



The Maud Island frog, one of four surviving species in the ancient family Leiopelmatidae, endemic to Aotearoa.

The cover was chosen to depict the purpose we believe is important: to protect, preserve and enhance our native flora and fauna. In contrast, the *Parliamentary paper*, in our view fails to deliver on this purpose – of protecting, preserving and enhancing Aotearoa New Zealand's natural capital.

Submission

Natural and Built Environments Bill
Parliamentary paper on the exposure draft

4 August 2021

About the McGuinness Institute

The McGuinness Institute was founded in 2004 as a non-partisan think tank working towards a sustainable future for New Zealand. Project 2058 is the Institute's flagship project focusing on New Zealand's long-term future. Because of our observation that foresight drives strategy, strategy requires reporting, and reporting shapes foresight, we developed three interlinking policy projects: *ForesightNZ*, *StrategyNZ* and *ReportingNZ*. Each of these tools must align if we want New Zealand to develop durable, robust and forward-looking public policies. The policy projects frame and feed into our research projects, which address a range of significant issues facing New Zealand. The six research projects are: *CivicsNZ*, *ClimateChangeNZ*, *OneOceanNZ*, *PublicScienceNZ*, *TacklingPovertyNZ* and *TalentNZ*.

About the author

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Wendy McGuinness wrote the report *Implementation of Accrual Accounting in Government Departments* for the New Zealand Treasury in 1988. She founded McGuinness & Associates, a consultancy firm providing services to the public sector during the 1988–1990 transition from cash to accrual accounting. Between 1990 and 2003, she continued consulting part-time while raising children, largely undertaking risk management work. In 2002, she was a member of the New Zealand Institute of Chartered Accountants (NZICA) Taskforce, which published the Report of the Taskforce on Sustainable Development Reporting. From 2003 to 2004, she was Chair of the NZICA Sustainable Development Reporting Committee. In 2004, Wendy established the McGuinness Institute in order to contribute to a more integrated discussion on New Zealand's long-term future. In 2009, she became a Fellow Chartered Accountant (FCA).

About the cover

The photo is from <https://www.visitzealandia.com/About/Wildlife/Reptiles-Frogs-Invertebrates/Maud-Island-Frog>

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1.0 Introduction

The McGuinness Institute appreciates the challenges the government faces in terms of designing a durable, reliable and flexible governance system for the environment. We thank you for the opportunity to comment on your current thinking. Below we outline our observations and suggestions, but this must be read with the disclaimer that we do not have confidence that we fully understand the structure that is being proposed in *The Natural and Built Environments Bill: Parliamentary paper on the exposure draft [Updated]* (hereafter called the *Parliamentary paper*).

Where possible, we have tried to draw a distinction between concerns over the quality of the consultation paper and concerns over the quality of the proposal design. This means we must acknowledge that our feedback may be based on an incorrect view of the proposal. We are concerned that the *Parliamentary paper*, as it stands, cannot be legitimately considered an adequate consultation. For this reason we look forward to the next round of consultation. The *Parliamentary paper* gives the impression of being rushed and may contain hidden risks. We believe together, through good consultation papers and processes, New Zealand will develop durable public policy. We, therefore, suggest that more time and effort is expended before the next version is put before the public. This is particularly important given the cost of the review (i.e. over \$8 million by the year 2021), the level of policy reform currently being advocated at present across many fronts (e.g. three waters, local government, health, education, justice and housing) and the fact that we are currently facing three emergencies (climate, biodiversity and the pandemic).¹

The McGuinness Institute believes that an integrated, whole-system approach is necessary to resolve complex decisions and that effective and durable public policy requires foresight, strategy and reporting (see Figure 1). Foresight drives strategy but is shaped by reporting. Strategy drives reporting but is shaped by foresight. Lastly, reporting drives foresight but is shaped by strategy. That is why all three policy projects drive our work and thinking.

We have seven research projects that sit within these policy projects, often enabling us to test, review and, in some cases, shape public policy. Four of these will inform our response to this proposal: civics, climate change, one ocean and public science.

The proposal, as it currently stands, contains a number of weaknesses in all three public policy areas. We have grouped all our concerns under foresight (part 2), strategy (part 3) and reporting (part 4). Although we acknowledge the proposal is a work in progress, we are concerned that a range of unknown risks and costs may exist simply due to a lack of detail in places. For this reason, we look forward to being consulted further on the proposal as it develops.

Figure 1: Our three policy projects



2.0 Part 1: Foresight (long-term future-focused)

2.1 Introduction

Figure 2, the cone of plausibility, is often used to illustrate foresight work. The Institute added the hindsight component to the traditional cone to reflect the role history has in shaping our future. It is important to appreciate that strategy and foresight are different from each other and require different skills and ways of working. If you are focused on seeking a preferred future (as shown in Figure 2), you are working on strategy. If you are working on ways to understand the future (probable and possible futures), you are working on foresight. In times of great uncertainty, as amplified by the three emergencies we now face (climate, biodiversity and the pandemic), it is timely to ensure there is both foresight and strategy embedded in public policy frameworks.

Figure 2: Cone of plausibility

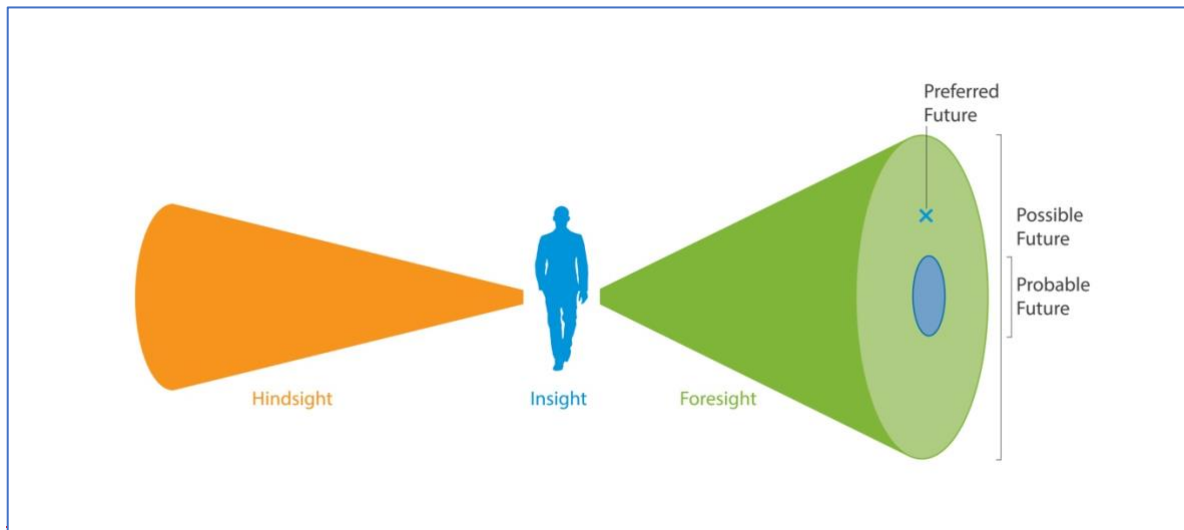
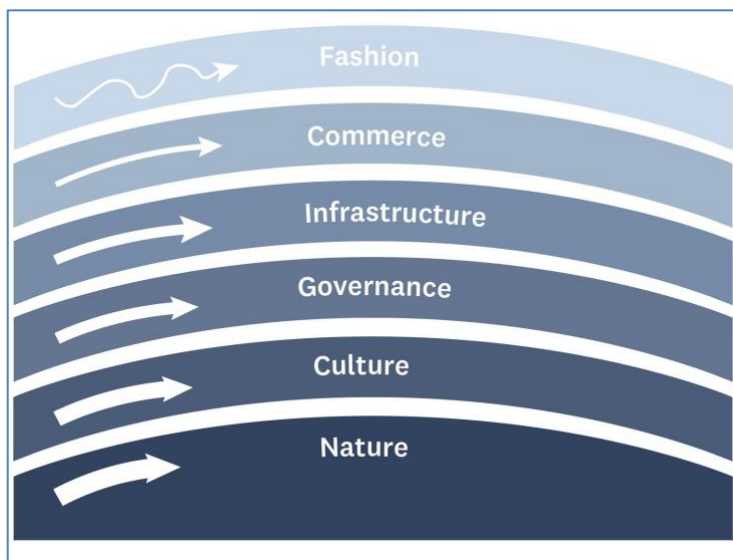


Figure 3 illustrates pace layer thinking.² This diagram gives insight into how a healthy society operates – the highest levels change at a faster rate and are more innovation-oriented, and these are sustained by the lower and slower levels which provide stability. It has particular relevance to this submission in that the nature-based layer (the bottom layer in the diagram) is often considered the hardest to shift, but once it changes, it tends to be irreversible and impacts all the layers above it.

Foresight is as much about art as science. More information on foresight can be found on the Institute’s website.³

Figure 3: Pace layer thinking



2.2 What we expected to find

We expected to find an intention within the reform to seek out, explore and understand possible and probable futures for Aotearoa New Zealand (e.g. emerging trends and wild cards) and a desire to consider and take into account the needs of current and future generations. We also expected to find recognition of iwi/Māori perspectives of time and long-term planning horizons.

2.3 What we found

New Zealand has very few future-focused institutions or instruments. Past experience has shown that our existing environmental management system lacks a requirement to think long-term. Unfortunately, this component is also absent from the proposed reforms. If long-term thinking was embedded in the new environmental system, it would drive change through effective planning, implementation and monitoring. The goal would be to provide oversight with teeth and real-time environmental review (i.e. strengthened monitoring and reporting), rather than the current reliance on retrospective oversight by the Parliamentary Commissioner for the Environment (PCE).

2.3.1 Lack of a clear purpose to drive the whole system

Clause 5 of the draft Bill (at the back of the *Parliamentary paper*) and Appendix 5 to the *Parliamentary paper* would benefit from further improvements and, ideally, need to link back to the Environment Act 1986.

The proposed purpose adopts similar phrasing to the well-known UN report, Report of the World Commission on Environment and Development: *Our Common Future* (1987). Often referred to as the Brundtland Report, which defines sustainable development as: ‘Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.’ Clause 5 of the draft Bill adapts the Brundtland definition by stating ‘... without compromising the wellbeing of future generations’. We believe the Brundtland Report is stronger: ‘the ability of future generations to meet their own needs’, as it places an onus on this generation to think about what future generations might need. However, we also note the definition is now over 30 years old, and believe recent developments in the UK, Wales, France and Sweden are worthy of consideration (see relevant links in the endnotes).

This definition in Clause 5 (3) is important and we support this approach but we question where this obligation is placed in the draft Bill. In our view, Te Tiriti should appear before Te Oranga o te Taiao, given it is New Zealand’s founding document. We therefore suggest Te Oranga o te Taiao should be included in the interpretation (which is where it would most likely be sought). Arguably, this placement in the interpretation is stronger, as it would relate to the whole act, not just this specific section. We support the inclusion of ‘(b) the intrinsic relationship between iwi and hapū and te taiao’ but suggest this could be seen by others as making assumptions that non-Māori do not have an intrinsic relationship with the

environment. For example, many non-Māori farmers and environmentalists also see themselves as having an intrinsic relationship with the environment. We suggest the order of clauses is also important as we need to ensure we build a future that recognises the needs and wants of all people. We are not sure about the solution, but we believe that all New Zealanders' values and beliefs are important to recognise, and should sit alongside the special relationships that Māori have with the environment. If the legislation is to be durable, it will need to form the basis for complex and difficult conversations, and that means good relationships, which means both parties to Te Tiriti need to be recognised first. For example, we suggest adding a new 5 (1) (b) (see text in italics below).

Lastly, we consider how the draft Bill still does not emphasise any protection of native flora and fauna, or the ecosystems in which they exist. Minister for the Environment David Parker recognises that biodiversity is diminishing and water quality is deteriorating, and that the reforms will help resolve this (see his press release 10 February 2021),⁴ but the current Clause 5 in the draft Bill does not make this a clear and distinct purpose. We have adapted some of the wording from the Environment Act 1986 (see purpose text in endnote 18) and created a new sub-section (d); see red text below. However, as outlined in Figure 9 below, we believe an overarching purpose should sit in the Environment Act 1986.

- (1) The purpose of this Act is to —
- (a) enable people and communities to use the environment in a way that supports the well-being of present generations *without compromising the ability of future generations to meet their own needs.*
 - (b) *to recognise the intrinsic relationships that exist between people and communities and the environment,*
 - (c) to uphold Te Oranga o te Taiao, including protecting and enhancing the natural environment, and
 - (d) *to protect, enhance and support our natural capital, in particular our native flora and fauna and the ecosystems in which they co-exist.* [italics added to illustrate a change from the proposed]

2.3.2 Lack of a generational plan

A range of strategic solutions exist to include a generational plan in New Zealand legislation. The Environment Act 1986 could be amended as part of this reform to require legislative development of a generational plan to sit across the system and drive change (e.g. a 30-year plan that includes governance oversight bodies which are required to critically evaluate progress and ensure alignment of strategy planning and delivery). Such a plan could help ensure improved accountability and responsibility across the whole system, supporting better reporting around key indicators of the current health of our natural capital, in comparison with the probable or possible future states of natural capital in, say, 30 years' time. A generational plan could also be created in a new piece of legislation along the lines of the United Kingdom's Environment Bill,⁵ which sets out a directed hierarchy of objectives and outcomes that prioritise the environment. Either way, a generational plan requires some form of foresight instrument to be embedded into the environmental management system.

2.3.3 Lack of a Future Generations Commissioner

An institution to produce the abovementioned generational plan and undertake additional future-focused work could follow international best practice. As an example, the Well-being of Future Generations (Wales) Act 2015 sets out seven wellbeing goals, which public bodies must take ‘all reasonable steps’ to meet, and it establishes a Future Generations Commissioner to be responsible for providing guidance, monitoring progress and reporting findings in a Future Generations Report released a year before each national election.

2.3.4 Lack of ongoing, future-focused compliance, monitoring and enforcement

We note that many of the recommendations in the *New Directions for Resource Management in New Zealand* report (*the Panel report*) (2020) aimed at improving the quality of independent governance, assurance and overall compliance, monitoring and enforcement (CME), have not been carried over into the *Parliamentary paper* and the draft Bill. Notable absences include the lack of an auditor for the system (i.e. the PCE), the ability to utilise and align other future-focused reporting frameworks and the need to design more appropriate penalties to shape long-term behaviour. See excerpts from the *Panel’s report* below:

Para 54: CME functions would be made more independent and better resourced in a future system. These functions would be consolidated into regional hubs with national oversight. Additional tools would be made available for low-medium risk enforcement action. Penalties would also be increased to deter high-risk behaviour. The provisions relating to commercial gain would be extended to deter businesses from undertaking environmentally harmful activities.

