



Submission

17 February 2023

TO THE

Environment Select Committee

ON THE

**Natural and Built Environment Bill and
the Spatial Planning Bill**

BY

Beef + Lamb New Zealand Limited

SUBMISSION ON THE NATURAL AND BUILT ENVIRONMENT BILL AND THE SPATIAL PLANNING BILL

To: The Environment Select Committee

Email: environment@parliament.govt.nz

Name of Submitter: Beef + Lamb New Zealand Limited (B+LNZ)

Date: 17th February 2023

Address for service:

Name	Position	Phone Number	Email Address
Lucy Evans	Environment Policy Analyst	+64 27 211 2303	lucy.evans@beeflambnz.com
Heather McKay	Environment Policy Manager	+64 27 660 7189	heather.mckay@beeflambnz.com

Please note:

- B+LNZ requests the opportunity to present and discuss this feedback with the Environment Select Committee as part of the consultation process.
- This submission covers both the Natural and Built Environment Bill and the Spatial Planning Bill

1. Executive Summary

- 1.1. B+LNZ welcomes this opportunity to provide feedback on the Natural and Built Environment Bill (NBE Bill) and the Spatial Planning Bill (SP Bill) to the Environment Select Committee. We request the opportunity to present to and discuss our feedback with the Environment Select Committee.
- 1.2. B+LNZ is the farmer-owned, industry organisation mandated to represent New Zealand's sheep and beef farmers. It invests farmer levies in programmes that support and grow the sheep and beef industry. B+LNZ's vision is 'Sustainable and profitable farmers, thriving rural communities, valued by New Zealanders'.
- 1.3. The reform of New Zealand's resource management system is inextricably linked to the way sheep and beef farmers will be able to farm, and it is critical that such a substantial reform process is well thought out and will lead to positive outcomes.
- 1.4. B+LNZ supports the intent of reforming New Zealand's resource management system to improve efficiency and effectiveness, and reduce complexity.¹ However, it opposes the Bills in their current form, for reasons which are outlined below. B+LNZ requests that the Bills are withdrawn and reworked.
- 1.5. It has been very difficult to assess and provide comprehensive feedback on the Bills within the available timeframe. More specifically, after reviewing the Bills, it has become clear that much of the proposed resource management system will be dependent on the form and content of the National Planning Framework (NPF). Without that detail, without additional time to consider the Bills, and in the absence of the Climate Adaptation Bill, B+LNZ is concerned that it is unable to provide a full analysis of the impact of the reforms on farmers.
- 1.6. At a high level, the Bills will not result in a resource management system that "improves system efficiency and effectiveness and reduces complexity."² The Bills introduce new processes, new terminology, and new concepts. Substantial

1 Objective 5, Explanatory Note to the NBE Bill.

2 Objective 5, Explanatory Note to the NBE Bill.

amounts of new litigation will be required for the Bills to be properly understood and implemented, with both public and parties covering the costs of that.

- 1.7. The NBE Bill also contains large areas of conflict within its Purpose and System Outcomes. Resolving these conflicts will require either the Minister for the Environment or the courts to make decisions on natural resources following litigation, rather than there being clarity within the legislation to begin with.
- 1.8. The Bills propose to provide a significant level of responsibility and power to the Minister for the Environment and central Government, for example, through the creation and implementation of the NPF. The NPF has the potential to establish and/or grandfather national blanket provisions that do not allow for regional variances and will not provide adequate attention and flexibility to the local environment.
- 1.9. Within the Bills, there is a lack of detail on environmental limits, targets, and the establishment of management units. Much of that detail and many potential conflicts will need to be resolved within the NPF. As such, it is difficult at this stage for B+LNZ to be able to provide comprehensive feedback on these issues. At a minimum, when compiling the NPF, there will need to be robust evidence to support limits and targets, a regional approach to their management, and flexibility within the system to recognise the history and land uses within local catchments. The clauses surrounding setting different management units for different contaminants also runs the risk of being very complicated for landowners and councils.
- 1.10. The NBE Bill will require Regional Councils to complete significant plan changes through the creation of the NBE Plans, this will come after extensive work has been completed to meet plan changes needed to meet the National Policy Statement for Freshwater Management (NPS-FM).
- 1.11. The NBE Bill also introduces the ability for regional plans to introduce greenhouse gas (GHG) targets, which duplicates the Climate Change Response Act 2002.
- 1.12. B+LNZ has significant concerns around the proposed Regional Planning Committees (RPCs), including the fact that RPCs are not democratically

