NBE Bill consenting briefing for RM Advisory Group, 29 November 2022

Process	The Natural and Built Environment Bill was introduced to Parliament on Tuesday 15 November and has been referred to select committee. Submissions are open until Monday 30th January 2023.
Background	NZPI published a position paper on consenting under the new system prior to the release of the NBE Bill. The position paper is available here: here This briefing paper assesses the consenting aspects of the NBE Bill against the positions in that paper.
Documents	The NBE Bill can be found here
Abbreviations	NBE Bill Natural and Built Environment Bill NPF National Planning Framework NBE Plan Natural and Built Environment Plans
Summary of consenting under NBE Bill	The NBE Bill does not propose to make wholesale changes to the existing consenting provisions under the RMA. Key changes include: - Only four activity categories – permitted, controlled, discretionary and prohibited. - Controlled activities can now be refused. - A stated 'purpose of notification' is included. - When identifying affected persons, consent authority must weigh positive effects of the activity against adverse effects on that person. - Public notification must occur where, amongst other things, there are 'relevant concerns from the community'. - Controlled activities are not publicly notified unless a NBE Plan or NPF states otherwise. - Discretionary activities must be publicly notified unless a NBE Plan or NPF states otherwise. - Consent authority can recover costs of iwi engagement on its behalf or on behalf of iwi. - Consent authorities can waive compliance with permitted activity standards if marginal non-compliance and effects not dissimilar to complying situation. - Additional criteria proposed to temper further information sought by consent authorities. - Provision for exclusion of applicant's review of draft conditions from mandated timeframes. - Matters to be considered when assessing applications include, amongst other things, contribution to outcomes, state of future environment as identified in NBE Plan or NPF, and applicant's track record. - Additional matters that must not be considered include effects on scenic views, visibility of commercial signage, and use of land by people on low incomes, with special housing needs, or disabilities.

	- Consent authorities must not grant an application that is contrary to an environmental limit or target. - Conditions can be imposed requiring an adaptive management approach. - Provisions proposed setting out a streamlined process for alternative dispute resolution. - Water discharges consent duration limited to 10 years, unless altered by a NBE Plan or relating to key public infrastructure. - A NBE Plan may require review of duration of resource consents. - Transfer of a consent may be prevented based on compliance history of transferee. - A Certificate of Compliance lapses after 3-years. - Provision for permitted activity notices (PAN) to confirm compliance with standards - must be sought if required under a NBE Plan or NPF. - Provision made for a Fast-track consenting process to provide for substantial housing or infrastructure projects, similar to that currently existing under separate legislation.
Summary of assessment against NZPI position	Key points in relation to NZPI's pre-release position on consenting include: - Deletion of restricted discretionary activities and non-complying activities is consistent with the NZPI consenting position paper, as it reduces complexity in the planning system. - The consenting provisions rely more heavily on notification decisions being made or guided at the time of plan development rather than the consenting stage, which is consistent with the NZPI position. This will generally provide for more consistent notification decisions and more certainty. - However, the notification process will still be contentious within the consenting process, and there may be more clarity and certainty that could be provided to the process through refinement of the criteria. This is an area that can be improved further. - Consideration of outcomes in the notification assessment is consistent with NZPI's position of seeking a more outcomes-focused approach in the proposed legislation. - The proposed ability of the Environment Court to determine notification matters is consistent with the NZPI position. - A requirement to consider outcomes when assessing applications for resource consent is present in the NBE Bill, and generally clear and directive, although there is still a significant emphasis of adverse effects that may undermine the outcomes focus. - The intention to retain the existing RMA objection process for applicants, the limitations on appeal rights, and the right to appeal decisions to the Environment Court are consistent with the NZPI consenting position paper. - Removal of the 'special circumstances' test will reduce case-by-case scrutiny in notification assessments, and is consistent with the NZPI position.