Para 55: A nationally coordinated environmental monitoring system would be developed to ensure systematic, coordinated and consistent monitoring across the country in line with the recent recommendations of the Parliamentary Commissioner for the Environment (PCE). Stronger links would be made between the Environmental Reporting Act 2015 (ERA) and monitoring functions under the Natural and Built Environments Act, to ensure a policy response to the outcomes of state of the environment monitoring. The system would also emphasise monitoring both central and local government performance in regard to their Te Tiriti o Waitangi commitments. The PCE would provide an independent audit of the functioning of the resource management system.

Para 56: Councils would remain the main decision-makers in the future resource management framework. However there would be greater requirements for partnerships between central and local government and mana whenua in delivery of planning functions. These partnerships are

intended to improve capability and capacity in the system, and to ensure decision-makers have incentives to achieve good environmental outcomes.

3.0 Part 2: Strategy (the approach)

3.1 Introduction

Strategy is often referred to as ‘the means to an end’. This end (or purpose) must be described in enough detail (see purpose in 2.3.1) to drive the system and enable progress to be measured. In this way, the strategy can be regularly monitored and, if necessary, tweaked, pivoted or even completely changed. We often use the word ‘approach’ alongside strategy, as it emphasises that the resulting strategy is the approach that will be implemented.

There is an important distinction between strategy and planning. Planning is about detailing how to get from point A to point B; strategy is about what is point A, what is point B and lastly, what is the best approach to move from point A to point B. Planning is not strategic but operational – it focuses on implementation and delivery. Planning follows strategy, and it only comes into play after a range of options have been analysed and a final strategy has been agreed. It can be confusing because some people refer to planning and strategy as the same, or even worse, put them together to create the term ‘strategic planning’. Strategic planning is considered by experts in the field as an oxymoron;⁶ in that it means that once a formal strategic planning process codifies into goals and action steps, it is no longer considered to be strategic. Another way of explaining the distinction is that a good planner is a person that is able to take strategic thinking and turn it into a set of actions that, if implemented, will deliver the desired outcome.

The Office of the Auditor-General suggests that there are eight elements that are essential for governance to be effective. They note: ‘[a]lthough the elements are important in their own right, those involved in public administration need to consider how they apply to the particular context of the organisation or project that they are involved in.’ The eight elements are explained in the Office of the Auditor-General *Good Practice Guide: Governance*.⁷ These are the key excerpts:

Element 1: Set a clear purpose and stay focused on it.

Element 2: Have clear roles and responsibilities that separate governance and management.

...[C]lear roles and responsibilities make the differing interests transparent and foster effective decision-making.

Element 3: Lead by setting a constructive tone.

... This is achieved through establishing and approving policies, making decisions, and the approach and behaviour the board takes to its work, both with management and external stakeholders.

Element 4: Involve the right people.

... For governance to be effective, it is critical that the right people are involved. The level of trust between people – between governors, management, and stakeholders – affects the effectiveness of the governance arrangements.

Element 5: Invest in effective relationships built on trust and respect.

... Good practice involves preparing formal stakeholder engagement plans or formal relationship protocols with important stakeholders.'

Element 6: Be clear about accountabilities and transparent about performance against them.

Governance practices need to support accountability. Governance structures should include a clear accountability framework that shapes how an organisation's (or project's) financial and operational performance will be monitored and reported. The framework should also cover how the governing body will be accountable for future-focused decisions, such as maintaining and enhancing the capability of the organisation.

Effective governance depends on governing bodies receiving regular reports that provide a clear and objective view of an organisation's (or project's) performance. Governing bodies need to be provided with enough detail to support performance management and decision-making, while avoiding unnecessary details about operational matters.

Element 7: Manage risks effectively.

... Effective risk management by public organisations involves identifying, analysing, mitigating, monitoring, and communicating risks. We expect to see a risk management framework and register that is formally defined, widely understood, and aligned to the organisation's strategy, risk appetite, objectives, business plan, and stakeholder expectations.

Element 8: Ensure that you have good information, systems, and controls.

Governors are accountable for the decisions they take. Therefore, they need relevant, accurate, and up-to-date information to make good decisions.

Governing bodies also have a role in assessing the design and effectiveness of an organisation's internal systems and controls. These systems and controls are organisational (terms of reference, independence, and separation of duties), operational (planning and budgeting) and about personnel (recruitment, training, and development).

These systems and controls are critical to providing assurance that an organisation's activities are compliant and in line with expectations. The governing body has a role to review them regularly to ensure that they remain fit for purpose.

Notably, the last three elements also relate to reporting (covered in section 4.0).

3.2 What we expected to find

We expected to find that, even if some of the operational aspects of the proposal were not articulated (e.g. works in progress), there would be clarity over the strategic approach selected (including a summary of other options assessed) and how operational efficiencies would be generated (i.e. how costs and times would be reduced). We also expected to see a distinction between strategy and planning. In particular, we expected to learn more about the checks and balances that have been embedded into the system to deliver effective governance and public accountability, such as who is responsible for the strategy, who is responsible for the planning (and implementation), and how conflicts of interest would be made public and ideally managed (e.g. the separation of private commercial interests from public-good decision making). We were also expecting to see ways democracy would be maintained and ideally strengthened under the proposal.

3.3 What we found

The draft Bill and the wider reforms are confusing. A number of new pieces of legislation are being proposed, including a number of new planning instruments, but there is little information on the frequency, time horizons, or types of plans. Nor is there much on who is responsible for preparing the

plans, who the users are, what will be verified (assured), how the plans might be delivered (stored), how they might be made publicly accessible (e.g. a register) or how they might be used. We believe this results in hidden gaps and unidentified risks. Lastly, and most importantly, it is hard to understand what instruments are being kept and what are being replaced as a result of this reform.

In summary, we expected to find in the *Parliamentary paper* more *why*, *when* and *how*, and less *what*.

3.3.1 Lack of clarity over governance, management of conflicts of interests and democracy

We are concerned about a lack of transparency and accountability in the process to date and the level of change that may be being envisaged here by the Crown without adequate consultation and assessment of risks.

There are risks in the current consultation process. For example, there is no comprehensive list of the people who represent iwi, hapū and Māori groups and who have been consulted by the Ministerial Oversight Group or by the Ministry for the Environment (see, for example, ‘Appendix 3: Governance processes for reform’). This creates risks for iwi, hapū and Māori groups who are not included (and/or may not be legitimately represented) and for non-Māori groups who are excluded completely, such as environmental and business groups. We found only two Māori organisations mentioned in the *Parliamentary paper*, see para 96: the Freshwater Iwi Leaders Group (FILG)⁸ and Te Wai Māori Trust/the Māori Freshwater Fisheries Trust (TWMT).⁹ We note that both groups focus solely on fresh water and while fresh water is an extremely important part of the life of an ecosystem, there are other types of water (e.g. the three waters) and other parts of the environment (e.g. lands and forests) that need to be considered as well.

This is important because the *Parliamentary paper* implies that significant control and power will pass over to non-government officials and that the details are still a work in progress. The Institute has not been involved in any of these processes, but we have concerns about who will be consulted when these very important sections of the Bill are to be finally written. The lack of detail is evidenced in the following sections from the *Parliamentary paper*. The *Parliamentary paper* states in para 52, 53 and 55:

Regional spatial strategies

Regional spatial strategies (RSSs) were recommended by the Panel. They will be a key mechanism in the RM system **requiring local government, central government and iwi, hapū and Māori, and to take a joined-up strategic vision of the future.** This is about identifying the big issues and opportunities facing a region and identifying how it will grow and change over the next 30 plus years. RSSs will provide a clear strategic direction to decision-makers.

RSSs will be high-level and strategic and focus on the major issues and opportunities for a region. If too detailed, they would duplicate **NBA plans** and add complexity to the system. RSSs will need to integrate with other relevant documents. For example, they will need to translate national-level direction, such as that contained in the NPF, into a regional context and provide strategic direction for NBA Plans and local authority funding plans. **This will be covered in the Strategic Planning Bill, together with governance and decision-making on RSSs. The Bill will be introduced to Parliament with the full Natural and Built Environments Bill.**

[And two ‘implementation principles’ stated from page 44]

Promote appropriate mechanisms for **effective participation** by iwi and hapū in processes undertaken under this Act (Reflected as a general principle (clause 18) [and] To be reflected in processes for NPF and plans (not yet drafted).

Recognise and provide for the **authority and responsibility** of each iwi and hapū to protect and sustain the health and well-being of te taiao. (Reflected as a general principle (clause 18))

[And from a list on para 170, 171, 172, 173 and 217]

The process is intended to provide for: a role for iwi, hapū and Māori that gives effect to the principles of Te Tiriti.

Further work is needed to determine the role for iwi, hapū and Māori in the process and substance of the NPF – in order to give effect to the principles of Te Tiriti and provide greater recognition of te ao Māori, including mātauranga Māori, in the RM system.

Further aspects not yet provided for in Part 3 include:

- how to monitor and review the NPF’s effectiveness; and the tools for the Minister for the Environment to ensure implementation
- the legal relationship between the NPF, SPA and NBA plans, although the NPF will influence both regional spatial strategies and NBA plans
- the role of the Minister of Conservation and other Ministers/ agencies in developing and amending the NPF
- **the process for setting and changing limits and targets** through the NPF, including how the Minister would work with iwi, hapū and Māori and be informed by mātauranga Māori, and the role of any independent bodies (such as a board of inquiry)
- exactly how limits and targets would be implemented via RSSs and NBA plans; and

- the relationship between the NPF and consents, existing uses and activities, designations and water conservation orders.

These matters will form part of the full Bill (and the Strategic Planning Bill regarding RSSs).

NBA plans will be an important mechanism to reflect te ao Māori perspectives on the environment and manage resources in a way that actively protects iwi, hapū and Māori interests.

They are also a key mechanism for giving effect to the principles of Te Tiriti. [bold added]

The goal must be to set up a system that is trusted and that means a high level of transparency and accountability. This is particularly important when the people who have the power and control are not elected officials. Democracy, through the election system, puts in place the ability for citizens to vote out those that have power over them if they are not effective – in New Zealand’s case every three years for central and local government. What the reform may be advocating is a system where poorly used power cannot be voted out. (Importantly, this risk relates to both members of iwi or hapū and for citizens of a region.) It seems as though this reform may be granting power and control over citizens in an undemocratic manner – moving New Zealand away from a democratic system of government. In addition to being costly (at a time when we need to manage the risks of climate change, improve our education, health and justice systems, and deal with a pandemic), we need to use our resources and skills well and not waste time and money on creating complex governance systems in undemocratic ways.

The current draft Bill risks inflaming existing divides and tensions between Māori and Pākehā and we all need to all work hard to ensure our public policy moves the country forward, not backwards and that means both parties of Te Tiriti will need to work alongside each other, working hard to create a better future.

Outstanding questions from a governance perspective (in order to the excerpts above) include:

1. What does ‘joined-up strategic vision of the future’ mean in practice?
2. What is central government’s role in this? Do they sign it off? Who has ultimate responsibility?
3. Who is paid and will a separate entity be created to prepare public reports?
4. What and how are iwi, hapū and urban Māori included? How would this work in practice? We understand that each iwi and/or hapū will nominate a representative to become a committee member, but as committee members, are they required to only speak to outcomes within their own iwi and hapū geographical boundaries or do they become equal members committed to act in the benefit of the whole region? We are also unsure whether urban Māori are able to become members and if yes, how would they be appointed (e.g. elected)?

5. How will non-voted iwi representation on decision making committees be reconciled with the commercial interests of property development projects undertaken by iwi (given the same people are likely to be making investing decisions and application decisions in the same region)?
6. We are unsure who will write the terms of reference and protocols for the committees and their secretariats. We strongly advocate that rights and responsibilities should be included, as this often helps ensure committees work together to deliver on the purpose. Given some of the conflicts that happen in regional New Zealand, we are keen to see protocols on how breakdowns/standoffs are to be managed and by whom. Would, for example, central government put in place a government-appointed committee or commission – much like the central government has done in replacing Tauranga’s council members with a commission?
7. Do the same people that prepare the RSSs, also prepare the NBA plans? How frequently are they prepared? Who is responsible for signing them off?
8. Will the public be able to consult on the Strategic Planning Bill (there is very little detail in either the *Panel report* or the *Parliamentary paper*)?
9. What is effective participation by iwi and hapū? And how will urban Māori be consulted?
10. Will committee members be paid? We are assuming that the representative of the Minister of Conservation and the local or regional authority will be paid as they are likely to be government officials, but what about iwi and hapū representatives? Will iwi and hapū be resourced to contribute? This is a big commitment and will put an additional cost on many iwi and hapū. How will they deliver on this new role that the reform wishes to deliver to them on top of their other obligations and commitments? If they are paid, will a contract be written? How will the fees be calculated?
11. What reports, audits and independent reviews will assess progress, when will they be published and by whom, and how will the public gain access to these reports, audits and independent reviews?
12. How does the three waters proposal before councils impact the proposed system? What is the impact if some councils (via a referendum) decide not to accept the three waters proposal?

It may be that many of these questions are easily answered, but the lack of detail makes it difficult to provide any useful feedback. The reform raises more questions than answers, many of which are about who bears the costs and risks versus who bears the benefits. It is hard to see the reform, as it currently stands, being useful to iwi and hapū, urban Māori, non-Māori and most importantly the environment.

