising "private property rights where the presumption is that people can use their land without unnecessary constraints";
 - competitive urban land market provisions;
 - prohibition of urban growth boundaries and connection requirements;

- protection of lawfully established activities; its proportionate treatment of the primary sector;
- avoidance of regulatory duplication;
- tiered approach to indigenous biodiversity; and
- absence of Te Mana o te Wai and its hierarchy of obligations.

These are material improvements on existing national direction under the Resource Management Act 1991 (RMA).

- 1.7 We understand the illustrative NPD to be just that – illustrative. It was produced fairly rapidly in response to early concerns about decisions left for future policy direction rather than made in primary legislation, and it indicates the direction an NPD might take once the new government has formed, if that government is similar to the one that provided the illustrative draft. Please read our comments and recommendations in that light. We expect that many of the concerns we raise here will already have occurred to the Minister’s staff and officials and will occur to any future government providing a more-than-illustrative draft NPD.
- 1.8 Our principal concern is that the illustrative NPD does not yet perform the functions the Acts assign to it. Section 54 of the Planning Act and section 79 of the Natural Environment Act require the NPD to particularise all the goals and to direct how they are to be achieved, including by identifying and providing for the resolution of conflict between them. As section 3 of this submission sets out, the illustrative document largely restates the goals rather than explaining them, and it defers most conflicts to national standards that do not yet exist, and that face no equivalent statutory discipline. Every gap of that kind reopens direct recourse to the goals under section 14(3)(c), which works against the funnel design and the promise of less litigation. Closing these gaps should be the central task in preparing the proposed NPD for statutory consultation.
- 1.9 That concern sits within the broader one from our February submission. Too much of the new system's operation sits outside the Acts. The concern is not that secondary instruments contain detail. They must. The concern is that the legislation contains few tests, boundaries or safeguards governing that detail, so a future Minister could rewrite the system's operative direction without Parliament amending the Acts.
- 1.10 The consultation asks four questions. Section 4 addresses the first, on the thematic structure. Section 3 and sections 7 to 14 address the third, on priorities, gaps, and trade-offs, following the consultation document's structure: the cross-cutting directives, each of the five themes, and the system-wide directives. Sections 3, 5 and 15 address the second and fourth questions: whether the document gives a clear picture of how national policy direction would work in practice and how it could be made more useful and effective.

2. SUMMARY OF RECOMMENDATIONS

2.1 The Initiative recommends that the Government:

- a) retain the single-instrument, thematic structure of the NPD and the cross-cutting property rights directive;
- b) ensure the proposed NPD performs its statutory functions under section 54 of the Planning Act and section 79 of the Natural Environment Act by defining the key terms the goals depend on, identifying conflicts between goals expressly, stating priority rules or decision criteria for their resolution, addressing conflict between the two Acts' national instruments and publishing a conflicts and precedence schedule, rather than deferring trade-offs to national standards that face no equivalent statutory discipline;
- c) define "important public values":
 - exhaustively or by tightly bounded categories;
 - distinguish restrictions that manage external effects on others from restrictions that provide public values;
 - apply necessity, materiality and proportionality tests to any restriction;
 - include a rule of construction resolving ambiguity in favour of the landowner; and
 - confine regulation to external effects not already governed adequately by property law, contract, tort, building regulation or another statutory regime;
- d) commit, on the face of the NPD, to publishing an independently reviewed evaluation, consistent with the Government's regulatory quality standards, before the proposed NPD, each national standard and each environmental limit takes effect, covering problem definition, the counterfactual, alternatives, quantified costs and benefits where practicable, distributional effects, property impacts and the justification for national action, with Ministers required to respond publicly to the independent review, and recommend to a future Parliament that this discipline be made statutory;
- e) use national standards to:
 - give "significantly constrain the reasonable use of land" a quantified meaning supported by independent valuation, with a timely process and relief available before restrictions take effect; and
 - provide that where NPD directives require councils to impose protections that attract regulatory relief, central government funds that relief, which will require amendment to the Planning Act;

- f) limit reverse sensitivity protections to the minimum demonstrably needed for the lawful operation they serve, prefer negotiated easements and no-complaint covenants where affected landowners are few and provide for independent review of protective envelopes and for liability rules or compensation where an overlay materially burdens neighbouring land, and acknowledge the continuing operation of private law under section 33 of the Planning Act and section 30 of the Natural Environment Act, giving priority to instruments that settle private rights by agreement;
- g) retain the prohibition on urban growth boundaries and on requirements that development be connected to existing urban areas;
- h) give effect to the new statutory duty on competitive urban land markets by:
- incorporating legal availability, economic substitutability, simultaneous competing development opportunities and a credible threat of entry into the urban land market officer's framework and thresholds, with the officer independently determining the suite of indicators and methods for applying them;
 - prescribing a defined corrective process with timetables and enforceable outcomes following an adverse determination, including default approval or heavy upweighting of private plan change applications that fund their own infrastructure and have landowner support while a plan remains non-compliant;
 - providing an expedited private plan change route where price discontinuities or persistent land price inflation indicate artificial scarcity and converting HD-Directive 1.6's discretionary "may" into a duty where development is needed to restore competitiveness;
- i) not proceed with a high value growing areas instrument;
- j) enable land use flexibility by managing environmental effects through:
- freshwater farm plans and proportionate controls on activities rather than controls on land use change;
 - apply the same environmental requirements to all users rather than grandparenting existing users (grandparenting remains an acceptable basis for the initial allocation of tradable entitlements, which eases the transition without hindering reallocation);
 - reword PP-Directive 1.3(c) so that existing and new activities are enabled subject to controls that remedy any breach by the target date; delete the policy intent that regional spatial planning "identifies where activities should occur" for primary production;
 - delete PP-Directive 3.4(a) on large-scale exotic carbon forestry or justify it by published evaluation; and

- extend PP-Directive 3.4(b)'s provision for land to transition between productive uses from the forestry sub-theme to a theme-wide directive;
- k) direct that natural environment plans expressly allow intra-catchment transfers of water permits under section 209 of the Natural Environment Act so that transfers are inexpensive, fast and routine;
- l) require every proposed environmental limit to identify the relevant harm, the evidence and its uncertainty, existing lawful entitlements, alternative levels with their costs and benefits and the least-cost pathway to compliance, with independent review and periodic reconsideration;
- m) apply technology neutrality across the energy directives, attaching the protections for operational envelopes, existing generation capacity and expansion to all lawfully established generation rather than renewable generation alone, and leaving emissions outcomes to the Emissions Trading Scheme;
- n) remove or reframe the direction that spatial plans identify opportunities to transition to a low carbon economy, for consistency with the exclusion of greenhouse gas emissions from the legislation;
- o) provide a pathway for landowners to voluntarily assume known, disclosed natural hazard risk below the very high category, distinguish in the standards between risks borne by the owner, risks imposed on neighbours, fiscal risks and risks to life, require disclosure of the scenarios, timeframes and uncertainties used in climate-adjusted hazard assessments and ensure spatial direction of growth and investment away from hazard-exposed areas rests on an assessment of costs and benefits rather than automatic avoidance;
- p) require biodiversity criteria and mapping to:
 - be objective, replicable and independently reviewable;
 - give owners direct notice and a practical right of challenge before restrictions apply;
 - set baselines that do not discourage restoration or reward pre-emptive clearance; and
 - judge offsetting and compensation by net environmental and public benefit rather than a rigid no-net-loss formula;
- q) adopt a subsidiarity test confining national direction to material cross-boundary effects, national networks, substantial transaction-cost savings from common rules and demonstrated failures of local incentives, and provide a route by which a council may seek approval for an alternative that achieves the national outcome at lower cost;

- r) confine SW-Directive 1.3(b)'s mapping and protection requirements for sites of significance to Māori to land use plans, and reframe SW-Directive 1.3(b)(iii) so that environmental limits must manage adverse effects on identified sites rather than guarantee their protection whatever the cost;
- s) state precisely in the proposed NPD how Te Ture Whaimana and national policy direction interact, so the hierarchy operates through defined wording rather than an open-ended prevalence commitment; and
- t) undertake the formal statutory consultation on a consolidated package comprising the complete legal text of the proposed NPD and the national standards intended to commence with it, a concordance with existing instruments, a schedule explaining how provisions interact and take precedence, the evaluation described above and transitional provisions, and subject national instruments to a fixed review cycle with expiry unless continuation is supported by updated evidence.

