



Minister and Portfolio	Hon David Seymour, Minister for Regulation		
Title	Regulatory Standards Bill – Draft Cabinet paper updating on approach to departmental report	Number	MFR2025-188
Date	9 July 2025	Security level	IN CONFIDENCE

Purpose

This aide-memoire provides you with a draft Cabinet paper to update Cabinet on the consideration of the Regulatory Standards Bill by the Finance and Expenditure Committee (FEC), and outline the proposed approach to the departmental report to FEC in light of submissions.

Background

On 2 July, we provided you with a memo (MFR2025-78 refers) noting that, due to the high volume of submissions, it would not be possible to provide a full draft departmental report for Cabinet’s consideration, as agreed by Cabinet on 5 May (CAB-25-MIN-0148 refers). Instead, we would provide you with a high-level summary of themes and any proposed changes to the Bill in response to the submissions to take to Cabinet.

Key issues

On 8 July, we provided you with an initial summary of substantive submissions to FEC, along with our recommendations for possible amendments to the Bill (MFR2025-184 refers)

You subsequently identified the amendments you wished to take forward to Cabinet. On that basis we have drafted a Cabinet paper (**Annex One**) and an updated table summarising feedback from substantive submissions and setting out where you propose amendments to the Bill (**Annex Two**). This draft is intended to enable you to carry out consultation with your Ministerial colleagues between Thursday 10 July and Monday 14 July, and to lodge the paper to go straight to Cabinet on 21 July.

We will provide you with further advice if we identify additional substantive comments and proposed changes through the oral hearings and our further analysis that are not yet covered in our advice. Should you wish to make further changes based on this advice, this may require you to take an oral item to Cabinet alongside the paper on 21 July.

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Office of the Minister for Regulation

Cabinet Chair

Regulatory Standards Bill: Update on approach to departmental report for Regulatory Standards Bill

Proposal

- 1 This paper updates Cabinet on the consideration of the Regulatory Standards Bill by the Finance and Expenditure Committee (FEC), and outlines the proposed approach to the departmental report to FEC in light of feedback from submissions.

Relation to government priorities

- 2 The Coalition Agreement between the New Zealand National Party and ACT New Zealand includes a commitment to legislate to improve the quality of regulation, ensuring that regulatory decisions are based on principles of good law-making and economic efficiency, by passing the Regulatory Standards Act as soon as practicable.

Executive summary

- 3 On 5 May 2025, Cabinet agreed to a number of policy matters for inclusion in the Regulatory Standards Bill, agreed that it would consider the Departmental Report before it was submitted to Select Committee, and agreed that it would further consider the Bill as reported back from Select Committee (including consideration of the proposed taking of property principle as well as other matters) [CAB-25-MIN-0148 refers].
- 4 Given the very high number of submissions, it is not possible to supply Cabinet with a draft of the departmental report before it goes to FEC. In place of a draft departmental report, this paper summarises themes arising from the submissions process, and outlines a proposed approach to the departmental report in **Annex 1** attached to this paper.
- 5 While analysis of submissions is ongoing, the Ministry is comfortable the majority of themes and recommendations that are likely to emerge from submissions have been captured and reflected in Annex 1. However, all submissions will be read, and the perspectives of all submitters will be reflected in the departmental report to the committee.
- 6 I have considered the feedback from the submissions analysed to date, and my view in most cases is that the current drafting reflects the objectives and intent of the Bill, and amendments are not warranted. However, there are several areas where I am proposing changes to the Bill in response to submitter feedback:

- 6.1. a benchmark for good regulation through a set of principles of responsible regulation (principles)
 - 6.2. mechanisms to transparently assess the consistency of new legislative proposals and existing regulation with the principles (consistency mechanisms)
 - 6.3. aligning the coming into force of the provisions for establishing the Board with the coming into force of CAS requirements in clause 2
 - 6.4. limiting the reference in clause 8(d) to section 22(a) of the Constitution Act, rather than the whole of section 22
 - 6.5. changing the wording of clause 8(g) to refer to the courts' constitutional role of administering justice according to law, including the interpretation of legislation and its application in particular cases
 - 6.6. adding proposed implementation arrangements to the matters that should be evaluated under clause 8(j)
 - 6.7. excluding any Bill that brings into effect recognition agreements under the Marine and Coastal Area (Takutai Moana) Act 2011, and any associated secondary legislation
 - 6.8. broadening the wording of clause 23 to provide for situations where the Board rather than the Chief Executive are responsible for making secondary legislation
 - 6.9. amending clause 38 so that members would be jointly appointed by the Minister for Regulation and the Attorney-General.
- 7 My intention is that these changes would be reflected in the departmental report to FEC.

Background

- 8 On 5 May 2025, Cabinet agreed to a number of policy matters for inclusion in the Bill. It also agreed that it would consider the Departmental Report before it was submitted to Select Committee, and would further consider the Bill as reported back from Select Committee (including consideration of the proposed taking of property principle as well as other matters) [CAB-25-MIN-0148 refers]. On 19 May, Cabinet then agreed that the Bill be referred to FEC and enacted by 31 December 2025 [CAB-25-MIN-0165 refers].
- 9 On 22 May 2025, the Regulatory Standards Bill had its first reading and was referred to FEC for consideration. FEC subsequently resolved to report back to the House by 23 September 2025.
- 10 Consultation on the Regulatory Standards Bill was open for four weeks, closing on Monday 23 June. Approximately 166,000 submissions were received.

- 11 Given the very high number of submissions, which the Ministry is still in the process of analysing, it is not possible to supply Cabinet with a draft of the departmental report at this stage, which is due with FEC on Friday 25 July. Instead, this paper summarises themes arising from the submissions process, and outlines a proposed approach to the departmental report.

Broad themes emerging from submissions

- 12 While submission analysis is ongoing, the Ministry is comfortable the majority of themes and recommendations that are likely to emerge from submissions have been identified. However, all submissions will be read, and the perspectives of all submitters will be reflected in the departmental report to the committee.
- 13 Based on analysis to date of the substantive submissions¹ by the Ministry for Regulation the main reasons given for support for the Bill include that submitters consider that the Bill will:
- 13.1. achieve its purpose to promote greater transparency and accountability in New Zealand's regulatory environment
 - 13.2. improve the quality of regulation, and reduce unnecessary regulatory burden
 - 13.3. better protect property rights
 - 13.4. support greater productivity and economic growth.
14. The main reasons given for opposition to the Bill are that submitters consider that:
- 14.1. the Bill is a breach of the Treaty/te Tiriti and/or submitters are concerned about its absence from the Bill
 - 14.2. the Bill has an ideological basis not supported by the majority of New Zealanders
 - 14.3. there has been inadequate consultation on the Bill (particularly with Māori)
 - 14.4. the Bill is unconstitutional and could have enduring legal impacts
 - 14.5. the Bill weakens environmental and social protections, would erode protections for minority groups, and will have a 'regulatory chill' effect
 - 14.6. the Bill is unnecessary, expensive and could have unintended negative economic impacts.
- 15 The Ministry for Regulation has contracted Allen & Clarke to assist with submissions analysis to ensure all submissions are considered and reflected in

¹ That is, submissions that comment on specific provisions of the Bill

the departmental report. Allen & Clarke is currently reading and analysing all submissions, with the aim of providing a summary of broad sentiment, themes and comments for input to the departmental report.

Feedback on specific provisions of the Bill

- 16 The majority of feedback received to date on specific clauses has focused on provision for Treaty of Waitangi/te Tiriti o Waitangi and Māori rights and interests; the principles; the Regulatory Standards Board; and the information-gathering powers.
- 17 The Ministry and Allen & Clarke have identified around 750 substantive submissions out of the 149,017 submissions that have so far been read by Allen & Clarke.
- 18 The table in **Annex One** to this paper summarises the feedback from these submissions, provides comment in light of the policy intent on this Bill and indicates whether changes are proposed in response to this feedback.
- 19 It is worth restating the objectives and intent of the Bill, which are that:
 - 19.1. the Bill aims to reduce the amount of unnecessary and poor-quality regulation by increasing transparency and making it clearer where legislation does not meet standards. It intends to bring the same discipline to regulatory management that New Zealand has for fiscal management.
 - 19.2. the Bill reflects the Government's intent to support the accountability of the Executive to Parliament for developing high-quality legislation and exercising stewardship over regulatory systems, and to strengthen Parliament's scrutiny of legislation, by:
 - 19.2.1. establishing selective principles of responsible regulation in primary legislation, based largely on the principles set out in the 2021 Regulatory Standards Bill, and focused specifically on the effect of lawmaking on existing interests and liberties and good lawmaking processes
 - 19.2.2. setting legislative requirements on agencies and/or responsible Ministers to identify and transparently report on inconsistencies in most new and existing legislation and reasons for those inconsistencies
 - 19.2.3. establishing an independent assurance mechanism in the Executive to incentivise robust compliance with the Bill's requirements and provide an avenue for people to complain about inconsistencies with the principles
 - 19.2.4. supporting the Ministry for Regulation's regulatory oversight role and strengthen government departments' regulatory stewardship obligations.

Areas where changes to the Bill are proposed

- 20 I have considered the feedback from the submissions analysed to date. My view in most cases is that the current drafting reflects the objectives and intent of the Bill, and I do not think any amendments are warranted.
- 21 One particular theme of submissions was that the Bill would have broad-ranging effects on the ability of the Executive and Parliament to legislate for various public goods. It is important to note that there is no intent for the principles (or any other part of the Bill) to be applied outside the limited scope required by the Bill (e.g. in relation to the completion of CASs for proposed and existing legislation). In addition, the Bill more generally sets other explicit limits on the legal effect of the Bill, including not conferring legal rights or imposing legal obligations (cl 24), not affecting powers to make legislation (cl 25(1)), and not affecting the validity or operation of any legislation (cl 25(2)).
- 22 Instead, the Bill sets in place a series of transparency and accountability measures to shift behaviour so there is a disincentive for responsible agencies, Ministers and other makers of legislation to develop, or allow to continue in place, legislation that is inconsistent with the principles set out in the Bill, unless a sound justification can be made.
- 23 However, there are several areas where I am proposing changes to the Bill in response to submitter feedback.

Commencement

- 24 Submitters raised that there should be adequate time for establishing the Regulatory Standards Board before requirements for Consistency Accountability Statements (CASs) commence.
- 25 As currently proposed, the Board would be established from 1 January 2026, at the same time the Bill comes into force. However, CAS requirements will come into force by Order in Council, no later than 1 July 2026. This delay leaves time for guidance material to be developed and published.
- 26 As the role of the Board will be to assess new Bills and existing legislation against the principles, I agree it would be appropriate for the Board to be established to align with the publication of guidance material and implementation of CAS requirements.
- 27 I therefore propose an amendment to align the coming into force of the provisions for establishing the Board with the coming into force of CAS requirements.
- 28 I note that this amendment may impact on the requirement in schedule 1, part 1 clause 6 for an interim board report covering the period between 1 January 2026 – 30 June 2026, and result in an interim report being unnecessary.

Minor amendments to principles

29 Many of the substantive submissions raised concerns with the proposed principles either generally, or with specific principles. There was also a focus on why there was no provision for Te Tiriti o Waitangi/the Treaty of Waitangi in the principles. In relation to most of the concerns raised, my view is that:

- 29.1. the principles are intended to be selective, and focused on supporting the accountability of the Executive to Parliament. While the good lawmaking principles are intended to broadly cover the range of issues that should be considered during the process of developing a legislative proposal, the other principles are intended to focus more narrowly on the effect of lawmaking on existing interests and liberties. They are not intended to be a comprehensive list of all principles that could be considered in relation to the design and content of legislation
- 29.2. nothing in the Bill prevents any additional principles from being considered in the process of lawmaking, or in the review of existing law
- 29.3. decision-makers considering matters under the Bill will not be expressly required by the Bill to consider the Treaty/ te Tiriti. However, this approach does not prohibit any decision-maker taking account of the Treaty/ te Tiriti. Legislation-makers may still consider these matters in proposing legislation, and existing Cabinet processes, Crown guidance and Crown legal advice all still encourage decision-makers to act consistently with the Crown's Treaty/te Tiriti obligations to provide for Māori rights and interests, and with Treaty/te Tiriti settlements and agreements.