3.3.2 Lack of set anticipatory limits and targets

The *Parliamentary paper* states in para 33:

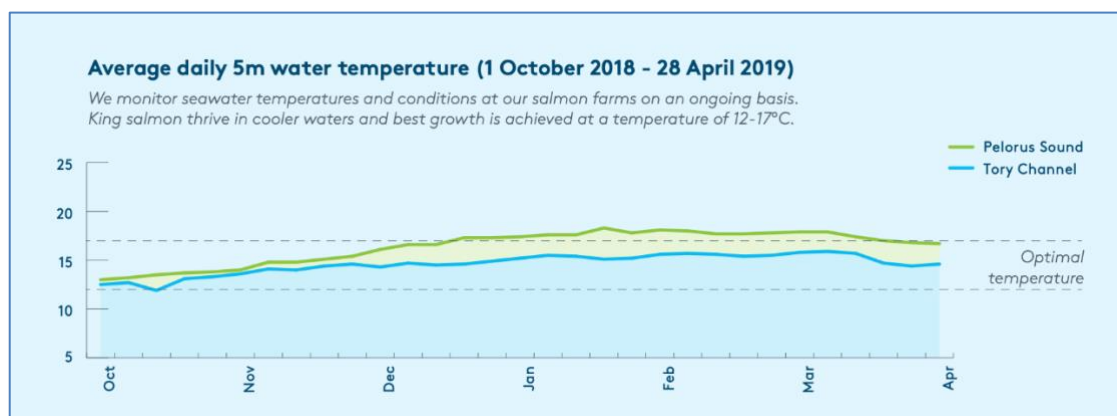
The NBA will include a mandatory requirement for the Minister for the Environment to set **environmental limits** for aspects of the natural environment, to protect its ecological integrity and human health. These limits will be framed as a minimum acceptable state of an aspect of the environment, or a maximum amount of harm that can be caused to that state. Timing and transitional arrangements will be taken into account in setting limits. [bold added]

We note the Cawthron Institute’s *Environmental Limits - A Proposed Framework for Aotearoa New Zealand* report¹⁰ surveyed international frameworks, identified important lessons for outcome-based environmental management, and made suggestions on the types of environmental limits and targets New Zealand might require going forward. What is clear is that our environment is undergoing increasing levels of stress and we are starting to see the emergence of exponential change. See, for example, the rise of water temperatures in the Marlborough Sounds in Figure 4 below¹¹ and the growth of wildfires.¹²

We question whether a focus on a ‘minimum acceptable state’ only (as discussed in para 33, see above) is sufficient or responsible given the stresses we are already seeing. Instead, we suggest a more ambitious state (i.e. a higher ideal goal) should also accompany a ‘minimum acceptable state’ to drive change and improve outcomes.

It is not clear how the proposal will deal with exponential change, cumulative impacts, wild cards, tipping points and/or the temporal and spatial issues of ecosystem collapse, but we suggest that the next consultation should, firstly, include clarity on how the proposed reform will deal with these and, secondly, provide examples and, ideally, some draft regulations setting out criteria on how limits, targets and timeframes would be designed, consulted, become law, be reported upon and enforced.

Figure 4: Surface seawater temperature records at Marlborough Sounds salmon farms (2018–19)



3.3.3 The need to align New Zealand objectives with international targets

Not only is the pace of change accelerating, but international collaboration is on the rise. The legislation does not directly make space for international collaboration and alignment (although it could be argued this is implied in the existing climate legislation). Recent examples include the Paris Agreement and the Sustainable Development Goals. We consider there should be some requirement in legislation to consider and take account of international goals and treaty obligations. We believe that there will be an increased appetite for nation states to work together, for example, to save unique flora and fauna, to collaborate together to fight wildfires and to improve the quality of our oceans. Aotearoa New Zealand may be a nation state but we have neighbours and global interests that need to be given a platform in the reforms.

3.3.4 A lack of alignment over reform objectives

The resource management reform objectives (listed below) do not align with the purpose contained in the draft Bill; the latter are narrower and more specific (see list further below).

The *Parliamentary paper* states the terms of reference of the inquiry on the *Parliamentary paper* as follows:

1. The purpose of the inquiry is to provide feedback to the government on the extent to which the provisions in the exposure draft of the Natural and Built Environments Bill will support the **resource management reform objectives** to:
 - a. protect, and where necessary, restore the **natural environment**, including its capacity to provide for the well-being of present and future generations
 - b. better enable development within environmental biophysical limits including a **significant improvement in housing supply**, affordability and choice, and timely provision of appropriate infrastructure, including social infrastructure
 - c. give effect to the principles of Te Tiriti o Waitangi and provide greater recognition of te ao Māori, including mātauranga Māori
 - d. better prepare **for adapting to climate change** and risks from natural hazards, and better mitigate emissions contributing to climate change
 - e. improve **system efficiency and effectiveness**, and reduce complexity, while retaining appropriate local democratic input.¹³ [bold added]

However, the draft Bill states:

Clause 5 Purpose of this Act

(1) The purpose of this Act is to enable—

(a) Te Oranga o te Taiao to be upheld, including by **protecting and enhancing** the natural environment; and

(b) people and communities to use the environment in a way that supports the well-being of present generations **without compromising the well-being of future generations...**

(3) In this section, **Te Oranga o te Taiao** incorporates—

(a) the health of the natural environment; and

(b) the intrinsic relationship between iwi and hapū and te taiao; and

(c) the interconnectedness of all parts of the natural environment; and

(d) the essential relationship between the health of the natural environment and its capacity to sustain all life. [bold added]¹⁴

3.3.5 A lack of clarity over definitions and interpretations

Terms and abbreviations are often not logically presented in one place (e.g. Appendix 5: Abbreviations and Key Terms are insufficient and incomplete). An example of this practice is the abbreviation ‘NBA plan’, which reflects the Natural and Built Environment Plan (this should be referred to as the NBEP). This is only made clear on page 25 and is not contained in Appendix 5. Another example having implications for those trying to provide feedback is the lack of detail in the *Parliamentary paper* on the role of the independent hearing panels (IHPs). In addition to not being referred to in Appendix 5, it is also not explained with any detail in the *Parliamentary paper* yet it is arguably an important part of the system. This lack of clarity makes it difficult to understand how the IHPs might work in practice, bringing unnecessary risks to the quality of consultation. All that we were able to find was a paragraph in the *Panel’s report* (see below):

Para 51: The process for creating these plans would involve an independent hearing panel (IHP) to improve the efficiency of plan-making while ensuring high-quality planning documents. The process would involve a joint committee of delegates from all local authorities in the region, a representative from the Department of Conservation and representatives from mana whenua. The joint committee would have the authority to determine the form of the combined plan for notification and to decide whether to accept the IHP’s recommendations. An independent audit of the proposed plan would be undertaken prior to notification to ensure quality and adherence to the requirements of the act and national direction. Local authorities, mana whenua and the public would have the right to make a submission on the combined plan, to be heard by the IHP and to appeal to the Environment Court along the lines of the model adopted for the Auckland Unitary Plan.

3.3.6 Uncertainty exists over whether the reforms will deliver on the Act's purpose

The Minister, in his 10 February press release,¹⁵ sets out a far broader set of purposes than we believe the suite of legislation set out in the *Parliamentary paper* could deliver. We believe there is a real risk of the Crown over promising and under delivering.

Minister Parker implies the new suite of laws will:

- improve the natural environment
- enable more development within environmental limits
- provide an effective role for Māori
- improve housing supply and affordability
- improve planning processes (by simplification and reducing costs and times)
- provide a stronger national direction and one single combined plan per region
- provide more focus on natural environmental outcomes and less on subjective amenity matters that favour the status quo
- enable better urban design to be pursued.¹⁶

It is difficult to see, based on this early version of the draft Bill, how each of these goals will be achieved with what is currently in the public arena. For example, there is a significant amount of placeholder text in the draft Bill (there are 21 mentions of placement text to be added) and the details of the two subsequent bills are yet to be placed in the public arena. It could be argued that, once the legislative machinery is more apparent, there may be more grounds for optimism. However, if the eight goals mentioned by the Minister are expected to be achieved by the new package of reforms in the next five or ten years, we suggest someone should check to ensure each of these goals can be achieved once the new package of reforms is implemented. In Appendix 2: Examples of system efficiencies is, there is no data, costs or specifics that could be used to measure progress. This is not adequate.

Based on what we know, we have little confidence that the proposed system will be any different in terms of obstacles, capacity, capability and outcomes – there is a lot of detail missing. Arguably, trying to implement a poorly thought-out resource management system in the next few years might lead to worse outcomes for the natural and built environment – resource management fatigue could easily become the norm due to increased ambiguity over processes, an increasingly overworked public service and a business sector facing uncertain and unknown climate risks.

3.3.7 Key gaps and linkages with other legislation and work programmes failed to materialise

The *Parliamentary paper* (para 21) only mentions three waters once, even though these water assets will be critically important to the outcomes of the proposed resource management system:

RM reform links into many other Government programmes. For example, this reform will influence, and be influenced by, current Government work on **three waters**, freshwater allocation reform and addressing Māori rights and interests in freshwater, climate change, biodiversity, housing and social infrastructure, and the future for local government. [bold added]

In addition, the paper does not mention the establishment of a Strategic Planning Reform Board (we understand this was established in May 2021).¹⁷ If this is to be a key component of the proposed responsibility and accountability framework, then we think the Board should be mentioned in legislation. We expected that the Environment Act 1986,¹⁸ the Environmental Reporting Act 2015,¹⁹ the Urban Development Act 2020^{20,21,22} and the concept of ‘managed retreat’^{23,24} would be mentioned, and arguably given prominence in the proposed resource management system. We thought this would include clarity over environmental limits and how these would be actioned to deliver and report progress.

For example, could the proposed environmental limits be aligned to the reporting domains in the Environmental Reporting Act 2015? Such an approach would align existing environmental reporting measures against the proposed environmental limits contained in the draft Bill. The only environmental limit not covered by the reporting domains is the ‘biodiversity, habitats, and ecosystems environmental limit’, but this could be added to the Environmental Reporting Act 2015 (see the existing wording in endnote 19).

Below we compare the list of environmental limits (stated in Clause 7 of the draft Bill) with the reporting domains in the Environmental Reporting Act 2015 [see square brackets].

(a) air

[air domain and atmosphere and climate domain are both in the Environmental Reporting Act 2015]

(b) biodiversity, habitats, and ecosystems

[no equivalent]

(c) coastal waters

[the marine domain is in the Environmental Reporting Act 2015]

(d) estuaries

[the marine domain is in the Environmental Reporting Act 2015]

(e) freshwater

[the freshwater domain is in the Environmental Reporting Act 2015]

(f) soil

[the land domain is in the Environmental Reporting Act 2015].

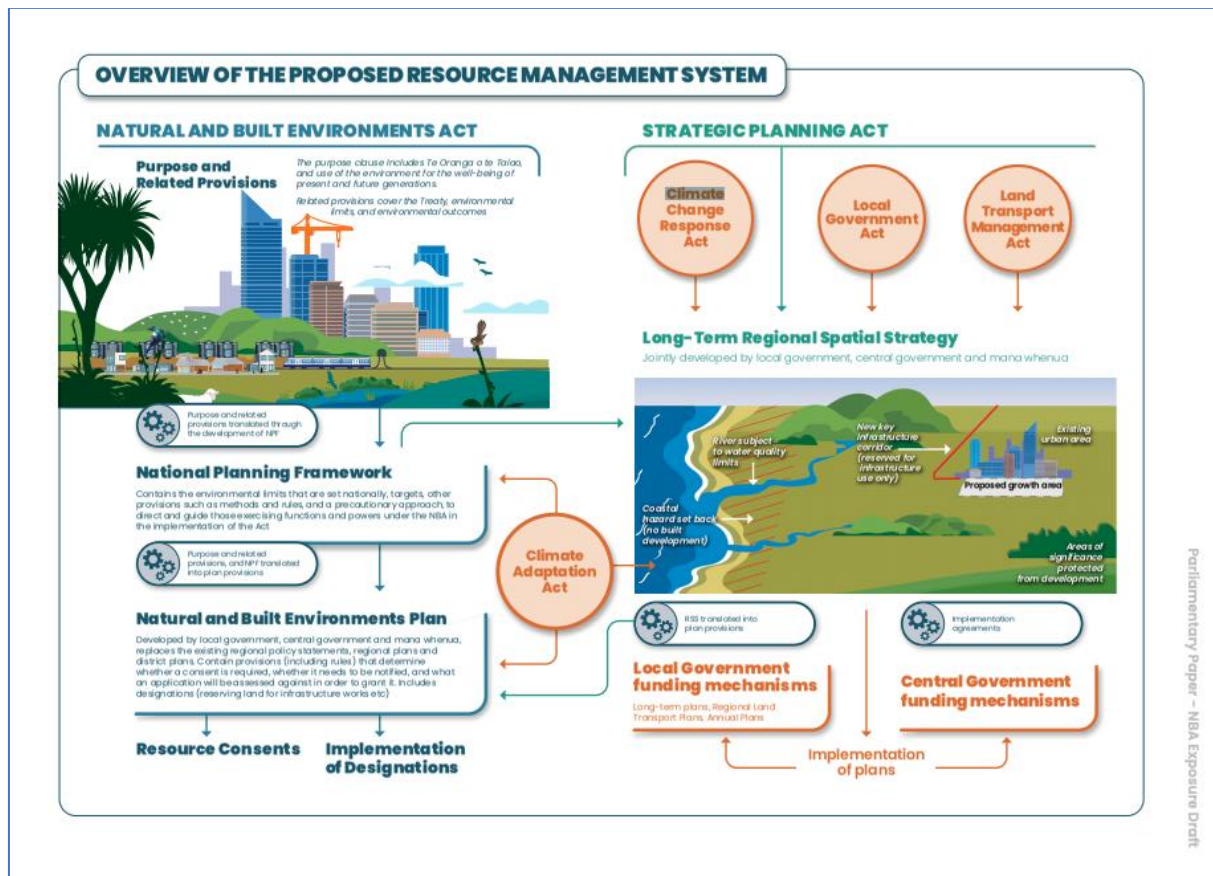
3.3.8 Lack of clarity over the design of the proposed system

One of the first things the Institute would do is analyse the differences and commonalities between the current status quo (the RMA) and the proposed package of reforms. We would want to invite comment from readers by illustrating how the two systems are different – showing what would be retained of the old system, what would be discarded and what would be replaced. The *Parliamentary paper* fails to take the reader on that journey. Because of this, we suspect your feedback will be confusing, as different readers may interpret the system design in widely differing ways.

The *Parliamentary paper* demonstrates an extreme lack of care for the reader. The two key diagrams (on pages 14 and 19, repeated below as Figures 5 and 6) are poorly designed. Notably, figures and tables are not numbered. The table on page 9 and the diagrams on pages 14 and 19 required more care in terms of editing as well as in terms of using hierarchy to illustrate the key points the proposal is trying to communicate. We raise this issue as the proposed system is complex and will fail unless more effort is put into communicating its objectives and how it will work in practice (and that means using hierarchy and design thinking). We have included them below to illustrate our concerns.