accountable in the same way as local government. RPCs therefore have the potential to diminish local voice and not give fair representation to the needs and interests of local communities, such as farming communities. The proposed Freshwater Working Group (FWG) gives rise to similar issues as the RPCs where local voices may not be fairly represented.

- 1.13. Linked to this, B+LNZ's concern is that there will not be adequate opportunities for public participation within the establishment of Regional Spatial Strategies (RSSs) and the creation of NBE Plans.
- 1.14. The proposed consenting regime will not "improve system efficiency and effectiveness or reduce complexity". Two key issues are the 10-year consent duration for activities involving the taking, using, damming, or diverting of water, or discharge of contaminants into water or onto land where it could enter water, and the market-based allocation method for discharges. The proposal could result in uncertainty for farmers and most importantly, reduce their ability to invest in and plan for future operations.

2. Introduction

About Beef + Lamb New Zealand

- 2.1 B+LNZ is an industry-good body funded under the Commodity Levies Act 1990 through a levy paid by producers on all cattle and sheep slaughtered in New Zealand. B+LNZ represents around 9,000 commercial farming businesses, providing around 35,000 jobs across New Zealand. The sector is a significant contributor to New Zealand's economic well-being.
- 2.2 B+LNZ's vision, or desired future for New Zealand's sheep and beef producers, is 'sustainable and profitable farmers, thriving rural communities, valued by New Zealanders'.
- 2.3 B+LNZ has submitted on the Bills primarily because agriculture is inextricably linked to the natural environment and the way natural resources are managed. Decisions that have an impact on the environment and New Zealand's natural resources will consequentially have an impact on farmers, their communities, the industry, export revenue and the economy.

Position Summary and Relief Sought

- 2.4 B+LNZ does not consider the Bills as having introduced a significant advancement over the Resource Management Act 1991 (RMA), in terms of improving efficiency and effectiveness, reducing complexity, and representing the interests of communities.
- 2.5 B+LNZ opposes the Bills in their current form and requests that they be withdrawn and reworked to ensure that any system reform is fit for purpose and an improvement on the current RMA. B+LNZ sees it as imperative to meet reform Objective 5: *improve system efficiency and effectiveness and reduce complexity, while retaining local democratic input.*
- 2.6 At a minimum, the full resource management system, including the NPF and the Climate Adaption Bill should be presented for consideration jointly and with

adequate time provided for full analysis and consideration of the ramifications of the proposed changes.

- 2.7 B+LNZ's feedback to the Environment Select Committee on the Bills is provided below. Due to the limited submission period and information provided, feedback is provided at a high level and is focused on the initial key issues of concern. There are likely other matters of concern in the Bills that we have not been able to comment on, and lack of comment cannot be taken as support.

3. Feedback

Unclear Terminology and concepts

NBE Bill, Clause 3

- 3.1. The Purpose of the NBE Bill introduces new terminology that is unclear and will require either the Minister for the Environment or the courts to define. Examples are given below.
- 3.2. The purpose of the NBE Bill is set out in Clause 3, as follows:
- The purpose of this Act is to-
- (a) enable the use, development, and protection of the environment in a way that-
 - (i) supports the well-being of present generations without compromising the well-being of future generations; and
 - (ii) promotes outcomes for the benefit of the environment; and
 - (iii) complies with environmental limits and their associated targets; and
 - (iv) manages adverse effects; and
 - (b) recognise and uphold te Oranga o te Taiao.
- 3.3. The first part of the Purpose of the NBE Bill is to *“enable the use, development and protection of the environment in a way that supports the well-being of present generations without compromising the well-being of future generations.”*
- 3.4. Well-being is defined in Clause 7 of the NBE Bill, as meaning *“the social, economic, environmental, and cultural well-being of people and communities, and includes their health and safety”*.