3. DOES THE ILLUSTRATIVE NPD DO WHAT THE ACTS REQUIRE OF IT?

- 3.1 The Acts assign the NPD specific statutory functions, and the right starting point for assessing the illustrative document is whether it performs them. Section 53 of the Planning Act and section 78 of the Natural Environment Act require a national policy direction under each Act. Schedule 1, clause 9 requires the Minister to take reasonable steps to ensure both NPDs are issued within 12 months of Royal assent and provides that national standards cannot be issued until the relevant NPD exists. The NPD is not an optional policy statement. It is the apex instrument on which the lawfulness and coherence of everything beneath it depends.
- 3.2 Section 54 of the Planning Act (section 79 of the Natural Environment Act) states the purpose of the NPD: to particularise all the goals, and to direct how the goals are to be achieved, "including by identifying and providing for the resolution of conflict as far as is practicable". The Acts define particularise as "to explain the goal in detail, including by providing any context relevant to the goal", and define conflict to cover conflict within and between each Act's goals, conflict between the two Acts' goals and conflict between the two Acts' national instruments.
- 3.3 Measured against those functions, the illustrative NPD is incomplete. It maps the goals to themes and repeats the goal wording at the head of each theme, but it rarely explains a goal. Key terms on which the goals turn remain undefined or deferred: "unreasonably affect others", "life-supporting capacity" and "significant" indigenous biodiversity are left to tiers to be set in national standards, and the high value growing areas concept is acknowledged as still lacking a definition. The obvious source for particularising "unreasonably affect others" is the established law of private nuisance, including the reasonable user test and the character of the locality, rather than a new administrative test written into standards. The document goes furthest

on competitive urban land markets, well-functioning areas and natural hazards, where the risk matrix supplies genuine content. Elsewhere, further specification is needed.

- 3.4 Conflict resolution is the larger gap. The document contains roughly 106 directives, but 78 of its provisions defer to national standards that do not yet exist, and the "compatibility and resolve conflicts" boxes in each sub-theme mostly cross-reference other themes or defer resolution to future standards. HD-Directive 1.6 is the clearest example: urban development may proceed in high value growing areas or outstanding landscapes "if the development meets criteria set out in national standards" that no one has seen. The document states a few express priority rules, including for existing lawful uses (CC-Directive 3), sites of significance to Māori over historic heritage (PV-Directive 5.3) and the prohibition on urban growth boundaries (HD-Directive 1.5). PV-Directive 3.4 also provides a clear boundary: public access across private land requires the owner's agreement or lawful authority. These provisions show how express priorities and boundaries can narrow uncertainty. Other provisions need clarification, including the relationship between the urban development exception and the mineral resource priority in RW-Directive 1.4, discussed in paragraph 11.1 below. Conflict between the two Acts' national instruments, which the statutory definition expressly covers, is not addressed at all.
- 3.5 These gaps matter because of how the Acts handle silence. Under section 14(3)(c) of each Act, a decision-maker must not consider a goal directly unless satisfied that the subject matter of the goal is not addressed in a higher order instrument, that there is significant uncertainty within a higher order instrument or that there is irreconcilable conflict between higher order instruments. Every undefined term and every deferred conflict in the NPD therefore reopens direct recourse to the goals, in every plan-making process and consent decision in the country. The funnel is supposed to narrow debate at each level. An NPD in this form would instead push the system's unresolved contests of principle down to the parties least equipped to resolve them, and the RMA's litigation dynamic would reassemble around section 14(3)(c). We expect these gaps reflect the document's purpose of outlining a direction of travel rather than a final form, and that officials intend to address them. Our point is that the NPD in its final form will have to.
- 3.6 Deferring trade-offs to national standards also sidesteps the discipline the Acts place on the NPD itself. Section 66 requires the Minister, when developing the NPD, to have regard to compatibility between goals, to consider current and long-term impacts and severe and irreversible effects where resolving a conflict prioritises one goal over another and to be satisfied the NPD is consistent with other national instruments. Section 67, the equivalent provision for national standards, contains no goal-compatibility or conflict-resolution test.
- 3.7 Two qualifications are fair. The illustrative NPD is a non-statutory discussion document and cannot itself breach the Acts, and the Acts give the Crown latitude: the conflict duty applies "as far as is practicable" and section 66(9) provides that the NPD is not required to resolve every conflict. But those provisions excuse the residue,

not the main work. The proposed NPD notified for statutory consultation in 2027 will be tested against section 54, and a document in the present form would fall short of it.

- 3.8 We therefore recommend that the proposed NPD define the key terms the goals depend on, identify conflicts expressly, state priority rules or decision criteria for their resolution theme by theme, address the relationship between the two Acts' national instruments and publish a conflicts and precedence schedule alongside the instrument. Where the illustrative document states a priority rule, it shows this can be done. The task is to do it throughout.

4. THE ROLE AND STRUCTURE OF NATIONAL DIRECTION

- 4.1 The Initiative supports the single-instrument, thematic structure. The RMA accumulated more than 20 national policy statements and national environmental standards, and over 25 national direction instruments, including associated regulations and the National Planning Standards, drafted at different times on different assumptions, with conflicts left for councils and courts to resolve. For its first two decades the RMA's failing ran the other way: the national direction it contemplated was never issued, and councils filled the vacuum plan by plan. Both failures argue for the same remedy. One coherent instrument, organised by theme, with cross-cutting and system-wide directives and a common interpretation section, is therefore a clear advance. The five themes are sensibly chosen.
- 4.2 The architecture concentrates the consequences of error as well as the benefits of consistency. A poorly designed national instrument at the top of the funnel will reproduce mistakes in every plan and consent decision in the country and may be difficult to correct. The system therefore needs stronger top-of-funnel discipline and workable error-correction mechanisms below. Sections 3, 5 and 15 address these.
- 4.3 The Government should also classify each provision according to the work it performs. A right, or a constraint on government power, belongs in primary legislation. A policy priority within statutory boundaries belongs in the NPD. A measurable definition, method or rule belongs in a national standard. The document concedes that some material presented as directives may end up in standards, and a clear division of this kind would make the system more predictable and more durable.
- 4.4 The illustrative NPD covers nearly the whole field of land and natural resource regulation, yet it does not explain why each matter requires national control. National consistency is justified where problems cross council boundaries, where infrastructure networks require coordination, where common measurement methods reduce transaction costs or where councils face incentives to restrict development whose benefits accrue more widely. It is not an end in itself. Before issuing a directive or standard, the Minister should establish that national action is justified on one of those grounds. Detailed local choices, including local amenity and

settlement form, should otherwise remain local, subject to national minimum outcomes, and a council should be able to seek approval for an alternative that achieves the national outcome at lower cost.