A: Concerns over the figure on page 14 of the Parliamentary paper

Figure 5: Overview of the proposed Resource Management System (from page 14)



There is no hierarchy to illustrate the relationships between key components. On the left, is information on the Natural and Built Environments Act and, on the right, sitting under the proposed Strategic Planning Act, are three existing acts (two from 2002 and the other 2003). No visual distinction is made between proposed and existing acts. The proposed Climate Adaptation Act sits in the middle, looking isolated and disconnected, whereas arguably this is the only completely novel part of the whole reform.

The arrows between the key components on the diagram do not seem to move in any order or adopt any hierarchy for the reader, nor is there a key. Taken together the diagram simply does not work.

The two graphics are also concerning. They imply the Natural and Built Environments Act is about building, and the Long-Term Regional Spatial Strategy (we think it should read Regional Spatial Strategies) sits between the ocean, the country and the city, but our cities sit on the edge of the ocean.

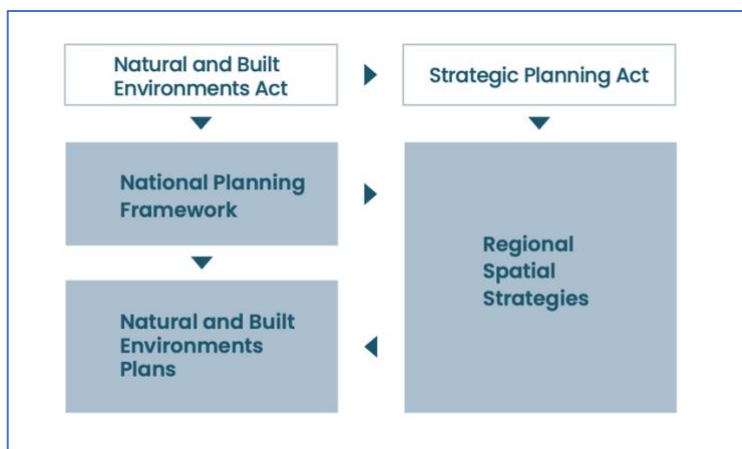
The best definition we found for the NBA is in the diagram. However, there is also new information, for example, ‘funding mechanisms’ appears twice in the diagram, but only once in the rest of the paper.

Lastly, we are still not sure we fully understand the structure that is being proposed. For example, we found the following paragraph (para 31) from the *Parliamentary paper* confusing:

The Panel considered a split approach, with one statute governing environmental protection and outcomes, and the other for planning, land use and development – but this was not favoured by the Panel. Although the RMA has not brought desired outcomes, an integrated approach is not the problem, and the case for integration remains strong.

B: Concerns over the figure on page 19 of the Parliamentary paper

Figure 6: From paragraph 56 on page 19 [Note: no title]



We appreciate this is being pedantic, but the three arrows at the top could be removed as the columns are sufficient. Abbreviations should have also been used as they have been used consistently throughout the *Parliamentary paper*.

To demonstrate our understanding of the relationships illustrated in the two diagrams above, we have prepared Figure 7 (see overleaf).

Figure 7: McGuinness Institute’s interpretation of the proposed Resource Management System

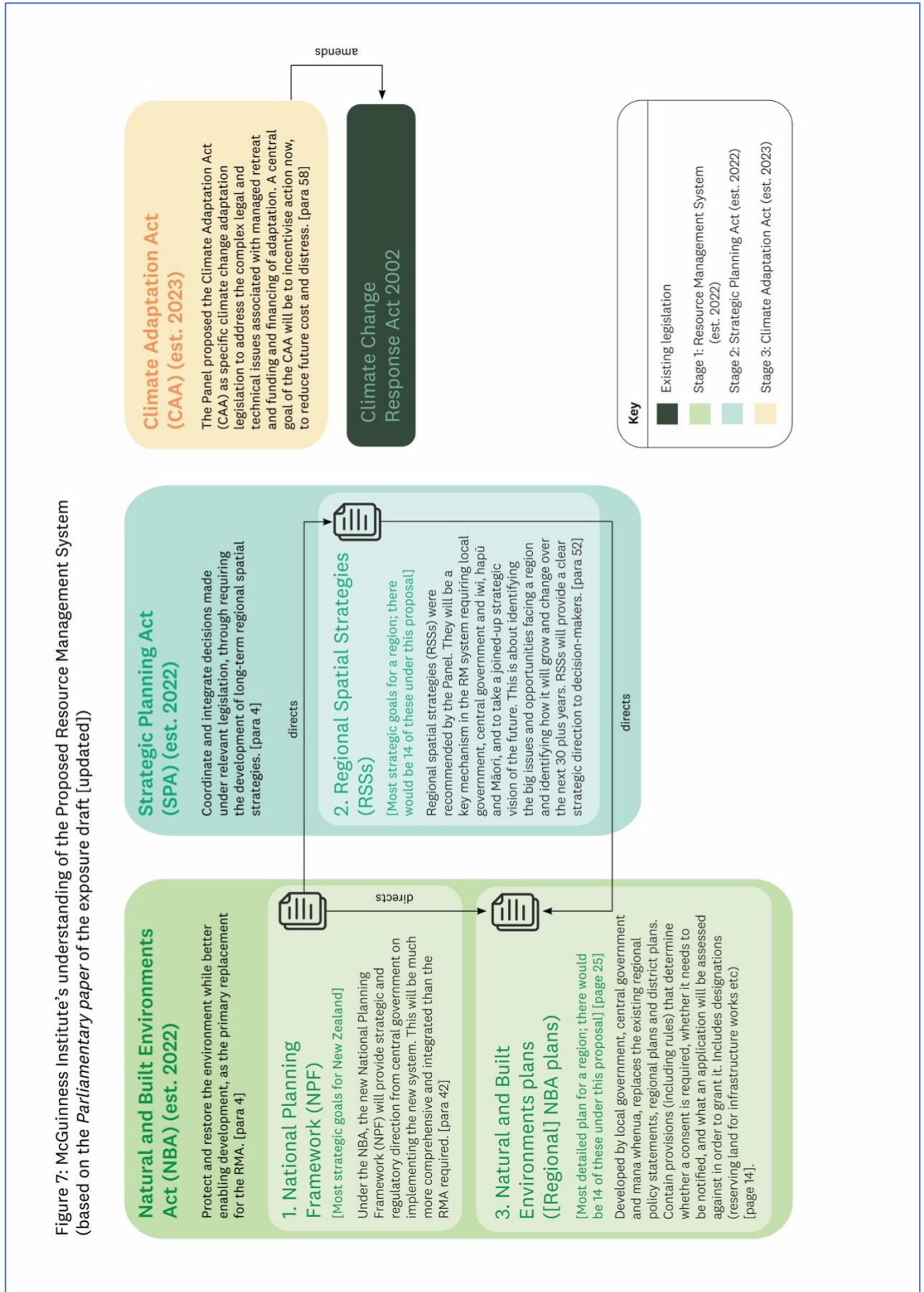


Figure 7: McGuinness Institute’s understanding of the Proposed Resource Management System (based on the *Parliamentary paper* of the exposure draft [updated])

4.0 Part 3: Reporting (accountability and responsibility)

4.1 Introduction

As soon as we start discussing measures, policy, instruments, risks, impacts or outcomes, we are talking reporting. The link between good governance and good reporting is well acknowledged. Peter Drucker, a often-cited academic stated: ‘If you can’t measure it, you can’t improve it’ and ‘Management is doing things right; leadership is doing the right things.’ In other words, management must provide useful and regular reports to leaders (e.g. the committee/board) – leadership is the action of thinking differently and managing things better, while management is the action of implementing and maintaining the system to ensure things are getting done cost-effectively, justly and on time.

This links well with the Office of the Auditor-General *Good Practice Guide: Governance*²⁵ (mentioned in 3.1 above), where many of the eight elements refer to the need for public reports, assurance and auditing and external reviews. Ensuring management and leadership are separate are important checks and balances we put into systems so that outputs and outcomes are not only trusted, but seen to be trusted.

It is important to acknowledge the urgent need to deliver better outcomes for biodiversity, our natural capital and the economy. A recent OECD report prepared as an input to the UK’s G7 Presidency, *Biodiversity, natural capital and the economy: A policy guide for finance, economic and environment ministers* (May 2021),²⁶ provides policy guidance for Finance, Economic and Environment Ministries to underpin transformative domestic and international action to halt and reverse biodiversity loss. The OECD report identifies four priority action areas for governments:

1. Adapting measures of national performance to better reflect natural capital, and mainstreaming biodiversity into **strategies, plans, policies and projects**.
2. Better leveraging fiscal policy and economic instruments to support the conservation and sustainable use of biodiversity, including in COVID-19 recovery packages.
3. Embedding nature-related dependencies, risks and impacts into the financial sector.
4. Improving biodiversity outcomes linked to trade, including by reforming environmentally harmful and market distorting government support. [bold added]

It is also important to acknowledge the pace of change and the extent to which standard setters have currently stepped-up to meet the current standard gap. There is a major move by standard setters globally to improve the quality and breadth of reporting on natural capital.

Recent examples include the International Financial Reporting Standards Foundation (IFRS) consultation to accommodate an International Sustainability Standards Board (ISSB) to set IFRS sustainability standards,²⁷ the Task Force on Climate-related Financial Disclosures (TCFD),²⁸ and the Taskforce on Nature-related Financial Disclosures (TNFD).²⁹ In New Zealand, we are seeing the addition of sustainability standards being prepared by the External Reporting Board (XRB) and developments by bankers, insurers and financial institutions to improve reporting, particularly in terms of climate risks.

4.2 What we expected to find

Given that environmental reporting has been sought by a range of environmentalists over many years, we expected to see a strong focus on decision-useful information and an acknowledgment of the risks of green-washing. We expected to read about the need for timely, accurate and, in some cases, assured data (such as on emissions and water quality) and a recognition that data becomes information, information becomes knowledge, and knowledge shapes behaviour.

For these reasons we expected to see a focus on regular monitoring against environmental limits and the need for such reporting to be in the public arena. We expected to read a discussion on where publicly available information should be kept (where reports/data might be published), who prepares the information and whether/how it can be accessed and relied upon.

We thought there would also be a discussion on data gaps, the types of data (e.g. biodiversity types, modern data, indices etc.) and the types of information that are currently missing and urgently required to drive change. We also expected there would be a discussion on emerging datasets, the Environmental Reporting Act 2015 (and work by Statistics NZ), a discussion on DOC's threat classifications,³⁰ observations about existing and emerging data challenges and potential technological solutions (e.g. drones).

We were particularly interested in learning which persons/organisations would be responsible for providing what information, and the boundaries that might determine who was accountable for supplying that information.

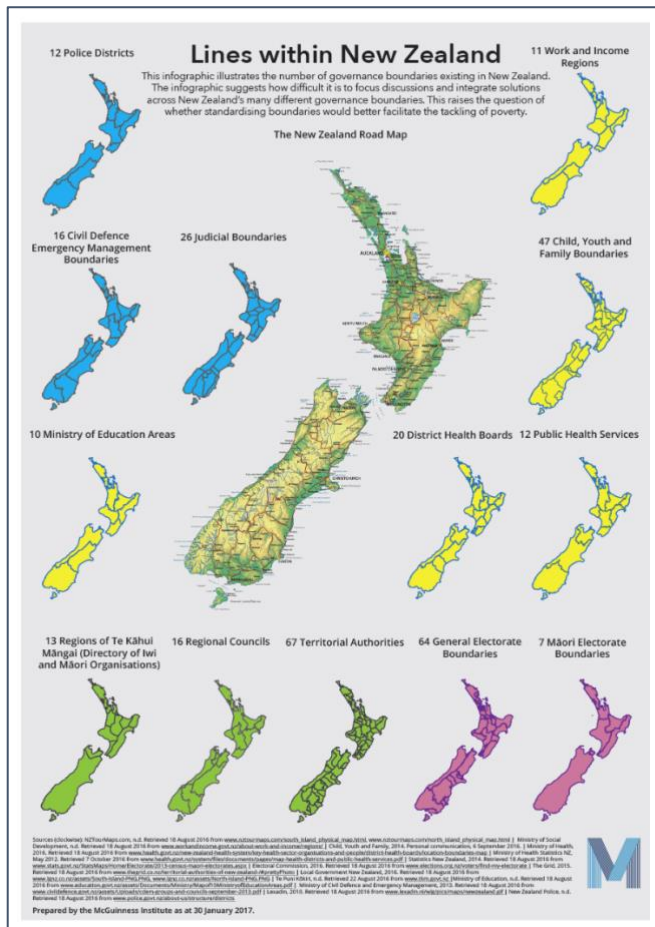
4.3 What we found

4.3.1 Lack of detail over number of plans

We note the *Panel's report* (page 24) suggests there will be 14 combined plans, but the DIA website currently states that there are only 11 regional councils.³¹ In 2017 (see Figure 8), there were 16 regional councils. This is another example of where we are uncertain as to the intent of the proposal – how many strategic spatial strategies are envisaged, and who is responsible for preparing and publishing them?

Figure 8 also illustrates the number of different governance boundaries that operate across New Zealand and highlights how the regional spatial plans will cross over many of these governance structures. The Institute has always strongly advocated for boundaries across departments to be harmonised.

Figure 8: Lines within New Zealand



4.3.2 Lack of detail over how plans will deal with boundaries between regions

We note that there was very little discussion on how the regional spatial plans might impact other regions; this is particularly relevant when considering infrastructure (such as water catchment areas and roading) and natural capital (such as native reserves and native species).

4.3.3 Lack of detail over the content of the plans and the need for benchmarking data

Benchmarking data is going to be critical. We note that the *Parliamentary paper* does not mention the Ministry for the Environment’s *Environment Aotearoa 2019* report.³² The report is mentioned in the *Panel report* (June 2020, page 51) but it is only briefly mentioned. Arguably the Ministry’s 2019 report speaks of our current environment as being highly degraded, highly modified and in need of regeneration. More clarity over what information is being relied upon would be useful as we need to know what data the system will be benchmarked against so that progress can be monitored.

