30 MAY 2013




LOCAL GOVERNMENT NEW ZEALAND SUBMISSION

In the matter of the Housing Accords and Special Housing Areas Bill

To the Social Services Select Committee

Submission by Local Government New Zealand

IN THE MATTER OF:

Housing Accords and Special Housing Areas Bill

To the Social Services Select Committee

Introduction

1. Local Government New Zealand (LGNZ) welcomes the opportunity to submit on the Housing Accords and Special Housing Areas Bill.
2. LGNZ wishes to be heard on this submission.
3. LGNZ is a member based organisation representing all 78 local authorities in New Zealand. LGNZ's governance body is the National Council. The members of the National Council are:
    - Lawrence Yule, President, Mayor, Hastings District Council
    - John Forbes, Vice-President, Mayor, Opotiki District Council
    - John Bain, Zone 1, Deputy Chair, Northland Regional Council
    - Richard Northey, Zone 1, Councillor, Auckland Council
    - Meng Foon, Zone 2, Mayor, Gisborne District Council
    - Jono Naylor, Zone 3, Mayor, Palmerston North City Council
    - Adrienne Staples, Zone 4, Mayor, South Wairarapa District Council
    - Maureen Pugh, Zone 5, Mayor, Westland District Council
    - Tracy Hicks, Zone 6, Mayor, Gore District Council
    - Len Brown, Metro Sector, Mayor, Auckland Council
    - Dave Cull, Metro Sector, Mayor, Dunedin City Council
    - Stuart Crosby, Metro Sector, Mayor, Tauranga City Council
    - Brendan Duffy, Provincial Sector, Mayor, Horowhenua District Council
    - Stephen Woodhead, Regional Sector, Chair, Otago Regional Council
    - Fran Wilde, Regional Sector, Chair, Greater Wellington Regional Council.
4. This submission has been prepared under the direction of the National Council. Councils may choose to make individual submissions. The LGNZ submission does not derogate from these individual submissions.
5. The Bill was discussed extensively at the Metro Sector meting on Friday May 25th and this submission reflects the views of that meeting.
6. The final submission was endorsed under delegated authority by Lawrence Yule, President, LGNZ and Penny Hulse, Chair, Metro Sector Group.
7. LGNZ wishes to be heard by the Social Services Select Committee. We have suggested amended wording of key provisions and identified many issues of workability that need to be addressed.
8. LGNZ requests the opportunity to review the draft legislation before it is finalised.

Key points

The local government sector fully understands the rationale behind the Housing Accords and Special Housing Areas Bill. We support many aspects of the Bill but there are key matters we diverge on - the principal matter we do not support is the "override" provision proposed.

Housing affordability is a significant issue for the country – the situation in Auckland has macroeconomic effects. In other areas where there are "severe" or "serious" issues of housing affordability, while the effects may not be felt at a "macro-economic" level, the councils in these areas welcome tools to try to help deal with the issue. Councils want to work closely with central government on ways to address the issue of housing affordability. A housing accord reflects this spirit of partnership – however no status is given to an accord once it has been negotiated. We have suggested how this can be remedied.

The Resource Management Act prescribes processes councils are required to implement and administer, which notably include the "plan making" framework and the resource consent process. Aspects of these processes can be time-consuming. These processes, in particular the "plan making process", require significant investment by councils, communities and stakeholders in their development. The resulting "plan" reflects the community's aspirations and should not be undermined or overreached.

As drafted, the Bill has the potential to have significant implications on the planned provision of infrastructure to support planned growth in a district. The Bill does not adequately factor in the cost of providing infrastructure to new Special Housing Areas. Councils are required by core legislation[1] to take an integrated approach to planning – to provide for a land use pattern that is integrated with infrastructure.

The processes in the Bill do not adequately address, or require decision-makers to appropriately consider, the integrated and well-managed provision of infrastructure that is essential for new residential development. In particular, there is insufficient detail in the Bill to ensure that infrastructure is appropriately considered when: regions or districts are identified for inclusion in Schedule 1; Housing Accords are negotiated; Special Housing Areas are declared; or through the assessment of an application for resource consent or a plan change/variation under the Bill.

The very narrow criteria in the Bill (clauses 16 and 17) do not enable a robust assessment of whether a Special Housing Area is required and whether it can be adequately and affordably serviced by essential infrastructure.

