

| Appendix 2-Submission of Matamata - Piako District Council (MPDC) to the Natural Environment Bill (NEB) |                   |   |
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| Additions = <u>Underline</u>  |                   |   |
| Delete = <del>Strikethrough</del>   |                   |   |
| CI number   | Support or oppose | Discussion and Relief Sought  |
| <b>CI 3 Interpretation</b><br>New definition<br>no net loss in indigenous biodiversity                  | Oppose in part    | MPDC considers “no net loss in indigenous biodiversity” must be included as a defined term in the interpretation section. A definition is required in order to ensure Goal in CI 11(d) can be correctly interpreted and administered. By way of example, the instance of indigenous biodiversity loss and any replacement planting raises several questions. Does the replacement planting have to be on the same site, or can it be off site and within the same ecological district? Alternatively, does it even have to be the same type of indigenous biodiversity etc.<br><br><b>Relief sought:</b> Amend the interpretation section to define the term no net loss in indigenous biodiversity |
| <b>Existing or initiated Mana Whakahono ā Rohe</b>  | Support in part   | The proposed definition is constrained to existing or initiated Mana Whakahono ā Rohe agreements. MPDC considers this definition is limiting, especially given some iwi have not settled or others who are not yet resourced to start to develop these agreements. MPDC considers the definition should also include new Mana Whakahono ā Rohe agreements.<br><br><b>Relief sought-</b> The definition of “ <i>Mana Whakahono ā Rohe</i> ” should be expanded to include any new Mana Whakahono ā Rohe.   |
| <b>New</b><br>Additional requirements for Mana Whakahono ā Rohe (MWāR)                                  | Support           | MPDC is concerned there are no transitional measures to follow for already initiated MWāR, no measures around developing new MWāR and no recognition of being an enduring document. MPDC is of the opinion that the PB needs to include such measures.<br><br><b>Relief sought-</b> The PB is amended to include transitional measures for already initiated Mana Whakahono ā Rohe agreements, and measures for new Mana Whakahono ā Rohe” as found in RMA s58L-s58U and confirm that Mana Whakahono ā Rohe agreements are enduring.  |
| <b>CI 3 Interpretation New</b>  | Support           | MPDC is concerned there is no definition of “ <i>significant infrastructure</i> ” in the interpretation section, given the references to the term “ <i>significant infrastructure</i> ” in the NEB. MPDC also notes there is a defined term “ <i>long lived infrastructure</i> ”. It is not clear what the relationship may be between the two types of infrastructure, and how these   |

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| Significant infrastructure   |        | <p>terms interact with the various definitions of infrastructure in the PB. MPDC believes this does not assist with the efficient administration of the NEB or the PB and seeks the NEB is amended to provide greater clarity given the different references around the term “infrastructure”.</p> <p><b>Relief sought</b>-the interpretation section is amended to include a definition of “<i>significant infrastructure</i>”, and any consequential amendments as required.</p>   |
| CI 8 Treaty of Waitangi  | Oppose | <p>The PB materially changes how Te Tiriti o Waitangi will be implemented and MPDC is concerned Māori rights and interests are being diminished. MPDC is supportive of the essence of the Treaty of Waitangi/Te Tiriti o Waitangi being included into the PB in the same manner it is currently considered in the RMA.</p> <p>MPDC considers fulsome regard needs to be given to Treaty of Waitangi/Te Tiriti o Waitangi, rather than the current list of Crown responsibilities. MPDC considers the current and new MWār agreement processes and iwi management plan could provide mechanisms to address current concerns on matters such as timely responses.</p> <p><b>Relief sought:</b> MPDC seeks the Treaty provisions in the PB are amended to reflect clause 8-Treaty of Waitangi in the RMA, with any consequential changes as required.</p>   |
| CI 9 Crown to seek to enter arrangements to uphold Treaty settlement redress or arrangements | Oppose | <p>MPDC seeks Treaty settlements are upheld as originally intended under the RMA. This will be easier if CI 8 of the NEB is amended to reflect CI 8 of the RMA.</p> <p>In the event CI 9 is retained, MPDC considers this clause will materially change how Treaty settlement redress or arrangements operate in practice and could be diminished through processes associated with CI 9. MPDC considers settlement redress or arrangements must have the same or equivalent effect and the clause to the “<i>greatest extent possible</i>” is deleted as it is not appropriate to renegotiate these significant agreements. MPDC is concerned the PB requires the Crown to discuss how to give effect to existing settlements within two years and this is an unrealistic timeframe given the number of settlements to be discussed, just in Waikato alone, and creates a risk the deadline will lapse, potentially impacting Treaty Settlement obligations. In addition, how does this process then relate to the timeframes for the regional spatial plan and land use plans etc.? How can we advance these documents in absence of any agreements as to how settlement agreements are to be upheld?</p> <p><b>Relief sought:</b> Treaty Settlements are upheld as originally intended under the RMA., or in the event CI 9 in the PB is retained, amend CI 9.1.2.a by deleting “<i>greatest extent possible</i>”, and amend CI 9(1)(2)(3) by removing the two-year timeframe for re-negotiating treaty settlements, and make further amendments with regard timing to reflect the need for regional spatial plan and land use plans etc to give effect to these settlements.</p> |
| CI 11  |        |  |