In our view, Aotearoa New Zealand needs a system that delivers improvement to regenerate our environment, rather than accepting the current state of the environment as the baseline. We need clarity over where the environmental benchmark will be set, and what will be used for the environment outcomes, targets and limits in the proposed new legislation.

4.3.4 Lack of any discussion on data gaps

A recent United Nations Environment Programme report, *Making Peace with Nature: A scientific blueprint to tackle the climate, biodiversity and pollution emergencies*,³³ explained the existing data gaps for pollution this way: 'Large data gaps for quantifying and characterizing air pollution and its impacts can be addressed through actions that expand the knowledge base as well as improve monitoring and reporting; these include improving emission inventories, increasing sampling coverage of a range of pollutants and impacts, as well as improving availability and accessibility of data and information.'

In order to achieve the outcomes sought, it will require a very considered and selective process to identify the best data, at the best price (cost) and at the best time – to deliver and shape our behaviour. This will not be an easy task; it will require consideration and should be embedded into the system. Our concern is that there is very little discussion in the *Parliamentary paper* on the need for the identification of decision-useful data.

4.3.5 Lack of a detailed analysis of existing faults and emerging issues

The existing RM system is definitely flawed, but we have little confidence that some of the existing flaws will be resolved under the new system and in particular, whether they might be better resolved through a little more research and thought.

A good example is the case of New Zealand King Salmon (NZKS). In 2012, a Board of Inquiry heard an application by NZKS to place more farms in the inshore waters of the Marlborough Sounds. It was portrayed in the public arena as a once-in-a-lifetime opportunity to get all the science, the risks, costs and benefits all together and make a final decision for the company and the community. However, since 2012, the company has made many additional applications to expand or move existing farms. Appendix 1 contains a list of ten resource consent applications made by NZKS to Marlborough District Council that have been publicly notified – just over one per year.

In addition to creating a lot of additional expense for submitters, it has been time-consuming and frustrating for submitters and no doubt the council. However, we understand that most resource management applications are not publicly notified and are dealt with quickly and effectively within four to six weeks. (We are not sure of the actual figure but 90 percent is frequently mentioned). This means a small number of organisations (as applicants) are likely to be causing most of the challenges for councils

and communities alike. It would be useful to understand if this level of tension is required in order for private and public sector interests to be heard fairly by Commissioners, or whether options exist to reduce applications to, say, one every three years (grouping them accordingly) – to prevent submission fatigue. One would expect that there are likely to be applications by a small number of applicants that keep costs high and overload the system. One solution might be to allow applicants one application in the ten years after a large inquiry (such as a board of inquiry) at a standard fee, but if they wish to progress a number of further applications related to that larger inquiry, they are charged a ‘high-user charge’ (say ten times the normal fee). The aim is to incentivise applicants to group applications, and not overload the system.

There are also inconsistencies in the current resource management system, that may transfer across into the new system and that may be highly relevant to the treatment of pollution caused by carbon emissions. For example, NZKS is not required to pay for the use of inshore water, however, they are able to pollute the water and stop the public having access to their farms. The public are negatively impacted because they lose access and have increased visual and water pollution, and biodiversity decreases – for example, there may be fewer blue cod, more seals, fewer king shags, fewer Hector’s dolphins and more sharks. The equivalent on land would be a situation where a farmer does not need to purchase any land but is able to use the land, is able to stop the public from having access to the land and is able to pollute the land and waterways. However, the same farmer is not required to pay rates and therefore fails to contribute to the roads, water etc. in the community. The ‘polluter pays’ principle needs to be included in the Bill, ideally as an implementation principle in clause 18, but we also see a case for this principle to go further.

The NZKS example delivers a range of concerns about equity, but the real issue is that New Zealand may find itself in a situation where it needs to pay its farmers not to pollute by *not* farming livestock, extending ‘polluter pays’ to ‘non-polluter is paid’. We believe it is timely to think about how best to align objectives.

If a more detailed analysis of the existing system had been undertaken along with a deeper review of the emerging issues we will face under climate change, we consider a cheaper and more cost-effective range of options might have been discussed in the *Parliamentary paper* – resulting in a cost-effective and timely tweaking rather than replacement of the existing system.

4.3.6 Lack of any detail on how New Zealand will develop a managed retreat

We consider that the public policy around a managed retreat is urgent, novel and challenging. Obtaining the necessary data to manage a just and fair retreat will be challenging and we propose that the Climate Adaptation Act should be developed alongside the draft Bill.

4.3.7 Lack of any mention of New Zealand climate reference scenarios

We consider New Zealand-wide climate scenarios are needed to drive public policy and business needs. Appendix 2 contains an exercise we developed (with others) on how to create scenarios to shape Task Force on Climate-Related Financial Disclosures (TCFD) reporting. We believe climate reference scenarios are urgently required; they are a form of reporting that should be required to be taken into account when designing and preparing the national planning framework and when determining regional spatial plans.

5.0 Conclusion

5.1 Investing in durable and effective public policy

It was excellent to see the discussion and inclusion of the precautionary approach in the draft Bill (although we consider the precautionary principle is more appropriate).³⁴ However, it is important to examine whether the proposed system will deliver the necessary scaffolding to meet the future needs of New Zealanders in, say, the year 2050.

New Zealand must assess the strengths, weaknesses, opportunities and threats of major changes in public policy. The legislation proposes a precautionary approach to decisions being made under the legislation, but we must also apply caution to the proposed system itself (as set out in the *Parliamentary paper*). Without that level of discipline and critical thinking, our policy may not be in the public interest, but may unintentionally pivot to the benefit of a few (rather than all) New Zealanders.

Our concern is not just the cost of misusing public funds (as we consider this proposal may be expensive to design, implement and operate) but the lost opportunity to bring about real change for our environment. It is in all New Zealanders' interests to manage our public funds well, as tensions and trade-offs are necessary and will become increasingly difficult to navigate at a time when the public purse becomes further constrained by the impacts of climate change. Climate change will have a significant impact on poverty, particularly for those living in less populated areas. We are concerned that poverty in the regions is not being addressed with the urgency required. (In 2016, the Institute undertook six regional workshops around New Zealand, asking people how they would go about tackling poverty. The results are shown in Appendix 3. We have strongly advocated for better health, dentistry and transport resources to be made available to the regions).

5.2 Costs, benefits and risks of options

On reviewing the terms of reference of the *Panel's report*,³⁵ it is unclear whether the panellists were asked to fully explore international options. For example, the *Panel's report* is New Zealand-centric, and reads more like a descriptive scoping report than a deeper discussion on strategic options.

MfE's *Interim regulatory impact statement: Reforming the resource management system* (2021) mention a range of options but fails to provide a detailed analysis of the costs, risks and benefits of options. Both the *Interim regulatory impact statement* and the *Parliamentary paper* feel rushed. It begins to feel as though the *Parliamentary paper* has simply attempted to 'implement' the *Panel's report*, rather than consider the quality and logic underlying their recommendations, while the MfE *Interim regulatory impact statement* is exactly that – very interim.

We note, in particular, that the options were not clear in the *Interim regulatory impact statement*,³⁶ that some options were not included and that other work programmes have been put in place, arguably to bridge gaps. This paper also feels rushed and lacks the necessary level of detail on the risks. See, for example, page 90 of the *Interim regulatory impact statement*:

What options have been discarded or are out of scope?

Officials have not had time to consider in sufficient detail the option of delivering region-wide planning through local government reorganisation. This option is not within the scope of the RM system and was not considering by the Panel, as it was explicitly ruled out of scope by their Terms of Reference. As noted earlier, the 'Review into the Future of Local Government' will provide a final report in April 2023.

We look forward to reading the final regulatory impact statement as the next step in the consultation process.

5.3 Not a new environmental management system

In our view, the *Parliamentary report* and the package of acts does not propose a novel environmental management system – the reforms do not focus on improving our native flora and fauna and the ecosystem in which they live. Instead, what is being proposed is a new operational planning framework (as evidenced by the focus on the types of plans and the proposed establishment of a Strategic Planning Act in the *Parliamentary paper*) and a new role for iwi, hapū and Māori.

Changing a management system is a significant cost to the country and will have a range of unintended consequences and hidden risks. Arguably this may not be the best time to implement a potentially complex and expensive administration system without considering: what is the cost, is this the right time and is this the right approach? We are not sure who has done the critical thinking and analysis to ensure the Panel's findings are correct, cost-effective and appropriate for New Zealand's long-term future.

Given New Zealand is faced with both climate and biodiversity emergencies, and other countries are striding forward to create systems to address systemic risks, it is surprising that New Zealand has chosen such an incremental, plan-heavy, foresight-light approach. In contrast, see the level of strategic thinking and system design that is being explored and progressed by the UK,³⁷ Wales,^{38,39} France⁴⁰ and Sweden.⁴¹

5.4 A lost opportunity

In our view, the *Parliamentary paper* is too fragmented. It lacks a long-term strategic direction, contains mixed and potentially conflicting objectives, struggles to provide any clarity over the balance between local and national governance, and provides no resolution to the implementation and funding problem that exists in the current RMA. The Institute believes the proposed model of legislation that separates planning from outcomes will fail to deliver on the objectives as currently set.

It takes courage to go back to the drawing board. A number of times in our public policy history, we have needed to pause, reconsider our goals and explore the range of possible options. We support the goal in the NBA's terms of reference, to 'improve system efficiency and effectiveness, and reduce complexity, while retaining appropriate local democratic input', but that needs to be seen in terms of the future. This opportunity, at this time, must not be squandered; we need an environmental management system that is built to last, and is able to deal with a range of climate futures.

The aim should be to create a durable public policy landscape, one that is able to withstand the challenges that lie ahead. Foresight is a key component that should drive this work. Put bluntly, the proposed policy is backward-looking and does not currently provide confidence that it will deliver an aligned, future-focused, agile and durable framework to manage our environment for current and future generations. Figure 10 shows our journey; it aims to suggest that the proposed system requires more clarity (as illustrated by our Figure 7, which aims to reflect our understanding of the *Parliamentary paper* diagram [replicated in Figure 5]). Our high-level findings and recommendations are set out in Figure 9.

5.5 Concluding remarks

Thank you again for the opportunity to submit our comments and recommendations. We support the proposal in regard to the establishment of 14 Regional Spatial Plans but are unsure whether the same approach should be applied to the Regional Environmental Plans. In our view, a more specific local focus is required. Aotearoa New Zealand's geography means that there are many unique and special areas that may require local management.

To summarise, we recommend (as illustrated in Figure 9) that:

- The Environment Act becomes the primary environment legislation that shapes and drives the system. The following purpose should in our view be included in the Environment Act (see the explanation in section 2.3.1):
 - (1) The purpose of this Act is to —
 - (a) enable people and communities to use the environment in a way that supports the well-being of present generations *without compromising the ability of future generations to meet their own needs,*
 - (b) *to recognise the intrinsic relationships that exist between people and communities and the environment,*
 - (c) to uphold Te Oranga o te Taiao, including protecting and enhancing the natural environment, and
 - (d) *to protect, enhance and support our natural capital, in particular our native flora and fauna and the ecosystems in which they co-exist.*
- That precautionary principle is adopted as an implementation ‘principle’ rather than the precautionary approach (as stated in Clause 18).
- The Environment Act should be amended to include a requirement to prepare an intergenerational plan and create a Futures Generation Commissioner, who is required to publish the intergenerational plan every three years. The existing Parliamentary Commissioner for the Environment should also have their role expanded to undertake independent audits every three years of the functioning of the resource management system.
- The Strategic Planning Act becomes the National Planning Act. The aim is to ensure strategy and planning do not sit together and to draw a clear distinction between central and regional planning.
- That the National Planning Act incorporates all planning guidance and planning instruments. [Note: we consider the title of the Regional Spatial Plans could remain as proposed.]
- That the NBA plans become Regional Environmental Plans, so that Regional Plans all have the word ‘regional’ in their name and all guidance material that relates to Aotearoa New Zealand has the term ‘national’ or ‘Aotearoa’ in its name – so that the distinction is clear.
- The ‘polluter pays principle’ is applied to Clause 18. Something like: ‘where appropriate, apply the polluter pays approach’.
- That the Climate Adaptation Amendment Act is progressed with urgency in 2022 (not 2023), and includes a strategy for a planned retreat.

We conclude by emphasising our concerns over the lack of detail in the documents to date, particularly with regard to how planning committees will ‘govern’ each region’s natural capital, how conflicts of interests will be dealt with in the committee, and how these committees will operate within the wider central and local government system.

We are concerned about the lack of accountability and in particular a lack of information on how compliance, monitoring and enforcement (CME) will be implemented under the new proposal. For example, if each member of the planning committee has a vote (as set out in Clause 1), that may mean planning committees may be made up of largely non-government officials. We wonder if a more democratic approach would be for members to be elected onto the committee (and therefore could be removed). We believe voting, and more importantly, the ability to vote out members who are not meeting or operating effectively by residents of a region, is an essential part of democracy. Furthermore, given the proposal refers to representatives rather than elected officials, we believe the process has a number of inherent risks. Lastly, given that local authorities are required to fund the secretariat under the Bill, the ratepayers are in fact paying for a committee that they have little to no control over.

We also have concerns over how the system will navigate conflicts of interests as they arise. Importantly, designing such systems is not just about ensuring people act in good faith, but being seen (and being able to show) they have acted in good faith. This means systems must be put in place to ensure people trust the system, that information is produced in such a way that the public trust the system and, finally, that the system is able to be measured, and is able to deliver improvements to the environment.

We have concerns over how the planning committee will operate with local authorities and regional councils – this is not explained. The planning committees do not have members of council as members, so there could easily be a disconnect over what the plan will say and what the council thinks. This may create unnecessary risks in the form of poor communication, policing the plan, and how penalties could be applied for poor behaviour by wider stakeholders that do not adhere to the plan. We foresee the planning committees will become the major power in local government, superseding the power of elected councils.

We are also concerned about the potential for cost blowouts and time inefficiencies, given the proposal requires three separate acts to replace one act (and many other connected work programmes to come together) and is materially undeveloped (with so much still being work in progress). There also seems to be a great deal of political and economic risk that poor process will deliver poor outcomes for key stakeholders such as iwi, hapū, councils and businesses at a time when there are already high levels of uncertainty and stress in the wider market place.

The Institute believes it is critical that more time is taken for deeper consideration of the opportunity that this reform presents. We suggest more critical analysis, policy work and broader consultation is necessary if the goal is to deliver cost-effective, trusted and durable public policy that leads to long-term strategic climate-change resilience and environmental regeneration.