These are the key points of the submission:

1. We support the availability of streamlined processes to facilitate an increase in land and housing supply, on the basis that councils have a role in deciding when and where those processes can be used.
2. We do not support the "reserve" or "override" powers in the Bill that allow a central government department to supplant councils as the regulatory decision-maker in qualifying circumstances. This is at odds with the concept of an "accord" between central and local government. Decisions have

[1] Resource Management Act 1991

Local Government Act 2002

Land Transport Management Act 2003

the potential to impact on a council's planned provision of infrastructure and ad hoc decisions could lead to fragmented decisions about the provision of infrastructure.

3. The Bill does not provide the right balance between "streamlining of process" and an appropriate decision-making process.
4. There are matters of workability that need to be addressed.

We also have concerns about the potential breadth of regulations enabled under the Bill and their likely significance. The matters to be dealt with through regulations should be directly addressed within the Bill (either as substantive provisions or as more detailed empowering provisions for the creation of regulations).

1. Streamlining of process

Local Government New Zealand supports the intention of the Bill to streamline the resource consent and plan change processes. We are, however, concerned that the Bill has not achieved an appropriate balance between "streamlining" and giving weight to the community's existing plans (including operative and proposed planning instruments under the Resource Management Act 1991 (RMA), and plans prepared and consulted on under the Local Government Act 2002).

2. The "override provision"

LGNZ does not support the Bill's "override" provisions that the Bill proposes. On the recommendation of the Minister of Housing an area within a scheduled region or district can be declared to be a Special Housing Area. Where a region or district is listed on Schedule 1 but a housing accord has not been reached between the Minister and the relevant council, the Bill provides that the Chief Executive of MBIE (or their delegate) has the power of an authorised agency with respect to resource consents for qualifying developments and consequential processes relating to approval of subdivisions and enforcement matters. We reject these provisions.

The power to make decisions on resource consents by overriding a local authority potentially exposes a council to risk. A council's long term plan and planned provision of infrastructure is closely based on its district plan which is one of the implementation tools of its growth strategy. The Bill decouples this relationship by reducing the status both of Part 2 of the RMA and the status of its district plan(s) in the decision-making criteria for the streamlined resource consent process (clause 32).

The Bill fails to acknowledge that one of the major impediments impacting housing supply is the lack of appropriate lead-in infrastructure (such as major roads and water and waste-water services). A council's infrastructure programme is aligned with its land-use and planning framework. The Bill creates a scenario where proposals could be approved which do not have the required lead-in infrastructure to service them. The Bill also creates a scenario where new residential areas could be developed in isolation from areas where existing infrastructure is already provided.

Clause 16, enabling the creation of a Special Housing Area, needs to include criteria to account for zoning and servicing that is already in place.

In summary - we are concerned at the prospect that the authorised agency making a decision on a resource consent application may not be the relevant council, because:

- The grant of a resource consent through the streamlined process provided in the Bill may have unintended and unpredictable effects on existing council plans, assumptions and forecasts. Where a council enters into a housing accord, its ability to control the locations of Special Housing Areas

means it has a chance to mitigate those impacts. Where Special Housing Areas are established solely on the Minister's recommendation and a central government authorised agency makes decision on resource consent applications (applying the new decision-making test with its emphasis on achieving the purpose of the Bill), the council's aspect of control is removed and the impacts on its existing plans are likely to be greater.

- Decisions have the potential to impact on a council's planned provision of infrastructure.
- Ad hoc decisions could lead to fragmented decisions about the provision of infrastructure.
- This will potentially affect a council's asset planning and funding arrangements and a council's credit rating may be negatively impacted. In light of these issues, the Bill must be absolutely clear about the roles of local authorities and applicants in the funding and provision of infrastructure for qualifying developments, including consequential upgrades to existing network services.
- An authorised agency or delegate that is not a territorial authority is unlikely to have the capability and resources to deal with the technical/transactional aspects of the subdivision process.

Recommendations:

Remove or amend the clauses of the Bill:

- That empower the Minister to establish a Special Housing Area without first receiving a recommendation from an accord territorial authority (clause 16); and
- That identify the Chief Executive of MBIE as an "authorised agency" for the purposes of the streamlined resource consent process (primarily clauses 23, 82).

Amend clause 16 of the Bill to:

- Add a criterion allowing the existing provision (zoning and servicing) of land in a district to be taken into account when considering whether a Special Housing Areas needs to be declared.

Amended wording to clause 16 is suggested.