- 3.5. It will be difficult to interpret and apply the definition of *well-being* in the context of the Purpose clause, particularly considering the breadth of the definition. For example, how would a conflict be dealt with between social and/or economic and/or environmental and/or cultural wellbeing? There may also be conflicts between the well-being of present generations and future generations.
- 3.6. More broadly, the interpretation and application of the Purpose section will be extremely difficult because any resource management decision inherently involves compromises across time, resources, and aspects of living. There may need to be some thought given to defining or further narrowing key terms within the Purpose section or alternatively, affording some priority to aspects of the Purpose.
- 3.7. *Te Oranga o te Taiao* is defined in Clause 7, as meaning:
- (a) the health of the natural environment; and
 - (b) the essential relationship between the health of the natural environment and its capacity to sustain life; and
 - (c) the interconnectedness of all parts of the environment; and
 - (d) the intrinsic relationship between iwi and hapu and te Taiao.
- 3.8. The subparts of this concept are not clearly or separately defined – for instance, there is no definition of *essential relationship* or *intrinsic relationship*.
- 3.9. It is also difficult to understand how subpart (b) of the purpose (*to recognise and uphold te Oranga o te Taiao*) interacts with subpart (a) *the health of the natural environment*. More specifically, are there dual purposes, or is one purpose intended to prevail over the other?
- 3.10. The purpose sets the mandate to *uphold* te Oranga o te Taiao. B+LNZ questions the use and meaning of the word *uphold*, which has not been defined, nor has it been commonly used in resource management legislation to date (for example, and by comparison, there is extensive case law as to the meaning of “give effect to”).
- 3.11. The uncertainties outlined above mean it is likely that both the Purpose and Interpretation clauses in the NBE Bill will be debated and defined in court. This does not give confidence in the successful implementation of the Bills.

NBE Bill, Clause 5

- 3.12. B+LNZ does not agree with the terminology in the system outcome in clause 5 (d) *the availability of highly productive land for land-based primary production*. The term highly productive land is not defined within the Bills but in consideration of the National Policy Statement for Highly Productive Land (NPS-HPL) we have concerns that the term *highly productive land* carries a value judgement that other land is not as productive at a purely economic level, and therefore not as valuable, and so is more expendable to sacrifice for urban expansion. Therefore, not meeting the intent of the system outcome.
- 3.13. The Bills need to articulate the meaning of highly productive land and be mindful of the unforeseen consequences of how this impacts land seen as unproductive. In our submission on the NPS-HPL we stated that versatile is a more appropriate word to describe the land that ‘highly productive’ is trying to protect and it also does not carry with it the connotation that economic productivity alone should determine land use – at the expense of biodiversity, or ecosystem health. ‘Versatility’ also recognises that LUC 4 land in the Mackenzie district might not be classified as highly productive, however LUC 4 in Central Otago might. The difference between the two is that, due to a number of non-LUC related factors, land in the Mackenzie district might be limited in the different primary production activities it can be used for, while the land in Central Otago might be less limited. Where irrigation is available, the land in Central Otago may be used for stone fruit and so might be classified as highly productive land. The difference between the two comes down to what they can be used for rather than their productivity, i.e. their versatility.