- 4.5 This test governs restrictions, not enabling standardisation. National template zoning, with councils free to decide where the nationally defined zones apply as long as their plans meet the competitiveness requirements, is a menu, not a mandate, and we support it.

5. EVALUATION DISCIPLINES

- 5.1 As section 3 sets out, the NPD sits at the top of the funnel, and errors made at this level cascade through every plan and consent decision below. Yet nothing in the document commits the Government to evaluate the NPD, national standards or environmental limits before they take effect. The document's only justification mechanism runs in one direction: it requires a report when limits are set below minimum acceptable environmental levels. It imposes no corresponding obligation to justify the costs that limits, standards and directives impose on people.
- 5.2 The Acts impose no such obligation either. Section 66 of the Planning Act requires only a notice summarising why the Minister considers the proposed NPD consistent with its statutory purpose, and section 67 requires less again for standards. Cabinet's regulatory impact analysis requirements will apply to these instruments as a matter of convention, but they are waivable; they are not independently reviewed in the manner we propose, and they carry no statutory consequence. A well-designed compensation requirement would have been an effective discipline because it would have confronted the decision-maker with the cost directly, and the owner-initiated purchase requirement discussed in section 6, in effect a put option, would have worked the same way. However, without such compensation requirements, removing section 32 of the RMA without a replacement was a step backwards. Section 32 was often treated as a pro forma exercise, but the correct response to an ineffective discipline is to strengthen it, not to remove it. Nothing in the Acts prevents the Government from adopting the discipline as its own practice and stating it on the face of the NPD.
- 5.3 The NPD should therefore commit the Government to publishing, before the proposed NPD, each national standard and each environmental limit takes effect, an evaluation that (a) defines the problem, including the relevant externality, public good, coordination failure or institutional incentive, (b) describes the counterfactual, including existing legal and private arrangements, (c) compares regulatory and non-regulatory options, including prices, contracts, transferable rights, insurance and disclosure, (d) quantifies costs and benefits where practicable and otherwise describes them transparently, (e) identifies who receives the benefits and who bears the costs, (f) assesses effects on property values, investment, housing supply and productivity, (g) explains why national rather than regional or local action is warranted and (h) sets monitoring indicators, a review date and an expiry or

continuation decision. The Minister should select the option with the greatest expected net public benefit or publish reasons for departing from it.

- 5.4 An independent expert body should review the quality of that analysis before each instrument is made, and the Minister should publish the review and a response. Consultation without substantive decision criteria is not an adequate safeguard. We note our concern that the legislation leaves this discipline voluntary, and we will continue to advocate for a future amendment making it statutory. We suggest the body should include the Urban Land Market Officer, the Ministry for Regulation's Chief Economist, and a representative from the Infrastructure Commission.
- 5.5 The Acts already contain one true net public benefit test, and the NPD should acknowledge it. Under section 87 of the Natural Environment Act, national standards may authorise activities that breach or are likely to breach an environmental limit only where the Minister is satisfied there is net public benefit in doing so, after weighing the public benefits and public costs. Several of the NPD's directives, including PP-Directive 1.3, PP-Directive 3.2 and RW-Directive 1.6, promise continued operation for farms, forests, quarries and mines where limits are breached. Those promises can be delivered only through section 87 standards, each of which must pass the net public benefit test. The NPD should say so, both to be honest about what it can deliver and because section 87 shows Parliament knows how to write the evaluation discipline we recommend extending to the rest of the system.
- 5.6 Environmental limits warrant particular attention within this framework. A limit is not simply a scientific finding. Science can describe relationships, probabilities and consequences, but choosing a limit often reflects subjective political choices about risk, timing, distribution, existing uses and the costs of achieving different environmental states. Those choices should be explicit and independently scrutinised, not presented as technical inevitabilities. Every proposed limit should identify the relevant harm, the evidence and its uncertainty, existing lawful entitlements, alternative levels with their costs and benefits and the least-cost pathway to compliance, and limits should be reconsidered periodically as evidence, technology and preferences change.

6. REGULATORY RELIEF, COMPENSATION AND UNFUNDED MANDATES

- 6.1 The Initiative welcomes the indicative regulatory relief standards for indigenous biodiversity, high natural character and outstanding landscapes, and significant historic heritage. They acknowledge that public objectives can impose concentrated private losses. The principle that determines where relief belongs is a distinction developed further in section 7: restrictions that prevent harm an owner would impose on others are ordinary externality management, where polluter pays logic applies and relief would be wrong, while restrictions that preserve something on private land for the public's benefit conscript the property for a public purpose, and there the public should bear the cost. The legislation's three relief categories, biodiversity,

landscapes and heritage, protect the second kind, internal to a property and maintained for the public good, and relief is rightly attached to them.

- 6.2 Within the legislation's settings, the national standards will determine whether relief works in practice or replicates the near-unusable section 85 of the RMA. The standards should give "significantly constrain the reasonable use of land" a quantified meaning, expressed as a defined percentage diminution in land value supported by independent valuation, with a timely process and relief available before restrictions take effect rather than years afterwards.
- 6.3 Compensation is absent from the document, and from the legislation, except in the context of biodiversity offsetting. When decision-makers can impose restrictions without bearing any fiscal or political cost, the system is biased toward over-regulation. Without compensation requirements, Parliament will have an incentive to prefer regulatory impositions when a spending line in the budget could be more cost-effective. Where regulation removes an existing use or a large share of a property's value primarily to benefit the wider community, the owner should be able to require purchase at its ex-ante market value (meaning its value immediately before the restriction was signalled), consistent with the treatment of physical takings under the Public Works Act.
- 6.4 This would not require compensation whenever a rule changes. Where a restriction prevents material harm to others or protects a shared resource in ways that benefit the regulated owner, those benefits may justify the cost, which the regulated owner may best bear. The case for relief is strongest where identifiable owners bear concentrated losses to fund diffuse public gains. These mechanisms require legislation, and we ask the Government to acknowledge the principle now and address it in a future amendment.

The creation of unfunded mandates

- 6.5 Regulatory relief has an important equity element, compensating landowners for lost property rights. It also has an important efficiency element. Relief creates a cost for councils when they restrict land use. Because the council faces a direct cost, it is incentivised to restrict land use only where the public benefits outweigh the costs. Where that incentive operates, no national policy direction is needed on when and how to protect land.
- 6.6 To give an example, Wellington City Council commissioned a cost-benefit assessment of proposed Significant Natural Area protections. In the base-case scenario, landowner costs were \$66.5 million, while public benefits were estimated at \$19 million to \$47.5 million, for a partial benefit-cost ratio of 0.29 to 0.71.¹

¹ GHD, Significant Natural Areas: Section 32 Economic Assessment, Indigenous Biodiversity, report prepared for Wellington City Council, 24 April 2024. In the base case, lost land value on privately held residential and rural land was \$66.5 million (\$47.3 million residential, \$19.2 million rural) against public benefits with a net present value of \$19.0 million to \$47.5 million.

