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Environment Select Committee
Wellington

Via the Select Committee submission portal

Otago Regional Council submission to the Environment Committee on Planning Bill and Natural Environment Bill

Introduction

1. Otago Regional Council (ORC) welcomes the opportunity to submit on the Planning Bill and Natural Environment Bill as part of the wider resource management reform programme for New Zealand.
2. For some time, New Zealand has recognised that the Resource Management Act 1991 (RMA) is at the end of its functional life, and that a refresh is needed to develop and implement a resource management system that is more effective and efficient in balancing the need to enable resource use with sound environmental management and protection.
3. ORC supports the intent of the reforms and recognises that a new system will present opportunities to better support how we undertake our roles and responsibilities and ultimately deliver improved outcomes for our communities. ORC is also mindful that successful implementation will require clear, workable and timely national direction, process rules, and definitions, including carrying over elements of the RMA (such as legally robust definitions) that are fit for purpose and will support the new framework.
4. ORC is well placed to lead Otago's transition to the new system. Its recent proposed Regional Policy Statement (pRPS) and continuously growing local datasets across a wide range of topics, including natural hazards, land-use and land cover, biodiversity and climate, provide a strong foundation that can be leveraged to accelerate development of the required first-generation regional spatial and natural environment plans and reduce duplication. The pRPS was developed with significant input from district and city councils, iwi partners, communities and other stakeholders and is a modern document that reflects current challenges and opportunities across the diverse landscapes and communities of Otago. This places Otago in a good position to move quickly into the new system, provided transition expectations and dependencies are clear.
5. While supportive of the intent of the reforms, as currently drafted, it is unclear how the Bills will work together effectively given their differing purposes and lack of integration across both Bills. Some of this uncertainty arises from the absence of national direction, which is yet to be developed. While ORC acknowledges the ambitious timeframe for delivering the new resource

management system, timely and detailed national direction and process guidance will be essential to avoid uncertainty, legal challenge, and inconsistent practice, especially for local government as it transitions towards preparing the first-generation of plans under the new system.

6. ORC's submission is structured as follows:
- Introduction
 - Section 1 – General submission points on the proposed new resource management system
 - Section 2 – Submission points on the Planning Bill
 - Section 3 – Submission points on the Natural Environment Bill
 - Section 4 – Submission points on consenting and compliance under the Natural Environment Bill

1 General submission points on the proposed new resource management system

1.1 *Iwi involvement in planning*

7. ORC supports iwi involvement in the planning process as set out in the Bills, and acknowledges the importance of our relationship with Kāi Tahu.

1.2 *Implementation processes and timeframes for the new planning framework established by the new Bills must be practical and realistic*

8. ORC supports the intent to move to a new integrated, strategic spatial planning system. However, statutory timeframes for implementation of the new system must be realistic, with logical sequencing of the implementation steps to ensure any future combined plans for the region are of high quality. This will ensure public confidence in the planning system remains strong. In particular, requirements for developing first-generation plans under the new system should be designed to minimise re-work or avoid any additional costs on ratepayers if national direction or regulations are confirmed late relative to the timeframes for notifying plans under the new framework or if national policy direction changes.
9. ORC acknowledges the government's ambition to have regional combined plans decided by December 2029. For this programme to be successful, regional councils need to have collaborated with the territorial authorities in their region and developed their regional spatial plans. Given that national direction is not intended to be released until six months prior to the requirement to notify spatial plans, this will create significant implementation challenges. These challenges are further compounded by the requirement of only six months from notification to decision. The compressed timeframe is further intensified by the requirement to work collaboratively across the region. While ORC has good, positive and successful experiences of working collaboratively to develop the Dunedin City Future Development Strategy and working toward developing the second-generation Queenstown Lakes Spatial Plan, working with five territorial authorities will mean new challenges, new learnings and new processes. These

invariably take time and commitment to be meaningful and produce successful, community supported plans. While ORC is in a strong position with the new pRPS, we consider the compressed timeframes add a layer of complexity that may undermine the outcomes sought.

10. **Decision requested:** Provide realistic implementation pathways and timeframes that enable the best outcome for the community.

11. **Decision requested:** If overall implementation timeframes cannot be extended, provide greater time in the regional combined plan implementation process for regional spatial plan development and decisions.

1.3 Central government support is essential for successful transition to the new framework

12. Central government involvement and support will be essential if the Bills' goals are to be delivered on time, in an efficient manner and to the expected quality. This is particularly important where the new system heavily relies on future national direction, standardised methods, and cross-agency alignment.

13. For example, in the Queenstown Lakes District, growth management requires coordinated action across local government bodies and central government agencies. The Queenstown Lakes Spatial Plan demonstrates the value of central–local partnership through strong alignment between spatial planning, infrastructure investment, and implementation partners to achieve long-term outcomes.

14. **Decision requested:** Clarify roles and coordination mechanisms, and provide timely national direction, accessible national datasets, tools and practical resourcing support for plan development and implementation.

1.4 Support for a single and coherent set of National Direction

15. ORC supports a single set of national direction that eliminates conflicts between competing priorities, which will assist decision-making for resource use permits. Previously, when national direction has been inconsistent, such as the National Environmental Standards for Commercial Forestry and the National Policy Statement for Freshwater Management, it has been time consuming and resource intensive for regional councils to determine which national instrument has priority, and in which individual circumstances. ORC fully supports new national direction that resolves conflict so that these matters are not litigated through individual resource permit decisions, which is costly for applicants, Councils, and can result in differing interpretations across the country.

16. **Decision requested:** Provide a single, internally consistent set of national direction that clearly directs how conflicts between competing values and uses must be resolved.

1.5 Potential financial implications of regulatory relief for local authorities and local communities

17. In principle, ORC is not opposed to the concept of regulatory relief, however we have concerns about the funding mechanism for compensation and consider that the regulatory relief framework could place significant financial strain on local authorities. Councils across the country are finding it difficult to fund current workloads without rates increases, and the

proposed rates cap legislation may make it impossible to budget for landowner compensation. This may put at risk regional protections, including for example outstanding natural features and landscapes, where approximately 97% of the land area in Queenstown Lakes District is currently assessed as outstanding.