NBE Bill, Clause 7

- 3.14. There are terms missing from Clause 7 that are important to understanding the NBE Bill, including *built environment* and *community*.
- 3.15. The NBE Bill defines the *natural environment* but not the *built environment*. Both the natural and built environment need to be clearly defined. Within sheep and beef farming there is a strong connection to both the natural and the built

environment, and the line between the two needs to be clear. The Randerson report recommends the following definition of the built environment:³

Built environment includes human-made buildings, structures, places, facilities, infrastructure and their interactions which collectively form part of urban and rural areas in which people live and work.

- 3.16. There are several instances where the *community* is to be involved, however, there is no definition or interpretation of the meaning of community, or what the community comprises. For example:
- Clause 107: A regional planning committee must have particular regard to a statement of **community** outcomes.
 - Clause 205 (2c): A decision maker must require public notification of an application for a resource consent if satisfied there are relevant concerns from the **community**.
 - Clause 350: The board of inquiry must have members that have knowledge, skills, and experience relating to the local **community**.
- 3.17. This creates uncertainty within several processes and could result in unclear expectations, in terms of participation in RPC decision-making or consenting processes.

National & regional influence and decision-making

- 3.18. The Minister for the Environment would hold significant power under the Bills, including the ability to set environmental limits and exemptions from these, and the ability to direct system outcomes through the NPF. This could lead to greater political influence within the system, issues surrounding democratic accountability, and uncertainty as Ministers and Governments change.
- 3.19. B+LNZ has significant concerns surrounding the restructuring of decision-making at the district and regional levels through the RPCs. RPCs are to include a representative from central Government for the task of establishing a Regional

³ Randerson, T., 2020. New Directions for Resource Management New Zealand, Resource Management Review Panel.

Spatial Strategy (RSS) This could result in heightened influence from central Government. In addition, RPCs are not democratically accountable in the same way as local Government is, and therefore they are unlikely to involve and represent the communities they serve. RPCs are discussed in further detail below.

- 3.20. Part of the purpose of the NPF is to help resolve conflicts about environmental matters, including those between or among system outcomes. Given that the NPF could be subject to change and political influence, there is a risk of uncertainty and change, as Governments and Ministers change over time.
- 3.21. Further to these points, the Bills do not provide flexibility for the scale at which environmental issues are dealt with. For example, it may be appropriate to deal with water quality issues at a local level (rather than a regional or national level) because there are such variances between regions. A second example is the ability for greenhouse gas (GHG) targets to be set at the regional scale. GHGs are a national and global issue that needs a national and global approach, RPCs should not have the ability to set additional rules and requirements within this space.

Inconsistency with current national policies and standards

- 3.22. Within the new Bills, there is limited information surrounding the transition from the current system (including the RMA, National Policy Statements (NPS), and National Environmental Standards (NES)) to the new NBE system. This creates uncertainty for sheep and beef farmers, particularly limiting their abilities to plan for the future.
- 3.23. Further, it appears that the NBE Bill is inconsistent with NPSs and NESs set under the Essential Freshwater programme, which means that the NPF material will need to differ from the existing suite of national requirements. While in theory this may offer opportunity for improvements, we are concerned that this is unlikely. We are also unclear on whether there will be any opportunities for public participation in the setting of the NPF material, particularly in relation to the integration of current NPSs and NESs into the new framework.

- 3.24. We also have concerns that current work being completed by Regional Councils to notify new plans by 2024 as per the NPS-FM will be undermined with the release of the NPF in 2025 directing new objectives and guiding the creation of the RSS and NBE Plans.