Figure 9: McGuinness Institute proposed reform framework

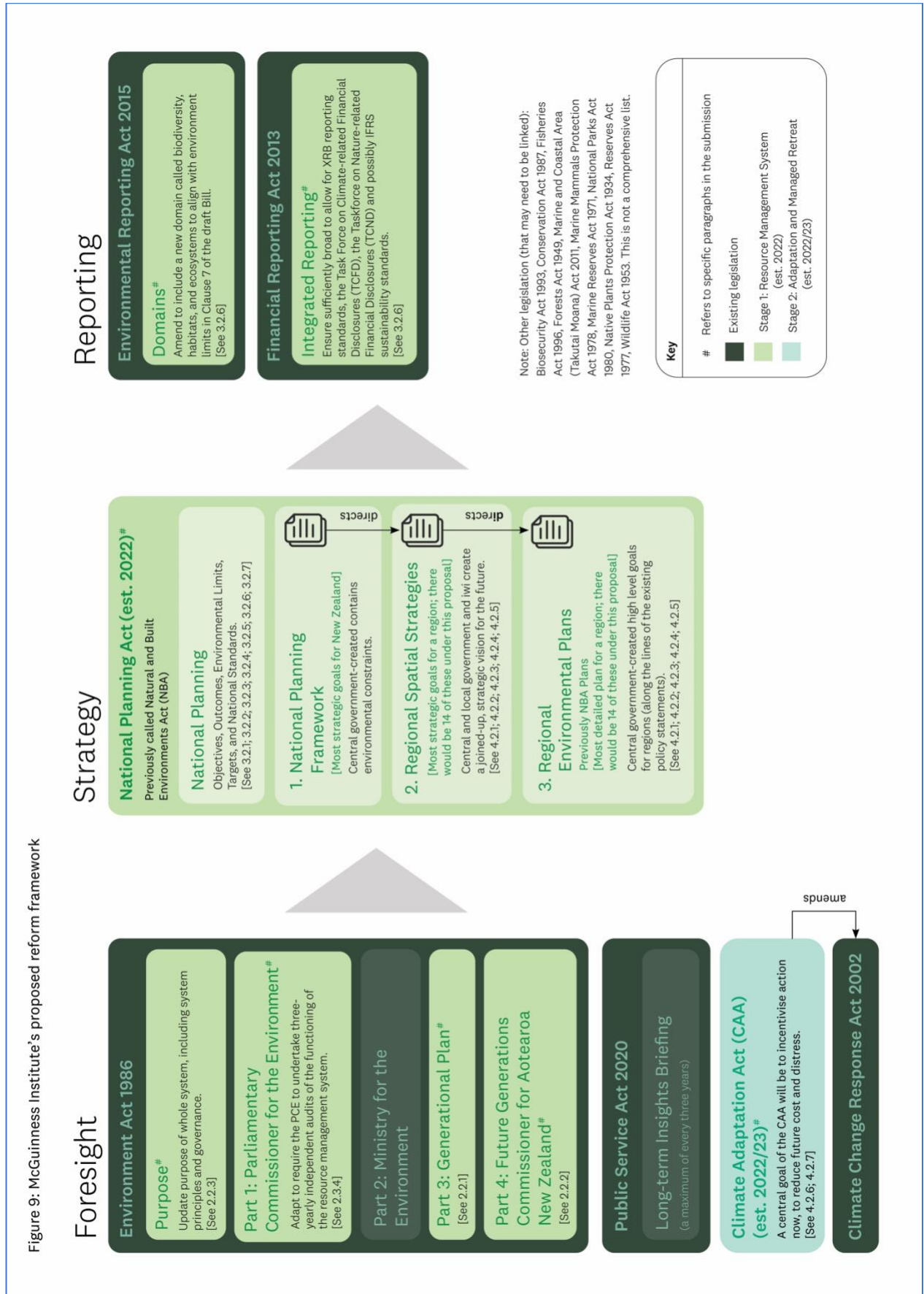
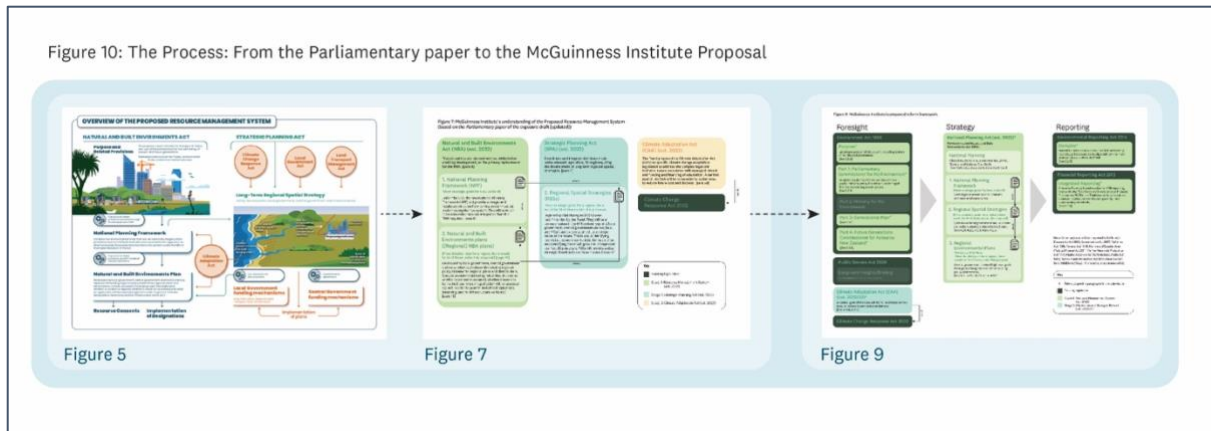


Figure 10: The process: From the Parliamentary paper to the McGuinness Institute proposal



Appendix 1: List of publicly notifiable applications to Marlborough District Council by NZKS post the 2012 Board of Inquiry (BOI)

Table 1: NZSX applications post the 2012 BOI decision

Reference Number	Proposal	Date Submitted	Decision Status
130466	New coastal permit for an additional salmon feed discharge at the Clay Point salmon farm for the period 1 December 2012 to 30 November 2013 to allow a total feed discharge of 4,500 metric tonnes per annum in combination with U060926.	2 Aug 2013	Granted
150081	New coastal permit (replacing MFL484, MPE466, U000237, U010142, U080726, U090841 and U130472) for the continuation of an existing salmon farm at marine farm site 8408 in Te Pangu Bay, including all activities ancillary to the farm's operation.	30 Jan 2015	Granted
150355	New coastal permit to occupy coastal space with a barge of maximum dimensions 20 metres long by 12.4 metres wide and 8.3 metres high (above the water line) to service a salmon farm in Ngamahau Bay, Tory Channel.	22 Apr 2015	Granted
160675	New coastal permit (replacing MFL537, U060926, U080054 and U080726) for the continuation of an existing salmon farm at marine farm site 8407 west of Te Uira-Karapa Point (Clay Point), Tory Channel, including all activities ancillary to the farm's operation.	8 Jun 2016	Granted
180499	A coastal permit to occupy - to the exclusion of other permanent or semi-permanent structures within the water column - 1792 hectares of the Coastal Marine Area to the north of Cape Lambert and east of Sentinel Rock, to facilitate the operation of scientific monitoring equipment.	29 Jun 2018	Withdrawn
190357	To increase the maximum area of net pen surface structures at the existing Waitata salmon farm (site 8632) from 1.5 hectares to 2.25 hectares, by installing four additional net pens, ten additional anchors and ten additional surface floats, and changing the associated consent conditions 2 and 14 on existing resource consent U140294.	8 May 2019	Refused
190438	To establish and operate new salmon farms within a 1791 hectare site located	5 Jul 2019	In processing


Reference Number	Proposal	Date Submitted	Decision Status
	between 5 kilometres and 12 kilometres due north of Cape Lambert.		
160675.127.01	To change condition 25 of U160675, to provide for a maximum discharge of 9,000 tonnes of feed across two consecutive years.	14 Oct 2019	In processing
140294.127.01	To change conditions 36 and 40 of U140294.	12 Aug 2020	In processing
140296.127.01	To change condition 40 of U140296.	13 May 2020	In processing

Appendix 2: TCFD 'strategy' exercise

This exercise was used for TCFD workshops held in 2019. It shows how the NIWA data can be used to develop climate scenarios.

TCFD 'Strategy' Exercise

Prepared for the TCFD October workshops.



1. Resources required:

1. A brief overview of each of the three climate scenarios that we will be using for this exercise, based on three IPCC representative concentration pathway (RCP) trajectories: RCP 2.6, RCP 6.0 and RCP 8.5.*
2. Copies of New Zealand business strategies and annual reports from relevant industries published in the public arena.

2. Method:

Task 1: Exploring worlds
 On an A2 sheet, redraw Figure 2 below with a larger centre circle. In each band of the circle, starting with the middle and working your way out, list the opportunities (left) and risks (right) that arise under each of the scenarios. Use the scenario overviews provided as Resource 1 to familiarise yourself with the characteristics of each scenario. [15 minutes]

Task 2: Disclosures
 Choose an industry from the ones provided in Resource 2. Familiarise yourself with the industry using the examples provided and then prepare a material disclosure that addresses points (a), (b) and (c). [15 minutes]

Task 3:
 Discuss and share observations with the rest of the group and then report back to the workshop. [30 minutes]

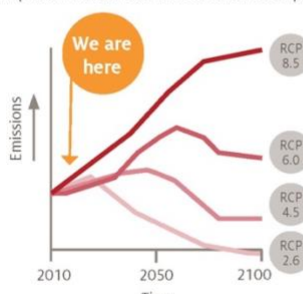
Figure 1: Climate Trajectories in the Cone of Plausibility

	Scenario RCP 8.5 (2.6°C – 4.8°C)
	Scenario RCP 6.0 (1.4°C – 3.1°C)
	Scenario RCP 2.6 (below 2.0°C)

Figure 2: Cone of Plausibility as at 2100

The white arrow indicates the general direction of transition from the status quo to the Paris Agreement.

Scientists use the RCPs to model climate change and build scenarios about the impacts. You can use these scenarios to plan for the future.



If we follow the RCP 8.5 pathway, **more adaptation** will be needed.

If we follow the RCP 2.6 pathway, **less adaptation** is needed.

RCP 8.5 leads to much greater temperature increases, and this means greater impacts and greater costs. To adapt to these changes will also cost more. A balance must be struck between the cost of impacts and the cost of adaptation.

(CoastAdapt, n.d.)

* The name "representative concentration pathways" was chosen to emphasize the rationale behind their use. RCPs are referred to as pathways in order to emphasize that their primary purpose is to provide time-dependent projections of atmospheric greenhouse gas (GHG) concentrations [not emissions]. (IPCC, 2007)

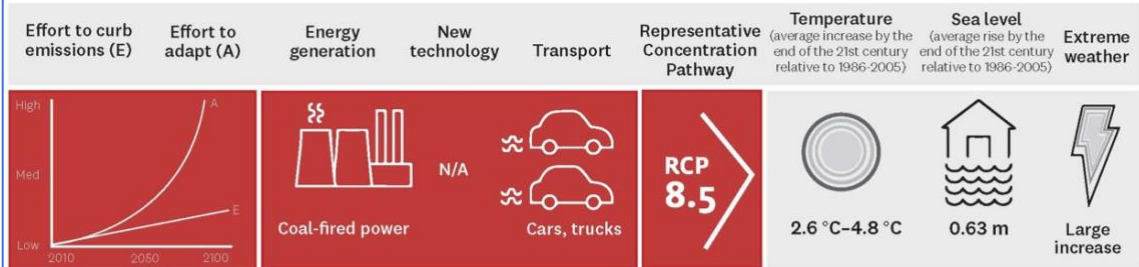
The goal of working with scenarios is not to predict the future but to better understand uncertainties and alternative futures, in order to consider how robust different decisions or options may be under a wide range of possible futures. (IPCC, 2019)

Task 2: Disclosures

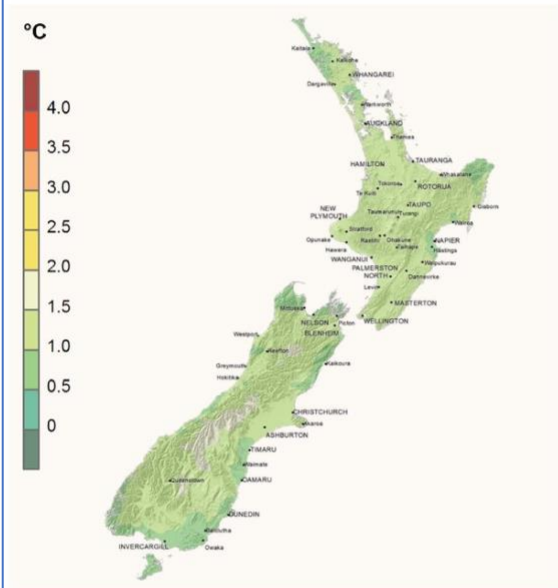
Complete a), b) and c) for your chosen organisation:

TCFD Core Element: Strategy	Disclose the actual and potential impacts of climate-related risks and opportunities on the organisation's businesses, strategy and financial planning, where such information is 'material'.
<p>a) Describe the climate-related risks and opportunities the organisation has identified over the</p> <ul style="list-style-type: none"> • short, • medium, and • long term. 	
<p>b) Describe the impact of climate-related risks and opportunities on the organisation's</p> <ul style="list-style-type: none"> • businesses, • strategy, and • financial planning. 	
<p>c) Describe the resilience of the organisation's strategy, taking into consideration different climate-related scenarios, including a 2°C or lower scenario.</p>	