30 However, I am proposing some minor changes to the principles:

- 30.1. Clause 8(d) relating to taxes refers to the whole of section 22 of the Constitution Act 1986 (which covers Parliamentary control of public finance broadly) rather than just 22(a) (which concerns taxes). This has likely created some confusion, where submitters have thought that the Bill was attempting to establish principles for the borrowing and spending of money. I therefore propose that the reference should be limited to section 22(a) of the Constitution Act, rather than the whole of section 22.
- 30.2. The Chief Justice suggested consideration of a broader formulation of clause 8(g) to capture a more complete explanation of the courts' constitutional role. I therefore propose changing the wording of the clause in line with wording proposed by the Chief Justice to refer to the courts' constitutional role of administering justice according to law, including the interpretation of legislation and its application in particular cases.
- 30.3. Some submitters suggested that planning for implementation would be a helpful addition to the good law-making principles. I agree that implementation arrangements can be a major determinant of the

success or failure of regulation, including the pain points and compliance costs experienced by those affected, and therefore propose that proposed implementation arrangements should be added to the matters that should be evaluated under clause 8(j).

Additional exclusion for the Marine and Coastal Area (Takutai Moana) Act 2011

- 31 Under the Marine and Coastal Area (Takutai Moana) Act 2011, there are two legislative pathways to have recognition agreements brought into effect under section 96 of the Act (alternatively there is an option for recognition to be provided by a Court order under section 94).
- 32 The pathway for agreement to recognise a protected customary right is via Order in Council, and is considered secondary legislation. Secondary legislation made under Takutai Moana is excluded from the requirements of the Act, by virtue of being made under an excluded Act. However, recognition of customary marine title can occur via an Act of Parliament and has not been provided for as an excluded Bill, creating an inconsistency between the treatment of primary and secondary legislation giving effect to recognition agreements.
- 33 For consistency with the exclusion currently in the Bill, I propose excluding any Bill that brings into effect recognition agreements under that Act, and any associated secondary legislation. This also aligns with an exclusion from Regulatory Impact Analysis requirements for recognition agreements.

Providing for situations where Boards are responsible for making secondary legislation

- 34 The External Reporting Board pointed out that the provision in clause 23 relating to Chief Executives acting independently of the Minister does not cover situations where a Board rather than the organisation has the responsibility for making secondary legislation. I therefore propose broadening the wording of the clause to provide for these situations.

Appointments to the Regulatory Standards Board

- 35 Many substantive submissions raised concerns about the effect, independence and membership of the Regulatory Standards Board. In relation to many of the concerns raised, my view is that:
 - 35.1. the Board does not have decision-making powers and cannot make binding recommendations. Its role is limited to providing reports to select committees and making recommendations to the Minister for Regulation. The Board's recommendations are non-binding and do not prevent or require legislation to be amended or developed in a particular way
 - 35.2. the Bill does not provide for the Minister for Regulation to direct the Board to undertake particular inquiries, or to cease any inquiry

- 35.3. appointments to the Board will be consistent with established processes and will be considered by Cabinet through the Cabinet Appointments and Honours Committee process
- 35.4. as the Board's functions involve inquiring into legislation covering a broad range of subject matters, it is important that sufficient flexibility is provided to enable appointment of a broad range of expertise over time.

36 However, to provide reassurance and avoid perceptions of disproportionate influence from any one Minister, I propose amending the clause so that members would be jointly appointed by the Minister for Regulation and the Attorney-General. As the Attorney-General also has a role in providing guidance material, they would be well-placed to understand the expertise required on the Board.

Cost-of-living implications

37 There are no cost of living implications as a result of the specific proposals in the paper.

Financial implications

38 There are no additional financial implications as a result of the proposals in this paper. Financial implications arising from the Regulatory Standards Bill were previously noted by Cabinet [CAB-25-MIN-0148 refers].

Legislative implications

39 The Regulatory Standards Bill is currently before select committee, and the proposals in this paper will be reflected in the Departmental Report to the committee.

Impact analysis

Regulatory Impact Statement

40 [TBC]

Climate Implications of Policy Assessment

41 The Climate Implications of Policy Assessment (CIPA) team was previously consulted on the policy proposals in this Bill and confirmed at that time that the CIPA requirements did not apply, as the threshold for significance was not met.

Population implications

42 The specific proposals in this paper have no direct population implications.

Human rights

- 43 The Attorney-General has previously provided advice that the Bill appears to be consistent with the New Zealand Bill of Rights Act 1990.

Use of external resources

- 44 The Ministry for Regulation has appointed Allen & Clarke to assist with analysis of the significant number of submissions received by the select committee hearing the Bill.

Consultation

- 45 The timing of this paper has not allowed for departmental consultation to be undertaken.

Communications

- 46 Following report back by the select committee, the departmental report will be publicly released. I do not intend to make any public statement on the specific proposals in this paper.

Proactive release

- 47 I intend that this paper be proactively released as soon as possible after the select committee has reported the Bill back to the House.

Recommendations

- 48 The Minister for Regulation recommends that Cabinet:
- a. **note** that on 5 May 2025, Cabinet agreed to a number of policy matters for inclusion in the Regulatory Standards Bill, agreed that it would consider the Departmental Report before it was submitted to Select Committee, and agreed that it would further consider the Bill as reported back from Select Committee (including consideration of the proposed taking of property principle as well as other matters) [CAB-25-MIN-0148 refers].
 - b. **note** that, given the very high number of submissions, it is not possible to supply Cabinet with a draft of the departmental report at this stage, and analysis of submissions is still ongoing
 - c. **note** that, in place of a draft departmental report, this paper summarises themes arising from the submissions process, and outlines a proposed approach to the departmental report in Annex 1 attached to this paper
 - d. **note** that I have considered the feedback from the submissions analysed to date, and my view in most cases is that the current drafting reflects the objectives and intent of the Bill, and amendments are not warranted
 - e. **note** that there are several areas where I am proposing changes to the Bill in response to submitter feedback:

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- i. aligning the coming into force of the provisions for establishing the Board with the coming into force of CAS requirement in clause 2
 - ii. limiting the reference in clause 8(d) to section 22(a) of the Constitution Act, rather than the whole of section 22
 - iii. changing the wording of clause 8(g) to refer to the *courts' constitutional role of administering justice according to law, including the interpretation of legislation and its application in particular cases*
 - iv. adding proposed implementation arrangements to the matters that should be evaluated under clause 8(j)
 - v. excluding any Bill that brings into effect recognition agreements under the Marine and Coastal Area (Takutai Moana) Act 2011, and any associated secondary legislation
 - vi. broadening the wording of clause 23 to provide for situations where a Board rather than the Chief Executive is responsible for making secondary legislation
 - vii. amending clause 38 so that members would be jointly appointed by the Minister for Regulation and the Attorney-General
- f. **note** that these proposed changes would be reflected in the Departmental Report to FEC
- g. **agree** that this paper be proactively released as soon as possible after the select committee has reported the bill back to the House.

Authorised for lodgement

Hon David Seymour

Minister for Regulation

Annex One: Feedback from substantive submissions and proposed response

The table below summarises substantive feedback from submitters, focusing on where they raised particular concerns with, or proposed changes to, specific clauses of the Bill, or where they suggested additional provisions. The table also captures recommendations as a result of further analysis by the Ministry for Regulation.

It should also be noted that where submitters made suggestions for changes or improvements to the Bill, this does not necessarily mean these submitters supported the Bill in its current form. The majority of submitters who took the time to suggest improvements to the Bill nevertheless expressed an overall view that the Bill should not proceed.