The prioritisation and potential conflict of system outcomes

- 3.25. System outcomes are listed in Clause 5 of the NBE Bill. The outcomes are broad and numerous and have the potential to conflict. It is unclear how competing outcomes will be prioritised and resolved.
- 3.26. Clause 57 requires that the NPF includes content that provides direction for each system outcome and for the resolution of conflicts between environmental matters, including between and/or among system outcomes. This direction will be critical, not only due to the overlap and competition between system outcomes but also due to the importance it has in guiding the development of RSS and NBE Plans.
- 3.27. Relying on the NPF to provide direction for the outcomes could be difficult – the NPF may not necessarily be capable of resolving all different types of conflicts, so decision-making around the outcomes will likely create costly and time-consuming processes that will be decided within the courts.
- 3.28. System outcome *(c) well-functioning urban and rural areas that are responsive to the diverse and changing needs of people and communities in a way that promotes – (i) the use and development of land for a variety of activities, including for housing, business use, and primary production; and (ii) the ample supply of land for development, to avoid inflated urban land prices; and (iii) housing choice and affordability (iii) an adaptable and resilient urban form with good accessibility for people and communities to social, economic, and cultural opportunities*, assumes that rural and urban land is used in a similar manner with a priority placed on urban development and housing. This outcome should be split into two (one system outcome for rural areas and one system outcome for urban areas) to best represent the two land categories and their prospective uses.

- 3.29. B+LNZ as per above under 'Unclear terminology and concepts' has concerns with system outcome (d) *the availability of highly productive land for land-based primary production* regarding the use of the term 'highly productive'.
- 3.30. B+LNZ supports the intention of the system outcome (i) *the ongoing and timely provision of infrastructure services to support the well-being of people and communities*, with the recognition that rural communities are often isolated from infrastructure services such as internet and phone service and the impact this has to the health and safety, and well-being of rural people.

The National Planning Framework

- 3.31. The NPF is a key component of the new system, yet the content is unknown. B+LNZ submits that the proposed NPF should be provided to the public for consultation at the same time as the Bills, so submitters fully understand the reform package and interactions within it. The ambiguity surrounding the NPF means there are significant aspects of the proposed new resource management system that remain unclear and stakeholders, such as farmers, cannot judge how they will be impacted.
- 3.32. With a lack of information surrounding the content and layout of the NPF, it is difficult to provide further analysis of the framework itself and how it impacts the Bills. For instance, will the NPF be one document divided by environmental domains? Will it include topics that have a hierarchy within the document? Will it contain both statements and standards? And how will these components interact?
- 3.33. Within the hierarchy of planning documents, there could be too much reliance on the NPF rather than the provisions of the NBE Bill itself. There is also a risk that the NPF will be focused at a national level, without consideration of regional circumstances. This could result in a one size fits all broad-brush approach to managing the environment, something that B+LNZ does not support. There needs to be flexibility in the system to recognise the capacity of different receiving environments to deal with contaminants differently.

Environmental limits and targets, and management units

Environmental limits and targets

- 3.34. Environmental limits must be set in the NPF for air, indigenous biodiversity, coastal water, estuaries, freshwater, and soil. Limits may also be set for other aspects of the natural environment. This particular provision is vague, and it is difficult to envisage what other aspects of the natural environmental limits could be set for. All limits that are mentioned are interconnected with farming systems. Having vagueness on other aspects of the natural environment could result in unforeseen consequences for sheep and beef farmers and provides uncertainty in the future.
- 3.35. Additionally, there are aspects of the environment that cannot be easily regulated by reference to limits, and we question how the NPF will account for this. For example, natural hazards involve a combination of technical, planning, and social inputs.
- 3.36. B+LNZ has concerns surrounding the scientific robustness of setting environmental limits and targets, acknowledging that environmental problems are often hard to accurately measure. There are aspects of the environment that cannot be easily measured by reference to limits and may need a more nuanced approach.
- 3.37. The NBE Bill presents minimal detail on how the limits will be framed or operate and the complexity of setting limits for every system outcome. For example, the coastal environment and estuaries are complex ecological systems, and it would be difficult to set limits to address all aspects of those ecosystems. In essence, this will go against the reasoning of the reform to decrease complexity, time, and costs in decision-making.
- 3.38. B+LNZ also foresees there being issues with the complex interrelationship between limits and policy and does not understand how this will be reconciled in the NPF, NBE Plans, or consent processes.
- 3.39. If a limits approach is progressed, B+LNZ supports the ability to prescribe interim limits. This reflects the fact that often time is required before the results of

changes in practice are seen. Many changes to a sheep and beef farming system will have long-term positive impacts on the environment but will not show in short-term monitoring. A useful example of this situation could be nutrients in freshwater; despite changes in industry practices or the adoption of improvement measures, there can be a lag time before water quality improves.