- 6.7 A regulatory relief regime shifts such costs from landowners to the council, so that both the costs and the benefits are public. Without national policy direction, a council facing a proposal to spend \$66.5 million on protections, returning benefits of \$19 million to \$47.5 million, would be expected to rescope the proposal. Even where a benefit-cost ratio exceeds 1.0, a council might weigh the proposal against other potential expenditure with higher returns and prioritise accordingly.
- 6.8 National policy direction that directs councils to protect land therefore risks cutting across council spending prioritisation. It is an unfunded, uncosted mandate, and councils may be forced to use ratepayer money on projects with lower returns than the alternatives. The following directives require councils to impose protections that may attract regulatory relief and therefore risk creating unfunded mandates: PV-Directive 2.1 (identify, map and categorise significant indigenous biodiversity), PV-Directive 4.2 (protect identified areas of high natural character and outstanding natural features and landscapes and avoid inappropriate development causing irreversible loss), PV-Directive 5.2 together with the Sub-theme 5 standards (protect significant historic heritage from inappropriate development) and SW-Directive 1.3 (identify and protect sites of significance to Māori, noting that identification and protection of those sites is also a statutory goal in both Acts).
- 6.9 Under the Planning Act, councils are responsible for providing regulatory relief. For relief to discipline decision-making, the decision-maker must bear it. Where central government obliges councils to impose protections that attract relief, central government should fund the relief it mandates. That would place the fiscal incentive where the decision sits, giving central government a direct financial reason to ensure the benefits of its policy direction outweigh the costs. This will require amendment to the Planning Act, and we recommend it.

7. CROSS-CUTTING DIRECTIVES

- 7.1 The Initiative supports Cross-cutting Directive 1, under which private land use is to be enabled and restrictions imposed only when necessary to ensure others are not unreasonably affected or to provide for important public values. A presumption of use at the head of the instrument, governing every theme, is closer to the starting point in the Government's 2024 reform principles than anything in previous national direction. Our February submission recommended that the presumption also appear in the Planning Act, because a presumption located in a delegated instrument can be amended by the powers it is meant to constrain, and we record that recommendation for a future amendment.
- 7.2 The second limb of the directive is too broad. Almost any planning restriction can be presented as protecting an "important public value". The term should be defined exhaustively or by tightly bounded categories, and restrictions should be necessary, proportionate and supported by evidence that their expected public benefits exceed their full opportunity costs. A rule of construction should resolve ambiguity in favour of the landowner.

- 7.3 The directive should distinguish restrictions that manage external effects imposed on others from restrictions that provide public values. The two limbs have different justifications and should carry different consequences. Externality management is the planning system's core business and attracts no compensation where it prevents harm and where affected parties can contract around the restriction. Restrictions imposed to secure public values conscript private property for public benefit, and where they do, regulatory relief should be available. Section 6 applies this distinction to regulatory relief.
- 7.4 The directive should also distinguish effects internal to the owner from external effects imposed on others. The planning system should not seek to protect competent adults from the consequences of their own land-use choices, and it should not regulate matters already adequately governed by property law, contract, tort, building regulation or another statutory regime.
- 7.5 We support the economic growth directives, the confirmation in Cross-cutting Directive 9 that responsibility for consent decisions rests with the statutory decision-maker, and the reverse sensitivity directives, including the recognition of private agreements and no-complaints covenants. Contractual solutions to planning conflicts are generally cheaper and more durable than regulation, and the NPD is right to provide for them. One clarification is warranted. Lawful establishment should not become perpetual immunity from proportionate regulation where new evidence reveals serious external effects or health risks. The governing tests should remain necessity, proportionality, and net public benefit, while properly recognising existing investment.
- 7.6 The reverse sensitivity directives are written as though the planning system were the only source of entitlements between neighbours. It is not. Section 33 of the Planning Act and section 30 of the Natural Environment Act preserve all other legislation and rules of law, along with any right of action a person has independently of the Acts, and neither Act appears to provide a statutory authority defence. An activity protected by an NPD buffer therefore remains exposed to an action in private nuisance by a newcomer, and the newcomer's planning-law responsibility to avoid conflict is not a defence to that action. Conversely, section 128(1) of each Act deems an interest in land not to be taken or injuriously affected by a plan provision, so the cost a protective overlay imposes on neighbours lies where it falls unless the severe impairment threshold in sections 128(2) and (3) is met. The proposed NPD should acknowledge both points, treat negotiated covenants and easements as the instruments that actually settle private rights and design the standards with the parallel private law in view.
- 7.7 The protective side needs an equivalent discipline. A reverse sensitivity protection is, in economic substance, an easement over neighbouring land for which the protected activity pays nothing. Because a wide envelope is costless to its beneficiary, operators will predictably seek more protection than their operations require, as the extent of some airport noise contours and height limits already shows, and a first

mover gains a perverse incentive to entrench or expand the very activity that generates the nuisance.

- 7.8 The NPD should direct that protective overlays confer the minimum protection demonstrably needed for the lawful operation they serve, with the supporting evidence subject to independent review. Negotiated instruments such as easements and no-complaints covenants should be preferred wherever the affected landowners are few enough for negotiation to be practicable. Where contracting is infeasible across many properties, as it is for airport noise, liability rules or compensation should be available where an overlay materially burdens neighbouring land.
- 7.9 The converse also holds. An operator that pays to acquire defined protection, whether by easement, covenant or compensation, should receive a durable entitlement that binds successors within its specified scope. The discipline is symmetrical with the beneficiary-pays logic running through this submission. Those who benefit from restricting their neighbours' land use should bear the cost.
- 7.10 Cross-cutting Directives 5 to 7 direct regional spatial plans to prioritise growth and change where infrastructure can efficiently support it, to sequence growth, change and infrastructure and to maximise compatibility between development, the natural environment and cultural values. These can be sensible defaults for public investment planning. The caution is that spatial plans should inform development rather than allocate it. Where plans harden into instruments that ration growth to pre-selected locations, they recreate the predict-and-provide planning the housing theme abandons. The bottom-up mechanisms recommended in section 8, and the cost-benefit basis for hazard-driven direction recommended in section 14, would keep spatial prioritisation responsive to demand revealed by prices rather than to planners' forecasts.
- 7.11 We support Cross-cutting Directive 8, under which plans should avoid unnecessary duplication of, or inconsistency with, regulation under other legislation. It states a principle that recurs throughout this submission: freshwater farm plans rather than duplicative council controls, the Emissions Trading Scheme rather than planning controls on emissions and the 2025 conversion restrictions rather than planning controls on carbon forestry. Section 16(1)(h) of each Act makes avoiding unnecessary repetition a procedural principle, and the NPD rightly particularises it.

8. THEME 1: HOUSING AND DEVELOPMENT

- 8.1 The Initiative strongly supports the direction of HD-Directives 1.1 to 1.6. Together, they require abundant development opportunities, monitor the effect of regulation on land prices, prohibit urban growth boundaries, allow non-contiguous expansion, require the most permissive planning provisions consistent with development objectives and recognise that change is not, in itself, an adverse effect. This is a material advance on the capacity-based approach of the National Policy Statement

on Urban Development (NPS-UD), and these provisions should be retained against the opposition they will attract.