18. ORC is particularly concerned that central government may introduce protections in national instruments which local government is then required to provide regulatory relief for impacts on private property rights. While ORC supports strong and clear national direction, it does not support a model where local government is required to compensate landowners for restrictions on potential land use imposed by national instruments.
19. Should ORC choose to impose restrictions beyond those required by national direction, then the concept of regulatory relief is supported and as a Council, we would look for ways to fund this.
20. ORC also seeks clarity in the Bills on what constitutes “a significant impact on the reasonable use of land”. ORC is concerned that, without further guidance, there is a risk that this test will lead to costly and time-consuming litigation.
21. **Decision requested:** Make regulatory relief available only in circumstances where land use restrictions were not in place under RMA Plans (i.e. only new restrictions), and local authorities seek to impose regulatory restrictions beyond those required by national direction.
22. **Decision requested:** Define within the Bills on what constitutes “a significant impact on the reasonable use of land”, so councils can implement a regulatory relief framework without undue financial risk.

1.6 *Standardisation of plans and plan development*

23. ORC supports the standardisation of plans developed under the Planning Act and Natural Environment Act and notes this provides the opportunity for consistency between them. However, the standardisation requirements must also continue to enable use of local knowledge and data as this allows for consideration of local circumstances in decision making, enables the development of tailored solutions and ensures better outcomes for communities and the environment.
24. **Decision requested:** Provide clear, practical and efficient pathways for the development of bespoke provisions to allow for the use of local knowledge and consideration of local circumstances when preparing plans under the new framework.

1.7 *Need for clearly defining the purpose of the planning instruments and the roles and responsibilities of regional councils*

25. ORC is concerned that ambiguity in terminology applied in the Natural Environment Bill and Planning Bill could create interpretation issues similar to those that arose under the “sustainable management” purpose of the RMA.

26. To ensure this does not occur, ORC considers that the terms describing the purpose of the Natural Environment Bill (clause 4), the purpose of natural environment plans (clause 92) and the responsibilities of regional councils (clause 221) must be clearly and concisely defined. Specifically, ORC seeks clarification and definitions for the key terms “enable”, “regulate the use”, “protection and enhancement” of the natural environment and requests clear direction in the Bill on how these terms are to be read together, and how any inherent conflicts are to be resolved. Reduced ambiguity in the terminology used in the Bills will help to achieve the government’s RM reform objectives, allow for efficient transitioning to a clearer and more simple resource management planning system and reduce litigation risk, contributing to better efficiencies in the system.
27. **Decision requested:** Define key terms “enable”, “regulate the use”, “protection and enhancement” of the natural environment, and provide clear direction in the Bill on how these terms are to be read together, and how conflicts are to be resolved.
- 1.8 *Clearly define the roles and responsibilities of regional councils***
28. ORC also supports a clear delineation of roles and responsibilities between regional councils and territorial authorities as set out in each of the Bills. To that end, the Bills and/or national instruments should explicitly clarify how any responsibility overlaps are to be managed, for activities. This will avoid duplication, friction, and unnecessary cost. Although ORC currently has processes in place with several territorial authorities in Otago to manage overlaps under the current system, the new system should resolve these issues up front to enable nationally consistent and efficient plan making and consenting.
29. For example, under the current RMA, the management of earthworks is a shared responsibility between territorial authorities and the regional council. Territorial authorities are responsible for the land use aspect of earthworks, including engineering matters and construction management (such as stability issues on neighbouring sites), while ORC is responsible for discharges arising from earthworks. In some cases, resource consent may be required from either one, or both ORC and the relevant territorial authority, to manage relevant effects. This overlap appears to continue under the proposed new system.
30. Similar overlaps currently exist for the management of contaminated land, and appear likely to continue under the new system. For example, territorial authorities appear to remain responsible for the management of the land use activity, such as the disturbance of contaminated land and the resulting effects on human health, while ORC is responsible for managing the effects of any resulting discharges from earthworks on the natural environment. As a result, applicants may continue to require consent from two authorities.
31. ORC currently seeks to reduce duplication or contradicting requirements for system users during the processing of consents, by aligning consent conditions around timing of required actions, as well as joint compliance monitoring with territorial authority staff. During the development of the draft Land and Water Plan, provisions from district plans across the Otago region were reviewed in an attempt to align thresholds for consent requirements, including for

earthworks. If the system delineated responsibility for these activities to one authority, it would avoid duplication and the need for these processes.

32. While uncertainty and regulatory inefficiency can arise where local authorities are given overlapping responsibilities or powers under the Bills, uncertainty can also emerge where roles and responsibilities set out in the Bills may overlap with roles and responsibilities of other parties under other legislation.
33. **Decision requested:** Ensure regional council roles and responsibilities are clearly set out and avoid duplication of or misalignment with territorial authority roles and responsibilities, as well as with frameworks established under other legislation.

1.9 *Need to consider other restrictions on land use and development of private property*

34. The intent of the Planning Bill is to remove unnecessary controls over land use and development on private property. The Council acknowledges this as one of the intentions however notes that restrictions can still be imposed through covenants under the Property Law Act 2007, that similarly restrict development. Council considers that, for the simplification in the Planning Bill to be effective, there needs to be less ability to restrict development through covenants or a simpler process for covenants to be changed or reduced where they conflict with spatial plans and good infrastructure planning.
35. Some examples across Otago that ORC is familiar with includes covenants that restrict where clotheslines can be located, whether domestic pets can be properly contained, colours of buildings and minimum floor areas for dwellings. These types of restrictions apply in perpetuity and removing them is a lengthy and costly High Court process.
36. **Decision requested:** ORC requests that the Government considers inconsistencies with the Property Law Act 2007 and how the imposition of restrictive covenants may undermine the intent of the Planning Bill.