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
1.	1	Title	Bill should be called the <i>Good Legislation Bill</i> or <i>Good Lawmaking Bill</i> ; Bill should be called the <i>Legislative Quality and Regulatory Design Bill</i> ; Title should be revised to reflect the substantive intent and constitutional implications of the Bill	Jonathan Boston, Dean Knight; KPN Consultants Ltd	Regulation is a broad term including laws, rules, and other mechanisms to influence people's behaviour. While the majority of the bill focuses on legislative quality other elements focus more broadly on regulatory stewardship and the operation of regulatory systems (e.g. through information provision requirements in support of regulatory reviews). The title of the Bill is consistent with its Purpose as set out in clause 3 of the Bill.	No change proposed
2.	2	Commencement	Provide adequate time for developing guidance material and establishing the board before CAS requirements commence.; amend to provide more lead in time; allow or a pilot/phased approach before full commencement.	The New Zealand Initiative, Bryce Wilkinson, KPN Consultants Ltd and others	The Bill provides for a maximum six-month period between coming into force on 1 January 2026, and CAS requirements coming into force by no later than 1 July 2026. The six-month period is intended to provide a sufficient period for guidance material to be developed and published. However, the Board is intended to be established from 1 January 2026, prior to Consistency Accountability Statement (CAS) requirements being in place. As the role of the Board will be to assess new Bills and existing legislation against the principles, the misalignment in timing means the Board would be basing reviews on interpretations that may not align with subsequent guidance, and review could be carried out prior to agencies having an opportunity to develop their processes for undertaking CAS requirements and regular reviews. It would be highly desirable to align the Board's establishment with the availability of guidance material and CAS requirements to avoid these inefficiencies and uncertainties.	Change proposed Align the coming into force of the provisions for establishing the Board with the coming into force of CAS requirements. This may impact on the requirement in schedule 1, part 1 clause 6 for an interim board report covering the period between 1 January 2026 – 30 June 2026
3.	3	Purpose - support of intent	Some submitters supported the intent of the bill to improve regulatory quality and did not believe any changes were required. Others supported the overall intent while noting suggestions, improvements and/or concerns	The New Zealand Initiative, Taxpayers' Union, Business New Zealand, Ananis Chaudhuri, Bryce Wilkinson, Energy Resources Aotearoa, Democracy Action Inc, David Harvey, Callum McMenamin,	Where specific suggestions for improvements have been identified, they have been captured in the relevant comments below.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			about particular aspects of the Bill and how it proposes to achieve this intent.	Ash Hamilton, Jay Tohill, Evelyn Johnson, Brian Casey, SPCA, Edward Willis and others.		
4.	3	Purpose	Include reference to te Tiriti o Waitangi, tikanga Māori, equity, environmental sustainability, and/or intergenerational wellbeing or delete reference to protection; purpose would be more accurately stated as <i>to minimise the amount of regulation and to elevate the status of private property rights</i>	Kevin Hague, Taiawhio Wati-Kaipo, Stephanie Coutts, KPN Consultants Ltd and others	The Purpose clause sets out the intended purpose of the Bill consistent with the policy intent – i.e. to support Parliament in its role, including its ability to hold the Executive to account for the development of legislation and its stewardship over regulatory systems. While other proposed provisions are not necessarily inconsistent with the policy intent of the Bill, they are not part of the purpose as agreed, and should therefore not be included in this clause.	No change proposed
5.	New	Provision for te Tiriti o Waitangi and Māori rights and interests	Lack of provision for te Tiriti o Waitangi and Māori rights and interests is inappropriate/unacceptable. Include a te Tiriti o Waitangi clause; give proper weight to Te Tiriti and Māori rights and interests throughout the Bill	Multiple	The absence of reference to te Tiriti o Waitangi in the Bill reflects a decision to focus on a discrete set of goals, including promoting the accountability of the Executive to Parliament in relation to the quality of regulation (rather than the relationship between the Executive and Māori) and an intention not to alter existing norms or constitutional settings relating to Te Tiriti. There are other examples of New Zealand statutes that provide for broad principles to be considered in lawmaking that do not reference the Treaty/te Tiriti but are similarly not intended to alter or diminish it. For example, the New Zealand Bill of Rights Act 1990, the Constitution Act 1986, and the Legislation Act 2019.	No change proposed
6.	5	Interpretation	Provide a definition of courts that includes the Waitangi Tribunal	Kaibosh Food Rescue, Stephanie Coutts	It is unnecessary to provide any further definitions of the Waitangi Tribunal as there is no mechanism in the Bill that requires any further description of it.	No change proposed
7.	5	Interpretation	Define key terms including ‘property’, ‘impairment’, ‘compensation’, ‘quality’, ‘regulatory stewardship’, ‘regulatory management system’; use the term ‘regulation stewardship’	Waikato Regional Council, NZ Airports Association Northland Regional Council, New Zealand Law Society, Taituarā — Local Government Professionals Aotearoa, Whanganui District Council, Tax Justice Aotearoa Wellington Tenth Trust, Palmerston North Māori Reserve Trust, Hikoikoi Management Limited, Aedeen Boadita-Cormican, Wellbeing Economy Alliance Aotearoa and others	Guidance issued under cl 27(1)(a) of the Bill can set how the principles should be applied, which may give further direction on the scope of particular terms used in the Bill when no definition has been provided. There is no need to define these terms as, with or without that guidance, the meaning of any term in legislation if not defined specifically is ascertained from its text and in the light of its purpose and context (as provided for in section 10 of the Legislation Act 2019).	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
8.	5	Interpretation - Definition of CAS	Include a requirement in CASs to provide the analysis conducted and the principles that have been complied with to give reasons for the CE's conclusions and assist the Board's considerations	Nikolas Haden	Consistent with the purpose of the Bill, CASs are intended to provide both an assurance that the agency has reviewed the Bill or legislation for consistency with the principles and a summary of any inconsistencies with specific principles. The guidance issued under clause 27 will likely make further provision for publication of the underpinning analysis, and this material would anyway be subject to usual expectations and requirements in relation to the release of official information.	No change proposed
9.	5	Interpretation - Use of CASs	CASs should be replaced with streamlined regulatory impacts statements to reduce prescriptive provisions	Deborah Te Kawa	Replacing CASs with an administrative requirement is inconsistent with the policy intent that the Bill impose legislative requirements on agencies with respect to assessing and reporting on inconsistencies in proposed or existing legislation.	No change proposed
10.	5	Interpretation - Responsibility for CASs	Agencies should not be responsible for assessing their own legislation	Alex Szczepaniak	Requiring agencies to assess their legislation to identify inconsistencies is an important part of holding responsible Chief Executives accountable for their legislative development and stewardship responsibilities. The Board is intended to provide an assurance mechanism to ensure robust CASs are completed.	No change proposed
11.	6	Transitional arrangements	The clause creates ambiguity about what the Board can review during the transitional period	Christopher O'Brien	See 2 above for response.	Change proposed – see row 2
12.	8	Principles	Some submitters gave specific endorsement of particular principles or supported the principles as set out in the Bill in their entirety. Others supported the principles while making recommendations for how they could be improved to ensure the Bill achieves its intent.	The Taxpayers' Union, The New Zealand Initiative, BusinessNZ, Democracy Action Inc, Tuatahi First Fibre, Energy Resources Aotearoa and others	Support for the principles generally and principles will be reflected in the Ministry for Regulation's departmental report. Where specific suggestions have been made in relation to particular principles, those suggestions are set out below.	No change proposed
13.	8	Principles - Focus of principles	The chosen principles are too narrow, too focused on preserving individual rights and liberties at the expense of public goods and/or equity, reflect libertarian ideology, don't match up with the <i>Legislation Guidelines</i> , are novel/contestable, unnecessarily duplicate existing concepts, impact on certainty, are subjective/open to interpretation, are inconsistent with international conventions (e.g. UNCRPD and UNDRIP), conflict with NZBORA rights and freedoms, favour the individual over the collective, create presumptions against regulatory intervention, constrain the legitimate role of the state in regulating.	Multiple	The principles are intended to be selective, and focused on supporting the accountability of the Executive to Parliament. While the good lawmaking principles are intended to broadly cover the range of issues that should be considered during the process of developing a legislative proposal, the other principles are intended to focus more narrowly on the effect of lawmaking on existing interests and liberties. They are not intended to be a comprehensive list of all principles that could be considered in relation to the design and content of legislation. Nothing in the Bill prevents any additional principles from being considered in the process of lawmaking, or in the review of existing law.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			Principles should be broader, more inclusive, reflect diversity, be more broadly accepted, better reflect constitutional norms, Principles referencing property should be deleted; principles should be deleted from the Bill where there is no equivalent principle in the <i>Legislation Guidelines</i>. Principles should include or be replaced by principles from or relating to NZBORA, Human Rights Act, Legislation Guidelines, the precautionary principle, kaitiakitanga /environmental stewardship, climate change mitigation and adaptation, considerations of public interest/harm, natural justice, access to justice, consistency with international law or obligations (e.g. UN Declaration on the Right of Indigenous People, International Covenant on Civil and Political Rights, UN Convention on the Rights of the Child), intergenerational wellbeing, health and wellbeing, equity, equality, fairness, proportionality, accountability, transparency, protection for animals, protection and development of the official languages of New Zealand (including NZ Sign Language), effective and efficient implementation.			
14.	8	Principles – inclusion of a Treaty principle	Principles do not recognise or provide for te Tiriti o Waitangi; principles should include or be replaced by principles from or relating to te Tiriti o Waitangi.	Multiple	The principles are intended to be selective, and focused on supporting the accountability of the Executive to Parliament The Bill does not include a principle relating to the Treaty/te Tiriti o Waitangi as part of the principles of responsible regulation. As a result, decision makers considering matters under the Bill will not be expressly required by the Bill to consider the Treaty/te Tiriti. However, this approach does not prohibit any decision-maker considering a regulatory proposal from taking account of the Treaty/ te Tiriti. Legislation-makers may still consider these matters in proposing legislation, and existing Cabinet processes, Crown guidance and Crown legal advice all still encourage decision-makers to act consistently with the Crown's Treaty/te Tiriti obligations to provide for Māori rights and interests, and with Treaty/te Tiriti settlements and agreements.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
15.	8	Principles – Process for choosing principles	The reasoning behind the selection of principles is not clear; principles should be developed on a cross-party or consensus basis, or developed in consultation with Māori	LDAC, Orion NZ Ltd, Ari Lucock, George Lake and others	The principles are selective, and focused on supporting the accountability of the Executive to Parliament. While the good lawmaking principles are intended to broadly cover the range of issues that should be considered during the process of developing a legislative proposal, the other principles are intended to focus more narrowly on the effect of lawmaking on existing interests and liberties. They are not intended to be a comprehensive list of all principles that could be considered in relation to the design and content of legislation.	No change proposed
16.	8	Principles - Provision for principles in primary legislation	Provision for principles in primary legislation could have unwanted effects e.g. could create a 'regulatory constitution' by stealth, bind Parliament, undermine Parliamentary sovereignty, lessen Parliamentary scrutiny, undermine the legitimacy of legislation, undermine/breach te Tiriti, hinder constitutional transformation changes sought by Māori, undermine tino rangatiratanga, exclude Māori from key decision-making processes, create uncertainty in relation to how agencies should balance Treaty obligations, be used to remove specific funding for Te Reo Māori in the film and broadcasting industry, give power to overseas corporations or those seeking to challenge legislation for personal/private interests, be used to bolster cases taken under ISDS arrangements, impact on Treaty exemptions under FTAs, impact on governments' current or future ability to pursue environmental, social or other policy changes, impede emergency, public health or climate change responses, hinder development and adoption of new technologies, impact on public participation, discourage worthwhile interventions that do not yet have robust cost-benefit data, have particular impacts on disabled persons and their families, block affirmative action or equity measures, exacerbate regional inequalities, threaten sustainability, weaken environmental protections, and/or create confusion with other legislative provisions (e.g. NZBORA). Principles should not be legally binding or be able to be used to challenge existing or proposed legislation	Jane Kelsey, Simpson Grierson, Orion NZ Ltd, Sue Fitchett, Nevaeh Pene, Mike Philippe, Freda Whiu, Justin Paul, Morris Te Whiti Love, Jal Smith, Christopher O'Brien, Freya Hogarth, Chris Nelson, Jessica Matthews, Shane Shaw-Williams, Desiree des Barres, Eugenia Devoto, Michael Bennett, Daniel Nathan, Kim Tuine, Chris Clayton, Meri Haami, Jared Johnstone, Freya Hogarth, Amber Snell, Angela Couch, Caleb Demegilio-Rose, Christopher Camp, Wayne Anderson, Krystle Delamere, Parents of Vision Impaired (NZ) Inc, E Tū, Awhina Watson-Pitcher, Joya Fimin, Ngā Waihua o Paerangi Trust, Ngā Koata Trust, Kyle Dawson, Aaron Barnsdall, Daniel Nathan, Jonas Hare-Taoho, Jasmine Day, Wayne Anderson, Eleanor Baker, Deborah Te Kawa, Eleanor Bakker, Aperahama Palmer, Catherine Leonard, Christopher Stones, Jared Johnstone, Jarrad Bailey, Wikitōria Pūriri, Te Kōkiringa Taumata - New Zealand Planning Institute, David Cunliffe, Kevin Hague, Tūwharetoa ki Kawerau Hauora	The Purpose clause states that the purpose is only given effect by the specific provisions of the Bill. That is, there is no intent for the principles (or any other part of the Bill) to be applied outside the limited scope required by the Bill (e.g. in relation to the completion of CASs for proposed and existing legislation). The Bill does not contain mechanisms to achieve these outcomes suggested by submitters. The Bill is not intended to affect the interpretation of any other legislation, and sets other explicit limits on the legal effect of the Bill, including: - not conferring legal rights or imposing legal obligations (cl 24) - not affecting powers to make legislation (cl 25(1)) - not affecting the validity or operation of any legislation (cl 25(2)). The intent of the Bill is to support and strengthen Parliament in its role, including its ability to hold the Executive to account. There is no intent nor mechanism for the Bill to bind Parliament, undermine Parliamentary sovereignty or in any way affect existing constitutional roles and relationships. While there is no intent for the principles to have any legal effect outside CAS, reviews, and the Board, there is an intent that the requirements set out in the Bill will help to shift behaviour so there is a disincentive for responsible agencies, Ministers and other makers of legislation to develop or allow to continue in place legislation that is inconsistent with the principles set out in the Bill.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			Despite the lack of legal effect, Bill will shift behaviour so that the principles will become de facto requirements	Trust, James Henare Research Centre and others		
17.	8	Principles - Interaction between principles	It is unclear how the principles interact, and this could require trade-offs that are politically and socially challenging, or create uncertainty	Business NZ, Te Kāhui Tika Tangata – Human Rights Commission and others	Like much legislation intended to apply to a wide range of factual situations, the Bill and its principles are necessarily high level and will at times involve trade-offs (compare for example sections 6 and 9 of the Official Information Act 1982, or the New Zealand Bill of Rights Act 1990). The proposed guidance is likely to give a degree of direction about how trade-offs between the principles should be considered. However, the proposal is intended to make such trade-offs more transparent, in particular through Ministers' statements of reasons for any inconsistencies (noting that CASs are intended to simply and transparently identify where there are inconsistencies with individual principles).	No change proposed