- 3.40. The issues outlined above relating to limits also apply to environmental targets – there is no clear guidance on how targets may be framed and operated, or whether they can realistically be developed for all aspects of the environment.

Management Units

- 3.41. As highlighted in other sections of this submission, the NPF will be critical in understanding Management Units (MUs). Without the NPF, we cannot understand how the limits and targets will be set and therefore the workability of the proposed MUs.
- 3.42. More guidance is needed surrounding how and when the MUs will be set. It can be inferred from the NBE Bill that targets and limits will be set first, with MUs to follow. This is different from the current system – for example, the NPS-FM requires that Freshwater Management Units are identified before outcomes, limits, and targets are set.
- 3.43. Alternatively, limits, targets, and MUs could be set simultaneously. Without seeing the NPF, it is difficult to anticipate the best process and limitations that will arise. Targets and limits need to be set so they are achievable based on the corresponding MUs – if targets and limits are set first it may create overly stringent goals for the MUs.
- 3.44. We accept that MUs could comprise different areas, relative to different limits and targets to bring flexibility to environmental management within different catchment groups and avoid blanket regional provisions. However, setting different MUs for different contaminants runs a risk of being very complex for landowners and it may create increased challenges within the NPF, RSS, and NBE Plans, particularly as the lower order documents will be required to achieve the NPF directions within (potentially) multi-layered MUs.

- 3.45. B+LNZ has concerns surrounding defining the size and extent of MUs. Sheep and beef farmers have clear existing relationships with territorial and regional councils. Having MUs that extend or change within territorial and regional boundaries will create confusion for farmers on who to seek information and advice from, and confusion within consents where the consenting framework for the same activity throughout the country could vary greatly depending on the location of the activity and the MUs within which the activity is located.

Regional Planning Committees and Regional Spatial Strategies:

- 3.46. A priority of the Bills should be to enable the community to be fairly represented and involved in processes of relevance to them. In its current state, B+LNZ does not consider this aspect has been met and would like to highlight key issues surrounding RPCs and RSSs.

Regional Planning Committees

- 3.47. RPCs are a central component to the efficient, effective, and equitable implementation of the proposed resource management system. B+LNZ suggests RPCs as currently proposed risk being disconnected from local communities with a diminished local voice. A key reason for this is that the appointment of members to the RPC is not through a democratic vote and therefore there is no opportunity for rural communities to be involved in the decision-making of RPCs.
- 3.48. It is not clear whether the local authority representatives on RPCs are expected to approach their decision-making with local or regional outcomes in mind. For example, is a local authority representative expected to make decisions that may be better for the region as a whole but may be to the detriment of their particular constituency? If so, this decreases the ability for communities to be represented by their associated representative and could cause conflict between the members' council-related responsibilities and RPC responsibilities.
- 3.49. Regions that are predominantly urban will lack rural representation. For example, the Greater Wellington Region RPC would be represented by - Wellington City, Lower Hutt, Upper Hutt, Porirua, Kāpiti Coast, and Wairarapa where five out of

six authorities are predominantly urban. In this instance, Wairarapa which is predominantly rural will be at risk of being outnumbered.

- 3.50. It is imperative that RPCs have a fair representation of all parts of the community, and that communities (including rural communities) have avenues to participate in planning processes.
- 3.51. Within the Bills, there also needs to be a mechanism to ensure RPC members have appropriate expertise, particularly in the context of resource management issues that affect a particular region. B+LNZ expects that regions that are comprised of largely rural areas or have significant farming interests, will need to have RPC members that have a knowledge of farming issues and interests.