3. Balance between streamlining and an appropriate decision-making process

The Bill provides for a streamlining of the resource consent process and the plan making process. We support this intention.

The Bill, however, does not provide for the right balance between "streamlining of process" and an appropriate decision-making process. Aspects of the standard RMA decision-making tests are cherry-picked and incorporated into the Bill, but are expressly subsidiary to the Bill's stated purpose. This is at the expense of the council's relevant plans in the consideration of an application. These plans represent an extensive investment by councils, the community, and stakeholders and they are given little weight in the proposed decision-making process. We do not consider that streamlining of process should be at the expense of plan integrity. We would still expect significant gains to be made by providing for a streamlined process while still giving weight to existing and proposed plans.

The streamlined processes in clauses 29 (resource consent) and 62 (plan changes) provide for a limited class of people who need to provide written approvals. This is intended to provide appropriate safeguards to ensure quality decisions and that the potential adverse effects of resource consents and plan changes/variations are robustly assessed and addressed. We do not agree that the process proposed will

enable this, or that it is appropriate. The pendulum has swung too far in the direction of speed, away from community involvement and the robust assessment of environmental effects. The erosion of this check is heightened by the limited appeal and objection rights proposed in the Bill.

We do not support the lack of status provided for existing plans in the decision-making process for either a resource consent or a plan change process. Clause 61 has the effect of nullifying those sections of the Regional Policy Statement (RPS) which are not consistent with the purpose of the Bill. Sections of an RPS will restrict the land available for residential development for reasons unrelated to urban limits - such as natural hazards. This is disregarded in the decision-making framework proposed in the Bill.

Tied to this is the difficulty that a housing accord does not have any status as a substantive element in determining an application for resource consent or a request for a plan change or variation. If it is assumed that a housing accord, in defining an appropriate "qualifying development", has relevance to plan provisions then it is clearly important that a housing accord should be a relevant matter for assessment in a resource consent or plan change/variation process.

Related to this matter is that the criteria for a 'qualifying development' should be broader to include further matters which reflect district plan provisions. These could include provision of/proximity to community facilities and transport.

Recommendations:

- Amend clause 32 so the proposed decision-making process strikes an appropriate balance in the resource-consent process between the purpose of the Bill and the purpose of the RMA – by giving greater weight to the RMA-related items, including RMA planning instruments
- Amend clause 61 so the proposed decision-making process strikes an appropriate balance in the plan-change process between the purpose of the Bill and the purpose of the RMA – by giving greater weight to the RMA-related items, including RMA planning instruments
- Amend the criteria for a 'qualifying development' so they are broader (not limited solely to building height and minimum dwelling numbers) and provide the flexibility to include matters relevant to existing/proposed district plan provisions.

Amended wording to clauses 14, 17, 32 and 61 is suggested.

4. Issues of workability

We have also identified many practical matters which need to be addressed in the Bill. The table below identifies these matters with suggested amendments.

Recommendation:

That the matters listed in the table below are considered and addressed.

Amendments to key provisions: clauses 14, 16, 17, 32 and 61

Clauses relating to the criteria for qualifying developments

14 Meaning of qualifying development

In this Act, a qualifying development is a development that—

(a) is predominantly residential; and

(b) meets the criteria (as they may be varied from time to time by Order in Council made under section 18)—

(i) concerning maximum height, as prescribed under section 15(1)(a) or declared by Order in Council under section 17(3); ~~and~~

(ii) concerning the minimum number of dwellings to be built, as prescribed under section 15(1)(b) or declared by Order in Council under section 17(3~~).~~); and

(iii) otherwise declared by Order in Council under section 17(3).

15 Criteria for qualifying developments

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, prescribe the following criteria that a development must meet (in addition to the criterion that the development be predominantly residential) in order to be a qualifying development in a scheduled region or district:

(a) the maximum height that houses and other buildings forming part of the development may be, or the number of storeys or floors (not exceeding 6) that they may have:

(b) the minimum number of dwellings to be built as part of the development.

(2) The Minister must make a recommendation under subsection (1) not later than 30 days after the date on which this Act receives the Royal assent.

16 Process for establishing special housing areas

(1) The Governor-General may, by Order in Council made on the recommendation of the Minister, declare an area within a scheduled region or district to be a special housing area for the purposes of this Act.

(2) Before making a recommendation under this section, the Minister must have regard to existing geographic boundaries, the relevant district plan, and any relevant proposed district plan to ensure that the boundaries of the proposed special housing area are clearly defined in the Order in Council and easily identifiable in practice.