2 Submissions on the Planning Bill

2.1 *Spatial Planning Staging*

37. The Bill, as currently drafted, will require multiple first-generation plan processes to be initiated at the same time across the country. This will result in bottlenecks and delays in implementing plans, and risks communities, iwi/hapū, sector stakeholders, and technical experts being unable to participate meaningfully. We submit that Hearing Panels would be under-resourced to test evidence and resolve issues efficiently and there may be a shortage of appropriately qualified Commissioners to hear plans. This would significantly reduce the quality of information available to decision-makers, weaken public confidence in outcomes, and increase the likelihood that disputes are pushed into legal challenge rather than being resolved through robust plan engagement.
38. Otago's experience has been that spatial planning and associated plan development in high-growth areas such as Queenstown Lakes already involves intense multi-party engagement across infrastructure, housing supply, hazards and environmental limits. Overlaying several new

plan processes at once would stretch local capacity and reduce the depth of participation and scrutiny that good outcomes require.

39. **Decision requested:** An implementation approach is provided in the Bills that enables plan development processes across the country and provides realistic timeframes and engagement opportunities.

2.2 *Delivery of first generation regional spatial plans*

40. ORC understands the Government's desire to embed the new system as quickly as possible. To enable us to meet these timeframes, councils need national direction to be released as early as possible. Work on spatial planning will need to start before the national instruments are due to be released, which may result in wasted effort and longer periods of uncertainty for communities and stakeholders. Ultimately this could also lead to spatial plans that are not well considered and do not adequately provide for growth and activities in the region. While the Bill as drafted provides an opportunity to review spatial plans at any time - which is supported, if this occurs too early and too often it could undermine the value of a 30-year spatial plan. ORC requests that national direction relating to spatial plans is released as early as possible, and key policy direction is released ahead of the substantive national direction, to ensure spatial plans are appropriately enabling.
41. The proposed timeframes for delivering the first new combined plan (set out in the Planning Bill at schedule 1 clause 5) are shorter than for later iterations. The reality is that there will be significant challenges associated with operating in a new system and requiring regional consensus on a spatial plan, meaning that it will be more challenging to meet the timeframes associated with the first iteration.
42. ORC's new proposed Regional Policy Statement (pRPS) took 18 months from initial drafting to notification, which under the existing RM system is relatively quick. We consider the pRPS aligns in complexity to a regional spatial plan and we consider it will be challenging to achieve the timeframes, or how the process could move any quicker than the pRPS development process. The compressed timeframes risk losing quality over speed, and early national direction is critical to ensure best possible products and therefore outcomes, are achieved.
43. **Decision requested:** Amend the timeframes for delivering national direction, insofar as it relates to the regional spatial plan (For example, release relevant national direction within three months of the Bills passing) and the timeframes for implementing the new planning framework to allow more time for the development of the first regional spatial plan after the national direction is released.

2.3 *Amendments to regional spatial plans*

44. ORC supports the ability for the spatial planning committee to review the regional spatial plan at any time and make amendments if required without waiting for a full review after 10 years. This will allow spatial plans to adapt to new information – including information that makes an area either appropriate or inappropriate for development, technological innovations and growth demand. This ability is likely to be particularly relevant if the proposed sequencing of

the plans is retained, as completion of the first natural environment and land-use plans may impact strategic planning considerations.

45. **Decision requested:** Enable a more straight forward or flexible way to update plans without a full plan change process if one chapter of the regional combined plan requires updates to other sections for alignment. For example, following completion of the first natural environment and land-use chapters of the combined regional plan there may be a requirement to update the regional spatial plan which will not be able to be informed by the second set of national direction.

2.4 *Spatial Planning Committee*

46. ORC supports the formation of spatial planning committees to develop spatial plans.
47. ORC welcomes the role of government in the spatial planning committee, as this provides an opportunity for government to better understand the priorities and challenges of regions and may assist with aligning available Central Government tools and funding opportunities.
48. ORC notes that the spatial planning committee structure and the boundaries of a 'region' may need to be adjusted if local government reform results in changes to existing regional or district boundaries.
49. We consider that the spatial planning committee could be modelled on the regional transport committees established under the Land Transport Management Act. This model sets out structure and form of the committee, ensuring clear representation, including from Central Government, and also sets out leadership and decision making. The RTC model works well, enables collaboration and shared decision making, resource allocation and information sharing.
50. ORC considers that more direction in the Bill about the membership and operating model will provide certainty and sufficient time for the committees to be set up and start developing the regional spatial plans. Embedding the minimum structure of spatial planning committees into the legislation ensures committees can be established without additional costs or time delays. If requirements are intended to be provided in the first set of national instruments, there will not be sufficient time to re-do processes and develop the spatial plan, and it would be a waste of ratepayer money.
51. **Decision requested:** Provide more direction in the Bill about the membership and operating model for the Spatial Planning Committee.

2.5 *Regional spatial plans and fast-track & private plan changes*

52. ORC considers that the Planning Bill should clarify the interaction of regional spatial plans with approvals under the Fast Track Approvals Act and the ability for private plan change requests to be lodged.
53. **Decision requested:** ORC supports the fast-track process remaining available as a separate option for projects where they align with the objectives of relevant spatial plans or provide

critical infrastructure or support national instruments, as it enables flexibility and allows development to occur even if it was not originally foreseen.

54. **Decision requested:** Provide for a consenting pathway for development that is not consistent with spatial plans, so that a merits assessment can be undertaken.

2.6 Sequencing of planning instruments

55. ORC considers the proposed order to develop a regional spatial plan prior to national direction for environmental limits being released or set in a natural environment plan will result in overly conservative or non-specific first-generation regional spatial plans. ORC considers the proposed sequencing of planning instruments will prolong uncertainty for businesses and developers and require the first spatial plan to be amended once environmental limits and natural resource constraints are known, creating inefficiencies for all parties, and reducing effective outcomes.
56. ORC requests that regional spatial plans are developed and notified after the release of national direction for environmental limits.
57. ORC would also like to make available to those developing the national direction, our staff who have worked on developing environmental limits. Our staff have extensive experience in developing environmental limits to give effect to the most recent national policy statements prepared under the RMA and can provide practical solutions and opportunities.
58. **Decision requested:** Amend the new planning framework to require that regional spatial plans are notified only after national direction on environmental limits has been released and engage with experienced regional council staff to support the development of national direction, particularly on methodologies for setting environmental limits.