- 8.2 We particularly welcome the committee-stage amendments to the Planning Bill, which place a statutory definition of a competitive urban land market framed around scarcity premiums, a duty on councils not to restrict developable land artificially and an independent urban land market officer with formal determination powers in the Act itself. This addresses our recommendation in the Bills' submission that these core elements sit in primary legislation, beyond amendment by the instruments they govern. The remaining task is to make the statutory duty effective through the NPD and national standards.
- 8.3 Three refinements would do so. First, the officer's framework and thresholds should expressly incorporate the four conditions of a competitive market:
- legal availability, meaning development is permitted or can be authorised through a predictable and timely process;
 - economic substitutability, meaning sites are realistic alternatives after accounting for location, infrastructure and development costs;
 - simultaneity, meaning enough competing opportunities are available at the same time rather than sequentially; and
 - credible entry, meaning additional land and capacity can enter quickly enough to discipline the pricing and conduct of existing landholders.
- 8.4 Without these conditions, the assessment could revert to capacity accounting, which can be satisfied through optimistic assumptions about feasibility, infrastructure and take-up while land prices continue to carry scarcity premiums. The four conditions define what the framework must capture. The officer should independently develop the suite of price indicators, measures and methods for applying them, free from ministerial direction, on the Commerce Commission model. The compliance threshold involves policy trade-offs that may properly remain with Ministers, as an inflation target does, but the framework and measures should not.
- 8.5 Second, an adverse determination should trigger a defined corrective process with a timetable and enforceable outcomes, specified in national standards, including automatic responses such as price-to-income and capacity utilisation triggers for land release and upzoning. Section 222 of the Planning Act requires only that a council notified of an adverse determination decide how it will address the matter and implement that decision. The NPD should therefore include a compliance framework that specifies the outcomes a council must achieve after an adverse determination and the timeframes for achieving them, with the Minister seeking the officer's advice on the framework's sufficiency and publishing reasons for any departure from it.
- 8.6 The regime should also include a bottom-up mechanism. Where specified indicators reveal a substantial price discontinuity across a zoning boundary, or persistent land

price inflation attributable to planning constraints, suitably located land should become eligible for development through an expedited private plan change or equivalent process, with the developer able to provide or fund the necessary infrastructure. The intended mechanism deserves spelling out. The officer sets the indicators, evaluates existing operative plans to help councils develop compliant plans and determines whether plans comply. Where a plan is non-compliant, the council must produce a compliant one, and while it does so, private plan change applications that fund their own infrastructure and have the support of the owners of the land to be rezoned should be approved by default, subject to a high bar for refusal, or at minimum weighted heavily toward whatever brings the plan closer to compliance. The NPD and national standards should set out how that weighting operates, graduated by the severity of the non-compliance, with the officer able to opine on both once established. If that upweighting is not credible, the regime falls apart.

- 8.7 Third, HD-Directive 1.6 provides that land use plans "may" allow urban development in high value growing areas and areas of high natural character where criteria in national standards are met. Where development is needed to restore competitiveness, and the specified effects tests are satisfied, plans should allow it.
- 8.8 We also support the intensification directives and the standardised zones they anticipate, provided the standards are genuinely permissive, the number of zones is kept small, and overlays are capped. Japan operates a national planning framework with thirteen standardised zones. New Zealand's district plans currently contain more than a thousand locally devised zones, and this difference creates substantial complexity and cost.

9. THEME 2: INFRASTRUCTURE AND ENERGY

- 9.1 The Initiative supports the infrastructure theme. The directives recognising the benefits and the functional and operational needs of infrastructure, enabling activity within an existing operational envelope without unnecessary restriction and treating existing infrastructure that uses natural resources as part of the existing environment in re-permitting decisions (INFR-Directive 1.4) are all welcome. The last of these matters greatly for re-consenting hydro generation, where treating long-established schemes as if the river were unmodified has produced costly and circular consenting contests. Where environmental limits are breached, the action plan pathway is workable, subject to the section 87 point made in section 5.
- 9.2 The definition of infrastructure is broad, extending to schools, prisons, waste facilities and other social infrastructure. Preferential treatment should rest on a demonstrated network, coordination or public-good rationale rather than inclusion on a list, and the tests should be neutral between public and private providers.
- 9.3 We support the removal of greenhouse gas emissions from the scope of the legislation. Emissions are priced and capped nationally under the Climate Change

Response Act 2002 and the New Zealand Emissions Trading Scheme and regulating them again through land use planning would increase costs without reducing net national emissions. This outcome aligns with our April 2026 research note and previous submissions and commentary.

- 9.4 The NPD should also be made consistent with the legislation on climate. INFR-Directive 2.1 directs spatial plans to identify opportunities to transition to a low carbon economy. That reference invites councils to reintroduce, through spatial planning, considerations Parliament has excluded from the system. If it means spatial plans should identify and enable sites for solar and wind generation and supporting infrastructure, the surrounding energy directives already do that work. The risk is the broader reading, under which councils pursue emissions objectives through urban form, transport patterns or building requirements that Parliament has excluded from the system. The directive should be reframed around energy security and resilience so that only the first reading survives.
- 9.5 The energy directives should be technology neutral. INFR-Directive 2.2 rightly requires plans to enable all energy sources, including thermal and emerging technologies. But the surrounding directives single out renewable generation: INFR-Directive 2.2(b) protects the generation capacity and output of existing renewable assets, INFR-Directive 2.3 requires spatial plans to map renewable opportunities in service of the national goal of doubling renewable capacity by 2050 and INFR-Directive 2.4 provides development and expansion pathways for the renewable energy system. Our July 2025 submission on the national direction packages argued that consenting pathways should be technology neutral, because non-renewable projects can contribute to resilience, transitional supply and affordability.
- 9.6 That argument is stronger now that emissions sit entirely outside the planning system. With carbon priced through the ETS, a planning preference for renewables duplicates the incentive at additional cost and biases the system against the thermal capacity that keeps the lights on in dry years. The protections these directives provide, for operational envelopes, existing generation capacity and expansion, should attach to all lawfully established generation, and spatial plans should identify opportunities for all generation. Technology neutrality is unlikely to slow decarbonisation. Solar and wind generation are highly cost competitive, battery costs continue to fall and those modes will likely outcompete alternatives for the great majority of new build. Neutrality simply ensures the planning system does not pre-empt that competition.

10. THEME 3: PRIMARY PRODUCTION AND THE RURAL ECONOMY

- 10.1 The Initiative supports the primary production theme. Proportionate, risk-based controls, freshwater farm plans as the primary property-scale mechanism, the restriction on councils duplicating or exceeding national requirements, forestry controls capped at national standards, provision for water storage and high-flow

harvesting, protection of quarrying and mining from urban encroachment and the reverse sensitivity protections reflect positions in our July 2025 submission.

Highly productive land and high value growing areas

- 10.2 The Initiative does not support the approach to high value growing areas. In July 2025, we recommended repealing the National Policy Statement for Highly Productive Land (NPS-HPL), and we still believe it should be repealed, not replaced. Restricting a landowner from putting land to a more valuable use is a partial regulatory taking, and the regulator bears none of the cost of the forgone opportunity. Blanket protections at the rural-urban fringe entrench the land scarcity that this document is designed to remove.
- 10.3 The problem statement has never been proven. The Treasury's 2019 assessment of the proposed NPS-HPL found weak problem definition and rationale, and the case has not strengthened since. New Zealand does not have a food security challenge. Around 80 percent of New Zealand's food and fibre production is exported each year, rising to over 95 percent in some industries, meaning we produce food for a population many times larger than our own.² A policy objective that prioritises highly productive land for primary production runs counter to the Planning Act's goal of enabling competitive urban land markets by making land available to create abundant development opportunities for residential and business use.
- 10.4 An argument is sometimes made that the challenge is more specific: that while New Zealand produces more food than it needs, the pressure falls on land for vegetables. That argument needs testing and proof, not assumption. The Government's own environmental reporting shows that between 2002 and 2019 urban land use increased 31 percent on land potentially available for agriculture, and the area of highly productive land unavailable for agriculture because it had a house on it increased 54 percent.³ Growth rates of that size sound alarming without context. The context is that around 14 to 15 percent of New Zealand's land is classified as highly productive,⁴ while outdoor vegetable growing occupied around 39,000 hectares at the 2022 agricultural census, about 0.15 percent of New Zealand's land.⁵ Urban areas and lifestyle blocks occupy small fractions of highly productive land, and the fragmentation that has occurred is concentrated in rural residential parcels of 2 to 8 hectares, which urban expansion controls at the city fringe do not address. Moreover, optimal land use does not depend on a piece of land's absolute advantage in particular types of primary production. It depends on the land's comparative advantage, and that can depend on a far greater range of factors than underlying soil type. Put most simply, two one-hectare blocks of land that are identical in potato-