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| <p><b>Goals</b></p>                                    |                | <p>MPDC is concerned with the mandate to implement the goals: <i>All persons exercising or performing functions, duties, or powers under this Act must seek to achieve the following goals subject to sections 12 and 45</i>, is too weak, particularly given the development of plan and rules are to implement to the goals, and should be strengthened. MPDC is also concerned and would welcome clarity at the reference and intention behind the statement “<i>achieve the following goals subject to sections 12 and 45</i>”. The statement appears to remove the overarching mandate that is expected from the term “goals” and that the content of national direction may not be subject to the goals in every instance.</p> <p><b>Relief sought:</b> Amend Cl 11 as follows: All persons exercising or performing functions, duties, or powers under this Act must <del>seek to achieve</del> <u>recognise and provide</u> the following goals subject to....<br/>Amend Cl 11 to provide clarity at the reference and intention behind the statement “<i>achieve the following goals subject to sections 12 and 45</i>”.</p>   |
| <p><b>Cl 11 Goals</b></p> <p>New goal</p>              | <p>Support</p> | <p>MPDC notes the purpose of the Bill includes the “<i>use, protection and enhancement</i>” of the natural environment, however, there are currently no aspects within the goals in Cl 11 that relate to enhancement of the natural environment. The Council is concerned that this will make it difficult to create/justify mechanisms to achieve enhancement of the environment – whether aspirational or to improve current degradation.</p> <p><b>Relief sought:</b> Add a goal relating to the enhancement of the natural environment.</p>   |
| <p><b>Goals (f)</b></p> <p><b>New matter areas</b></p> |                | <p>MPDC has submitted for s8 from the RMA to be rolled over to the NEB and seeks that Goal (f) is amended to reflect this position, as currently MPDC are concerned goal (f) seeks to narrow the consideration of Māori interests to the small range of defined matters, which is much reduced from that of the RMA and precludes Māori from their role as kaitiaki. The goal should also provide for the “use” of Māori land.</p> <p>MPDC is concerned the Goals do not include the consideration of “<i>areas</i>”, only “<i>sites</i>” when discussing places of importance to Māori. Many places of importance to Māori, are best captured as an area as the area contains important collective values that contribute to its significance. The Goals need to be amended to reflect this important matter.</p> <p><b>Relief sought:</b> Amend Goal (f) of the NEB to give the same regard in the goals as would be expected from the expanded consideration of the Treaty as sought in response to Cl 8 of the NEB. In the event this approach is not accepted amend Goal (f) as sought below.<br/>Amend Cl 11(f)(i) as follows: the reference to “<del>participation</del>” is amended to “<u>engagement</u>”<br/>Amend Cl 11(f)(ii) as follows: the reference to “<i>sites of significance to Māori</i>” is expanded to include <u>areas</u>, and<br/>Amend Cl 11 (f) (iii) as follows: enabling the <u>use</u>, development and protection of identified Māori land, and</p> |