2.7 Sub Regional Spatial Planning

59. ORC is party to the Otago Central Lakes (OCL) partnership, along with Queenstown Lakes District Council and Central Otago District Council. OCL has been formed to engage on the Government's City and Regional Deal process. OCL focus is on a deal to support unlocking opportunities for this sub region of Otago which faces high growth and housing challenges. These opportunities include capturing value from growth and visitors and reinvesting into critical infrastructure and affordable housing through new funding and delivery tools.
60. We agree with, and reiterate, the submission point of QLDC in its submission on the Planning Bill; that the Planning Bill presents an opportunity to support securing quality, affordable housing across the Otago Central Lakes sub-region in alignment with the Regional Deal OCL is negotiating with the Government.
61. **Decision requested:** Enable the Otago Central Lakes (OCL) partnership to prepare a sub-regional spatial plan that aligns with, and builds upon, the Otago Central Lakes Regional Deal. This could be addressed through the inclusion of an exception to clause 64, subject to Ministerial approval, to recognise these unique scenarios. In addition, Schedule 2, Part 1, clause 3 could be amended to require regional spatial plans to give effect to any relevant Regional Deal matters.

2.8 *Transport planning and investment implications*

62. ORC is the public transport authority in Otago. ORC supports the increased strategic integration of land use and transport planning and investment within the Planning Bill. This is a significant and positive improvement compared to the RMA. To further improve the integration, we seek additional clarity on the relationship between planning documents and transport funding documents. A lack of alignment between land use and transport planning and funding processes risks investment uncertainty and could undermine the intended integration.
63. The importance of this strategic integration is reflected in the Planning Bill's purpose of regional spatial plans, set out in clause 67 (d) and (e):
- (d) support a co-ordinated approach to infrastructure funding and investment by central government, local authorities, and other infrastructure providers; and
 - (e) promote integration of development planning with infrastructure planning and investment.
64. While we support this purpose, we consider strengthened mechanisms to coordinate land use and transport planning and funding processes are required. This will ensure good line of sight for decision makers and funding agencies and allow better infrastructure planning and funding decisions.
65. **Decision requested:** Amend the Bill to provide additional clarity on the hierarchy and relationship between regional spatial plans and land use plans (under the new Planning Bill) AND transport funding documents, such as the regional land transport plan, government policy statement on land transport, and national land transport programme (under the Land Transport Management Act 2003).

3 **Specific commentary on the development of plans and other management tools under the Natural Environment Bill**

3.1 *Direction of Goals*

66. ORC has considered the move away from the “sustainable management” concept embedded within the purpose in the Resource Management Act, in favour of the newly articulated goals in clause 11 of the Natural Environment Bill. While the framing of the RMA's purpose has enabled variable interpretation, the Bills' goals provide a clearer and more enabling direction. However, concerns exist that, without an explicit “maintain or improve” (or equivalent) environmental policy direction, the framework may fail to set clear environmental bottom lines and may undermine public confidence in the ability of the new planning system to provide adequate protection of values that are highly regarded by the community.
67. ORC therefore supports retaining the improved clarity sought by the reform.
68. **Decision requested:** Retain the Bills' enabling framework.

3.2 *Freshwater Farm Plans*

69. Farming systems in Otago are particularly diverse and complex because of the wide range of landscapes across the region. This diversity leads to variable effects on fresh water. Freshwater Farm Plans are a practical way for farmers and growers to identify, manage, and reduce the impacts of farming on freshwater environments by tailoring mitigations to local catchments, landscapes and climates, and individual farm system.
70. ORC supports Freshwater Farm Plans as a key tool for managing effects of farming on the environment and wishes to see clear and unambiguous integration into the new resource management system. Regulations should ensure that Freshwater Farm Plans:
- stay focused on clear outcomes,
 - are practical and proportionate for farmers to use,
 - are supported by clear guidance, and support for implementation, including templates where appropriate,
 - integrate with existing industry supported farm environmental plans.
71. Freshwater Farm Plans also have the potential to enable farmers, communities, the industry, and regulators to work more collaboratively on enhancing the environment. Their effectiveness and buy-in would be strengthened if Freshwater Farm Plans were better linked to wider community objectives and non-regulatory programmes (such as Integrated Catchment Plans).
72. **Decision requested:** Embed Freshwater Farm Plans as a core, outcomes-focused tool within the new resource management system, with clear guidance and support for implementation, and enable their integration with existing industry supported farm environmental plans, and catchment-based and non-regulatory programmes.

3.3 *Developing environmental limits and bespoke provisions*

73. ORC supports the use of environmental limits and target attribute states to protect human health and the life-supporting capacity of the natural environment.
74. ORC recognises the need for a simpler and more effective system for measuring and setting ecosystem health limits for attributes across the domains of freshwater, coastal water, land and soil, and indigenous biodiversity.
75. ORC requests clear and timely national policy direction for setting environmental limits and attributes, including guidance on the appropriate scale to set management units, to avoid uneven practice and reduce disputes. Furthermore, the new framework set under the Bill, and subsequent national policy direction, must enable integration of regulatory and non-regulatory tools, particularly Catchment Action Plans, to achieve environmental limits and attribute states. ORC's view is that catchment action plans, alongside other instruments such as regulatory plans, can play a critical role in ensuring community buy into the actions required to achieve environmental limits at an appropriate catchment scale.

76. ORC supports the ability for councils to make bespoke provisions in natural environment plans. To support efficient plan making, the Bills must set clear thresholds for determining when bespoke provision are appropriate and provide a simple process for developing bespoke provisions to address issues at the catchment scale. A simpler process for developing bespoke plan provisions at a catchment scale will enable local issues to be addressed in a timely manner, compared to the complex and costly plan change process currently required in the RMA.
77. ORC also requests that bespoke provisions are enabled where a collaborative process (such as the development of a Catchment Action Plan) identifies the need for them.
78. **Decision requested:** Provide clear and timely national direction on environmental limits and attribute states, including guidance on the scale of management units.
79. **Decision requested:** Enable integration of regulatory and non-regulatory tools such as Catchment Action Plans.
80. **Decision requested:** Set clear thresholds and streamlined processes for adopting bespoke, catchment-scale provisions where appropriate.