Regional Spatial Strategies

- 3.52. The proposed process for setting the RSS does not appear to have a public hearing. The process will likely result in less consultation than is currently required under the RMA and Local Government Act 2002. If the purpose of the proposed reform is to make planning more front-end (to reduce the need for consenting and be more efficient) then planning processes must be robust enough to get things right at the front end.
- 3.53. An RSS is an important document setting the strategic direction for the use, development, protection, restoration, and enhancement of the environment or regions, for not less than 30 years with a strong visual mapping component. The importance, duration, and mapping component of these strategies should be available for a mandatory public hearing.
- 3.54. There are more opportunities for public participation in the creation of an NBE Plan. However, there is limited scope for an appeal on decisions. So as mentioned above, the makeup of RPCs is highly important, and planning decisions at the front end of the process must be robust.

Modified resource consenting regime:

- 3.55. The RMA has been viewed as a barrier to realising sustainable management because it is complex, costly, and slow through its consenting regime. The NBE Bill sets out a modified consenting regime with the intention to deliver an improved resource management system. The modified regime reduces the activity statuses to four (permitted, controlled, discretionary, and prohibited) and in principle, increases the scope of the permitted activity category, by making amendments to notification provisions, removing the need for hearings, and reframing what can/cannot be considered by consent authorities.
- 3.56. Based on the NBE Bill itself and without seeing the NPF, NBE Plans, and environmental targets and limits, it is difficult to be convinced that the proposed changes will result in a more cost-effective and efficient consenting system. Farming activities will likely still need the same resource consents processed by the same authorities.
- 3.57. Reducing the number of consent categories may seem to increase efficiencies within the system. However, the unintended consequence may see it pushing an activity into a more restrictive consent category, therefore becoming a more costly and timely process.
- 3.58. If local authorities are to remain the enforcers of consents but are not responsible for authoring the RSSs and NBE Plans (therefore are not “creating the rules”), it is possible that there will be differences in plan interpretation and information, resulting in confusion among farmers (and other consent applicants) and increased costs and inefficiencies through repeat processes and double handling.
- 3.59. While some aspects of the proposed consenting regime may be of benefit, such as increasing the scope of permitted activities, overall, it does not appear that the proposed changes will result in a more efficient system.
- 3.60. As mentioned above, the term *community* is not defined. Clause 205(2)(c) requires that a decision maker must require public notification of an application for a resource consent if satisfied that 1 or more of the following apply – including there are relevant concerns from the *community*. Further details are needed on the term *community*, and this process, to ensure that it is not a tick-boxing

exercise, neglects the farmer voice, and does not create increased costs, complexities, and time delays within the resource consent process.

Mechanisms for water allocation and contaminant discharges

- 3.61. B+LNZ strongly opposes the new consenting regime of a 10-year maximum consent duration for certain resource consents under Clause 275, including activities involving the taking, using, damming, or diverting of water, or discharge of contaminants into water or onto land where it could enter the water.
- 3.62. It is unlikely that sheep and beef farmers will be eligible for exemptions to the 10-year maximum. Allowing RPCs to make exemptions to this 10-year maximum risks creating an uneven playing field – there will be differences in the composition of RPCs and differences in priorities across different regions. RPCs will not be in a position to make nationally consistent decisions on exemptions.
- 3.63. The combination of shorter consents and the new resource allocation principles could have significant implications for farmers in being able to invest in the future, create innovative businesses, and have long-term business certainty. For example, farmers will need consent certainty to invest in irrigation to mitigate climate change, or to upgrade current irrigation systems to be more efficient. This type of legislation is preventing farmers and therefore New Zealand from being productive, sustainable, and prosperous.
- 3.64. Furthermore, a key issue within the current RMA and contributing reason for reform is the costly and time-consuming processes. The creation of 10-year consents is only heightening the need for repeat costly and timely processes. Regional Councils already have resource issues with completing the current level of resource consents, this will only exacerbate their issues.
- 3.65. B+LNZ does not agree with proposed Clause 88 in the NBE Bill - *Use of market-based allocation method to determine right to apply for resource consent for certain activities*, in particular, using market-based allocation to determine who can apply to discharge contaminants into freshwater.