(3) The Minister must not recommend the making of an Order in Council under this section unless the Minister is satisfied that,—

(a) with the appropriate reserves, network infrastructure, and community infrastructure, the proposed special housing area could be used for qualifying developments; and

(b) the appropriate reserves, network infrastructure, and community infrastructure can be efficiently and affordably provided within the proposed special housing area, having regard to:

(i) the location of existing reserves, network infrastructure, and community infrastructure within the relevant district;

(ii) the relevant long-term plan;

(iii) any relevant instrument adopted under Part 6, Subpart 3 of the Local Government Act 2002;

(iii) the relevant regional land transport strategy;

(iv) any other growth strategy, asset funding plan or policy, or similar instrument adopted by the relevant territorial authority.

(~~b~~c) there is evidence of demand to create qualifying developments in specific areas of the scheduled region or district; and

(~~c~~d) there will be demand for residential housing in the proposed special housing area.

(4) Despite a proposed special housing area being within a scheduled region or district, the Minister must not recommend the making of an Order in Council under this section where—

(a) the area is within the district of an accord territorial authority, unless—

(i) the Minister's recommendation is made on the recommendation of the accord territorial authority under section 17; or

(ii) public notice of the intention to terminate the housing accord has been given in accordance with section 13; or

(b) there is no housing accord between the Minister and the territorial authority for the district in which the area is situated, unless—

(i) the territorial authority and the Minister have been parties to a housing accord and the accord has been terminated; or

(ii) the Minister, after endeavouring to negotiate in good faith with the territorial authority in an attempt to conclude a housing accord, has been unable to reach an agreement with that territorial authority.

(5) The Minister has no obligation to recommend the making of an Order in Council under this section, even if the Minister is satisfied that all criteria for making a recommendation are met.

17 Establishing special housing areas in district covered by housing accord

(1) An accord territorial authority may, at any time, recommend to the Minister that 1 or more areas within the district of the accord territorial authority be established as special housing areas.

(2) An accord territorial authority, when recommending to the Minister that a special housing area be established, may also recommend that ~~1 or both of~~ the criteria prescribed in accordance with section 15(1) be varied or added to for qualifying developments in the special housing area.

(3) An Order in Council made under section 16, declaring an area within the district of an accord territorial authority to be a special housing area, may also declare the varied criteria that apply, in substitution for the criteria prescribed under section 15(1), for qualifying developments in that area if—

(a) the Minister's recommendation to make the Order in Council includes a recommendation that the Order in Council include a declaration to that effect; and

(b) the Minister's recommendation is in accordance with a recommendation of the accord territorial authority made under subsection (2).

(4) Criteria declared in substitution for, or in addition to, the criteria prescribed under section 15(1) may (without limitation) include the height or capacity prescribed in a plan or proposed plan applying to the

special housing area or some other height or capacity fixed by reference to the height or capacity prescribed in such a plan or proposed plan.

(5) However, no criterion that would enable houses and other buildings to have more than 6 floors may be declared to apply in substitution for the criterion prescribed under section 15(1)(a).

18 Varying criteria for qualifying developments after special housing area established

(1) At any time after the Governor-General declares an area to be a special housing area under section 16, the Governor-General may, by Order in Council made on the recommendation of the Minister, declare varied criteria that apply, in substitution for any of the criteria prescribed in accordance with section 15(1) or 17(3), for qualifying developments in the special housing area.

(2) If the special housing area is within the district of an accord territorial authority, the Minister may recommend that an Order in Council be made under subsection (1) only if that recommendation is in accordance with a recommendation of the accord territorial authority.

Clauses relating to the decision-making test for resource consents

32 Process and requirements for decisions on applications

(1) The authorised agency~~, following consideration of an application for a resource consent in accordance with subsection (2),~~ must reach a decision whether to grant the consent and, if so, whether to do so subject to any conditions, in accordance with subsection (2)~~on a basis that is consistent with, and gives effect to, the purposes of this Act~~.