3.4 Participation in plan making

81. ORC considers the shortened timeframes for making submissions on proposed plans are likely to constrain public participation and reduce the quality of information provided to decision makers.
82. ORC also considers that the broad discretion given to an independent hearing panel to decide not to hold a public hearing on a proposed plan (Schedule 3, clause 24 of the Planning Bill) will likely have negative impacts on the plan making process. Deciding not to hold a hearing on submissions for a proposed plan risks undermining the democratic process that underpins plan development and the social licence of a Natural Environment Plan. It prevents people affected by a proposed provision from having their concerns heard and properly examined. Additionally, important information that would have been presented to hearing panels if the current system were to be retained may no longer be provided in the future due to the combination of shortened submission time frames and the ability to decide not to hold hearings. This is particularly problematic in the plan making process, as in practice submission points are often high-level at the submission lodgement phase and are further developed in preparation for a hearing.
83. **Decision requested:** Extend submission timeframes to those in the RMA, so public participation during plan-making is better enabled.
84. **Decision requested:** Include criteria or direction in the Bill for hearing panels on the circumstances when a hearing for a proposed plan is not required.

3.5 *New mechanisms and tools for natural resource allocation*

85. ORC supports the inclusion of additional methodologies and processes in the Natural Environment Bill to enable the efficient allocation of natural resources. However, ORC considers that, as drafted, there are risks of unintended consequences from the implementation of these new processes without sufficient criteria or guardrails included in the Bill.
86. ORC is concerned that market-based allocation and comparative consenting processes may create significant uncertainty for existing resource users and permitting authorities, as the criteria for assessing permit applications under these new processes are unclear. As drafted, it is unclear how existing resource users or existing investment will be considered when assessed against applications for new resource uses through these processes. This lack of direction reduces the certainty currently provided to longer term consents holders, and creates further uncertainty for future investment and for implementing these new processes. For example, an existing consent holder may have to invest, adapt or change their activity to meet the criteria of new consenting processes and compete with other applications, while having less certainty that they will secure the necessary allocation in the future. It also increases the risk of litigation in relation to any future resource allocation decisions.
87. ORC requests that central government draws on the expertise of regional councils to design the market-based allocation and comparative consenting processes to ensure they are practical, outcome-focused, and informed by existing resource allocation experience.
88. Finally, ORC is concerned that the Natural Environment Bill lacks clarity regarding the application of natural resource levies, including how levies will be imposed and managed. In addition, the Bill does not contain clear requirements for transparency or for demonstrating that levy revenue will deliver benefits to the areas from which the levies are collected.
89. **Decision requested:** Include safeguards to manage the concentration of natural resource allocations where market-based allocation processes are applied and to ensure equitable outcomes for communities and existing resource users.
90. **Decision requested:** Implement market-based allocation-processes cautiously and develop these allocation processes in collaboration with regional authorities prior to finalisation of settings.
91. **Decision requested:** Ensure the Natural Environment Bill provides clarity on how levies will apply and sets requirements for transparency and for demonstrating that the benefits from levy revenue will be delivered to the areas where the levies are collected.

4 **Submission points on consenting and compliance under the Natural Environment Bill**

4.1 *General comments*

92. ORC broadly supports the intent of the consenting process changes proposed in the Bills. ORC recognises that these changes aim to improve system efficiency and cost-effectiveness, increase standardisation, and reduce the number of consents required. The submission points below

seek to ensure that the proposed changes are effective in delivering efficiency and do not introduce unnecessary steps or checks that undermine this goal.

93. Significant further detail is expected to be developed through national direction, regulations, and standardised approaches. ORC strongly encourages central government to work closely with regional and territorial authorities, including ORC, during the development of these instruments to ensure that the new provisions are practical, can be efficiently implemented, and deliver the intended outcomes of the reformed resource management system.
94. The move away from the name “consents” is understood but ORC considers that the use of the term “permits” for activities requiring authorisation under the Natural Environment Act creates confusion with “permitted activities” and complicates consent processing. This inconsistency also limits the ability to efficiently process approvals across the two Acts through the issue of a single consent.
95. Under the Natural Environment Bill all notified permits/consents are required to be decided by commissioners, even when there are no submissions on a proposal or only submissions in support/neutral. ORC considers that this requirement will increase processing time; increase the use of consultant decision makers; increase costs and will remove decision making from elected members and staff.
96. Finally, ORC considers that mandatory consent deposits in line with current RMA practice should be retained within the Bill. Maintaining this approach will ensure appropriate cost recovery of consent applications and support fairness, transparency and administrative efficiency under the new framework.
97. **Decision requested:** Amend the Natural Environment Bill so that all activities requiring authorisation under the Natural Environment Act are called resource consents rather than permits.
98. **Decision requested:** Amend the Natural Environment Bill so that commissioner decisions are optional, not mandatory, while retaining the right for the applicant to request a commissioner.
99. **Decision requested:** Retain mandatory consent deposits to ensure appropriate cost recovery of consent applications.

4.2 Permitted activities

100. ORC supports the proposed new planning system having more permitted activities. This includes the registration of permitted activities and, where appropriate, the ability to require certification. This support is conditional upon Councils receiving access to all collected information in relation to permitted activities or be able to be supplied this upon request and the ability to recover fees and charges to cover registration, administration and ongoing monitoring.
101. ORC considers there is a mismatch between territorial authority and regional council rules regarding permitted activities. Both regional councils and territorial authorities may include

permitted activity rules within their plans. However, under clause 39(2)(a) of the Natural Environment Bill, only permitted activities under territorial authority rules may be registered and, once registered, have their compliance monitored.

102. We consider that the ability to register permitted activities should not be limited to territorial authority rules and, in principle, should apply to both district and regional rules. Without registration, regional councils have no practical ability to monitor compliance with permitted activity rules. This interpretation is supported by the drafting of clause 202, which provides for the notification and registration of activities subject to a permitted activity rule. Clause 202 refers to “permit authorities” rather than territorial authorities. Permit authorities include regional councils.
103. ORC also considers that requiring written approvals for permitted activities could create uncertainty and increased barriers, particularly given that such approvals will be limited to a 3-year term and can be withdrawn at any time.
104. **Decision requested:** Replace the words “territorial authority” in clause 39(2)(a) with “permit authority”.
105. **Decision requested:** If clause 39(2)(a) is retained as drafted, provide for a simple, shared system between territorial authorities and regional councils for registering permitted activities.
106. **Decision requested:** Clarify whether clause 169 has been appropriately referenced in clause 39 of the Natural Environment Bill.