18.	8	Principles - Alternate provision for principles	Standards should not be set via principles in primary legislation, the approach should follow Part 4 of the Legislation Act; detailed standards should be set out in secondary legislation, principles should be provided for through an overarching government statement on regulatory practice based on the existing Government Expectations for Good Regulatory Practice, a high level statement of principles (reflective of the full scope of the LDAC checklist), with more detail set out in non-statutory guidelines, principles should be more appropriately addressed through amendments to NZBORA and the Constitution Act	Office of the Clerk, LDAC, Parliamentary Commissioner for the Environment, NZEI Te Riu Roa, Edward Willis, Seafood New Zealand, the NZ Rock Lobster Industry Council, the Pāua Industry Council, Carwyn Jones and others	The policy intent is to use primary legislation to provide for principles, requirements for agencies and Ministers in relation to those principles, establishment of a Board, and powers to support the Ministry's regulatory oversight role.	No change proposed
19.	8	Principles – qualification for purposes of environmental regulation	Qualify clause with provision that <i>nothing in this section confers a right to pollute water or air, to contaminate soil, or destroy significant indigenous biodiversity</i>	Parliamentary Commissioner for the Environment	Nothing in the Bill creates new rights or affects existing obligations, or affects the validity or operation of any environmental legislation (see clause 24). Any existing restrictions on pollution or destruction of significant indigenous biodiversity would be unaffected by the Bill. In addition, the Bill imposes no restrictions on the ability to proceed with legislative proposals or leave existing legislation in place, even where proposed or existing legislation has been found to be inconsistent with the principles. Further, restrictions aimed at preventing environmental (and other) harms are likely to be	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					common reasons advanced by Ministers for inconsistencies with the principles.	
20.	8	Principles - Exclusion of consideration of other principles	The use of <i>are</i> instead of <i>include</i> in the beginning of clause 8 prima facie means that other principles cannot be relied upon	Bill Atkin	The policy intent is to set out particular principles with requirements to transparently assess the consistency of proposed and existing legislation with the principles. However, this does not mean other matters cannot be considered when proposing or reviewing legislation. There may be other obligations, existing Cabinet processes, guidance and/or legal advice that sets out other principles that may apply or be required to be considered when making or reviewing law depending on the context. While these other aspects will not be <i>principles of responsible regulation</i> for the purposes of this Bill, the Bill does not prevent those principles being considered. However, it is not a requirement to consider them for the purposes of this Bill.	No change proposed
21.	8	Principles – Drafting	While 8(a), 8(d) and 8(j) are constructed using <i>the importance of</i> , other clauses are not, with no apparent reason.	Kevin Hague	This is a drafting point that will be raised with PCO.	This point will be raised with PCO as a drafting matter
22.	8	Principles – Reference to ‘regulation’	Principles are called <i>principles of responsible regulation</i> when the clauses refer to <i>legislation</i> .	Kevin Hague	See response in one above.	No change proposed
23.	8	Principles - Use of ‘person’	The definition of a person or individual as including corporations undermines the power of individual citizens and shifts the balance of rights in favour of profit driven entities and/or could leave the Government and taxpayers open to legal action; person is too limited a concept that does not allow consideration of effects on animals, Te Taiao, future generations, tikanga Māori and biodiversity; use of <i>person</i> would situate animals as property under the Bill with a consequential loss of the protections animals currently have.	Zita Smith, Chrys Horn, Meri Haami, Ngā Waihua o Paerangi Trust, Animal Justice Auckland, SPCA and others	The intent is that the principles apply broadly to individuals, groups of people and organisations who are subject to New Zealand law, as provided for by the term <i>person</i>. The Legislation Act 2019 defines “person” for all legislation as including a corporation sole, a body corporate, and an unincorporated body (s 13). Clause 24 of the Bill clearly states that the Bill does not confer or impose legal rights or obligations, irrespective of whether it applies to ‘corporations’. The Bill reflects a conventional approach by using <i>person</i> – however, it should be noted that, under clause 25, the validity or operation of existing protections for animals under other enactments would not be affected by the Bill.	No change proposed
24.	8(a)	Rule of law - Need for further strengthening	The principle should be strengthened in relation to clarity requirements for legislation, including avoiding excessive delegation; protection against retrospective changes that adversely affect existing rights; requirements for accessible publication of all legislative instruments; and	New Zealand Initiative	The intent is that that high level principles are set out in legislation, with more detail on their application set out in guidance. The proposed elements all appear to be covered at a high level by the existing principles in the Bill, and able to be elucidated in guidance.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			safeguards against arbitrary administrative discretion			
25.	8(a)	Rule of law – Focus/consistency	Principle is inconsistent with settled legal understandings, reflects a ‘thin’ versus a ‘thick’ definition of rule of law that excludes constitutional norms, particularly te Tiriti and tikanga-based rights Should amend to include other important facets of rule of law such as access to the courts, to refer to consistency with the rule of law rather than specifying particular aspects, to include that legislation should be consistent with Treaty principles, to include Māori tikanga law and/or mutual law, and/or to address inconsistencies with definitions/references in the World Justice Project and <i>Legislation Guidelines</i>	Chief Justice, LDAC, NZ Law Society, Christopher O’Brien, Ngā Iwi o Taranaki, Susanne Vincent, Asian Legal Network, Orion NZ Ltd, Sophie Bond, Max Harris, Kevin Hague, Ngāti Hāua Iwi Trust, Kuru Ketu, Kiwis for the Treaty Inc and others	As outlined above, the principles are intended to be selective, focusing on the process of good law-making and on the effect of law-making on existing interests and liberties. They are not intended to be a comprehensive list of all principles that could be considered in relation to the design and content of legislation. From this perspective, the Bill does not prevent consideration of many of the areas submitters recommended be included in this principle as part of legislative development or stewardship processes more broadly.	No change proposed
26.	8(a)	Rule of law - Effect of principle	The principle could encroach on the judiciary’s role in interpreting and applying the law, result in this becoming the accepted definition of rule of law, and/or allow the Executive to further define the concept (via the guidance and the Board)	Desiree des Barres Ngāti Hāua Iwi Trust, Kuru Ketu, Iarau Ltd and others	There is no intent for any principle to be applied outside the limited scope required by the Bill or to affect the interpretation of any other legislation, or for the Bill more broadly to affect existing constitutional roles and relationships. The guidance would apply strictly to the application of the principles in the context of the requirements of the Bill.	No change proposed
27.	8(a)(i)	Law should be clear and accessible - Application to technical legislation	The Minister in charge of legislation that is unavoidably difficult for a layperson to understand should not be legally compelled to provide reasons for an inconsistency with this principle in such situations.	Donald Mathieson	The intent is that the principles are not absolute, and identification of inconsistencies with any of the principles have no impact on the validity or operation of any legislation. In this scenario, the Minister would simply be required to give reasons for any inconsistency.	No change proposed
28.	8(a)(i)	Law should be clear and accessible - Lack of clarity	Principle should be clarified to provide definitions of <i>clear</i> and <i>accessible</i>	Callum McMenamin	Comment on requests for the Bill to include additional definitions is set out in row 7.	No change proposed
29.	8(a)(ii)	Retrospectivity - Treatment of property	Retrospective application to property should be treated differently as it will sometimes be appropriate to impose obligations retrospectively (e.g. the ability to impose taxes on windfall gains)	Bob Lack	As noted above, the principles are not absolute, and Ministers can give reasons where their view is that inconsistencies with the principles are justified.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
30.	8(a)(iii)	Equality before the law – Focus/clarity of principle	Principle can be interpreted in very different ways, could be interpreted to mean formal equality (everyone should be treated equally) or just that laws as written should apply to everyone equally, or that it establishes obligations of substantive fairness and equality of outcomes across a range of areas. Principle is too narrowly focused on equality at the expense of equity; is inconsistent with idea that objective differences should justify differentiation, limits traditional meanings, fails to take into account systemic disadvantage, doesn't recognise the reasons why natural persons and legal entities should have different rights, is inconsistent with NZBORA, is inconsistent with legislation such as Pae Ora (Healthy Futures) Act 2022 which specifically require engagement with Māori and improvements in Māori health equity. Should be expressed as <i>no-one is above the law, or the laws of the land should apply equally to all, except to the extent that objective differences justify differentiation</i>	Multiple	The intention of the principle is to capture the concept of equality of administration of the law – that is, that everyone should comply with the law of the land. It is not intended to refer to a general right of equality before the law, nor that the law should not differentiate on the basis of objective differences. The intent is that the high level principles are set out in legislation, with more detail on their application set out in guidance.	No change proposed
31.	8(a)(iii)	Equality before the law - Effect of principle	Principle could give rise to novel legal arguments and uncertainty; result in removal of equity measures for minority communities; ignore systemic disadvantage; undermine recognition of Māori as tangata whenua and Treaty rights; undermine te Tiriti o Waitangi, undermine UNDRIP; erode protections provided for under the NZBORA; be seen as inconsistent with targeted learning support for students with diverse or cultural needs; undermine targeted policies for Māori, fail to account for existing legislative provisions in employment law; block necessary protections for vulnerable workers; and/or affect judges' ability to use discretion when sentencing	LDAC, Law Association of NZ, PSA, Tūwharetoa Mai Kawerau ki te Tai Settlement Trust, NZEI Te Riu Roa, Alyssa Dunster, Judy McDonald, Janell Kiriona, Diane Hayes, St Peter's on Willis Social Justice Group, Tūwharetoa ki Kawerau Hauora Trust, Howard Whanau, Mezlja Yelash, Mike Philippe, Chris Nelson, Mere Takurua, Raukura Hauora o Tainui, Kirwin Hampshire, Te Hunga Roia Māori o Aotearoa, Workers First Union, John Perfect, Eleanor Bakker, Tania Waikato and others	As noted above (row 26), there is no intent for any principle to be applied outside the limited scope required by the Bill or to affect the interpretation or validity of any legislation, or for the Bill more broadly to affect existing constitutional roles and relationships.	No change proposed
32.	8(a)(v)	Rights and liabilities should be resolved by application of the law - Lack of clarity/consistency	Principle is inconsistent with the status quo where such discretion is common (e.g. the role of licensing authorities, or the administration of social welfare law); cuts across role of courts to assess the reasonableness of such decisions;	Donald Mathieson, Waikato Regional Council, Maria Bartlett, Bill Rosenberg	This principle is generally consistent with current principles set out in the <i>Legislation Guidelines</i>. As noted above, the principles are not absolute, and Ministers can give reasons where their view is that inconsistencies with the principles are justified.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			and/or undermines the important role of the bureaucracy as a check on power			
33.	8(b)	Liberties	The principle will ensure that legislation cannot be used, without explanation, to erode fundamental freedoms.	The Taxpayers' Union		No change proposed
34.	8(b)	Liberties - Need for further strengthening	Replace <i>except as necessary</i> with reference to <i>reasonable limits</i> that can be <i>justified in a free and democratic society</i> , with further clarification of what things should be taken into account when making that judgement	Rock the Vote NZ	As noted above (row 7), the intent is that high level principles are set out in legislation, with more detail on their application set out in guidance.	No change proposed
35.	8(b)	Liberties – Focus/clarity of principle	Principle should delete the reference to property; should recognise that there might be good reasons for diminishing a person's liberty beyond protecting another person's liberty etc; does not recognise the public harm principle; does not provide for preventing people harming themselves; does not provide for requiring people to do things for their own good, does not provide for protecting critical environmental goods from harm; does not provide for collective goals to be pursued; should recognise collective rights (including concepts central to tikanga such as interdependence, collective responsibility, and the deep connections between people and whenua). Principle incorporates concepts much broader than generally recognised in New Zealand and other common law jurisdictions, is not well-established as a concept does not align with the generally accepted definition of the concept of liberty, overlaps with NZBORA provisions, is inconsistent with other legislation (e.g. provision for safe areas around abortion providers), will be difficult to apply in the resource management space, the term <i>unduly</i> is unclear, does not reference the personal security of another person as a ground for limiting the liberty of another person Should replace with Standing Orders language that <i>legislation should not trespass unduly on personal rights and liberties</i>, should explicitly reference/provide for NZBORA rights	LDAC, Jonathan Boston Stephanie Coutts, Bob Lack, Gerald Rawson, Te Hunga Roia o Aotearoa, Eamon Frazer, Iarau Ltd, VOYCE - Whakarongo Mai, Asian Legal Network, Northland Regional Council, Kevin Hague, Joanna Mossop, Esko Wiltshire, Community Business Environment Centre, Tiaki Taiao Far North Environment Trust, Cooper Legal. Anthony Simpson, Christopher O'Brien, Kahu Kutia-Baldwin, Ed Hyde, Donald Mathieson, Melissa Bryant, New Zealand Council for Civil Liberties, Te Kōkiringa Taumata - New Zealand Planning Institute and others	As noted above (row 7, the intent is that high level principles are set out in legislation, with more detail on their application set out in guidance. The principles are not absolute, and Ministers can give reasons where their view is that inconsistencies with the principles are justified. The point that the principle does not reference the personal security of another person as a group for limiting the liberty of another person will be raised with PCO as a drafting matter.	No change proposed.
36.	8(b)	Liberties - Effect of principle	Principle could undermine the concept of public interest; prioritise private property rights over the public good; increase litigation risk; push courts into areas more suitable for parliamentary	LDAC, PSA, Te Popoto, NZEI Te Riu Roa, Susanne Vincent, Waikato Regional Council, VUW Climate Clinic, Alex	As noted above (row 26) there is no intent for any principle to be applied outside the limited scope required by the Bill or to affect the interpretation of	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			consideration; hinder development/operation of regulation focused on public good outcomes; be difficult to apply to management and allocation of public good resources; be used to challenge environmental regulation; and/or create uncertainty through inconsistency with other legislation (especially in the resource management space)	Szczepaniak, Christopher O'Brien, Chris Nelson, Nikole Wills, Gerald Rawson, Ngāti Koata Trust, Forest & Bird, NZEI Te Riu Roa, Te Ātiawa ki Whakarongotai Charitable Trust and others	any other legislation, or for the Bill more broadly to affect existing constitutional roles and relationships.	
37.	8(c)	Taking of property - support	Support for the principle included highlighting that clear rules around compensation and limits on property takings will protect investment and ensure confidence in privacy ownership and noted that ensuring property rights should not be taken or impaired is a long standing in common law traditions; others supported the principle while seeking clarification on what good justification would mean, or further strengthening of the principle.	The Taxpayers Union, BusinessNZ, Joseph McClelland, Bay of Many Coves Resort, Energy Resources Aotearoa	As noted above (row 26), the intent is that that high level principles are set out in legislation, with more detail on their application set out in guidance.	No change proposed