² Ministry for Primary Industries, Fit for a Better World: Progress Update 2023 (Wellington: MPI, 2023): "Around 80 percent of New Zealand's food and fibre production is exported each year", rising to over 95 percent in some industries.

³ Ministry for the Environment and Stats NZ, Our land 2021 (New Zealand's Environmental Reporting Series, April 2021), 16 to 19.

⁴ Ministry for Primary Industries and Ministry for the Environment, Valuing Highly Productive Land, MPI Discussion Paper 2019/05 (August 2019) (around 14 percent); Our land 2021 (15 percent).

⁵ Statistics NZ, Agricultural Production Census: year ended June 2022 (final results), area of outdoor vegetables harvested.

growing capability can have vastly different comparative advantage if one is located where housing is desperately short, and the other is located farther away.

- 10.5 Nor has the benefit-cost ratio been shown to be positive. Market Economics prepared a cost-benefit assessment for the NPS-HPL that found quantified costs outweighed quantified benefits, yet the policy proceeded anyway.⁶ That result is unsurprising. Some land is highly valuable for farming, but the same land may also be highly valuable for housing, business or infrastructure. If it is not, protecting it for farming costs nothing and provides no benefit. If it is, protecting it for farming costs something. When someone who would have built a home on highly productive land is prevented from doing so, they either do not build, which raises house prices, or they build somewhere less preferred, which carries its own costs. The Market Economics assessment placed no value on the opportunity cost of living in a second-choice location.

Land use flexibility

- 10.6 The Planning Act's goals include competitive urban land markets and well-functioning urban and rural areas. The Natural Environment Act's goals include enabling the use and development of natural resources, including for food and fibre production. Flexible land use serves all three. New Zealand's land use has changed significantly over time as technology, capital, markets, and climate have changed, and flexibility allows competitive forces to determine future land use.
- 10.7 Under the RMA, land use change is often restricted. For example, converting land to dairying is a non-complying activity under the Waikato Regional Plan. Rather than achieving environmental outcomes by restricting land use change, environmental limits should be achieved by allowing activities to occur subject to requirements that reduce environmental impacts, with all users facing the same environmental requirements rather than allocation being grandparented to existing users. A distinction matters here: ongoing requirements should not be grandparented, but where tradable entitlements are introduced, grandparenting the initial allocation eases the political economy of the transition without hindering reallocation to higher-valued uses, because the rights trade.
- 10.8 To that end, HD-Directive 3.1 on well-functioning rural areas should be extended to provide that land use plans and natural environment plans must enable flexible land use by managing environmental externalities through freshwater farm plans and, where environmental limits are breached or likely to be breached, through proportionate controls on the activities concerned, rather than through controls on land use change. PP-Directive 1.3(c), which provides that councils "may allow" existing activities to continue where they reduce their environmental impacts, should be reworded to enable existing and new activities, subject to the controls needed to remedy the breach by the set target date or interim limit. Applying the same requirements to new entrants as to existing users avoids grandparenting and is

⁶ M.E Consulting (Market Economics), National Policy Statement for Highly Productive Land: Cost-Benefit Analysis, report CR 513 prepared for the Ministry for Primary Industries, published 22 September 2022.

consistent with the remediation-over-time design of sections 68 and 69 of the Natural Environment Act.

- 10.9 PP-Directive 3.4(b) is the document's best statement of this principle. It requires plans to allow flexibility so land can transition between forestry, agriculture, horticulture, and other productive uses over time. Yet it appears only in the commercial forestry sub-theme. There is no reason the principle should stop at forestry. The same flexibility matters for land moving between dairying, sheep and beef, horticulture, viticulture and other uses, and the directive should be elevated to a theme-wide provision applying across all the primary production sub-themes. The landowner best assesses that flexibility and its value.
- 10.10 The policy intent for Theme 3 states that "regional spatial planning identifies where activities should occur" and that this "helps manage competing land uses". It is unclear what this means. If it envisages spatial plans determining which land is used for vegetable growing and which for dairy farming, it has no place in the system. Competition in land use should be enabled, not managed. Spatial plans are a useful tool for planning urban growth, infrastructure corridors and genuine no-go areas. They should not allocate primary production activities to locations, and we recommend deleting this aspect of the policy intent.
- 10.11 PP-Directive 3.4(a), which directs plans to avoid large-scale permanent exotic carbon forestry on productive land, raises the same concern. It controls land-use change of the kind this section argues against, and it duplicates restrictions on whole-farm conversions already operating through the emissions trading scheme settings legislated in 2025, contrary to the NPD's own anti-duplication directive (CC-Directive 8). It should be deleted, or at minimum justified by the published evaluation recommended in section 5. Targeted controls remain available where harvesting genuinely cannot occur without unacceptable damage: PP-Directive 3.1(c) already authorises stricter controls in defined areas of severe erosion risk, which is the proportionate tool for such terrain.

Freshwater and allocation

- 10.12 The Initiative welcomes the illustrative NPD's freshwater settings. Te Mana o te Wai and its hierarchy of obligations do not appear anywhere in the document, consistent with the recommendations in our July 2025 submission on National Direction Changes. Freshwater will instead be managed through farm plans, limits and action plans. We support the action plan pathways that allow existing lawfully established activities to continue operating while breaches are remedied over a defined timeframe, a workable alternative to the abrupt curtailment the previous framework invited, and we recommend extending the same terms to new activities. The disciplines for setting limits recommended in section 5 apply particularly to freshwater.
- 10.13 On allocation, the Natural Environment Bill as reported back removed the market-based allocation methods, retaining first-in, first-served permitting as the default,

and the amendment papers removed councils' ability to set resource-use caps beneath environmental limits. First-in-first-served allocation is a principal cause of New Zealand's over-allocated catchments. We believe a limits framework better supports defined, transferable entitlements and voluntary exchange, moving water and discharge capacity toward higher-value uses within environmental constraints, rewarding innovation that reduces use or pollution, and better protecting existing users than administrative reallocation. Initial allocations to iwi and hapū could recognise water interests in ways that redress historical exclusion while strengthening the entitlement system. We will continue to advocate for a future Parliament to restore these tools. We would not mourn the comparative allocation method, which involved administrative selection among competing applicants and amounted to picking winners. The tools worth restoring are the market-based methods and the caps.