(2) An authorised agency, when considering an application for a resource consent under this Act, must have regard to—

(a) ~~have regard to, and give the most weight to,~~ the purpose of this Act; and

(b) ~~take into account~~ the following matters, giving weight to them in the order listed:

(i) the matters that would arise for consideration under Part 2 and sections 104 to 104E of the Resource Management Act 1991 were the application being assessed under that Act, except that if, in the authorised agency's opinion, any relevant provisions of a proposed plan or proposed regional policy statement give better effect to the purpose of this Act than the provisions of a plan or regional policy statement, the authorised agency may disregard any provisions of the plan or regional policy statement that are inconsistent with the provisions of the proposed plan or proposed regional policy statement:

(ii) the key urban design qualities expressed in the Ministry for the Environment's *New Zealand Urban Design Protocol* (2005) and any subsequent editions of that document:~~.~~

(c) any housing accord that is in force in the relevant district.

(3) An authorised agency must not grant a resource consent that relates to a qualifying development unless it is satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development.

(4) For the purposes of subsection (3), in order to be satisfied that sufficient and appropriate infrastructure will be provided to support the qualifying development, the matters that the authorised agency must take into account, without limitation, are—

(a) compatibility of infrastructure proposed as part of the qualifying development with existing infrastructure; and

(b) compliance of the proposed infrastructure with relevant standards for infrastructure published by relevant local authorities and infrastructure companies; and

(c) the capacity for the infrastructure proposed as part of the qualifying development and any existing infrastructure to support that development.

(5) In considering an application for a resource consent under this section, the authorised agency—

(a) may direct an affected infrastructure provider to provide any information that the authorised agency considers to be relevant in the circumstances to its consideration of the application; and

(b) if the authorised agency is the chief executive, the authorised agency may also direct any local authority to provide any information that the authorised agency considers to be relevant in the circumstances to its consideration of the application.

(6) The Ministry must ensure that a copy of the document referred to in subsection (2)(b)(ii), or a link to that document, is on the Ministry's Internet site and that members of the public can easily access the document via that site, free of charge, at all reasonable times.

Clauses relating to the decision-making test for plan changes/variations

61 Requests for changes to plan or variation to proposed plan

(1) A person who wants to undertake an activity relating to a qualifying development may request the authorised agency to change the plan in accordance with sections 62 to 70 if the relevant district plan does not provide for any residential development in the relevant special housing area and—

(a) there is no provision for activities relating to qualifying developments in a proposed plan; or

(b) a proposed plan describes the activity as a prohibited activity.

(2) A person who wants to undertake an activity relating to a qualifying development may request the authorised agency to vary the proposed plan in accordance with sections 62 to 70 if the plan does not provide for any residential development in the relevant special housing area and—

(a) a proposed plan anticipates that the land to which the request applies will be available in future for residential development; but

(b) the proposed plan does not provide any rules that will apply to that development.

(3) A request to change or vary a plan under this section—

(a) may be made at the same time as, or before, an application for a resource consent that relates to the qualifying development; and

(b) must—

(i) be made in writing; and

(ii) relate only to changes or variations necessary to facilitate the consideration of a resource consent application for 1 or more qualifying developments; and

(iii) explain the purpose of, and reasons for, the requested plan change or variation; and

(iv) contain an evaluation in accordance with section 32(3) to (5) of the Resource Management Act 1991 for any objectives, policies, rules, or other methods proposed; and

(v) if environmental effects are anticipated, describe those effects, taking into account the provisions of Schedule 4 of the Resource Management Act 1991, in a degree of detail that corresponds with the scale and significance of the actual or potential environmental effects anticipated from implementation of the change or variation.

(4) The authorised agency, when considering a request for a plan change or variation under this section, must have regard to—

(a) ~~give effect to~~ the purpose of this Act; ~~and~~

(b)

~~have regard to—~~

~~(i)~~ Part 2 of the Resource Management Act 1991; ~~and~~

(~~ii~~c) the matters in section 74 of the Resource Management Act 1991, except that, for the purposes of section 74(2), the authorised agency must only give effect to those parts of the regional policy statement that are consistent with the purpose of this Act; and~~.~~

(d) any housing accord that is in force in the relevant district.

(5) Part 3 of Schedule 1 of the Resource Management Act 1991 applies to a plan change or a variation to a proposed plan requested under this subpart.