	- The NBE Bill does not include any proposal to establish a national body for training, accrediting and appointing independent commissioners, as suggested in the consenting position paper. - Generally speaking, there is a greater emphasis on iwi and hapū involvement in consenting processes and in notified applications in particular, although arguably the provisions do not go far enough to align with the NZPI consenting position paper. Involvement appears to be more integral in the plan making area. - There is a greater focus on proportionality (scale and significance) in the consenting processes as a means of improving efficiency, and this is consistent with the NZPI position set out in the position paper. - There are few other apparent efficiency initiatives in the consenting processes, and no proposals that give effect to the NZPI's desire to see more use of digital tools, Friend of the Submitter roles, or funding to increase capacity and capability of participants in the planning system.
Detailed assessment *The following sections of this briefing provide detail on the points summarised above, addressing each of the headings from the NZPI position paper on consenting.*	
1. The basis for notification and identifying affected parties	*Summary of the relevant provisions* - 198 – purpose of notification explained. No equivalent provision in the RMA. - 201 – positive effects must also be considered when identifying affected persons. Also, consider whether information from the person is necessary to understand the effects or *contributions towards outcomes*. Consideration of protected customary rights, customary marine title, and statutory acknowledgements. - 205 – public notification must occur where (a) uncertainty as to whether activity meets or contributes to outcomes or would breach limits (b) clear risks or impacts that cannot be mitigated (c) *relevant concerns from the community* (d) scale and/or significance warrants it. - 206 – limited notification must occur where (a) appropriate to notify a person representing public interest (b) an affected person (c) scale and/or significance warrants it. - 207 – notification prohibited if activity clearly aligned to outcomes or targets, and no affected person. *Comments* - Having a stated purpose for notification is a good idea, and helps with understanding of what is sought to be achieved. - Encouraging to see that positive effects are to be considered when identifying affected persons, and that considerations include 'contributions toward outcomes' in addition to adverse effects. - Use of the word 'prohibit' in relation to notification may cause confusion given it also is a term used to describe a type of activity. Suggest that an alternative term be used.

	- The notification criteria seem a little fraught. Each criterion requires a subjective assessment and, while that may not be avoidable, there may be more that can be done to tighten the considerations or provide guidance as to how they are to be applied. In particular, the criterion requiring that public notification must occur if there are "relevant concerns from the community" could be a bit of a minefield.
2. Assessment of applications against outcomes	*Summary of the relevant provisions* - 173(4)(b) – applications for resource consent must include an assessment of the activity's effects on the environment. No explicit requirement for assessment against environmental outcomes (other than through Schedule 10). *Comments* - It would seem to be important (given the purpose of the NBE Bill and the changing emphasis) that an assessment against environmental outcomes should be a pivotal element of the documentation supporting an application for resource consent. Currently there is no such requirement, and the emphasis remains largely on environmental effects.
3. Notification procedures	*Summary of the relevant provisions* - 199 – application not notified if Plan or NPF says limited notification to affected persons and written approvals from those persons has been obtained. - 203 – no public notification for controlled activities unless a Plan or the NPF states otherwise. - 204 – discretionary activities must be publicly notified unless a Plan or the NPF states otherwise. - 209 – any person may make a submission on a publicly notified application and any person served with notice can make a submission on a limited notified application (other than a trade competitor in both cases). - 210 – submissions on prescribed form and also served on applicant. - 211 – 20wd submission period, but can be shorter for limited notification where all affected persons have submitted, provided a written approval, or advised they will not make a submission. - 212 – list of submissions to applicant. - 213 – provision for 'preliminary meetings' – similar to pre-hearing meetings under RMA. *Comments* - The provisions confirming the notification status of controlled activities and discretionary activities are generally supported, as this approach takes away the decision making on notification in relation to each individual application for resource consent and places it within the NBE Plan itself or NPF. That has potential for a more certain and efficient process and may lead to better outcomes. However, there is potential that a cautious approach to

	plan-making results in a high proportion of applications being publicly notified.
4. Te Tiriti o Waitangi and te ao Māori	*Summary of the relevant provisions* - 164 – consent authority can recover costs of iwi engagement on its behalf or on behalf of iwi. *Comments* - The provision for consent authorities to recover costs on behalf of iwi is an important and useful approach to ensuring that iwi groups are appropriately resourced and can participate as intended in the NBE Act processes.
5. Terminology	*Summary of the relevant provisions* - 152 – existing five types of resource consents are retained – land use consent, subdivision consent, coastal permit, water permit and discharge permit - 153 – only four activity categories – permitted, controlled, discretionary and prohibited *Comments* - No particular concern regarding the five types of resource consent, as there is some familiarity, the names are succinct and describe accurately what they are, and there is no material change to their scope. - The system is simplified with the removal of restricted discretionary activities and non-complying activities, which is positive. There may be some value in changing the name of the two remaining types of resource consent to avoid any confusion or hangover in the way they are applied, particularly for controlled activities as they are fundamentally changing (can now be refused).
6. Process efficiencies	*Summary of the relevant provisions* - 157 – consent authority may waive compliance with permitted activity standards if marginal non-compliance and adverse effects no different to complying situation. Consent authority may give notice to applicant that the activity is a permitted activity. - 159 – category of activity remains the same if altered after lodged. - 160 – an exclusive 'right to apply' for a resource can be issued by a consent authority. Can be transferred and lapses after 2 years if a consent has not been obtained. - 163 – no consultation required prior to RC application. - 166-172 – direct referral to Environment Court provisions. Appear to be the same or similar to RMA. - 174 – incomplete applications can be returned within 10wds, similar to RMA s88. - 175 – consent authority can defer processing pending other resource consent applications. Similar to s91 RMA. - 176 – applicant can suspend notified application processing by giving notice.