4.3 *Efficient stream-lined consenting*

107. ORC welcomes reforms that improve the effectiveness and efficiency of consenting, recognising it is a key interface for communities and a major operational function for councils. While consenting involves time and cost, this process delivers public value by ensuring transparency in decision-making, allowing for the consideration of information, providing certainty of operation, and safeguarding important environmental and community values are protected.
108. ORC supports policy settings that enable people to “get on and do stuff” efficiently where effects are manageable, while maintaining strong safeguards where effects are significant or not properly understood. Drawing on our experience as a regulator, we provide the following discussion and series of requests to support the new planning framework to be as effective and efficient as possible:

Transfer of consenting functions

109. ORC considers that the transfer of consenting functions must be enabled and supports the ability to efficiently stream-line consenting.
110. ORC currently delegates consenting associated with works in the lakes in the Queenstown Lakes district to Queenstown Lakes District Council. Retaining these established arrangements will

support continuity, reduce transition risks and avoid unnecessary disruption for both applicants and councils.

111. **Decision requested:** Provide greater clarity on the scope, criteria, and safeguards for transferring consenting functions and allow for existing transferred functions to continue to exist under the new planning framework (unless there is a clear and valid reason for change).

Bundling of applications

112. Without a mechanism to allow for, or encourage, the bundling of activities that require approvals under both the Natural Environment Act and the Planning Act, applicants may be required to lodge multiple applications and navigate parallel approval processes. Such processes are likely to result in increased costs, delays, and procedural complexity. This outcome is inconsistent with the efficiency and integration objectives of the resource management reform programme.

113. **Decision requested:** Provide a mechanism that allows or encourages the bundling of activities requiring approvals under both the Natural Environment Act and the Planning Act. Specifically, the new framework should:

- Enable the bundling of related activities within a single natural resource permit/ or consent, where appropriate;
- Allow for the identification of a lead council, where responsibilities overlap between councils; and/or
- Support joint processing of consent applications between territorial authorities and regional councils.

Duplication

114. ORC supports the consolidation of land use permits and wildlife permitting functions where this reduces duplication across agencies, provided the responsibilities and processes are clearly outlined to enable all parties to understand their role in the system and to avoid confusion and duplication.

115. **Decision requested:** The Acts need to clearly outline what is being processed under each Act and by each authority type and avoid duplication (e.g. all consenting for earthworks, contaminated sites) being processed by the regional council. The Act needs to be specific or supported by clear guidance on how these new consent functions are to be integrated and undertaken to ensure councils can discharge their new duties effectively and to avoid confusion and duplication.

Terminology

116. The Bills introduce new legislative wording for terms that already exist in the RMA, as well as some additional, complex terms. Introducing new terms without clear justification or precise definition increases uncertainty, time and cost in consenting and planning processes. ORC

considers that the use of subjective terms such as ‘acceptable’ and ‘reasonable’ in the new planning framework should be avoided where possible.

117. One example of new terminology is the proposed change in effects management from ‘mitigate’ to ‘minimise’. If ‘minimise’ is to be included in the Acts, it should be clearly defined to avoid interpretation challenges and to reduce the risk of time-consuming and costly litigation.
118. Another example is the proposed introduction of the concept ‘less than minor effects’, which is intended to limit the effects that can be considered. ORC considers that the effects of an activity will still need to be assessed to determine whether they meet this new definition or not, introducing another challengeable element into the consenting process. As a result, this new terminology is likely to introduce more complexity into the system, rather than increasing efficiency.
119. Finally, some existing definitions from the RMA are being carried over into the new system. The reforms provide a timely opportunity to review and improve these definitions to ensure clarity and consistent interpretation. One example is the definition of ‘non-consumptive’, currently defined in the Measurement and Reporting of Water Takes Regulations, which remains subjective and open to interpretation. Review and amendment of this definition so it is made objective and clear would allow for this term to be applied in a consistent manner.
120. **Decision requested:** Existing RMA terminology is retained where it is already well understood and is not causing implementation challenges. Review new terms that have been included in the Bills and remove these if they will make consenting more complex, and ensure that where these new terms are retained, clear and objective criteria or definitions are developed to support interpretation. Review and, where necessary, improve definitions that are being carried from the RMA over into the new system.

Permitted baseline

121. The Natural Environment Bill proposes making the permitted baseline a mandatory tool. This could reduce flexibility and result in unnecessary time and costs. Applying the permitted baseline in all cases may not add value to effects assessments and could inappropriately constrain the assessment of effects.
122. **Decision requested:** Include the permitted baseline as a discretionary tool and not a mandatory requirement in the Natural Environment Bill.

Effects hierarchy and offsetting and compensation

123. ORC is concerned that the Bills do not provide a clear hierarchy of effects. Of particular concern is the potential for offsetting and compensation to be considered, if enabled by national direction, before the effects of an activity are avoided, minimised and remedied. Without a structured hierarchy, there is a risk of inconsistent application and localised environmental decline.

124. **Decision requested:** Provide clear limits in the Bills on when offsetting and compensation may be relied upon, establish a clear hierarchy of effects and define compensation to exclude purely financial compensation for environmental degradation.

Further information requests

125. The Natural Environment Bill introduces a requirement for decisionmakers to consider the cost and feasibility of obtaining further information when making information requests. While the intent of this provision is understood, ORC is concerned that, without clear statutory guidance, this requirement may:

- Add complexity and delay to the consenting process; and
- Increase the risk of disputes over the reasonableness of information requests.

These issues may undermine timely and effective decision making.

126. Recent amendments to the RMA introduced by the Resource Management (Consenting and Other System Changes) Amendment Act 2025, require the information requested to be for the purpose of making a decision and for any information requested to be proportionate to the scale and significance of effects on the environment. The ORC consider that these recent amendment ensure that requests for further information are only made where the requests are reasonable and necessary.

127. **Decision requested:** Carry over the existing framework for further information requests under the RMA into the new planning system.