- 10.14 The Act that passed nevertheless preserves a workable foundation for water markets. Section 209 of the Natural Environment Act allows the holder of a water permit to transfer all or part of their interest to another person or site within the same catchment, aquifer or geothermal field, where the transfer is expressly allowed by a plan or approved by the permit authority. Because transfers depend on plans that expressly allow them, the NPD can direct, and national standards can prescribe, that natural environment plans expressly allow intra-catchment transfers so they are inexpensive, fast, and routine rather than requiring case-by-case approval. The indicative water allocation standards already contemplate consent renewals, transfers and allocation reviews, and this is the single most valuable thing they could do. A functioning secondary market in water can operate even under first-in, first-served initial allocation, provided transfers are easy.
- 10.15 The NPD should also provide direction on how and when water trading should occur. Under the RMA, councils have taken widely varied approaches to transferring water permits. In Canterbury's over-allocated zones, transfers can require a large share of the water to be surrendered: 50% in the Waimakariri zone and up to 75% in parts of South Canterbury under Plan Change 7. The aim is to reduce over-allocation, but the effect is a steep tax in kind on every trade, which discourages the very transfers that could move water to higher-value uses. If the council needs to claw back over-allocation, it should do so through a separate mechanism. Other councils have considered trading schemes but have grappled with how much of the water rights should be granted to iwi and hapu. Clear policy direction in the NPD can support these and other design choices.
- 10.16 For completeness, we state the Initiative's position on market allocation methods. Trading of existing entitlements should be enabled and made routine. Auctions or tenders are an appropriate mechanism for allocating unallocated or lapsed water. Compulsory clawback and re-auctioning of existing consented takes would amount to a regulatory taking by another name, and we do not support it.

11. THEME 4: RESOURCES, QUARRYING, MINING AND WASTE

- 11.1 The Initiative supports this theme. Enabling new and expanded quarrying and mining in identified locations, protecting regionally significant mineral resources from encroaching urban development, and the waste management directives, including provision for emergency waste, align with our July 2025 submission. However, the relationship between RW-Directive 1.4(a) and (c) needs clarification. Paragraph (a) provides an exception to avoiding urban development that would prevent identified mineral resource extraction where there is no feasible alternative to meet development capacity requirements. Paragraph (c) directs plans to prioritise the long-term availability of significant mineral resources where conflict cannot be avoided. It is unclear whether paragraph (a)'s exception qualifies paragraph (c)'s priority. If it does, paragraph (c) should expressly be made subject to that exception. If it does not, the proposed NPD should explain when the exception can operate. The final wording should provide a clear decision rule that reconciles mineral resource protection with the requirement to enable competitive urban land markets.
- 11.2 RW-Directive 1.6 promises quarries and mines pathways to continue operating where environmental limits are breached. As with the equivalent primary production directives, that promise can be delivered only through national standards made under section 87 of the Natural Environment Act, each subject to the Minister's net public benefit test, and the proposed NPD should acknowledge it.
- 11.3 We support the contaminated land directives and the policy intent that the polluter pays principle be central to contaminated land liability. Tying remediation to the land's intended future use, rather than an abstract standard, is the proportionate approach. The framework should also retain the option to leave land unremediated where remediation is infeasible at any cost recoverable from future use, provided it is contained and monitored so contaminants do not reach waterways or aquifers.

12. THEME 5: PUBLIC VALUES

Environmental and human health

- 12.1 The Initiative supports the structure of the environmental and human health sub-theme: ecosystem and human health protected through limits set under national standards methodologies, a justification report required where limits sit below minimum acceptable levels, and enhancement of the natural environment pursued first through non-regulatory means such as incentives, stewardship programmes and community-led projects (PV-Directives 1.1 and 1.5). Prioritising non-regulatory support for enhancement is the right instinct. The drinking water source protection directives provide useful regulatory certainty, consistent with our July 2025 submission, and PV-Directive 1.3's direction to protect air quality while considering home heating needs is a welcome recognition that environmental controls carry costs for households.

- 12.2 There is, however, a gap. A justification report is required only when limits are set below environmental minimums, not when limit settings impose costs on people. Source protection standards should likewise permit the least-cost combination of controls: where improved treatment at the plant protects drinking water more cheaply than prohibiting uses across a catchment, the standards should allow that choice.

Indigenous biodiversity

- 12.3 The illustrative NPD's three-tier biodiversity framework is a substantial improvement on treating every identified site alike, and we support the proposed use of covenants, incentives, voluntary biodiversity credits, offsetting and compensation, together with the higher standard for imposing controls on private land. Owners who have maintained biodiversity should not find that stewardship converted into an uncompensated liability.
- 12.4 The national standards must settle several matters on which the framework's fairness depends. Criteria and mapping methods should be objective, replicable and independently reviewable. Owners should receive direct notice, access to the evidence and a practical right to challenge identification before restrictions apply. Baselines must not discourage restoration or create incentives for pre-emptive clearance. Offsetting should be available where ecological outcomes can be measured with reasonable confidence, and compensation should remain available where like-for-like offsetting is impracticable, but the development produces greater net public benefits. A rigid no-net-loss formula should not substitute for judgement about significance, feasibility and cost.
- 12.5 The standards should also leave room for payment rather than imposition, with councils or the Crown purchasing biodiversity outcomes from owners who can supply them for less than the public values them: the community-bears-the-cost principle in its positive form.

Public access to lakes, rivers and the coastal marine area

- 12.6 We support PV-Directive 3.4, under which public access across private land may be provided only with the owner's agreement or under lawful authority. Where new access is sought for a public benefit, it should be acquired by agreement or under established acquisition and compensation law.

High natural character and outstanding natural features and landscapes

- 12.7 For high natural character, outstanding natural features and landscapes and significant historic heritage, nationally consistent identification methods should reduce arbitrary differences between councils, and we support them. Consistency does not itself prevent overreach. The identification standards should require demonstrable public significance, clear thresholds, owner involvement, independent review, and a published assessment of property impacts, and plans

should allow reasonable existing and new uses unless they would cause material harm to the specifically identified values. The unfunded mandate concern in section 6 applies to these directives, and central funding of mandated relief is the discipline that would answer it.

Significant historic heritage

- 12.8 The heritage directives improve on current practice. The policy intent states that protection will be targeted and proportionate and is not intended to constrain development or growth beyond what protecting identified values requires, and PV-Directive 5.2(d) expressly enables maintenance, repair, seismic strengthening and additions that support a building's long-term viability. That matters because heritage rules that make upkeep uneconomic lead to demolition by neglect, the opposite of protection's intent. Heritage is often a local public good enjoyed by the community at the owner's expense, so the identification safeguards in the preceding paragraph, the relief regime, and the unfunded mandate in section 6 apply with particular force here.