	- 179 – applicant can suspend non-notified application processing by giving notice. - 183 – further information can be requested. Similar to RMA s92. - 184 – criteria to temper ability of consent authorities to request further information. - 187 – sets out time periods for various applications. - 188 – sets out exclusions to the mandated timeframes. Provides for exclusion of applicants request to review draft conditions (time period to be agreed). - 189 – excluded time periods relating to further notification. - 214 – consent authority can refer notified application applicant and submitters to mediation, but all must agree. - 215 – consent authority may decide not to hold a hearing if it is satisfied that it has sufficient information (regardless of whether the applicant and submitters agree). - 221 – practice for exchange of evidence on notified hearings formalised. - 222 – formalises the review of draft conditions (assumed that this review is undertaken by the applicant rather than the consent authority, but not clear from the text). - 223 – Equivalent to s104 RMA. Must have regard to: (a) effects (b) applicant's mitigation (c) positive effects (d) contribution to outcomes (e) inconsistency with policies and *rules* and NPF (f) state of future environment (g) applicant's track record (h) any other matter (equivalent to RMA s104(1)(c)). - 223 – consideration required of the value of the consent holder's investment, unless subject to a market-based allocation method, and planning documents prepared by customary marine title groups. - 223 – consent authority must <u>not</u> have regard to: (a) trade competition (b) effect on person who has provided written approval (c) effects on scenic views (d) visibility of commercial signage (e) use of land by low incomes etc. - 223 – consent authority can only have regard to the NPF or purpose of the NBE Act only to the extent that the plan or NPF does not adequately deal with the matter. - 223 – consent authority must not grant a RC if it is contrary to an environmental limit or target, waahi tapu conditions, MACAA, water conservation order, restrictions on heritage order, coastal permit, or discharge permit. - 224 – discretionary activities can be granted or refused. - 225 – controlled activities can be granted or refused, but can only consider matters over which control has been reserved. - 226 – consent authority must have regard to effects on the source of drinking water supply (same as s104G RMA). - 227 – requirements to be had regard to for discharge or coastal permits (BPO etc – s105RMA). - 228 – equivalent s106 RMA. - 229 – equivalent s107 RMA. - 230 – equivalent s107F RMA.

	- 231 – equivalent to s108AA RMA, but with some emphasis on positive effects. - 232 – equivalent s108 RMA. Financial contributions now effectively referred to as '*environmental contributions'*. - 233 – condition can require an adaptive management approach – a new provision worthy of support. - 234 – equivalent s108A RMA. - 241 – equivalent to s113 RMA - 244 – new provision for regional alternative dispute resolution (ADR). Applies where RC application lodged but not determined. Includes plan directed ADR, voluntary ADR. Can determine the disputed matter and the consent application. Cannot be appealed if voluntary ADR. [option for sorting out impasse with councils?] - 245 – only applied to controlled activities where the application has yet to be determined, and where matters are discrete and confined to a particular location. - 247 - ADR must be used if plan requires it. - 248 – party requesting ADR must give 'ADR notice' to all parties no later than 5wds after close of submissions (if notified). - 249 – ADR confirmed if each party gives a confirmation notice within 5wds of receiving ADR notice and consent authority satisfied process is appropriate. Consent authority advises parties ADR will be used within 5wds of receiving confirmation notices, and provides a list of accredited adjudicators. - 251 – adjudicator convenes ADR process (max 1 day), and must help the parties reach agreement. Any agreement determines the matter. Adjudicator determines the matter in dispute (including the consent application) within 5wds if no agreement and gives binding written decision that cannot be appealed. [suggests that adjudicators will be commissioners]. - 252 – plan directed ADR decisions can be appealed, but only with leave from the Environment Court and the Court must be satisfied the appeal raises a material question of law or fact. - 268 – equivalent s124 RMA. - S269 – precursor to ss270 and 271, which relate to resource allocation. - 270 – existing resource consent holders for natural resources have priority over other applicants and the consent authority must determine their application first. Matters to be considered are consent holder's efficiency and industry good practice in using the resource, and compliance track record. Equivalent s124B RMA. - 272 – 5-year default lapse period retained. Equivalent to s125 RMA. - 274 – equivalent to s127 RMA, but introduces limitation that change cannot result in materially different activity [codifying current practice]. - 275 – duration of water discharges, taking or diverting limited to 10 years unless altered by provisions of a plan or related to identified key public infrastructure. - 277 – generally equivalent to s128 RMA but with additional review matters relating to ensuring compliance with limits and achieve