38.	8(c)	Taking of property - Need for further strengthening	Add a provision to compensate for regulatory takings by the government, and clarify that compensation is a property right and cannot be removed by regulatory taking by future governments; include compensation for regulatory takings	Energy Resources Aotearoa, BusinessNZ	Regulatory takings by the government are already provided for in this principle. In addition, if compensation was already paid or committed to, it would be treated as a property right in any assessment of the consistency of proposed legislation. However, the intent of the Bill is not to bind the hands of future government in relation to any future regulatory takings.	No change proposed
39.	8(c)	Taking of property - Focus of principle	The approach institutes an “absolute” approach to property rights, prioritises property rights over other interests (e.g. safety, equity, broader public interest) constitutionalises colonial property law at the expense of Māori property rights, doesn’t provide for circumstances where it may be reasonable to impinge on property rights without compensation, introduces into domestic law an equivalent of Investor-State Dispute Settlement. The principle should balance property rights with public and Māori interests. The principle should balance property rights against infrastructure rights established in existing legislation. The principle should require companies to compensate society for harm caused and contribute to remediation of ecosystems.	Parliamentary Commissioner for the Environment, Te Popoto, Joanna Mossop, Esko Wiltshire, National Iwi Chairs Forum – Pou Tangata, Zero Waste Network Aotearoa, Tūwharetoa ki Kawerau Hauora Trust, Ngā Toki Whakarururanga, Ngā Waihua o Paerangi Trust, VUW Climate Clinic, St Peter’s on Willis Social Justice Group, Juliet Tainui Hernandez, Christopher O’Brien, Te Hunga Roia Māori o Aotearoa, Powerco Ltd, Forest & Bird, Kevin Hague	The principle that compensation should be given for any regulatory taking is, at a high level, consistent with the principle that there should be respect for property rights set out in the <i>Legislation Guidelines</i> – although there are elements of the principle as currently constructed that are novel, as discussed below. In addition, as noted above, the principles are not absolute, are not intended to have legal effect, and Ministers can simply give reasons where their view is that inconsistencies with the principles are justified.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
40.	8(c)	Taking of property - Clarity/consistency	Principle reverses the sovereign power of eminent domain, and the widely accepted “polluter pays” principle Key words are left undefined, creating legal uncertainty and implementation challenges. The lack of definition of property or impairment makes the provision unclear and/or heightens legal and fiscal risks; the term “property” is very broad and its application unpredictable, “good justification” is too broad, “fair compensation” is undefined, it is not clear who decides what is “good” or “fair”, there’s no bright line guidance about what constitutes an impairment or a taking. Structure of principle means there is no provision for even well-justified takings to go uncompensated	Geoffrey Palmer, Jonathan Boston, Geoff Bertram, Jane Kelsey, Te Pane Matua Taiao - Greater Wellington Regional Council, Ngā Toki Whakarururanga, VUW Climate Clinic, St Peter’s on Willis Social Justice Group, Christopher Farro Howard, Eleanor Bakker, Camerson Hunter, Donald Mathieson, Community Law Centres Aotearoa, Iarau Ltd. James Maddock, Katherine Sanders, Maewa Kaihau, Joseph McClelland	As noted above, (row 26), the intent is that that high level principles are set out in legislation, with more detail on their application set out in guidance. This would address much of submitters’ feedback in relation to lack of clarity (and our comment on the concept of impairment is set out below). Where well-justified takings exist, and no compensation has been contemplated, the Minister would simply need to give reasons why this is the case in their statement. This would cover off any scenario where it would be inappropriate to pay compensation (e.g. in relation to a taking in response to a public harm).	No change proposed
41.	8(c)	Taking of property - Effect of principle	Could increase the complexity and cost and decrease the flexibility of policy-making; could make it more difficult or impossible to legislate in the public good or prevent harms; could prevent achievement of key government priorities e.g. the Electrify New Zealand policy; could reverse the polluter pays principle/imply that regulation or legislation cannot constrain people polluting or damaging property that is in public or common ownership; could disproportionately affect legislation relating to Māori rights and interests; could lead to an uncertain regulatory environment for Councils; could result in corporates suing the government or other parties for impairment of their property rights; could require payment of compensation for speculative lost future profits with compound interest, creating significant fiscal risks; could result in a requirement for the Government or others to pay compensation in inappropriate circumstances (e.g. for the occupation of land by line assets and ongoing maintenance under the Electricity Act, removal of animals from abusive owners, in relation to pro-competitive regulation).	LDAC, Transpower, Jane Kelsey, Geoff Bertram, Jonathan Boston, Max Harris, Royal Australian and New Zealand College of Psychiatrists, Bill Rosenberg, Greenpeace Aotearoa, Animal Justice Auckland, PSA, David Cunliffe, Parliamentary Commissioner for the Environment, Waikato River Authority, S I Hall, Jonas Hare-Taoho, Ariana Tikao, Christopher Burns. Bob Lack, Paul McMahon, Chris Nelson, Ying Yang, Mahi Maioro Professionals Ltd, Manaia Raymond, Alister Arcus, Low Carbon Kāpiti, Haylee King. Melissa Bryant, Aaron Barsdall, Iarau Ltd, Taituarā — Local Government Professionals Aotearoa, Te Rūnanga o Ngāti Mutunga, Environmental Defence Society, Te Kōkiringa Taumata - New Zealand Planning Institute, Cooper Legal and others	As noted above (row 26), there is no intent for any principle to be applied outside the limited scope required by the Bill or to affect the interpretation of any other legislation, or for the Bill more broadly to affect existing constitutional roles and relationships.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
42.	8(c)	Taking of property - Definition of property	Explicitly define “property” to include the future possibility for investment, such as is implied in a contract or permit, or intellectual property; limit property to only cover real property; definition makes no distinction between property that has been justly or unjustly acquired/held; exclude animals from the definition of property	Energy Resources Aotearoa, Daniel Haines, Geoff Bertram, SPCA	The policy intent is that the term <i>property</i> can be applied broadly or narrowly, and be able to cover all types of real and personal property, including intangible property. Guidance issued under cl 27(1)(a) of the Bill can set how the principles should be applied, which may give further direction on the scope of the term “property” as used in the principles.	No change proposed
43.	8(c)	Taking of property - Reference to impairment	Inclusion of <i>impairment</i> is unconventional and unnecessary given <i>takings</i> is generally considered to incorporate significant impairment; inclusion of this concept would have a significant impact; <i>impair</i> should be replaced with <i>acquire</i> to align with the Public Works Act	LDAC, Christopher O’Brien Daniel Nathan	The intent of including impairment in this principle is to clearly provide for situations where there has been no full taking, but property rights have nonetheless been affected. Where well-justified takings exist in relation to impairments, and no compensation has been contemplated, the responsible Minister would simply need to give reasons why this is the case in their statement. This would cover off any scenario where it would be inappropriate to pay compensation, given the level and/or effect of an impairment.	No change proposed.
44.	8(c)	Taking of property - Exemptions from clause	Exemptions should be made for climate, conservation and freshwater laws; impairments authorised through national direction or spatial strategies that support the development, operation or protection of public infrastructure; legislation relating to public health, safety and environmental protection; loss of private interests where they are outweighed by public or environmental good, where the legislation prevents or reduces harm to persons or the natural environment	Mere Takurua, NZ Airports Association, Rock the Vote NZ, A Richards, Neil Dodgson	The intent is that the requirements in the Bill apply broadly to legislation, unless there are specific reasons (e.g. where legislation is minor or technical, or for reasons of comity). As noted above (row 27), the principles are not absolute, are not intended to have legal effect, and Ministers can give reasons where their view is that inconsistencies with the principles are justified.	No change proposed
45.	8(c)(i)	Taking of property - Public interest test	A public interest test should be incorporated to assess whether the taking serves a legitimate public purpose, less restrictive alternatives have been considered, and the public benefit substantially outweighs the private cost	New Zealand Initiative	The introduction of a requirement to carry out a formal public interest test any time any taking was contemplated would introduce significant costs and complexities to law-making. There is already consideration of public interest in this principle through consideration of whether there is <i>good justification</i> for the taking.	No change proposed
46.	8(c)(ii)	Taking of property - Amount of compensation	Compensation should be <i>full</i> rather than <i>fair</i> so a person whose legal rights have been taken or impaired are no worse off than if it had not been done	New Zealand Initiative, Bryce Wilkinson	The requirement to pay <i>fair</i> compensation would cover situations where <i>full</i> compensation would be fair. A requirement to pay <i>full</i> rather than <i>fair</i> compensation would limit flexibility, and likely create significant complexity when applied to types of property other than land.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
47.	8(c)(ii)	Taking of property – Amount of compensation	It is unclear how compensation would be calculated	Northland Regional Council	As noted above (row 26), the intent is that that high level principles are set out in legislation, with more detail on their application set out in guidance.	No change proposed
48.	8(c)(ii)	Taking of property - Compensation	Provision for compensation should be removed altogether	Taituarā — Local Government Professionals Aotearoa, Chrys Horn	As noted above (row 27), the principles are not absolute, are not intended to have legal effect, and Ministers can give reasons where their view is that inconsistencies with the principles are justified – i.e. when fair compensation is not paid for any taking.	No change proposed
49.	8(c)(iii)	Taking of property - Who pays compensation	Provision is not well-recognised and would be difficult to apply, clause is difficult to understand, clause could lead to inappropriate and unworkable situations such as local authorities having to compensate farmers who have harmed rivers, Māori having to compensate property owners for impairments as a result of Treaty settlements, miners' families having to compensate mining companies for safety regulations.	LDAC, Cooper Legal, Marta Fisch, Jonathan Boston, Bill Rosenberg, Waikato River Authority, Ngā Toki Whakarururanga, NZ Airports Association, David Cunliffe, Greenpeace Aotearoa, Melissa Bryant, Maewa Kaihau, Animal Justice Auckland, Aaron Barnsdall, Christopher Burns, Bob Lack, Paul McMahon	The intent of this aspect of the principle is to ensure that full consideration is given to scenarios where property is taken from one person to benefit another person. As submitters point out, it will not be appropriate in all cases for compensation to be paid by those who receive the benefit of a taking or impairment – however, in these cases, Ministers can simply give reasons why inconsistency with this aspect of the principle is justified. Guidance issued under cl 27(1)(a) of the Bill may also give further direction.	No change proposed
50.	8(d)-(f)	Taxes, fees and levies – support	The principle upholds democratic accountability for all compulsory charges and ensure regulatory agencies do not impose fees or levies that function like a tax without parliamentary scrutiny. Others submitter in support seeing the principle as supporting emphasis on section 22 of the Constitution Act being followed. Specific support was given to cl 8(f)(ii) on the basis that it it reduces levies being diverted for purposes outside of benefiting the levy payers.	The Taxpayers' Union, Kerry Hart		No change proposed
51.	8(d) - (f)	Taxes, fees and levies - Need for further strengthening	Taxes should fund a clearly defined public function, be proportionate to the benefit or cost recovery objective and be predictable so taxpayers can ascertain liability in advice from statute or delegated instrument	Rock the Vote NZ	This recommendation is beyond the scope of the Bill. The Public Finance Act provides the core legislative framework within which the Government can borrow money or spend public money.	No change proposed
52.	8(d) - (f)	Taxes, fees and levies - Focus of principles	Principle is too narrow and doesn't reflect that levies are collected to fund regulation and enforcement and mitigate against negative externalities; principle should be removed	Jonathan Boston, Ngā Waihua o Parangi Trust Joanna Mossop, Esko Wiltshire, Bob Lack, Charlie Williams, New Zealand Council of Trade Unions, Kevin Hague	Section 8(f) provides for levies to be reasonable in relation to the risks attributable to the class of payers. Those risks include potential negative externalities and hence the principle does allow for funding of regulation, enforcement and other mitigations for negative externalities What is a levy for the purposes of this principle will need to be addressed in guidance. Some things	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					currently called levies in legislation may not be levies in substance.	
53.	8(d) - (f)	Taxes, fees and levies - Clarity/consistency	Duplicates and potentially undermines relevant provisions in the Public Finance Act 1989 and Constitution Act; terms like <i>reasonable</i> , <i>efficient</i> and <i>proper relationship</i> are ambiguous and create uncertainty; there should be a distinction made between fees, charges, levies and taxes; it will be difficult in some areas to quantify benefits.	Jonathan Boston, Christopher O'Brien, Chris Nelson, Marta Fisch, VUW Climate Clinic, Tax Justice Aotearoa, Greg Mossong	While section 8(d) does refer to section 22 of the Constitution Act 1986 it would not undermine it as it simply states the importance of maintaining consistency with the existing law. Guidance will help to clarify how agencies should apply concepts such as <i>reasonable</i> , <i>efficient</i> and <i>proper relationship</i> in this context, and also appropriately define what is a tax, or levy or fee for the purposes of these provisions. The current framing of the principles should be broad enough to encompass existing definitions of charges.	No change proposed
54.	8(d) - (f)	Taxes, fees and levies - Effect of principles	Could make it more difficult to impose fees and levies and fund operation of public good regulation, result in legal challenges to funding models, limit the ability to impose taxes, lead to more use of user pays, give people the right not to pay tax or provide options for part charges, prevent redistribution and limit the Government's ability to address structural inequality, would impose considerable costs on taxpayers in justifying fees/levies/taxes, could disincentive policies aimed at removing barriers to access (such as fee waivers or community grants).	Max Harris, Christopher O'Brien, Ed Hyde, Nikole Wills, SI Hall, John Perfect, Maria Bartlett, Regan Sayer, Te Hunga Roia Māori o Aotearoa, Frank Cook, Iaru Ltd, Johannes Laubach, Te Rūnanga o Ngāti Kēroa, Forest & Bird, Bill Rosenberg	In most cases, agencies are currently required to produced Cost Recovery Impact Statements when setting or updating fees and levies. These are already required to include information justifying the levels of charges. It is unlikely that this principle would raise the information requirements compared to the status quo in a way that prevented the use of these tools. The information required to assess consistency with these principles would be clarified through guidance.	No change proposed
55.	8(d)	Taxes, fees and levies - Taxes	Principle refers to whole of section 22 of the Constitution Act rather than just 22(a) which concerns taxes, which has likely created some confusion	Ministry for Regulation	Given this subsection is meant to be about taxes, the reference should be limited to section 22(a) of the Constitution Act, rather than the whole of section 22 for clarity.	Change proposed Amend <i>section 22</i> to <i>section 22(a)</i>
56.	8(e)	Imposition of fees - Strengthen principle	The amount of the fee should bear a <i>demonstrable and</i> proper relation to the cost of providing the good or service	NZ Airports Association	As above (row 53). The intent is that guidance would specify the information required to demonstrate this.	No change proposed
57.	8(g)	Role of courts – Courts' constitutional role	Principle overlooks the courts' role in the development of the common law, is inconsistent with the constitutional balance between the legislative, executive and judicial branches. Principle should preserve all aspects of courts' constitutional role by referring to the courts' <i>constitutional role of administering justice according to law, including the interpretation of legislation and its application in particular cases</i>	Law Association of New Zealand, Chief Justice	The principle is not intended to be a full statement of the role of the courts, submitters' (including the Chief Justice's) concerns could be addressed by amending the wording of the principle along the lines of the suggestion made by the Chief Justice (the courts' <i>constitutional role of administering justice according to law, including the interpretation of legislation and its application in particular cases</i>). This would bring the Bill closer to a generally accepted principle, consistent with the policy intent of the Bill.	Change proposed Amend the wording in line with the suggestion of the Chief Justice