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|   |                | Amend relevant clauses to require statutory acknowledgements, relevant documents recognized by iwi authority and applicable iwi participation legislation and existing or initiated Mana Whakahono ā Rohe are taken into account when a joint committee prepares a regional spatial plan, not just a Natural Environment Plan or a land use plan.   |
| <b>CI 13</b><br>Procedural principles                     | Oppose         | <p>MPDC considers “(e) <i>act in an enabling manner</i>” is superfluous to the requirements of this section, given that many councils already operate in this manner, and this principle can be deleted. MPDC considers there should be guidance regarding: the relationship between the procedural principles and the decision-making tests within the legislation, and guidance on act proportionately to the scale and significance of the matter.</p> <p><b>Relief sought:</b> Amend CI 13 by deleting “(e) <i>act in an enabling manner</i>”. If it is retained, then develop guidance on this and the following matters: the relationship between the procedural principles and the decision-making tests within the legislation, and act proportionately to the scale and significance of the matter.</p>  |
| <b>CI 14</b><br>Considering effects of activities         | Oppose in part | <p>MPDC is concerned that the proposed separation of effects to be managed by the two Bills will result in gaps, where important effects on natural environmental features are unable to be considered in permitting or consenting processes. In particular, MPDC considers that CI 14(b) “must not consider effects regulated under the Planning Act 2025” will be challenging to delineate in some circumstances, for example where natural hazards effects or effects on sites of significance to Māori are relevant under the Planning Bill, they are then not able to be considered under the Natural Environment Bill, despite management of natural hazards and providing for Māori interests being goals of this Bill.</p> <p>In relation to the current drafting of CI 14, MPDC notes that 14(a) <i>must give particular consideration to effects such as the following...</i>” creates uncertainty and could be made clearer as: The use of the words “ <i>such as</i>” implies that there are other matters that might be included in this list, which is unclear in this context. It is also not clear why the matters in (i)-(iii) have been selected for applicants to give particular consideration to. MPDC notes that effects on human health and social and cultural effects, for example, are not included.</p> <p><b>Relief sought:</b> Amend CI 14(a) <del>must give particular consideration to effects such as the following, as far as each is applicable to:</del> “<i>must give particular consideration to the following effects, as far as each is applicable</i>”</p> <p>Amend CI 14(a) to include effects on human health, social and cultural effects.</p> <p>Amend the wording of CI 14(b) to ensure that all effects relevant to the goals of the Natural Environment Bill, including natural hazard effects and effects on sites of significance to Māori, can be considered under this clause.</p> |
| <b>CL 15</b><br>Considering adverse effects of activities | Oppose         | <p>MPDC is concerned that CI 15(1)(a)(i) includes a diluted threshold in terms of resolving the effects of activities, as “(i) adverse effects are to be avoided, minimised, or remedied, “<i>where practicable</i>,”. MPDC considers these terms could be more effective by the removal of the phrase “<i>where practicable</i>”. In the alternative, guidance should be provided as to what “<i>where practicable</i>” means in this context.</p>   |

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|   |               | <p>MPDC considers CI 15(1)(a)(ii) requires guidance in relation to limits around offsetting or compensation, and instances where this is not acceptable. MPDC is also concerned at the lack of clarity around the proposed lower threshold when considering effects, as a less than minor adverse effect is proposed to be an effect that does not have to be considered (CI 15(1)(b)). To arrive at a decision an assessment is required, from both an applicant and the processing planner/engineer etc., as would also be the case for cl “b) <i>must not consider a less than minor adverse effect unless the cumulative effect of 2 or more such effects create effects that are greater than less than minor</i>”. It is of interest to MPDC how this could be considered if an effect under the PB and the NEB could produce a cumulative effect that are greater than less than minor yet cannot be considered as the effects cannot be considered between the Acts, which is not an appropriate approach.</p> <p>In addition, there is also concern around the interaction between the PB and the NEB as effects cannot be considered between the Acts. Post consent there may also be the matter of both Acts being breached, and MPDC suggests that consideration should be given to how this would be managed/resolved.</p> <p><b>Relief sought:</b></p> <ul style="list-style-type: none"> <li>• Amend CI 15(1)(a)(i) as follows “(i) adverse effects are to be avoided, minimised, or remedied, where—<br/><del>practicable—</del></li> <li>• Amend CI 15(1)(a)(ii) to: <ul style="list-style-type: none"> <li>• provide clearer limits on when offsetting or compensation may be relied upon;</li> <li>• Amend CI 15(1)(b) to consider the potential of the cumulative impacts of effects under both Acts</li> </ul> </li> <li>• Amend CI 15(5) to: <ul style="list-style-type: none"> <li>• provide clearer, more objective criteria for determining what constitutes a “less than minor adverse effect”;</li> <li>• reduce reliance on subjective concepts such as “acceptable” and “reasonable”, and provide guidance<br/><br/>on their meanings;</li> <li>• clarify how cumulative effects are to be assessed and when “less than minor” effects must be considered collectively; and</li> <li>• provide guidance to ensure consistent application of the threshold across decision-makers to reduce uncertainty and litigation risk, and</li> <li>• provide guidance as to how breaches of both Acts for one activity would be managed.</li> </ul> </li> </ul> |
| <p><b>CI 39</b><br/>Permitted<br/>Activity rule</p> | <p>Oppose</p> | <p>MPDC considers greater clarity should be provided around the types of permitted activity rules that are expected, given the anticipated large number of these types of rules. CI 39(2)(a) refers to an activity being registered with the territorial authority where typically the activities under the NEB would be related to a regional council and permits. CI</p>   |