	targets, adapt to climate change or reduce risks from natural hazards to human health, property or the natural environment. A plan may require review of *duration* of consent to address climate change impacts noted above. [mechanism for dealing with managed retreat of consented activities]. - 278 – equivalent to s129 RMA, but includes provision for notification in '*special circumstances*' (clause (4)). - 289 – transfer of consent may be prevented based on compliance history of transferee. - 290 - review of conditions may be initiated based on compliance history of transferee. - 297 – COC lapses after 3-years. [change from current RMA provisions, which provide for 5-year lapse period as RC default] - 299 – existing use certificates – now includes provision for the EUC to specify reduced adverse environmental effects or the contribution towards relevant environmental outcomes. - 302 – permitted activity notices (PAN) must be sought if required under a plan or NPF. Consent authority determines within 10wds. PAN lapses after 3-years. [clause 302(7) duplicate of 303(2)] - 304-314 - alternative consenting pathway established for affected applications, which are those identified as a kind required to be dealt with under that pathway by a rule in the NPF or a plan. Appears to apply to competing applications for resource allocation, as 314(1)(a) requires all affected applications to be considered against the merits of all other affected applications. *Comments* - Provision for waivers of marginal non-compliance with permitted activity standards is a desirable way of improving the efficiency of the consenting system. - Guidance for when further information can be requested is important, and the criteria in s184 appear to be fit for purpose. - Statutory time period exclusion for reviewing draft conditions, and formalised evidence exchange timeframes are supported, as these measures reflect current practice. - New matters to be had regard to when considering applications for resource consent (s104 equivalent) appear to be generally reasonable. Good to see that positive effects and contributions to outcomes are proposed, as well as applicant's track record, but not convinced that 'inconsistency with rules' is a helpful matter to be considered when all applications will have breached a rule in a plan. - The new matters that are not to be had regard to (effects on scenic views, visibility of signs, and low socio-economic groups) codify existing practice and case law and make sense. - 'Environmental contributions' is more appropriate terminology than the current 'financial contributions', given that they are often related to works and offsetting. - The ability to impose conditions requiring an adaptive management approach is considered to be positive and in line with the new emphasis on outcomes and environmental limits.

	- Alternative dispute resolution provisions are potentially of significant benefit to the efficiency of the planning system and provide for a more effective means of resolving disputes than is enabled by existing processes. - The amendment to enable the *duration* of a consent to be reviewed is appropriate in light of climate change. - Suggest that the use of 'special circumstances' in determining notification (s278) be deleted – best to remove that problematic criterion from the new legislation completely.
7. Plan making	*Summary of the relevant provisions* - 155 – statutory acknowledgements considered when considering the appropriate activity category for an activity - 156 - permitted activity may be subject to standards in a plan and a plan may direct an applicant to apply for a permitted activity notice (s302) *Comments* - Consideration of statutory acknowledgements is a relevant factor in assigning an activity category in a plan, so this is a sensible provision that is worthy of support. - There is value in making more activities permitted, even if there may be a number of performance standards that must be satisfied. It is not clear what the benefit of a plan requiring an application for a permitted activity notice is – while it might be sensible, there is currently no such requirement (for a CoC, for example) and perhaps this is something that should be left to an individual person to decide as it would add compliance costs and delays to the system.
8. Fast-track, Proposals of National Significance, and Boards of Inquiry	*Summary of the relevant provisions* *Subpart 8—Specified housing and infrastructure fast-track consenting process* - 315 – Explains that the purpose this subpart is to provide an alternative consenting process (the specified housing and infrastructure fast-track consenting process). Can use process for a resource consent or a NoR, but not a plan change. - 316 - lists activities eligible for specified housing and infrastructure fast-track consenting process being: • broadcasting facility • telecommunications network • an electricity or gas distribution or an electricity transmission network • a renewal of a consent for renewable energy generation (including hydro-electricity) • wind or solar energy generation • significant housing development that supports a well-functioning urban environment, is in an urban area, and is at scale or contributes to required housing (for example, affordable housing)