4.4 Public participation

128. ORC recognises that narrowing who can be considered an affected party on an application and who can submit has some benefits such as reducing complexity, duration and cost of consenting processes. This would also potentially reduce the likelihood of pro forma submissions being received on mass, which in practice add little weight given they do not raise new or unique submission points.

129. However, ORC also acknowledges that constraining participation in the consent process may limit the ability of decision-makers to access and consider relevant information about a proposed activity. Furthermore, the proposed new restrictions on participation in the consent process may introduce additional steps in the consent process that will likely increase consent administration costs (e.g. time may be spent screening submissions to confirm whether they meet the definition of a “qualifying resident”) and the risk of litigation (e.g. challenges whether submitters meet this definition).

130. There are also concerns that those with financial resources or procedural expertise may be able to circumvent the restrictions on who can submit (for example, by funding or engaging persons who meet the ‘qualifying resident’ criteria), thereby reducing the effectiveness of the restriction and unfairly limiting participation for those without such means.

131. ORC considers that if the 'qualifying resident' criterion is removed from the Bills, alternative mechanisms could be introduced to improve consenting efficiency and provide consenting authorities with greater discretion in weighing submissions. For example, allowing decision-makers to jointly consider substantially similar submissions could reduce the duration and cost of consenting. The Bills could also confirm that decision makers may take into account the location of a submitter, their proximity to the site, and their relationship to the activity or receiving environment when assessing the weight of a submission. These amendments would reflect established practice, reduce procedural inefficiency, and support proportionate and well-reasoned decision making without diminishing the value of public participation.
132. **Decision requested:** Amend the Bills to:
- Ensure the weight given to submissions is based on the substance, relevance, and evidential value of the issues raised; and
 - Allow for decision-makers to consider submitters' proximity and relationship to the activity or receiving environment; and
 - Allow for substantially similar submissions to be considered together for the purposes of efficiency.

4.5 *Extending the consent term during the transition period*

133. ORC understands that extending consent terms during the transition period is to ensure that consents are not reconsidered until the new planning framework is established. This will avoid unnecessary consenting processes for activities that may no longer require consent and enable consent applications to be considered under plan provisions developed under the new legislation and subordinate national direction. ORC also recognises that this measure is likely to allow longer term consents to be considered at that time.
134. In Otago, a common expiry date would result in approximately 2,500 consents needing to be processed in 2031. While some of these consented activities may become permitted under the new system, the majority are still likely to require a permit under the Natural Environment Plan. This consent load would place significant strain on external parties, such as consultants and stakeholders and be a workload issue for Council. This creates risks to the timely processing of consent applications and may hinder the issuing of long-term consents, potentially delaying investment in infrastructure and environmental improvement. As this proposal is nationwide, similar pressures on council resources would be experienced across New Zealand.
135. ORC is concerned that, under the current proposal, consent processing timeframes may not be met. This would be unfair to Otago ratepayers, particularly as under the Discounting Regulations ORC would be required to reimburse costs if statutory timeframes of consent processing are breached.
136. ORC's prior experience with a common expiry date under the RMA's sunset clause for deemed permits (requiring all deemed permits to expire on 1 October 2021), demonstrates that common expiry dates, without the flexibility for batching work, create processing bottlenecks,

increase costs, and reduce certainty for applicants. In this case, ORC had over 150 deemed water permits to replace as RMA water permits. Early on, these were processed under the Regional Plan: Water rules and provisions, which required full consideration of effects. Plan Change 7 to the Regional Plan: Water, which created a simplified consenting pathway, was notified in March 2020 and became operative in March 2022. As consent replacement applications were not all lodged on one date (as some consent holders sought replacement well before expiry), this allowed for some sequencing of processing. However, many were lodged within 12 months of expiry and sought to await a decision on Plan Change 7 before processing recommenced. To manage this consent load, consent applications were categorised into workable groupings and the technical assessment (required to be completed by ORC) was delivered to each group within agreed timeframes. This meant that manageable groups of consents could be processed. It is noted that there was agreement with consent applicants on timeframe extensions to enable this to work and the Council did engage external planners to support this additional workload. It is noted that external planners will be difficult to engage if there is a nation-wide common expiry date.

137. As an alternative to the current proposal which seeks to extend the expiry date of existing consents to 2031, ORC also proposes batched extensions to consent terms. These could be structured as standard extensions (e.g. 5-year extension) to the existing consent or a common expiry date for consents within smaller geographical areas within the region (e.g. expiry by District Council every 6 months from 2031).
138. Finally, ORC seeks clarity on the interaction between the Wastewater Environmental Performance Standards 2025 and the proposed Bills, particularly around how the transition period between 2028 and 2031 will apply. The Wastewater Environmental Performance Standards 2025 propose controlled activity status for many wastewater network activities. However, the Bills do not provide a controlled activity pathway. The Local Government (Water Services) (Repeals and Amendments) Act 2025 recently amended the RMA to extend the expiry dates of existing wastewater consents until 27 August 2028. ORC seeks confirmation as to whether this expiry date will continue to apply or whether the transitional expiry date in the Planning Bill (approximately 2 years after the new system becomes operative, which is approximately 2031) will apply to these consents.
139. **Decision requested:** Legislate during the transition period batched extensions to existing consent durations, either based on standard extension to the existing consent term (i.e. two years on top of their current expiry date) or a common expiry date for consented activities within smaller areas within the region. If the current proposal to extend the expiry date of existing consents to 2031 is retained, amend the Bills so the Discounting Regulations do not apply to replacement applications and/or amend the Bills to enable consenting timeframes to be extended.
140. **Decision requested:** Clarify the interaction between the Wastewater Environmental Performance Standards 2025 and the proposed Bills.