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|   |                        | <p>38 (4) provides for written approval to be valid for three years unless it is withdrawn and MPDC is concerned as to how a council monitors this and what happens if a person withdraws their approval part way through a project and what liability this may create?</p> <p><b>Relief sought:</b> Amend Cl 38 to specify which activities are subject to a permitted activity rules and, amend the reference to territorial authorities to regional councils, and provide further clarity around a neighbours approval lasting three years, unless its withdrawn and how this situation would be monitored.</p>  |
| <p><b>CI 81</b><br/>National policy direction to resolve conflicts between goals in both Acts</p>     | <p>Oppose in part</p>  | <p>Clause 81(1)(b) requires the Minister, when preparing national policy direction to resolve conflicts between the goals in each Bill, to consider whether the proposal enables development to occur “within environmental limits”. However, the sequencing set out in the Bills means that ecosystem health limits will only be set almost two years after the first national policy direction. As stated, the Council considers the Bills need to be amended to address this sequencing issue. MPDC consider it would make the meaning clearer if the word “proposal” was replaced with “proposed policy direction” throughout this clause. At Cl 81(2) the term “long term impact” is used which means an impact spanning two or more human generations. As the likelihood of conflicts between national policy direction is reasonably likely, MPDC considers that the term “long term impact” requires a more fulsome definition, for example defining the scale and nature of the impacts.</p> <p><b>Relief sought:</b> Replace the word “proposal” with “proposed policy direction” throughout this clause, and provide a more fulsome definition of the term “long term impact”</p>  |
| <p><b>CI 111</b><br/>Obligations relating to regulatory relief in Schedule 3 of Planning Act 2025</p> | <p>Oppose</p>          | <p>MPDC has reviewed this clause and the associated clauses in Schedule 3 of the PB and has significant concerns related to this proposal given its potential significant impact on both Council funding and resourcing, and the chilling effect this proposal is likely to have on the scheduling of indigenous biodiversity. In addition, the provisions i themselves contain drafting errors, ambiguous terminology for example “<i>significant impact</i>” and “<i>reasonable use</i>” and introduce conflicting requirements for local authorities to compensate owners for places and locations they are required to identify and protect and manage under both the PB and the NEB. MPDC considers if changes cannot be made to these provisions they should be removed from the PB and the NEB or in the alternative changes are made to the provisions to avoid the substantial risk these provisions pose to local government. MPDC is supportive of the discussion in the Taituarā submission and its proposed approach and seeks the same relief.</p> <p><b>Relief sought:</b> Adopt the approach sought in the Taituarā submission, to remove the regulatory relief provisions, or in the alternative provide the specified amendments.</p> |
| <p><b>CI 162</b></p>  | <p>Support in part</p> | <p>While MPDC supports Cl 162 allowing consideration of compliance history, MPDC considers further clarification is needed about relevance to the same site or activity type from other sites and the extent of this consideration. This is particularly the case when an applicant’s history may be over a range of sites and districts, for example the</p>   |

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| Applicant's compliance history  |                 | <p>Matamata-Piako district contains several sites operated by national companies with similar activities operating over the country. MPDC also has concerns if a company changes its name or some aspects of its overall operation, does this exclude it from consideration as part of the applicant's compliance history?</p> <p><b>Relief sought:</b> Amend CI 162 to clarify the breadth and extent of compliance history that may be considered in the event of a national or similar company, or in the event that a company changes its names or some aspects of its operation, if this precludes it from being part of the compliance history.</p>  |
| <p><b>CI 298</b><br/>Local authorities to prepare compliance and enforcement strategy</p> | Support in part | <p>MPDC supports local authorities preparing compliance and enforcement strategies, particularly given the enhanced role monitoring has in the new system. MPDC seeks additional clarity regarding the required timing of the development and implementation of the strategy as this is not apparent in the NEB. MPDC has also noticed the Ministry of Environment website refers to nationalising the compliance and monitoring system and this may occur at a future time. MPDC is not supportive of this function being nationalised as they consider a local approach to the best for local problems.</p> <p><b>Relief sought:</b> Amend CI 298 to include a timeframe for local authorities to prepare a compliance and enforcement strategy. This should be done after the regional reorganisation plan, proposed through Simplifying LG, so there is no duplication of tasks.</p> |