	• an airport • a port • rail network (including the interisland ferry facilities) • state highway network, local roads, or rapid transit services • flood control and protection, including drainage • distribution or treatment of water, wastewater, or stormwater • correction facilities • defence facilities • educational facilities • fire and emergency service facilities • health facilities - 317 – lists ineligible activities - 318 – explains the application process to use specified housing and infrastructure fast-track consenting process. Must apply to the EPA. Minister decides whether the proposal can use the fast-track process. [Similar to the current Covid Fast-track process, although tests for approval are largely the same as the normal consenting pathway]. - 319 – Fast-track application must be notified or consulted on. - 320 – submissions on Fast-track - cross reference to sections 209 to 213 of the Bill. - 321 – an expert panel decides if a hearing is required. - 322 – sets out the procedure if a hearing held. - 323 – requiring authority or the applicant can request suspension of the application. - 324 - the panel must consider an application for a resource consent for an eligible activity in accordance with sections 223 to 239, 242, and 293 of the Bill. Those sections apply as if the panel were a consent authority. Also, similar process requirements for a NoR. - 325 - decisions may be issued in stages. - 326 - final decision on application. If no hearing is held, decision no later than 60 days after the closing date for submissions or comments. If a hearing is held, no later than 90 days after the closing date for submissions or comments. Some limited extensions allowed. The decision must also specify the date on which a resource consent or designation lapses unless it is given effect to by the specified date. The date specified must not be later than 2 years. - 327 - appeal rights to the High Court, only on a question of law. *Subpart 9—Proposal of national significance* - 328 – interpretation – sets out who can apply (including the regional planning committee) and what matters can be considered. Those matters include a resource consent, NoR or plan change. - 329 - Minister may call in matter that is, or is part of, proposal of national significance. In deciding whether a matter is, or is part of,

	a proposal of national significance and whether to invoke this Part, the Minister must have regard to: • whether the matter gives effect to the national planning framework • the nature, scale and significance of the proposal • its potential to contribute to achieving nationally significant outcomes for the environment and the social, economic, environmental and cultural well-being of people and communities • whether there is evidence of widespread public concern or interest regarding its actual or potential effects on the environment • whether it has the potential for significant or irreversible effects on the environment • whether it affects the natural and built environments in more than one region • whether it relates to a network utility operation affecting more than one district or region • whether it affects or is likely to affect a structure, feature, place, or area of national significance, including in the coastal marine area • whether it involves technology, processes, or methods that are new to 25 New Zealand and may affect the environment • whether it would assist in fulfilling New Zealand's international obligations in relation to the global environment • whether by reason of complexity or otherwise it is more appropriately dealt with under this Part rather than by the normal processes under this Act • any other relevant matter - 330 - sets out the requirements about direction under section 329. - 331 - **r**estriction on when regional planning committees may request call in. - 332 - restriction on when Minister may call in matter - 333 - EPA to advise and make recommendations to Minister in relation to call-in. - 334 - matter lodged with EPA. - 335 - application of other provisions. - 336 - EPA to recommends course of action to Minister. - 337 - Minister makes direction after EPA recommendation. - 338 – covers proposals relating to coastal marine area. - 339 - enables the EPA to request further information or commission report. - 340 - EPA required to serve Minister's direction on local authority or regional planning committee, and applicant. - 341 - set out the Local authority's or regional planning committee's obligations if matter called in. - 342 - EPA must give public notice of Minister's direction. - 343 - Minister may instruct EPA to delay giving public notice pending application for additional consents.