4.6 Catchment scale and group consenting

141. The Natural Environment Bill does not provide for consenting at a catchment scale or for collective or batched group consents. Enabling grouped consents would provide a more effective framework for assessing and managing cumulative effects and supporting integrated catchment management, including alignment with environmental limits.
142. Collective group and catchment-scale consenting can also result in greater efficiency by reducing duplication and enabling more efficient use of planning and technical resources. Additional benefits include improved compliance and monitoring outcomes through shared reporting, monitoring and management frameworks.
143. ORC considers that the new framework should explicitly provide for collective group and catchment-scale consents as an optional pathway. This statutory recognition would provide greater certainty for applicants and consent authorities and encourage early and more effective consideration of collective solutions.
144. ORC further recommends that collective and catchment-scale consents be supported through default longer consent terms, flexible and realistic processing timeframes that reflect the scale and complexity of these applications and reduce the need for frequent reconsenting. The legislation enabling collective group and catchment-scale consenting should set clear requirements regarding the inclusion of governance and accountability arrangements within applications to ensure there is a single entity responsible for compliance, monitoring and engagement with the consent authority. Streamlined mechanisms should also be provided to allow for changes in participation over time, such as the addition or removal of members, to ensure that collective consents remain durable and adaptable without requiring full reprocessing. These mechanisms would support flexibility while avoiding unnecessary planning burden or undue complexity.
145. **Decision requested:** Enable catchment scale and collective group consenting.

4.7 Long-lived infrastructure

146. ORC supports streamlined consenting pathways for lifeline and critical infrastructure, provided environmental safeguards remain clear and robust. Delays in these areas can have significant community and economic consequences, particularly where infrastructure underpins essential services and regional resilience.
147. ORC also submits that the Bills should include clear and consistent definitions to ensure consenting pathways are applied appropriately and to maintain investment certainty
148. In addition, ORC seeks that the definition of long-lived infrastructure be broadened to explicitly include infrastructure with long asset lives, high replacement costs or essential interdependencies, such as, major flood protection schemes, three waters infrastructure, irrigation and hydro-electric dams and, associated infrastructure (such as races and pipes), regionally significant transport corridors, and strategic energy or telecommunications assets. A

more comprehensive definition will ensure the framework captures the full range of infrastructure assets requiring durable and certain consenting pathways.

149. **Decision requested:** Provide a clear definition of long-lived infrastructure that includes infrastructure with long asset lives, high replacement costs or essential interdependencies.

4.8 Consent reviews

150. ORC supports the addition of consent review mechanisms in the Bills that enable the modernisation of consents without frustrating the operation of consented activities. ORC submits that the framework should reduce the evidential burden on councils when undertaking necessary updates, such as incorporating new standards, responding to emerging evidence or addressing identified risks. A more proportionate evidential threshold would improve responsiveness, reduce unnecessary process barriers and support timely achievement of environmental outcomes.

151. **Decision requested:** Include a consent review mechanism in the Bills with proportionate evidential thresholds that would enable consent authorities to update consents efficiently.

4.9 Declarations of payments

152. ORC supports mandatory declarations of any payments, accommodations, or benefits provided to parties involved in planning processes. ORC submits that these requirements should be at least as strong as the transparency provisions included in the Natural and Built Environment Act (NBEA), which sought to ensure that any financial or material support influencing participation in planning processes was openly disclosed. Embedding a similar requirement in the new framework will strengthen transparency, reduce the risk of perceived or actual conflicts of interest, and maintain public confidence in decision-making.

153. **Decision requested:** Include within the Bills a requirement for mandatory declarations of any payments, accommodations, or benefits provided to parties involved in planning processes.

4.10 National accreditation programme for technical experts

154. ORC supports the establishment of an impartial national accreditation programme for technical experts involved in consent processes as a key enabler of a more efficient, consistent, and credible resource management system under the Natural Environment Bill. A national framework would improve the quality and consistency of technical evidence relied on in decision making, reduce the need for further information requests and rework and additional audits of technical reports, and support more timely and proportionate consent processing.

155. Accreditation would also provide clearer expectations for applicants, reduce litigation risk by strengthening the robustness of decisions and ensure multiple experts are not involved in processes reducing time and cost for all parties. ORC considers that a nationally consistent accreditation programme would support effective implementation of the reformed system and contribute to improved environmental and planning outcomes making, reduce the need for

further information requests and rework, and support more timely and proportionate consent processing.

156. **Decision requested:** Provide for establishment of a nationally consistent accreditation programme for technical experts involved in consent processes.

4.11 Compliance and Enforcement

157. ORC supports the additional compliance and enforcement tools introduced as part of the Natural Environment Bill.
158. As part of ORC's responsibilities as a regulator with compliance and enforcement functions, ORC has developed a Compliance Plan. Its purpose is to have transparent processes that are clear and certain for all parties, in terms of how it undertakes functions of compliance and enforcement, and promotes an approach of continual improvement.
159. ORC recognises and supports the Bill requiring the preparation and publishing of a compliance and enforcement strategy.
160. ORC considers that its Compliance Plan positions ORC well to meet this requirement. Significant work has gone into developing ORC's Compliance Plan, and the positive outcomes it has for both ORC and our communities. ORC advocates the Bill provides for Councils' existing, effective Compliance Plans.
161. **Decision requested:** that the Bill enables regional authorities sufficient flexibility to transition to its compliance and enforcement framework utilising any existing Strategies/Plans.

Conclusion

ORC welcomes the intent of the Planning Bill and Natural Environment Bill and supports the transition to a more effective and efficient resource management system for New Zealand. We consider the reforms have the potential to provide a clearer, more outcome-focused framework that better enables appropriate development while strengthening alignment across planning, infrastructure, and environmental management, and giving clear guidance in instances of competing objectives. In Otago, ORC is well placed to support implementation, drawing on the foundations of our proposed Regional Policy Statement and our developing datasets, and our experience working collaboratively with territorial authorities, iwi partners, communities and stakeholders.

At the same time, ORC has identified several matters that we consider are critical to the success of the new framework – particularly clarity on how the Bills will integrate in practice, the need for timely and workable national direction and process guidance, and ensuring environmental protection is sufficiently robust and durable. We offer these points constructively, in the spirit of supporting the Government's objective of delivering an improved system that is both enabling and environmentally credible. ORC looks forward to working with central government and with our regional partners to support a smooth transition and to implement the new framework in a way that delivers enduring benefits for Otago communities and the natural environment.



ORC will speak to its submission if there is the opportunity.

ORC does not object to its submission being made publicly available on the Environment Select Committee's webpage for each Bill.

Yours sincerely

A handwritten signature in black ink, appearing to read "Hilary Calvert".

Hilary Calvert
Chairperson