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
58.	8(h)	Role of courts – Administrative power	The provision that all administrative powers be <i>sufficiently defined</i> would remove essential discretion, be impossible to fulfil in practice and require a subjective decision about whether the absence of any review is appropriate	Donald Mathieson, Christopher O'Brien	This principle is generally consistent with current principles set out in the <i>Legislation Guidelines</i> . Further, the principle is qualified with only requiring administrative powers be <i>sufficiently</i> defined, which allows for catering the level of definition to the scope of the power, legislative context, or factual situation. As noted above (row 27), the principles are not absolute, and Ministers can simply give reasons where their view is that inconsistencies with the principles are justified.	No change proposed
59.	8(i) – (j)	Good law-making – Support	Embedding this principle will foster trust in government, enhance the legitimacy of legislative intervention and reduce compliance costs for individuals and businesses	The Taxpayers' Union	No suggested change.	No change proposed
60.	8(i) - (j)	Good law-making – Additional aspects	Good law-making principles should include regulatory stewardship, planning for implementation	Horizons Regional Council, Taituarā — Local Government Professionals Aotearoa, Whanganui District Council	While regulatory stewardship is a broad concept and the good law-making principles (applied to new and existing legislation) already encompass some key aspects of regulatory stewardship, adding regulatory stewardship as a principle would likely result in considerable overlap, and in our view it is better to seek to bring in wider aspects of stewardship through having a standalone duty as set out in clause 15. Planning for implementation would likely be a helpful addition to the good law-making principles, as implementation arrangements can be a major determinant of the success or failure of regulation, including the pain points and compliance costs experienced by those affected.	Change proposed Implementation arrangements should be added to the matters that should be evaluated under clause 8(j).
61.	8(i) - (j)	Good law-making – Focus/clarity of principles	These principles harden what are currently soft norms, discourage legislation by imposing a structured test for when legislation is justified, and prioritise economic efficiency and minimal intervention over other considerations, The term <i>good law-making</i> is not defined, and provisions in the principles are subjective and not well defined; principles are already covered through existing requirements/processes and do not need to be in legislation.	Max Harris, Christopher O'Brien, Iarau Ltd, New Zealand Law Society Te Kāhui Ture o Aotearoa Wellington Tenth's Trust, Palmerston North Māori Reserve Trust, Hīkoikoi Management Limited, VUW Climate Clinic, Nikole Wills, Donald Mathieson and others	The elements of these principles generally align with the current broad administrative requirements for Regulatory Impact Analysis and disclosure statements, but provide for them at a high level in legislation, consistent with the intent of the policy. Cabinet has already noted that you intend to report back to Cabinet on proposed changes to the Cabinet Office Circulars for Disclosure Requirements for Government Legislation [CO (13) 3] and Impact Analysis Requirements [CO (24) 7], to ensure alignment with the Bill [CAB-25-MIN-0148 refers]. As noted above (row 26), the intent is that that high level principles are set out in legislation, with more detail on their application set out in guidance.	No change proposed
62.	8(i) - (j)	Good law-making - Effect of principles	These provisions could enable legislation or policy decisions to be challenged on procedural	Christopher O'Brien	As noted above, there is no intent for any principle to be applied outside the limited scope required by the	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			grounds, such as insufficient consultation, or inadequate options analysis		Bill, and nothing in the Bill is intended to affect the interpretation or validity of any legislation. Obligations in the Bill are to carry out CAS assessments and reviews on what process was followed, and proactively engage in stewardship of regulatory systems. The Bill does not require procedures such as specific levels of consultation or options analysis.	
63.	8(i)	Consultation - Strengthening of principle	Principle should provide for Treaty-consistent engagement with Māori; include consultation with all groups materially affected by ecological or public health outcomes; should embed a systematic and regular process for engaging with children to uphold article 12 of the UN Convention on the Rights of the Child; should include a requirement to consult fully with any groups whose human rights may be affected by the proposal; should require meaningful engagement with all stakeholders, particularly marginalised communities; should reinforce and promote good faith consultation; should be returned to previous wording of <i>substantially affected</i> ; should be modelled on section 82 of the Local Government Act, should refer to <i>engaging</i> rather than <i>consulting</i> ,	Taituarā — Local Government Professionals Aotearoa, Stet Limited, UNICEF Aotearoa New Zealand, Callum McMenamin, Lyla Atuhai, Fraser Lovell, New Zealand College of Public Health Medicine, Te Hunga Roia Māori o Aotearoa, Professional Historians' Association of New Zealand/Aotearoa and others	The principles do not prevent agencies, Ministers and makers of legislation fulfilling their existing obligations in relation to consultation. As noted above, the intent is that that high level principles are set out in legislation, with more detail on their application – in this case, specific elements in relation to consultation - set out in guidance.	No change proposed.
64.	8(i)	Consultation - Focus and effect of principle	Principle does not sufficiently provide for good faith consultation and partnership consistent with the Treaty; limits the ability for iwi and hapū to participate in the law-making process; will not adequately provide for consultation when human rights are affected; will not allow for meaningful engagement with community groups; provides too much discretion to agencies on who to consult; could result in consultation that is skewed to those who share the views of the responsible Minister; does not provide sufficiently for transparency; creates uncertainty about who should be consulted, duplicates/cuts across a clear body of existing law on consultation; introduces a new test that is unclear.	National Iwi Chairs Forum – Pou Tangata, Kevin Hague, Sally Hughes, Chantelle Daniels, Geraldine Murphy, A Richards, Kevin Hague, Te Kāhui Tika Tangata – Human Rights Commission, Susanne Vincent, Tauwhara Marae, the Religious Society of Friends (Quakers) Te Hāhi Tūhauwiri, Callum McMenamin, Bill Atken, Kevin Hague, Zero Waste Network Aotearoa and others	See response in 20 and 61 - 63 above.	No change proposed
65.	8(i)	Consultation - Consideration of individuals and groups to be consulted	Principle should also consider the extent consultation is reasonably practicable for the individuals and groups to be consulted	NZ Airports Association	Consideration of <i>practicability</i> would likely cover this aspect of consultation as well, and this aspect could be provided for in guidance.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
66.	8(j)	Evaluation and analysis - Strengthening of principle	There should be a requirement to <i>delineate</i> and <i>delimit</i> as well as evaluate the matters in this principle, and the principle should also provide for publication of the matters in this principle as early as possible	NZ Airport Association	It is unclear what <i>delineate</i> and <i>delimit</i> might mean in this context. As noted above row 26, the intent is that that high level principles are set out in legislation, with more detail on their application – in this case, specific requirements in relation to publication - set out in guidance.	No change proposed
67.	8(k)	Benefits exceed costs - Strengthening of principle	There should be a requirement for full, transparent cost-benefit analysis for all proposals affecting Māori; should explicitly consider a formal cost and benefit analysis of any proposed regulation, including costs of implementation and compliance	Te Rōpu Taiao o Ngāti Ranginui Iwi, Murray Coppen	The principle already provides for assessment of benefits and costs. As noted above row 26, the intent is that that high level principles are set out in legislation, with more detail on their application – in this case, any specific requirements in relation to cost benefit analysis - set out in guidance.	No change proposed
68.	8(k)	Benefits exceed costs - Focus of principle	Principle is too narrow; elevates cost benefit analysis to unwarranted importance in policymaking given that many legislative decisions involve qualitative judgements; is unclear how it would incorporate human rights values and protections; should consider intergenerational equity, ecological thresholds and environmental values; does not reflect that cost benefit analysis is a largely subjective exercise and is not value-neutral It should focus on benefits to <i>New Zealand</i> and the public or persons of <i>New Zealand</i> only.	Geoff Bertram, Te Kāhui Tika Tangata – Human Rights Commission, Bill Rosenberg, NZEI Te Riu Roa, Nikolas Haden, Stet Ltd, Maewa Kaihau, Zero Waste Network Aotearoa, Debbie Hager, SPCA, Pacific Lawyers Association, Otago University Students' Association and others	Cost benefit analysis is generally accepted to be an important step in regulatory impact analysis, and forms part of current RIA requirements – notwithstanding its limitations. Further, in the Ministry's view, the form this principle takes (i.e. to produce benefits that exceed costs) allows for a potentially more comprehensive and broad-based assessment (including qualitative judgements) than standard cost-benefit analysis as a technique. The guidance could reinforce this broader approach. As noted above row 26, the intent is that that high level principles are set out in legislation, with more detail on their application – in this case, any specific requirements in relation to cost benefit analysis, or whether only benefits to New Zealand or New Zealanders should be considered - set out in guidance. Also as noted above (row 27), the principles are not absolute, and Ministers can simply give reasons where their view is that inconsistencies with the principles are justified – for instance where a cost benefit analysis has not been deemed to be appropriate.	No change proposed
69.	8(k)	Benefits exceed costs - Effect of principle	Would obstruct attempts to regulate based on public benefits (e.g. in relation to education, health, environment) given they are harder to quantify; will deprioritise non-financial benefits; would be difficult to satisfy/is not straightforward; will mean that all laws will favour the majority; will encourage a focus on short-term over long-term benefits; could add	PSA, Stephen Clark, Kevin Hague, NZEI Te Riu Roa, Ed Hyde, Christopher O'Brien, Jarrad Bailey, Te Pane Matua Taiao - Greater Wellington Regional Council, Daniel Nathan and others	As noted above (row 27), the principles are not absolute, and Ministers can simply give reasons where their view is that inconsistencies with the principles are justified – for instance where a cost benefit analysis has not been deemed to be appropriate, or it has not been possible to complete one in the time available.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			significant costs and unnecessary delay to the law-making process; would be impractical in urgent/emergency situations.			
70.	8(l)	Most effective, efficient and proportionate response - Need to qualify principle	Principle should be qualified with <i>as much as feasible</i> since it wouldn't be feasible for all legislation to meet this standard	John Gillanders	As noted above, (row 27) the principles are not absolute, and Ministers can simply give reasons where their view is that inconsistencies with the principles are justified – for instance where it has not been possible to show that proposed legislation is the most effective, efficient and proportionate response to the issue concerned that is available.	No change proposed
71.	9 - 14	How principles apply when developing legislation - Inefficiencies, duplication and costs	Requirements duplicate existing processes and mechanisms such as NZBORA reviews, assessment against Legislation Guidelines, RIA processes, disclosure statement requirements, LDAC, revision Bills - introducing unnecessary inefficiencies, delays and costs, and overburdening agencies; assessments could be very complex and costly	Orion NZ Ltd, Christopher O'Brien, Johnson McKay, Joshua May-Jans, Moana Bennett, Daniel Nathan, Areena Smith, Kim Tuaine, Jasmine Bishop, Greg Scobie, Juliet Park, Justin Hygate, Shane Shaw-Jones, Howard Whanau, Amber Snell, John and Barbara O'Grady, New Zealand Law Students' Association and others	There is some crossover between current regulatory impact analysis (RIA) requirements and the good lawmaking principles in the Bill. Elements of the Bill also duplicate disclosure statement provisions in Part 4 of the Legislation Act 2019. It is anticipated that existing Cabinet-mandated provisions for disclosure requirements for bills and regulatory impact analysis for regulatory proposals can be adjusted where needed to support completion of required consistency assessment statements and avoid any duplication. There will be a report back to Cabinet on proposed changes to the Cabinet Office Circulars for Disclosure Requirements for Government Legislation [CO (13) 3] and Impact Analysis Requirements [CO (24) 7], to ensure alignment with the Bill [CAB-25-MIN-0148 refers].	No change proposed
72.	9 - 14	How principles apply when developing legislation - Legal/constitutional impacts	CASs could be used for judicial review or statutory interpretation, shift power away from Parliament to bureaucrats, could assume greater influence and constitutional significance than NZBORA reports	Christopher O'Brien, Jael Smith, Te Kāhui Tika Tangata – Human Rights Commission	The intent of the Bill is that CASs will have no legal effect that can be enforced against the Crown, consistent with the concept that the Bill is an exercise in the government seeking to place controls on its own behaviour. We cannot wholly predict how the courts might consider CAS as interpretative tools of legislation. However: • in the case of CASs included in the explanatory note to a Bill (cl 9), the policy intent is that the courts would have equivalent regard to CAS as an interpretative tool as with any other extrinsic Parliamentary materials • in relation to CASs for secondary legislation (cl 13), and legislation in general under the regular review provisions (cl 17), the policy intent is that courts would draw little interpretative value from them, which would be consistent with the courts'	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					treatment of other policy documents, such as (for example) Regulatory Impact Statements (RISs). Various clauses in the Bill are intended to clarify that there is no intended role for the courts in relation to CASs or any other mechanism in the Bill, including clauses 3, 24 and 25.	
73.	9 - 14	How principles apply when developing legislation - Recognition of Māori rights and interests	Consultation with/input from Māori should be required in the requirements, consistency against the Crown's Treaty obligations, alignment with tikanga Māori, ongoing review for impacts on Māori rights and participation and mechanisms for co-government and co-design in regulatory frameworks	Debbie Ngarewa-Packer Amokura Panoho, Caulfield Te Hira, Chris Paulin, Tahauariki Thompson, Freda Whiu, Taiawhio Wati-Kaipō, Zoran Rakovic, Joshua Orzecki, Te Rōpu Taiao ō Ngāti Ranginui Iwi	Consultation is provided for as part of the good law-making principle. As noted above, the intent is that that high level principles are set out in legislation, with more detail on their application to be set out in guidance, which could cover (for instance) engagement with Māori as part of good practice consultation. Outside of the good law-making principle, the Bill does not prohibit any decision-maker considering a regulatory proposal from taking account of the Treaty/te Tiriti. Ministers may still consider these matters in proposing legislation, and existing Cabinet processes, Crown guidance and Crown legal advice all still encourage decision-makers to act consistently with the Crown's Treaty/te Tiriti obligations to provide for Māori rights and interests, and with Treaty/te Tiriti settlements and agreements. The Cabinet Manual also sets out as a critical consideration in the development of policy assessing the need for, and timing of, engagement with Māori (including relevant iwi, hapū and whānau) and requirements for Ministers to draw attention to any aspects of a bill that have implications for, or may be affected by, the principles of te Tiriti. LDAC guidelines also set out a range of considerations in relation to identifying potential effects on the rights and interests of Māori in proposed legislation.	No change proposed
74.	9 - 14	How principles apply when developing legislation - Other impacts	Provisions will incentivise agencies and Minister to tailor legislation to fit the principles at the expense of other outcomes, will complicate consideration of Treaty obligations in legislative development	Shane Shaw-Jones, Amber Snell	While there is no intent for the principles to have any legal effect, there is an intent that the requirements set out in the Bill will help to shift behaviour so there is a disincentive for responsible agencies, Ministers and makers of legislation to develop or allow to continue in place legislation that is inconsistent with the principles set out in the Bill.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
75.	9 - 14	How principles apply when developing legislation - Alternative approaches	CASs for Bills should be replaced with mandated evidence-based post-enactment reviews of major legislation	Chris Clayton	The intent is that the publication of CASs, reasons statements, and the results of reviews and Board inquiries will make it transparent to Parliament and the public where aspects of proposed or existing legislation are inconsistent with the principles, and the reasons why the government is proceeding with proposed legislation, or not amending existing legislation, despite these inconsistencies. Review of existing legislation against the principles would aim to achieve the same objective as an 'evidence-based post enactment review'.	No change proposed
76.	9 - 14	How principles apply when developing legislation - Lack of justified limitations	There should be provision for justified limitations to the principles, similar to that provided for rights and freedoms in section 5 of the New Zealand Bill of Rights Act	Dean Knight, Rights Aotearoa	There is no need to specifically empower justified limitations to the principles since the Bill is clear that the principles are not absolute, and Ministers can give reasons where their view is that inconsistencies with the principles are justified.	No change proposed