Other amendments sought/issues to be addressed

Issue	Amendment sought
Part 1, Subpart 1 - Preliminary provisions	
Clause 9 – Power to amend Schedule 1	Provide a process to enable consultation with affected local authorities to be consulted before a region or district is added to, or deleted from, Schedule 1. Provide criteria to enable a thorough assessment of a TA's existing planning framework, supply of zoned residential land, infrastructure capacity and physical constraints before inclusion on Schedule 1
Part 1, Subpart 2 - Provisions relating to housing accords, qualifying developments, and special housing areas	
Clause 10 – Minister may enter into a housing accord The Bill is silent on how decision-making principles and processes in the Local Government Act 2002 apply to the decision to enter into a housing accord and to negotiate its terms	Clarify whether the decision-making principles and processes in the Local Government Act 2002 apply to the decision to enter into a housing accord and to negotiate its terms. If the intent is that the LGA 2002 is to be overridden then state this in the enabling legislation.
Status of a housing accord in the balance of the Bill including a resource consent process	Provide that a housing accord is a relevant matter to be taken into account when determining an application for resource consent under section 32, or a request for a plan change or variation under clause 61.
Clause 14 - Meaning of "qualifying development"	Provide a definition of 'predominantly residential' as it is vague and needs to be defined. See amended wording above for clause 14
Clause 15 - Criteria for qualifying developments	Provide wider criteria for 'qualifying development' to reflect district plan provisions, e.g. provision of/proximity to community facilities and transport.

Clause 16 – Process for establishing Special Housing Areas	Amend clause 16 so that a SHA is not able to be declared without a housing accord in place. Amend the Bill to include the factors that an ATA must take into account before recommending the establishment of a SHA. Amend the reference to 'appropriate infrastructure' to clarify that it includes roads, three waters, transport and community facilities, and any other relevant type of infrastructure. See amended wording for clause 16.
Clause 17 – Establishing Special Housing Areas in districts covered by housing accord	Clarify what 'without limitation' means. See amended wording above for clause 17.
Part 2, Subpart 1 - Preliminary provisions	
Clause 23 – Functions and powers in this Part to be performed or exercised by an authorised agency	Amend the Bill to remove the identification of the Chief Executive of MBIE as an "authorised agency" for the purposes of the streamlined resource consent process and the related provision Clause 82 (see fuller discussion above).
Part 2, Subpart 2 - Resource consents	
Clauses 25 and 26 - Applications relating to prohibited activities	Amend the Bill to remove the ability to make an application for a qualifying development that is classified as a prohibited activity under an operative district plan and a proposed district plan (see fuller discussion above).
Clause 28(2) – Further information	Clarify the term 'relevant local authority' in clause 28(2). Amend the Bill to allow local authorities to withhold some types of information (e.g. commercially sensitive information) that is requested under clause 28 (n.b. similar issue arising in relation to clause 32(5)(b)). Clarify whether a local authority can be compelled to provide information not held at the time of a further information request, such as a *de facto* section

	42A report in relation to a resource consent application under the Bill (n.b. similar issue arising in relation to clause 32(5)(b)).
Clause 29(2) – No requirement to notify application or hold hearing	If the intention is that an authorised agency 'must' notify an application in qualifying circumstances (e.g. the written approvals are not provided by affected parties) then amend the clause by replacing 'may' with 'must'. If the intention is that an authorised agency 'may' notify an application then include some criteria for this decision. The resource consent process does not line up with the plan change process. Amend clause 29 to provide that notification is not required if the applicant obtains written approvals from all affected adjoining owners (including NZTA, where relevant). Amend clause 29(2) to provide that relevant local authorities automatically have standing to make submissions on applications notified under clause 29(2). Amend clause 29(5) to require submissions to be copied to any relevant local authority, in addition to the applicant.
Clause 30 - Hearing date and notice	Amend clause 30 to provide that an applicant and/or a relevant local authority can request a hearing for a resource consent application, in addition to submitters.
Clause 32 - Decisions on applications	Amend clause 32 so the proposed decision-making process strikes an appropriate balance between the purpose of the Bill and the purpose of the RMA – by giving greater weight to the district plan provisions See fuller discussion and amended wording above for clause 32
Clause 41 – 49 Subdivisions	Amend clause 43 to require the relevant territorial authority to be consulted before an authorised agency approves a survey plan under section 223(3) of the RMA (i.e. as conclusive evidence that the territorial authority accepts that all roads, private roads, reserves etc under the RMA and the Local Government