Resource 1: Brief Overview of Scenario RCP 8.5



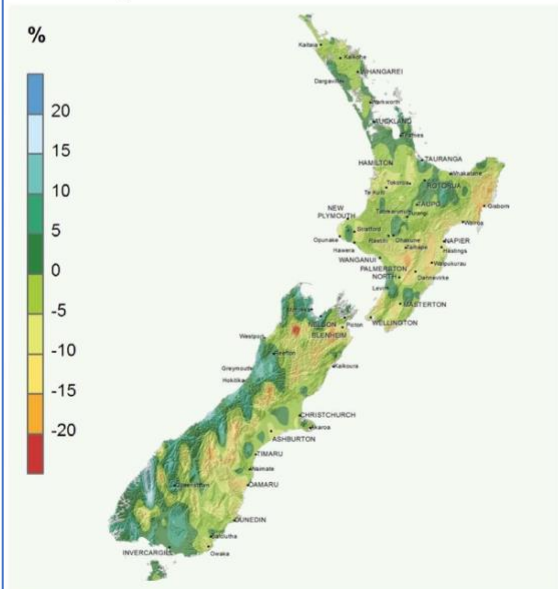
Temperature Change Between 1995 and 2055



Temperature Change Between 1995 and 2090



Rainfall Change Between 1995 and 2055

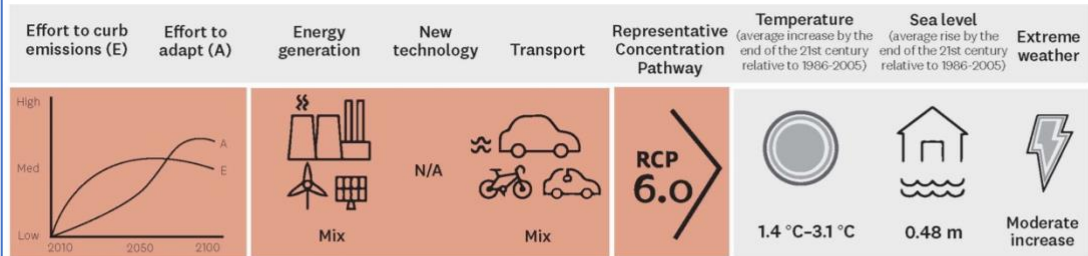


Rainfall Change Between 1995 and 2090

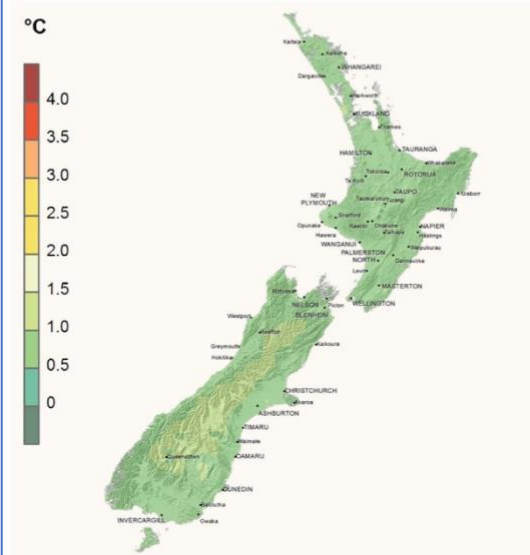


Note: The New Zealand maps (above) are from NIWA's NZ Climate Change Maps – which use data from the IPCC's Fifth Assessment Report (AR5) based on three representative concentration pathways (RCPs): RCP 2.6, RCP 6.0 and RCP 8.5. As explained in the additional information section of NIWA's Our Future Climate New Zealand website, RCPs 'provide an indication of the rate and amount of global greenhouse gas emissions over the coming decades'. These projections use the climate model BCC-CSM1.1 and indicate the potential impacts of climate change in New Zealand. Our infographic has been inspired by CoastAdapt's Climate Change Infographic.

Resource 1: Brief Overview of Scenario RCP 6.0



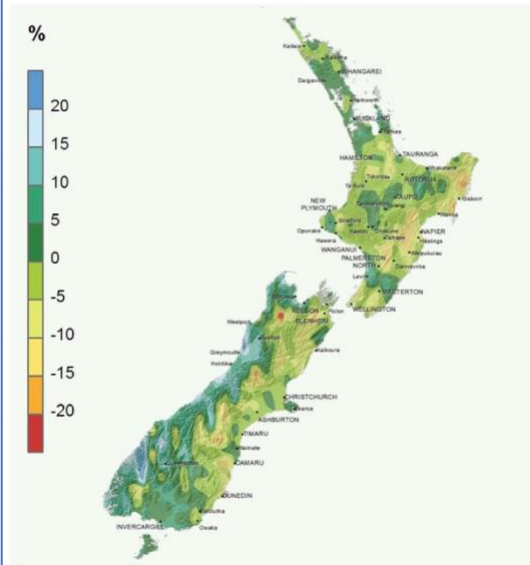
Temperature Change Between 1995 and 2055



Temperature Change Between 1995 and 2090



Rainfall Change Between 1995 and 2055



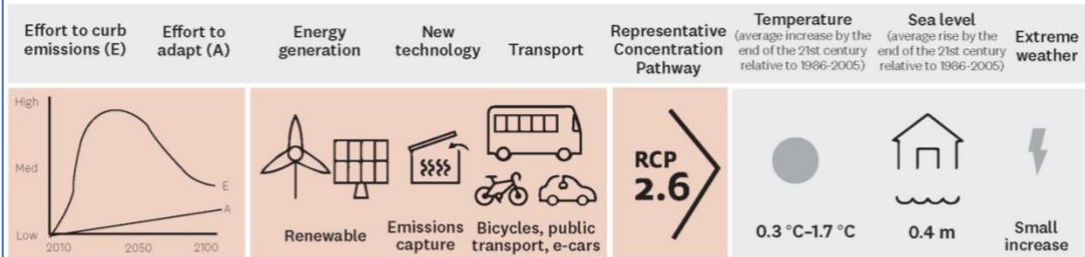
Rainfall Change Between 1995 and 2090



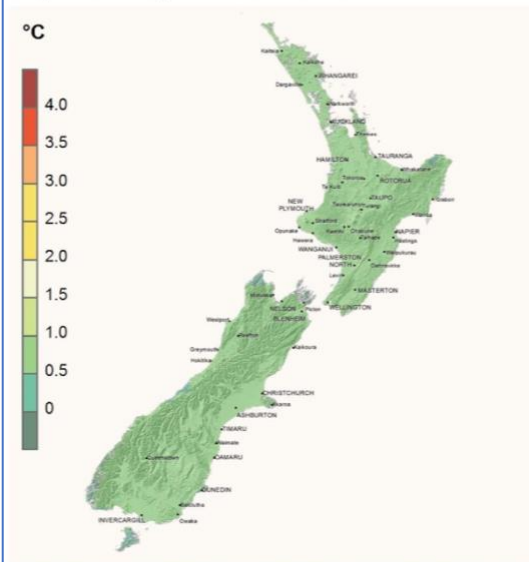
Note: The New Zealand maps (above) are from NIWA's NZ Climate Change Maps – which use data from the IPCC's Fifth Assessment Report (AR5) based on three representative concentration pathways (RCPs): RCP 2.6, RCP 6.0 and RCP 8.5. As explained in the additional information section of NIWA's Our Future Climate New Zealand website, RCPs 'provide an indication of the rate and amount of global greenhouse gas emissions over the coming decades'. These projections use the climate model BCC-CSM1.1 and indicate the potential impacts of climate change in New Zealand. Our infographic has been inspired by CoastAdapt's Climate Change Infographic.

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Resource 1: Brief Overview of Scenario RCP 2.6



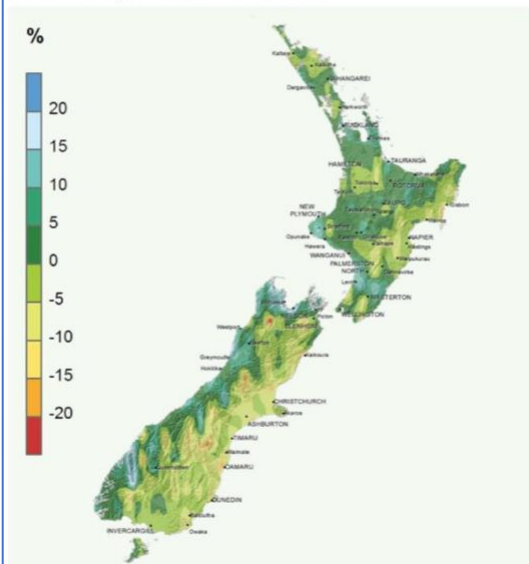
Temperature Change Between 1995 and 2055



Temperature Change Between 1995 and 2090



Rainfall Change Between 1995 and 2055



Rainfall Change Between 1995 and 2090



Note: The New Zealand maps (above) are from NIWA's NZ Climate Change Maps – which use data from the IPCC's Fifth Assessment Report (AR5) based on three representative concentration pathways (RCPs): RCP 2.6, RCP 6.0 and RCP 8.5. As explained on the additional information section of NIWA's Our Future Climate New Zealand website, RCPs 'provide an indication of the rate and amount of global greenhouse gas emissions over the coming decades'. These projections use the climate model BCC-CSM1.1 and indicate the potential impacts of climate change in New Zealand. Our infographic has been inspired by CoastAdapt's Climate Change Infographic.

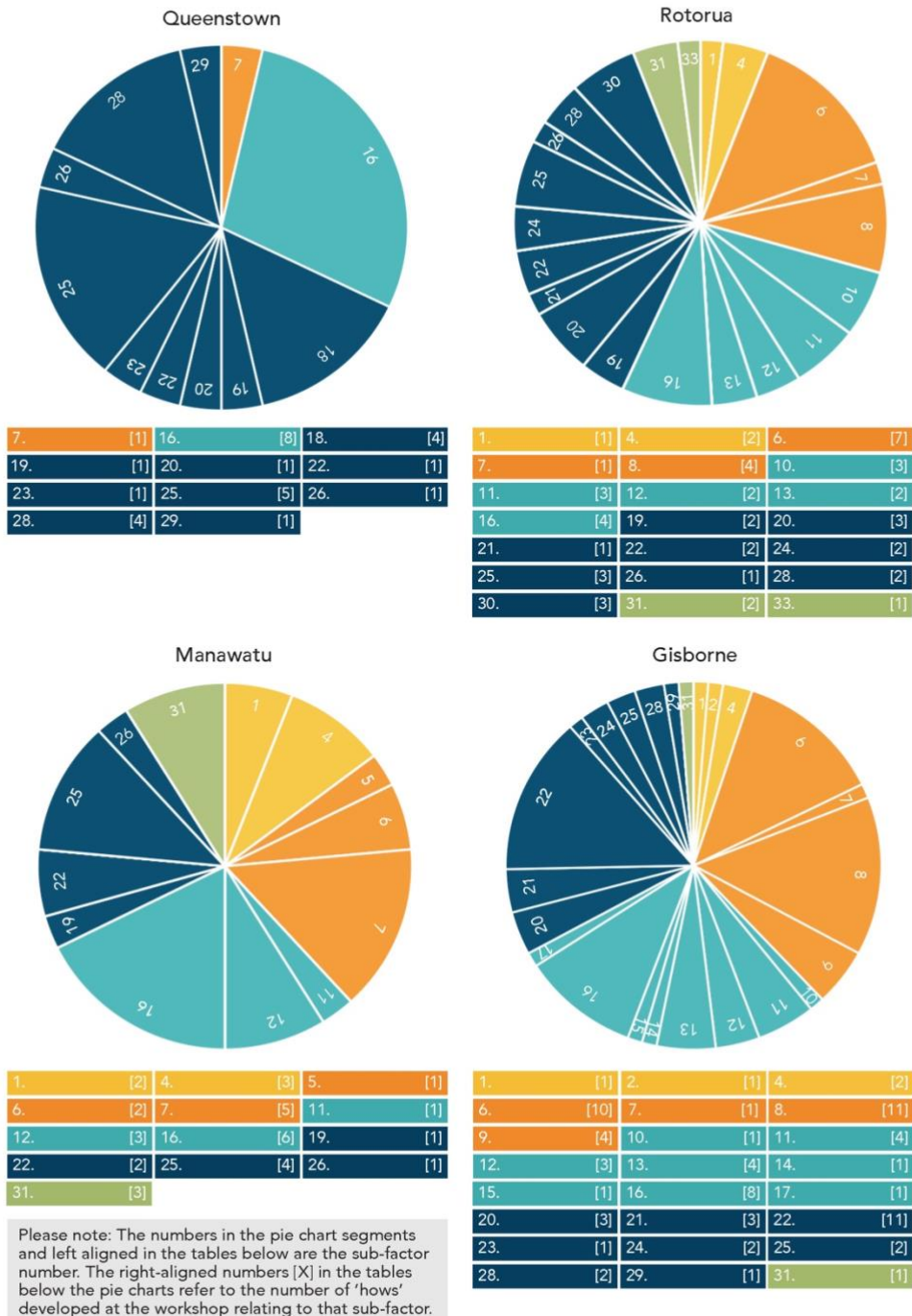
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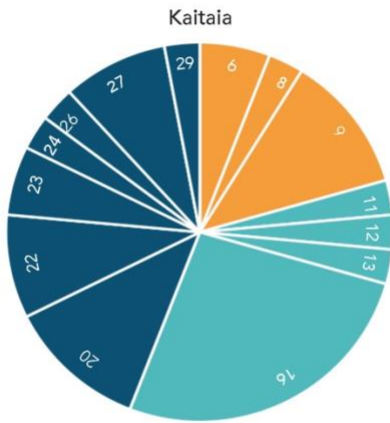
Appendix 3: Tackling Poverty Workshops

These graphs illustrate the different needs for local communities in regard to resolving poverty; as at 2016.

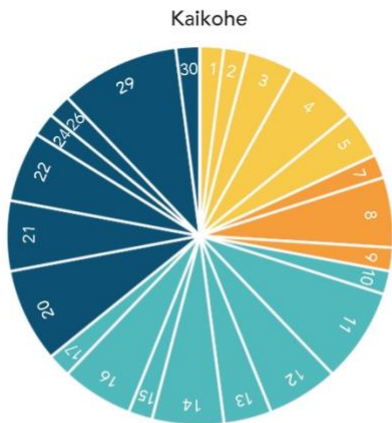
Appendix 10: Infographic of A regional perspective of the talking tour 2016/ He tirohanga a rohe o te haerenga kōrero 2016

A regional perspective of the talking tour 2016/ He tirohanga a rohe o te haerenga





6.	[2]	8.	[1]	9.	[4]
11.	[1]	12.	[1]	13.	[1]
16.	[9]	20.	[2]	22.	[2]
23.	[4]	24.	[2]	26.	[3]
27.	[1]	29.	[2]		



1.	[1]	2.	[1]	3.	[2]
4.	[3]	5.	[2]	7.	[1]
8.	[3]	9.	[1]	10.	[1]
11.	[4]	12.	[3]	13.	[2]
14.	[3]	15.	[1]	16.	[3]
17.	[1]	20.	[4]	21.	[3]
22.	[3]	24.	[1]	26.	[1]
29.	[5]	30.	[1]		

Sustaining factors / Tohu Toitū

Factor I: Survival / Oranga

Providing emergency products and services for survival.