77.	9 - 14	How principles apply when developing legislation - Lack of obligation to remedy inconsistencies	The lack of obligation for action with respect to addressing identified inconsistencies will lessen the effectiveness of the proposal	Christopher O'Brien	The Bill is intended to function as a transparency mechanism by showing where aspects of proposed or existing legislation are inconsistent with the principles, and the reasons why the government is proceeding with proposed legislation, or not amending existing legislation, despite these inconsistencies. The aim is that these the requirements set out in the Bill will help to shift behaviour so there is a disincentive for responsible agencies, Ministers and makers of legislation to develop or allow to continue in place legislation that is inconsistent with the principles set out in the Bill. This is a core part of the operation of the Bill.	No change proposed
78.	9	How principles apply when developing legislation – focus on Government bills	Framework should be extended to private member's Bills	Business NZ	The Bill essentially involves the Executive setting standards for itself, and private member's bills are therefore not included. However, if a private member's bill is passed into law, it is then subject to review and consistency assessment requirements (unless it is of a type explicitly excluded in the Bill, or it has been exempted via a notice).	No change proposed
79.	9	Review of Bills - Responsible agency/Minister role	Accountability will be limited by agencies/Ministers assessing and explaining their own inconsistencies, executive self-assessment will displace judicial interpretation, provisions create a system of symbolic accountability only	Te Rōpu Taiao ō Ngāti Ranginui Iwi, Iarau Ltd, John and Barbara O'Grady	Requiring agencies to assess their legislation to identify inconsistencies is an important part of holding responsible Chief Executives accountable for their legislative development and stewardship responsibilities. Public service agency Chief Executives are required to act independently of responsible Ministers when preparing CAS and	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					briefings on the state of the regulatory management system (cl 23). The Board is intended to provide an assurance mechanism to ensure robust CASs are completed. Similarly, requiring Ministers or makers of legislation to provide reasons for inconsistencies is intended to make them transparently accountable for their choices. The Bill is not intended to have any impact on the constitutional place of the courts or their functions, which will continue regardless of the Bill.	
80.	9	Review of Bills - CAS requirements	The time taken to draft statements/the required process could slow down necessary regulatory changes	Donald Mathieson, Eamon Frazer	LDAC has previously noted in its Annual Reports that the speed at which legislation is passed underpins many issues with legislative quality, and often comes at the expense of scrutiny and adequate processes. The Bill's requirements to assess new legislative proposals against the principles and identify any inconsistencies is intended to ensure good law-making processes are followed, and support Parliamentary and public scrutiny of that legislation. However, there will be times where it will not be possible or desirable to ensure all CAS requirements are completed. In some cases, it will be appropriate for such legislation to be exempted from CAS requirements via notice approved by resolution of the House under cl 10 or 14 (for instance, in some emergency situations). In other cases, the Minister can simply give reasons as to why identified inconsistencies have not been addressed.	No change proposed
81.	9	Review of Bills - Use of explanatory notes	The Bill should not refer to inclusion of statements in an explanatory note as this limits the House's ability to amend its own procedural requirements for the introduction of legislation, and creates a lack of clarity about whether legislation that failed to include a CAS would be inadmissible	Clerk of the Committee, Office of the Clerk (via Legislative Memo)	The requirement for explanatory notes to include or link to a CAS is similar to section 23(1)(f) of Queensland's Legislative Standards Act 1992, which provides that an explanatory note for a Bill must include a brief assessment of the consistency of the Bill with fundamental legislative principles and, if it is inconsistent with fundamental legislative principles, the reasons for the inconsistency. It is also consistent with section 97(2) of New Zealand's Legislation Act 2019, which provides that explanatory notes to revision Bills must include a statement setting out, in general terms, the inconsistencies, anomalies, discrepancies, and omissions that were identified in the course of preparing the revision, and how they have been remedied in the Bill. The requirement reflects the intent that CASs are intended to support Parliamentary scrutiny of Bills and Government	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					amendments consistent with the Bill's purpose as set out in clause 3, and that they should therefore form a formal part of proceedings in Parliament. The requirement to include a CAS in a Bill's explanatory note does not impact on the House's ability to amend any Standing Order requirements relating to the explanatory note. Even if the House's requirement for explanatory notes was removed, this would not necessarily prevent Bills still involving explanatory notes in some form, along with CASs. In addition, clause 25 of the Bill clearly states that failure to comply with the Act does not affect any power to make legislation, nor the validity or operation of any legislation. Therefore, nothing in the Bill would require legislation that did not include a CAS to be rejected by Parliament. The Legislature continues to be in control of its own processes – in the unlikely situation Parliament amended its Standing Orders to <i>forbid</i> Bills having explanatory notes and therefore a Regulatory Standards Act-compliant Bill could never be made, Parliament could similarly amend the Regulatory Standards Act to change this requirement at that point. An alternative option for providing for CASs would be for the Bill to just require their publication as soon as practicable after the introduction of the Bill, which is the approach currently provided for in Part 4 of the Legislation Act, in relation to disclosure statements. However, this would not provide for the intended role of CASs as part of formal Parliamentary processes relating to the scrutiny of Bills and Government amendments.	
82.	9(a)	Review of Bills - CAS requirements	Bill should require more detail about how CASs will be structured and published and require Ministers to state either how inconsistencies will be remedied or why departure is justified, and include a plain language summary alongside any technical report.	Rock the Vote NZ, Izak Tait	Clause 27 of the Bill provides for guidance that will cover the content and presentation of CASs. The Bill does not set any further requirements for Ministers' statements of reasons (beyond that they are provided to the House and published), or provide further guidance in relation to them. This reflects the intent that the Bill impose no restrictions whatsoever on the ability to proceed with legislative proposals or leave existing legislation in place, even where proposed or existing legislation has been found to be inconsistent with the principles. It also reflects that responsible Ministers (or other makers) are best placed to determine how to explain the reasons for progressing with, or not seeking to	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					amend, legislation that is inconsistent with the principles.	
83.	9(b)	Review of Bills - statement of reasons	Requirement for a statement is not needed as Minister can speak to it in the House and this risks fettering the House in how it debates a Bill; statement risks politicising the process; political justifications will replace robust analysis; requirement limits what legislation can proceed.	Eddie Clark, Christopher O'Brien, Chantelle Daniels, Howard Whanau and others	The presentation of a reasons statement to the House will make it transparent to Parliament why the government is proceeding with proposed legislation even where it has found to be inconsistent with one or more of the principles. It is not clear how this is expected to “fetter” the House – it is simply providing information to the House to assist their scrutiny of the Bill.	No change proposed
84.	10	Review of Bills – specified exclusions	(On the basis that submitters’ recommendations that a Treaty principle is included in the Bill are accepted). Exclusions set out in the Bill set a dangerous precedent for selectively avoiding scrutiny of legislation that can significantly impact rights and obligations; exemption of Māori-related and Treaty legislation could impact on the opportunity to hold the Crown accountable for Treaty breaches. Exclusion of the Marine and Coastal Area (Takutai Moana) Act 2011 means that any impact on Māori proprietary interests in the takutai moana would be excluded from the compensatory provisions in the Bill.	Charlene Dixon, Christopher Wilson, Tauwhara Marae, Te Rōpu Taiao ō Ngāti Ranginui Iwi, Te Hunga Roia Māori o Aotearoa and others	While it will be important that the majority of legislation is subject to requirements in the Bill in order for the proposal to be effective, it will also be important to exempt some legislation where it is not appropriate or desirable for that legislation to be subject to consistency assessment and review requirements. Given Treaty settlement legislation reflects an agreement between Crown and iwi as provided for in a settlement deed, and are intended to be full and final, it would not be appropriate for Treaty Settlement Acts to be subject to consistency requirements or reviewed against the principles. Additionally, to ensure future settlements are treated consistently it is appropriate to also exclude future Treaty Settlement Bills from the Act. Some submitters have raised concerns that not applying the Bill’s CAS and review mechanisms to Treaty Settlement Bills or Acts may negatively affect the compensation those iwi and hapū receive under their settlement legislation. We note that no Treaty Settlement Bill or Act has ever been subject to the Bill’s CAS or review settings, and that the Bill therefore makes no changes to the way the Crown negotiates or settles te Tiriti claims. The Bill also does not require any particular level of compensation in legislation that is subject to the Bill - all it requires in respect of specific legislation is that they be analysed against the principles, reasons be given for any inconsistencies identified, and the results of those analyses be published. There is no requirement that legislation be changed to align with the principles, nor restriction stopping excluded legislation being reviewed in the same way.	No change proposed
85.	10 (also 5)	Review of Bills – exclusion of Treaty	Exemption of Treaty Settlement legislation needs to be made more robust/clarified; should be broadened to include key Māori-led laws (e.g. Te	National Iwi Chairs Forum – Pou Tangata, Waikato-Tainui, Ngā Iwi o Taranaki, Debbie	Treaty settlement legislation is already excluded, using a definition that is used in a range of other legislation.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
		Settlement Legislation	Urewera Act 2014) and/or any Acts with sections placing an obligation on Crown agencies to have regard to the principles of te Tiriti o Waitangi and/or legislation relating to a number of relevant areas including Māori education, health, te reo, broadcasting, conservation, resource management and Māori land. In addition, provision should be made for the fact that the Crown's obligations to Māori under settlements are not just confined to specific settlement legislation but are dependent on (and redress is provided through) a number of other statutes, and rely on a te Tiriti-based relationship with the Crown that evolves over time. Where Treaty Settlement Acts make changes to other legislation (such as the Resource Management Act), the provisions in that other legislation must be exempt from the scope of the Bill	Ngarewa-Packer, Tūwharetoa Mai Kawerau ki te Tai Settlement Trust, Tūwharetoa Mai Kawerau ki te Tai Settlement Trust, the Salvation Army Te Ope Whakaora, Te Pūmāutanga o te Arawa Trust, Te Kāhui Maru Trust, Te Nehenehenui, Te Runanganui o Ngāti Porou, Wai 262 Taumata Whakapūmau, Waikato River Authority, Te Kōkiringa Taumata - New Zealand Planning Institute, Ōtakanini Haranui Marae Trust Board, Te Ohu Marae o Ngāti Kikopiri, Maungaharuru-Tangitū Trust, Pou Taiao, Pou Tangata, Te Rūnanga o Ngāti Manawa Te Rūnanga o Ngāti Kearoa, Ngāti Tuara, Nga Hapu o Ngāti Porou, Northland Regional Council and others	Other exemptions to legislation (or to specific provisions within legislation) can be made as required via notices issued under clauses 10, 14 and 19. In addition, Ministers can choose to simply give reasons for inconsistencies rather than addressing them.	
86.	10	Review of Bills – exclusion of electricity, gas and infrastructure regulation	The Electricity Act, protections afforded to existing infrastructure by the RM or its replacement and any related secondary legislation under both Acts should be excluded from application of clause 8(c), Gas Act and secondary legislation should be similarly excluded	Transpower, Powerco Limited	The intent is that the requirements in the Bill apply to most legislation. Excluding large amounts of legislation would undermine the effectiveness of the proposal. However, the Bill provides for some legislation to be exempted from these requirements via notices assented to by the House. Earlier this year, Cabinet agreed that the Ministry for Regulation would work in consultation with agencies to develop an initial list of exemptions that could be included in a notice to be issued as soon as the Bill comes into force (CAB-25-MIN-0148 refers) and further exemptions can be considered during this process.	No change proposed
87.	10	Review of Bills – other suggested exclusions (general)	There should be further exclusions including health and disability, environmental and social equity-related legislation, legislation relating to Te Tiriti o Waitangi and Māori rights and interests, or all public good legislation.	Tōpūtanga Tapuhi Kaitiaki o Aotearoa, New Zealand Nurses Organisation, David Emerson, Carwyn Jones, Te Rūnanga o Ngāti Mutunga and others	See rows 85 and 86 above.	No change proposed
88.	10	Review of Bills – limit exemptions	Exemptions should be limited to legislation where applying the principles would create logical circularity, provide for exemptions on a case by case basis instead of enabling classes of	Ron Segal	The intent is that the requirements in the Bill apply to most legislation, and exemptions would only made for good reason.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			legislation to be excluded, require exemption decisions to be made independently with public justification and include sunset clauses for any exemptions and public transparency on exempted legislation, with justifications and outcomes achieved provided, require two thirds majority instead of simple House majority.		The process for providing exemptions via notice requires any notice to be approved by a resolution of the House of Representatives. As secondary legislation, these notices would also have to comply with consistency assessment requirements (i.e. a CAS would have to be provided along with the Minister's reasons for any inconsistency with the principles). This process provides sufficient transparency and safeguards.	
89.	10	Review of Bills – Use of notices to exempt Bills	The exemptions processes could be politicised, subject to undue influence, or used to evade scrutiny; there's a conflict of interest with the Minister issuing notices and also overseeing the system; decisions could be made arbitrarily with no provision for reasons; the proposed process undermines Parliamentary oversight/gives too much power to the Executive; Cabinet rather than the Minister should issue notices; there should be a formal requirement to consult with Māori, hapū, iwi or affected communities; this process is inconsistent with the Bill's own principles; this would undermine consistent application of the requirements. Notices should be subject to consultation and scrutiny requirements	Geoff Bertram, Alex Szczepanaik, Christopher O'Brien, Charlene Dixon, Christopher Wilson, Ngāti Koata Trust, VUW Climate Clinic, Joanna Mossop, Esko Wiltshire, Te Rōpu Taiao o Ngāti Ranginui, Ngā Iwi o Taranaki, Shane Shaw-Williams, Jade Thomas, Taylor Rae Bryant, Francis Harawira, Jamie Nathan and others	Notices can only be issued following approval by the House. See further explanation in row 86 above.	No change proposed
90.	10	Review of Bills – overriding exclusions	The responsible Minister should be able to have a bill, or a Government amendment to a bill, reviewed under clause 9, despite the bill being excluded under clause 10 – this could be used in cases, for instance, where there is a substantive Government amendment made to a Statutes Amendment Bill	Office of the Clerk	The Bill does not prevent any type of analysis of legislation not subject to its CAS or review provisions. The responsible Minister could independently choose to make the same assessments of a Government amendment as for an amendment to a non-excluded Bill – there is no need for the Bill to provide specifically for that scenario.	No change proposed
91.	10	Additional exclusion consistent with exclusion for the Marine and Coastal Area (Takutai Moana) Act 2011	Under the Marine and Coastal Area (Takutai Moana) Act 2011 there are two legislative pathways to have recognition agreements brought into effect under section 96 of the Act (alternatively there is an option for recognition to be provided by a Court order under section 94). The pathway for agreement to recognise a protected customary right is via Order in Council, and is considered secondary legislation. Secondary legislation made under Takutai Moana are excluded from the requirements of the Act, by virtue of being made under an excluded Act. However, recognition of customary marine title can occur via an Act of Parliament and has not been provided for as an excluded Bill creating an	Public Service agencies	For consistency with the exclusion for the Marine and Coastal Area (Takutai Moana) Act 2011 and secondary legislation made under the Act, we recommend excluding any Bill that brings into effect recognition agreements under that Act. This recommendation is consistent with exclusions already provided for under the Bill and aligns with an exclusion from RIS requirements for recognition agreements. An additional exclusion would address the inconsistency of only one recognition pathway being subject to CAS requirements while others are exempt.	Change proposed Provide exclusion in the Bill for any Bill and its secondary legislation that brings into effect recognition agreements under the Marine and Coastal Area (Takutai Moana) Act 2011.