	Act 1974). An authorised agency or delegate that is not a territorial authority will not have the capability and resources to deal with the technical/transactional aspects of the subdivision process. A simple amendment to the Bill cannot rectify this matter. This is a further reason why the "override" provision is not workable either in principle or for technical reasons.
Clause 58 – certification of infrastructure	Clarify the consequences if the certification requirement for infrastructure is not satisfied
Clause 59 – monitoring of resource consents	Clarify the enforcement powers that an authorised agency has for the monitoring of resource consents. Address what happens in respect of monitoring when the Bill expires.
Part 2, Subpart 3 - Requests for plan changes and variations to proposed plans	
Clause 61 – Requests for changes to plan or variation to proposed plan	Clarify what 'provide for any residential development' means. Does it require permitted activity status? What if it is residential development of a different scale or character to that associated with qualifying developments? How is it distinguished from their being 'no provision for activities relating to qualifying developments'? Clarify whether a plan change/variation requested under clause 61 is a relevant planning instrument for the purposes of clause 32 (i.e. the substantive decision on simultaneously sought resource consent)? If not, then there is no guidance as to how a plan change/variation is relevant to a simultaneous resource consent application made in accordance with clause 61(3)(a). The section 32 evaluation required by clause 61(3)(b)(iv) is not altered to reflect the substantive decision-making test in clause 61(4), which invokes the

	purpose of the Bill. As drafted the section 32 report will focus on the purpose of the RMA, whereas that is subservient to the purpose of the Bill under clause 61(4). Amend 61(4) to give greater status to operative and proposed district plans. See fuller discussion and amended wording above for clause 61
Clause 62 – Process for requests where adjoining owners give prior approval	Amend 61(4) to ensure the potential adverse effects of plan changes can be robustly assessed. The clause 62 process gives too much power to 3rd parties (potentially affected parties), at the expense of the wider community
Clause 65 – Authorised agency to consider request	Amend clause 65 to provide guidance about the circumstances in which the authorised agency can/should adopt, accept or reject a request (in whole or part). Amend clause 65 to *provide longer than* 10 working days to make a decision to adopt, accept or reject a plan change/variation.
Clause 66 – Preparation of plan change or variation, notification, and submissions	Amend *c*lause 66 so that an authorised agency that *accepts* a request for a plan change/variation is not then required to 'prepare' the change/variation in consultation with the requestor (i.e. this should be done by the requestor before a request is made). Amend clause 66(c) to delete the reference to submissions by the relevant local authority, given that the relevant local authority will be the authorised agency (unless this is intended to allow other local authorities, such as a regional council, to submit on the plan change/variation).
Clause 72- Interface between concurrent plan change or variation processes under this Act and Resource Management Act 1991	There are a number of issues that have been identified with these provisions that need to be addressed by way of amendment: - When does a plan change/variation under the Bill 'relate to a matter in a plan or proposed plan under the RMA? Is a relationship with the same area of land sufficient (i.e. a competing use)?

	- What is the status of the process that is halted? Clause 72(2)(b)(ii) simply says no further action will be taken in relation to it. Can it resume once the Act is repealed? What is the status of withdrawn submissions if that occurs?
Part 2, Subpart 4 - Other provisions of the RMA that apply	
Clause 73 – Other provisions of the RMA applying	- Address whether development contributions can be charged in relation to resource consents being issued by a non-council authorised agency. This is not a charge under the RMA but a charge under the LGA2002 - Amend clause 73 to clarify whether an authorised agency can require a local authority to provide a report under section 42A of the RMA
Part 2, Subpart 5 - Provisions relating to rights of appeal and objection	
Clause 75 – Limited right of appeal and objection	This Bill has not struck the right balance between the limited appeal and objection rights given the uncertainties in the decision-making processes provided in Part 2 of the Bill and their potential implications for the community and the environment (see fuller discussion above).
Part 2, Subpart 6 - Miscellaneous	
Clause 82 – Chief executive has powers of consent authority	Amend this provision and the related definition of "authorised agency" (see fuller discussion above).
Clause 87 – Accord territorial authority may appoint panel	Amend the Bill to require that delegates exercising the functions and powers of an authorised agency must have completed the Ministry for the

	Environment's 'Making Good Decisions' course.
Clause 88 - Regulations	Given the potential breadth of regulations enabled under the Bill and their likely significance, the matters should be directly addressed within the Bill (either as substantive provisions or as more detailed empowering provisions for the creation of regulations).
Other matters	
Administrative matters	There are no clauses of the Bill that cover administrative matters such as record keeping or information requests – these are not covered by Schedule 2 as they concern compliance with other acts or other obligations at the same time as the Bill is in force.
Definition of territorial authority	A definition of territorial authority does not include a regional council. This may have implications for the granting of resource consents for regional functions if it is not addressed.