1. Food
2. Clothing and shoes
3. Bedding
4. Shelter (emergency housing)
5. Accessibility

Factor II: Security / Tāmau

Providing a sense of short-term security.

6. Security of income
7. Security of place (social housing)
8. Security of health
9. Security of transport and technology

Factor III: Self-determining individuals / Tangata Motuhake

Providing skills and tools for individuals to live the life they want.

10. Employment literacy
11. Education literacy
12. Health literacy
13. Financial literacy
14. Transportation literacy
15. Technological literacy
16. Civic literacy
17. Housing literacy

Empowering factors / Tohu Whakamana

Factor IV: Self-determining communities / Hapori Motuhake

Providing social infrastructure to meet specific community needs.

18. Resource allocation
19. Community decision making
20. Curriculum, teachers and students
21. Harmful products and services
22. Social infrastructure
23. Community projects
24. Medical services
25. Home ownership, rentals and shared housing (affordable housing)
26. Culture of care
27. Grandparents raising grandchildren
28. Financial assistance and tax systems
29. Local economy
30. Explore innovative ways to package debt

Factor V: Self-determining nation / Iwi Motuhake

Providing a strategic approach that optimises both public good and economic enterprise.

31. Central government strategy to tackle poverty
32. Mental health services review
33. Think Tank: takahanga tuatahi – The first footsteps

Endnotes

- ¹ See page 15 in ‘Comprehensive review of the resource management system’, https://img.scoop.co.nz/media/pdfs/1907/Cabinet_paper_Comprehensive_review_of_the_RM_system_scope_and_process.pdf
- ² See ‘Pace Layers Thinking’, <https://longnow.org/seminars/02015/jan/27/pace-layers-thinking/>
- ³ See ‘Futures Thinking Presentation’, <https://www.mcguinnessinstitute.org/futures-thinking-presentation/>
- ⁴ The Minister notes in his press release of 10 February 2020 that urban areas are struggling to keep pace with population growth and the need for affordable housing, water quality is deteriorating, biodiversity is diminishing and there is an urgent need to reduce carbon emissions and adapt to climate change. See ‘RMA to be repealed and replaced’, <https://www.beehive.govt.nz/release/rma-be-repealed-and-replaced>
- ⁵ See ‘HL Bill 43: Environment Bill’, <https://bills.parliament.uk/bills/2593>
- ⁶ See, for example, Henry Mintzberg, *The Rise and Fall of Strategic Planning* (Free Press and Prentice-Hall, 1994).
- ⁷ See pages 2-3 in ‘Good governance’, <https://oag.parliament.nz/good-practice/docs/good-governance.pdf>
- ⁸ The Freshwater Iwi Leaders Group was formed in 2007 to advance the interests of all iwi in relation to fresh water through direct engagement with the Crown. The group comprises the leaders of Ngāi Tahu, Whanganui, Waikato-Tainui, Te Arawa and Tūwharetoa and reports regularly to all iwi. See <https://iwichairs.maori.nz/our-kaupapa/fresh-water>
- ⁹ Te Wai Māori was established under the Maori Fisheries Act 2004 to advance Māori interests in freshwater fisheries. Protecting Māori interests in freshwater fisheries ultimately means protecting habitat to ensure quality water and abundant species. Freshwater fisheries include species, habitat, surrounding land, water column, water quality and quantity. We are a product of the Deed of Settlement (Māori Fisheries Settlement) 1992 and an entity of Te Ohu Kai Moana Group. See <https://waimaori.maori.nz>
- ¹⁰ See ‘Environmental Limits - A Proposed Framework for Aotearoa New Zealand’, <https://environment.govt.nz/publications/environmental-limits-a-proposed-framework-for-aotearoa-new-zealand>
- ¹¹ See page 34 in ‘NZKS Annual report (2019)’, <https://www.kingsalmon.co.nz/nzk-annual-report-2019/>
- ¹² See ‘Lost in Smoke (2018)’, https://www.greenpeace.org/static/planet4-international-stateless/2018/12/22863407-greenpeace-report_lost-in-smoke_december-2018.pdf
- ¹³ See ‘Inquiry on the Natural and Built Environments Bill: Parliamentary Paper’, https://www.parliament.nz/en/pb/sc/make-a-submission/document/53SCEN_SCF_INQ_111944/inquiry-on-the-natural-and-built-environments-bill-parliamentary
- ¹⁴ See Clause 5 of the draft Bill in Ministry for the Environment/Manatū Mō Te Taiao, ‘Natural and Built Environments Bill’, https://www.parliament.nz/resource/enNZ/PAP_112017/9dc086f746eacef36a4b75ab6602f67f2ffe1e2e
- ¹⁵ See ‘RMA to be repealed and replaced’, <https://www.beehive.govt.nz/release/rma-be-repealed-and-replaced>
- ¹⁶ Ibid.
- ¹⁷ See ‘New interdepartmental executive board for Strategic Planning Act’, <https://environment.govt.nz/news/new-interdepartmental-board-for-strategic-planning-act>
- ¹⁸ The purpose in the Environment Act 1986 is as follows:
An Act to—
(a) provide for the establishment of the office of Parliamentary Commissioner for the Environment;
(b) provide for the establishment of the Ministry for the Environment;
(c) ensure that, in the management of natural and physical resources, full and balanced account is taken of—
(i) the intrinsic values of ecosystems; and
(ii) all values which are placed by individuals and groups on the quality of the environment; and
(iii) the principles of the Treaty of Waitangi; and
(iv) the sustainability of natural and physical resources; and
(v) the needs of future generations.
See ‘Environment Act 1986’, <https://www.legislation.govt.nz/act/public/1986/0127/latest/DLM98975.html>
- ¹⁹ The purpose of Environmental Reporting Act 2015 is ‘to require regular reports on New Zealand’s environment. [and] The Secretary [MfE] and the Government Statistician must jointly produce and publish reports on the following: (a) the air domain, (b) the atmosphere and climate domain, (c) the freshwater domain, (d) the land domain and (e) the marine domain’. Note: This Act links back to the Environment Act 1986. See ‘Environmental Reporting Act 2015’, <https://www.legislation.govt.nz/act/public/2015/0087/latest/DLM5941105.html>

20 The purpose of the Urban Development Act 2020 is to facilitate urban development that contributes to sustainable, inclusive, and thriving communities. (2) To that end, this Act—

(a) provides a mechanism to streamline and consolidate processes for selected urban development projects initiated, facilitated, or undertaken by Kāinga Ora—Homes and Communities (referred to in this Act as Kāinga Ora); and

(b) provides powers for the acquisition, development, and disposal of land used for the purpose of Kāinga Ora performing its urban development functions; and

(c) provides additional powers, rights, and duties for the purpose of Kāinga Ora performing its urban development functions.’

See Subpart 1—Purpose and principles, Part 1 Preliminary provisions in ‘Urban Development Act 2020’, <https://www.legislation.govt.nz/act/public/2020/0042/latest/whole.html#LMS290740>

21 Although we note that provision for urban design, including urban tree cover, was noted as not covered in the draft, but is expected to be included in the final Bill. See provision for urban design, including urban tree cover, page 25, para 74 of the *Parliamentary Paper* in Ministry for the Environment/Manatū Mō Te Taiao, ‘Natural and Built Environments Bill’, https://www.parliament.nz/en/pb/papers-presented/current-papers/document/PAP_112017/environment-ministry-for-the-manat%C5%AB-m%C5%8D-te-taiao-natural

22 The draft Bill contains definitions and clauses that are unclear as to how they might be used to shape outcomes. For example, on page 6, ‘urban form means the physical characteristics that make up an urban area, including the shape, size, density, and configuration of the urban area’ and, on page 8, Clause 8 (k) ‘urban areas that are well-functioning and responsive to growth and other changes, including by— (i) enabling a range of economic, social, and cultural activities; and (ii) ensuring a resilient urban form with good transport links within and beyond the urban area’. We also note that the *Parliamentary paper* states on page 9 that ‘the National Policy Statement on Urban Development [is] yet to be implemented’. However, we were not clear for the reasons for this and whether such a statement is being suggested under the proposed system. We were also unsure if urban area, urban form and urban development were related terms in the proposed legislation. See Ministry for the Environment/Manatū Mō Te Taiao, ‘Natural and Built Environments Bill’, https://www.parliament.nz/en/pb/papers-presented/current-papers/document/PAP_112017/environment-ministry-for-the-manat%C5%AB-m%C5%8D-te-taiao-natural

23 A December 2020 Cabinet paper states:

- ‘that the Resource Management Review Panel (the Panel) undertook a comprehensive review of the resource management system and produced a report entitled *New Directions for Resource Management in New Zealand* (the Report) in June 2020 [and]
- the Report had a strong climate change focus and recommended new Managed Retreat and Climate Change Adaptation legislation (adaptation legislation) to address the complex legal and technical issues associated with managed retreat and establishing an adaptation fund [and]
- that there is significant new policy work required to develop adaptation legislation, which takes time and engagement, particularly for the proposals for managed retreat’.

See page 1 in ‘Adaptation Legislation: Proposed Timelines and Process’, <https://environment.govt.nz/assets/Publications/Cabinet-papers-briefings-and-minutes/minute-adaptation-legislation-min-0121.pdf>

24 See ‘Homes of 240,000 Kiwis in way of worst case 2100 sea level rise, study indicates’, <https://www.stuff.co.nz/environment/climate-news/117013714/homes-of-240000-kiwis-in-way-of-worst-case-2100-sea-level-rise-study-indicates> and ‘New elevation data triple estimates of global vulnerability to sea-level rise and coastal flooding’, <https://www.nature.com/articles/s41467-019-12808-z#Fig2>

25 See ‘Good governance’, <https://oag.parliament.nz/good-practice/docs/good-governance.pdf>

26 See page 3 in ‘Biodiversity, natural capital and the economy’, <https://www.oecd.org/environment/biodiversity-natural-capital-and-the-economy-1a1ae114-en.htm>

27 The Institute submitted in support of this initiative. See ‘Sustainability-related reporting’, <https://www.ifrs.org/projects/work-plan/sustainability-reporting> and the Institute’s own submission, <https://www.mcguinnessinstitute.org/publications/submissions>

28 See ‘Task Force on Climate-related Financial Disclosures’, <https://www.fsb-tcfd.org>

29 See ‘Task Force on Nature-related Financial Disclosures’, <https://tnfd.info>

30 See ‘Threat classifications’, <https://www.doc.govt.nz/nature/biodiversity/biodiversity-new-zealand-resources/biodiversity-references/species/>

31 See ‘Councils by type – Regional’, https://www.localcouncils.govt.nz/lqip.nsf/wpg_url/Profiles-Councils-by-Type-Regional

32 See ‘Environment Aotearoa 2019: New Zealand’s Environmental Reporting Series’, <https://environment.govt.nz/publications/environment-aotearoa-2019>

33 See page 75 in ‘Making Peace with Nature’, <https://wedocs.unep.org/xmlui/bitstream/handle/20.500.11822/34948/MPN.pdf>

34 “The components of the precautionary principle are still evolving. Some countries avoid using the term
“principle,” preferring to call it a “precautionary approach,” since it carries less legal weight.’ See
<https://www.iisd.org/articles/precautionary-principle> Notably, ‘[i]n *Bleakley v Environmental Risk*
Management Authority the High Court noted a distinction between the precautionary principle (an
international law concept) and the precautionary approach outlined in section 7. The Court also indicated
that section 7 does not require the exercise of caution where there is social or ethical uncertainty.’ See
<http://www.environmentguide.org.nz/activities/genetic-modification/purpose-and-principles>

35 See ‘Scope of the review’ in ‘The independent review of the resource management system’,
[https://environment.govt.nz/what-government-is-doing/key-initiatives/resource-management-system-](https://environment.govt.nz/what-government-is-doing/key-initiatives/resource-management-system-reform/r/#scope-of-the-review)
[reform/r/#scope-of-the-review](https://environment.govt.nz/what-government-is-doing/key-initiatives/resource-management-system-reform/r/#scope-of-the-review)

36 See ‘Interim regulatory impact statement: Reforming the resource management system’,
[https://environment.govt.nz/assets/publications/7-Interim-regulatory-impact-statement-Reforming-the-](https://environment.govt.nz/assets/publications/7-Interim-regulatory-impact-statement-Reforming-the-resource-management-system-signed-15-06-2021.pdf)
[resource-management-system-signed-15-06-2021.pdf](https://environment.govt.nz/assets/publications/7-Interim-regulatory-impact-statement-Reforming-the-resource-management-system-signed-15-06-2021.pdf)

37 See ‘HL Bill 43: Environment Bill’, <https://bills.parliament.uk/bills/2593>

38 See ‘Environment (Wales) Act 2016’, <https://www.legislation.gov.uk/anaw/2016/3/contents/enacted>

39 See ‘Well-being of Future Generations (Wales) Act 2015’, [https://www.futuregenerations.wales/wp-](https://www.futuregenerations.wales/wp-content/uploads/2017/01/WFGAct-English.pdf)
[content/uploads/2017/01/WFGAct-English.pdf](https://www.futuregenerations.wales/wp-content/uploads/2017/01/WFGAct-English.pdf)

40 See ‘Charter for the Environment’, [https://www.conseil-](https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/charter_environment.pdf)
[constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/charter_environment.pdf](https://www.conseil-constitutionnel.fr/sites/default/files/as/root/bank_mm/anglais/charter_environment.pdf)

41 See ‘Agenda 2030 and the Global Goals for Sustainable Development’,
[https://www.swedishepa.se/Environmental-objectives-and-cooperation/The-Global-Goals-and-the-2030-](https://www.swedishepa.se/Environmental-objectives-and-cooperation/The-Global-Goals-and-the-2030-Agenda-for-Sustainable-Development)
[Agenda-for-Sustainable-Development](https://www.swedishepa.se/Environmental-objectives-and-cooperation/The-Global-Goals-and-the-2030-Agenda-for-Sustainable-Development)