Natural hazards and public values

- 12.9 PV-Directive 6.1 provides that land use plans must not restrict activities that improve public values solely because they are exposed to natural hazard risk, which correctly recognises that resilience for such activities is achieved through land management and design. PV-Directive 6.2 recognises the role of natural features and nature-based solutions in avoiding or mitigating hazards. Nature-based solutions should be enabled and recognised where they genuinely reduce risk, not mandated where engineered alternatives perform better, and the directives as drafted strike that balance. The directives should leave room for an owner to enjoy, modify, and improve a family bach near the beach, bearing the risk of sea-level rise at their own expense, and to demolish the bach if it ever risks slipping into the sea

13. SYSTEM-WIDE DIRECTIVES: MĀORI INTERESTS AND TE TURE WHAIMANA

- 13.1 Upholding Treaty settlements with the same or equivalent effect as under the RMA is correct, and we agree with the requirement that sites of significance meet evidential standards, provided those standards are transparent, workable and respectful of information that is legitimately confidential. The directives enabling the use and development of identified Māori land align with our July 2025 submission's support for papakāinga development. National standards should also recognise that title fragmentation, infrastructure, and access to finance often constrain Māori land development more than planning status, and that enabling development and protecting culturally significant sites are not mutually exclusive objectives.
- 13.2 SW-Directive 1.3(b) requires land use plans and natural environment plans to identify and protect sites of significance to Māori by mapping or otherwise identifying them, to manage adverse effects on identified sites and, under paragraph (b)(iii), to ensure

that any environmental limits are set in a way that protects identified sites. Land use plans should protect sites of significance from irreversible harm, such as earthworks or inappropriate development. Paragraph (b)(iii) is a different matter. It hard-wires one value into the limit-setting process the rest of the Act subjects to balancing, so that a council setting a catchment limit near an identified estuary, for example, could be required to prioritise protection of that site whatever the cost to other community interests, superseding the cost-benefit assessment, consultation and local decision-making that otherwise govern limits. An environmental limit issue is also typically reversible where earthworks are not.

- 13.3 Because the identification and protection of sites of significance is a statutory goal in both Acts, natural environment plans cannot be excused from providing for those sites entirely. We therefore recommend that SW-Directive 1.3(b)'s mapping and protection requirements apply through land use plans, and that paragraph (b)(iii) be reframed so that limit-setting must manage adverse effects on identified sites rather than guarantee their protection whatever the cost. We also note the unfunded mandate concern in section 6: where the directive obliges councils to impose protections on private land that attract regulatory relief, councils should retain some discretion over whether the benefits justify the costs, or central government should fund the mandated relief.
- 13.4 The treatment of Te Ture Whaimana requires more precision. The document records that officials and Waikato and Waipā River iwi are discussing wording that makes Te Ture Whaimana prevail over the NPD wherever the two conflict. Honouring the Treaty settlement should not be in question. Whatever the final wording, the proposed NPD should state precisely how Te Ture Whaimana and national policy direction interact, directive by directive where necessary, so that the hierarchy operates through defined wording rather than through a general prevalence commitment whose reach is determined later in litigation.
- 13.5 At the same time, the NPD could provide hapu Direction could provide hapu with the opportunity to apply national template zoning to their own land, whether held as reserve or under Māori land tenure, with their intended zoning then forming part of the overall plan. That would give practical effect to the rangatiratanga-based approach to papakāinga that our July 2025 submission recommended.

14. SYSTEM-WIDE DIRECTIVES: NATURAL HAZARDS

- 14.1 The system-wide natural hazard directives are a considerable improvement on unstructured invocations of precaution. The Initiative supports the quantified risk matrix; the requirement that assessments account for existing and proposed mitigation and residual risk; the recognition that infrastructure and primary production achieve resilience primarily through asset management and design rather than land-use restriction; and the direction that mitigation requirements be commensurate with risk and consider cost-effectiveness.

- 14.2 Four refinements are needed. First, landowners should have a pathway to voluntarily assume known, disclosed risk in exchange for development opportunity in categories below very high, with the risk recorded on the title for future purchasers. Disclosure, insurance, building standards and owner acceptance will often be more proportionate than prohibition where the risks are principally private.
- 14.3 Second, the consequence table combines damage to property, risks to life, disruption to lifeline utilities, harm to places of cultural significance and environmental loss in a single matrix. These consequences are not interchangeable, and a qualitative judgement in one category should not automatically trigger the same regulatory response as an equivalent risk to life. The standards should distinguish risks voluntarily borne by owners, risks imposed on neighbours, fiscal risks transferred to taxpayers and risks to life or essential public systems.
- 14.4 Third, climate-adjusted hazard assessments should disclose the scenario, timeframe and uncertainty used. Long horizons combined with conservative assumptions can sterilise large areas despite manageable near-term risk, and restrictions should be revisited as information and mitigation options change.
- 14.5 Fourth, SW-Directive 2.1 requires regional spatial plans to direct housing growth, infrastructure and investment towards areas where natural hazard risks can be avoided or mitigated. That direction should rest on a cost-benefit assessment rather than automatic avoidance. An area may be cheaper to develop and offer real amenity benefits, with hazard exposure that mitigation, disclosure, and insurance can manage; investors and insurers are often better placed than planners to price that trade-off.

15. PROCESS, IMPLEMENTATION AND REVIEW

- 15.1 The consultation asks whether the illustrative NPD document gives a clear picture of how national policy direction would work in practice. It does so only in part, as discussed above in section 3: the Acts largely defer the functions they assign to the NPD to national standards that do not yet exist, and those standards will set the decisive thresholds, definitions, methodologies, and plan rules. Housing growth targets, intensification requirements, high value growing area criteria, biodiversity methodologies, hazard overlays and relief parameters are all still to come. The Acts deferred the operative substance to national direction, and the illustrative NPD defers much of it again.
- 15.2 The formal statutory consultation should therefore proceed. We offer two ways to do this.
- 15.3 The first would be on a consolidated package comprising the complete legal text of the proposed NPD, the complete text of the national standards intended to commence with it, a concordance showing which existing national instruments are retained, replaced or revoked, a schedule explaining how provisions interact and

take precedence, including between the two Acts' instruments, the evaluation described in section 5 and the transitional provisions for existing plans, consents and lawful activities. Consultation on indicative lists of standards cannot substitute for consultation on the instruments that will actually govern conduct.

- 15.4 The second would be a more iterative approach that would serve the same end: consult on the proposed NPD together with indicative drafts of the standards, invite comment on both, and correct any misalignment before anything is finalised. Either course would be acceptable. What matters is that no instrument is finalised before the interactions between the instruments are visible.
- 15.5 National instruments should be reviewed on a fixed cycle. Provisions that restrict private rights or prescribe detailed plan content should expire unless updated evidence and analysis support their continuation. Ministers should report to Parliament on each review's results and on material departures from independent advice.
- 15.6 Timing gives these process disciplines their urgency. The Acts passed in the final days before the House rose for the general election, the first national instruments are due within 12 months of assent and full implementation extends over 39 months. A future Minister could rewrite every national instrument without Parliament amending the Acts, and the same architecture that permits rapid correction permits rapid deterioration. The disciplines recommended in this submission would protect the quality of the first instruments and constrain the deterioration of later ones, and we encourage the Government to pursue the broadest parliamentary support the substance allows. A resource management system that changes with every election would serve no one.

16. CONCLUSION

- 16.1 The illustrative NPD, together with the committee-stage amendments on competitive urban land markets, shows that the Government has absorbed much of the case for reform the Initiative and others have made over the past decade. We thank the Ministry for providing an indicative early view ahead of the statutory process, and our comments are offered on that understanding. The property rights presumption, the housing and urban land market provisions, the proportionate treatment of the primary sector, the tiered biodiversity framework and the absence of Te Mana o te Wai are significant achievements, and we support them.
- 16.2 While useful, and pointing in the right direction, the document still has some way to go before it does the job the Acts give it. The statutory purpose of national policy direction is to particularise the goals and to direct how they are achieved, including by resolving the conflicts between them. On both counts, the illustrative NPD defers to national standards that do not yet exist, face no equivalent statutory discipline, and reopen goal-level arguments in the processes below with every deferral. Our

recommendations would close those gaps, supply the evaluation and relief disciplines the system still lacks and preserve everything the document gets right.

16.3 We would welcome the opportunity to discuss this submission with officials.