	- 344 **-** EPA to receive submissions on matter if public notice of direction has been given. - 345 - EPA to receive further submissions if matter is proposed plan change or variation. - 346 - EPA must provide board or court with necessary information. - 347 – sets out certain circumstances where regional planning committee may not notify further change or variation. - 348 **-** limitations on withdrawal of a plan change or variation. *Subpart 10—How matter decided if direction made to refer matter to board of inquiry or court* - 349 – sets out the process for Minister to appoint board of inquiry. - 350 - sets out how members appointed. - 351 - allows the EPA to make administrative decisions - 352 - sets out the conduct of the Board of inquiry. Includes detailed procedures on the conduct of hearings. - 353 - sets out process if matter before a board of inquiry is a plan change or variation to a proposed plan. - 354 – sets out matters that a board of inquiry must have regard to when considering a resource consent, plan change or NoR, and states that the board must have regard to the Minister's reasons for making a direction in relation to the matter, and any information provided to it by the EPA. If the requiring authority is the Minister of Education or the Minister of Defence, the board of inquiry may not impose a condition requiring an environmental contribution [reflects current practice]. - 355 - Board must produce written report setting out its decision. - 356 - enables minor corrections of board decisions. - 357 - allows the Minister to extend time by which board must report. - 358 - sets out the requirements if the matter referred to Environment Court. - 359 – sets out matters that the Environment Court must have regard to when considering a resource consent, plan change or NoR, and states that the Court must have regard to the Minister's reasons for making a direction in relation to the matter, and any information provided to it by the EPA. If the requiring authority is the Minister of Education or the Minister of Defence, the Court may not impose a condition requiring an environmental contribution [reflects current practice – and same as BOI process]. - 360 - states that appeals from decisions can only be on question of law. *Subpart 11—Miscellaneous provisions* - 361 - regional planning committee must implement decision of board or court relating to a proposed plan change or variation to a proposed plan. - 362 – a consent authority has all the functions, duties, and powers in relation to the resource consent as if it had granted the consent itself.

	- 366 - How EPA must deal with certain applications and notices of requirement - 367 – confirms that the Minister makes notification decision. - 369 - in addition to the normal tests, the EPA may publicly notify an application or a notice if the Minister decides that special circumstances exist in relation to the application or notice [reappearance of '*special circumstances'*]. - 370 – provides for Minister's decision on limited notification of application or notice. - 371 - Public notification of application or notice after request for further information. - 374 - sets out that costs are recoverable from applicant. - 375 – sets out the remuneration, allowances, and expenses of boards of inquiry. *Comments* - The proposals of national significance process, board of inquiry process, and miscellaneous matters largely mirror the existing RMA process. Reference to the regional planning committee is included, but for the most part these sections are copies from the RMA. - The fast-track process is closely aligned with the provisions in the FTCA, and the list of applicable projects appears to be appropriate.
9. Subdivision and reclamation	*Summary of the relevant provisions* - 586 - when records of title may be issued. 'Shall not issue' replaced with 'must not issue'. - 571 - meaning of Survey Plan. Removes reference to 'cadastral'. - 572 - requirements for approval of survey plans. 'An owner of any land may submit' replaced with 'Any person may submit'. - 589 - land shown on survey plan as coastal marine area becomes part of common marine and coastal area. - 617 - conditions requiring easements to be granted or reserved. 'Dominant tenement' replaced with 'benefited land'. 'Servient tenement' replaced with 'burdened land' (to be consistent with Land Transfer Regulations 2018). - 620 - requirement to consult Registrar-General of Land before imposing condition about amalgamation. 'the territorial authority 'shall' consult with the Registrar-General of Land' becomes 'must consult'. *Comments* - The majority of these sections replicate the provisions of the RMA, often word-for-word. - Matters within the sections of the RMA have been separated out into individual topics and, as a result, the number of sections covering the same matters has been doubled. Presumably done for readability or ease of index and searching.
10. Schedule 10 Information	*Summary of the relevant provisions*

required for resource consent	- Clause 1 – information must be sufficiently detailed (no change), but also must be proportionate to the scale and significance of the activity [new, and addresses proportionality] and demonstrate how the activity will meet or align with applicable outcomes (including environmental targets and limits) as well as managing adverse effects. - Clause 2 - reinforces that the consent authority must take a proportionate response to determining whether sufficient information has been required. - Clause 2 - assessment against the purpose of the NBE Act only required if not addressed in NPF or if provisions in the Plan are uncertain (codifying *Davidson*). - Clause 2 – requires assessment against outcomes, consistency with Plan and NPF policies and rules, likely state of future environment stated in Plan or NPF. - Other requirements are almost identical to current provisions in Schedule 4 RMA. *Comments* - The requirement for proportionality in respect of information requirements is welcome, and there is also value in seeking information about alignment with environmental targets and limits. - Other changes reflect and align with the NBE Bill's focus on outcomes, the dominance of the NPF, and the likely state of the future environment.
11. Schedule 11 Esplanade Strips and Access Strips	*Summary of the relevant provisions* - There are no significant amendments proposed from the current provisions in the RMA *Comments* - Typographical error in Clause 17(2)(b) – "tony" instead of "to any" - Typographical error in Clause 19(3) "2743" should say "274"