- 3.66. B+LNZ does not agree with market-based allocations for discharges, as they favour those who can afford to pay and give those who can afford to pay an opportunity to intensify, while less profitable businesses are at risk of being put out of operation despite following best practices. Nitrogen trading in the Lake Taupo region is one example that has shown that market-based allocations for discharges have not benefited the needs of the environment or communities. B+LNZ is also confused as to why the NBE Bill specifically excludes market-based allocation mechanisms for freshwater takes but is applying this method to discharges.
- 3.67. The NPF and NBE Bill are expected to provide stricter freshwater management and consenting practices than currently exist. Without more detail, there is a considerable level of uncertainty for existing consent holders and for those wishing to seek consent to take or use water in the future. The NBE Bill needs to ensure that the stricter rules do not make farming either unprofitable or limit the ability to innovate and upgrade farming practices to better provide for the environment.
- 3.68. There is an unfair level of uncertainty for landowners within the proposed NBE Plans rules around existing rights and land use consents. Existing consents, where there is harm to the natural environment or risk associated with natural hazards, climate change, or contaminated land, could be revoked and have a significant impact on landowners with little warning. Consent authorities will be empowered to cancel land use consents that have been set at the regional level without understanding local circumstances or the value of sheep and beef farms to the economy, and history of the area. These existing use rights could be extinguished whilst providing no environmental benefits.

Freshwater Working Group

- 3.69. The NBE Bill proposes to establish the new Freshwater Working Group (FWG) by October 2024. The purpose will be to produce a report that considers and makes recommendations on matters relating to freshwater allocation, and on a process for engagement between the Crown and iwi and hapū, at the regional or local level, on freshwater allocation.

- 3.70. The FWG is established by the Minister. This is another area where B+LNZ sees too much control being held by the Minister, rather than having input from local communities and experts. It is likely the FWG will not have the ability to look at the local context throughout all regions of New Zealand to make appropriate recommendations.
- 3.71. We also have a lack of detail surrounding the members to be appointed to the FWG and reiterate similar concerns to the RPC regarding the potential for a lack of rural representation.

4. Summary

- 4.1. While B+LNZ support the intent of reforming New Zealand's resource management system from the current RMA, the NBE Bill and SP Bill in their current drafted states do not meet the intent nor serve to meet the needs of sheep and beef farmers in New Zealand. Therefore, B+LNZ opposes the Bills and requests that the Bills are withdrawn and redrafted.
- 4.2. With a limited amount of time and without complete information, for example, the NPF, it has been difficult to give a full analysis of how sheep and beef farmers will be impacted. Therefore, the submission points are given at a high level, and sections we have not commented on cannot be seen as giving support.
- 4.3. The substantial number of new processes, terminology, and concepts will require litigation for the bills to be properly understood and implemented. This presents uncertainty and confusion in the implementation of the NBE system, and how our farmers expect to be impacted.
- 4.4. The Bills assign significant levels of power to the Minister for the Environment, Central Government, and RPCs whilst reducing local voice through territorial and regional authorities. The current establishment of RPCs and RSSs shows fundamental flaws in how they represent the interests of local communities, including sheep and beef farmers. Further to this are inadequate opportunities for public participation within the establishment of RSS and NBE Plans.

- 4.5. The proposed consenting regime will not improve system efficiency and effectiveness or reduce complexity. B+LNZ holds significant concerns around 10-year consents for certain activities involving water, the market-based allocation method for discharges, and the removal of existing land use rights.

- 4.6. B+LNZ wishes to present our feedback to the Environment Select Committee and expects the points in this submission to be received and that the issues impacting sheep and beef farmers are understood and acted on.