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			inconsistency between the treatment of primary and secondary legislation giving effect to recognition agreements.			
92.	10(2)	Review of Bills – use of Henry VIII powers	This clause (as well as 14(2) and 19(3)) provides for the issuing of secondary legislation to exempt certain legislation from statutory requirements on a case-by-case basis. The added protection provided by the affirmative resolution procedure (i.e. a resolution of the House) may not be sufficient to allay any concerns about using delegated legislation to amend primary legislation, and this may be counter to the purposes of the Bill. Additional safeguards should be considered, including requiring a statement of reasons for the above notices.	Regulations Review Committee (letter to FEC)	As outlined in the <i>Legislation Guidelines</i>, Henry VIII clauses involve Parliament expressly authorising secondary legislation to amend or override an Act. The concern with such clauses is that they create a risk of undermining the separation of powers. Given that the proposed notices would not textually amend the Act, it is not clear that the power provided to issue notices could be considered as <i>amending</i> or <i>overriding</i> the Act. Regardless of this, a core feature of much legislation is that its underlying application can be tempered by secondary legislation exemptions – either to pull legislation within scope or carve it out – just as this Bill does. In addition, this Bill has an unusually strong additional protection on this type of delegated legislation, by ensuring that Parliament itself must approve the relevant notice. In our view, it therefore presents a very low risk of overriding the will of Parliament or the separation of powers.	No change proposed
93.	11	Review of Government amendments - Application	The Bill's principles are given greater weight and status than NZBORA rights and freedoms since Government amendments don't need to be considered in light of human rights.	Max Harris	There are a number of differences between application of principles in this Bill in comparison to NZBORA rights and freedoms, including provisions in the Bill of Rights Act that the courts must prefer interpretations that are consistent with NZBORA rights and freedoms, and the ability to the courts to make a declaratory judgement that an enactment if inconsistent with the Bill of Rights.	No change proposed
94.	12	Review of Government amendments - where requirements do not apply	The ability to disapply requirements should not be used to bypass scrutiny prior to a Bill's passage, such as those introduced under urgency or other reasons	Taxpayers' Union	The Bill provides that, where it is not reasonably practicable to provide a CAS and a statement of Minister's reasons for any inconsistency before parliamentary scrutiny of the Government amendment, the Minister must ensure the statements are presented to the House and published as soon as possible. This allows for situations where it will genuinely not be possible to meet requirements (e.g. in an emergency situation) – but it will still provide transparency about whether the amendment was inconsistent with the principles in any way and, if so, why.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					In addition, the resulting legislation would be subject to review requirements and the scrutiny of the Regulatory Standards Board.	
95.	12	Review of Government amendments – whether amendment would materially change Bill	This clause confers excessive powers on the Minister for Regulation to exercise their opinion as to whether any Government amendment to legislation needs to meet the proposed principles	Ngāti Koata Trust	This provision applies only in cases where a responsible Minister is seeking an exemption from consistency assessment for a Government amendment to a Bill on the basis that the amendment does not materially change the Bill. It is not a power for the Minister for Regulation to exercise an opinion on whether any amendment to legislation needs to meet the proposed principles.	No change proposed
96.	13	Review of secondary legislation - Application to secondary legislation	Application to secondary legislation would add significant costs, and place obligations and resourcing pressures on a broad range of organisations who may not have the requisite capability/capacity; delegated legislation is already governed by robust publication, review, and disallowance regimes under the Legislation Act 2019; could provide a platform for judicial review challenges to the implementation of regulations	Simpson Grierson, Eugenie Sage, Christopher O'Brien	The intent is that the requirements in the Bill apply to most legislation. Excluding large amounts of legislation would undermine the effectiveness of the proposal. However, most existing secondary legislation would not be subject to consistency assessment and review requirements at entry into force of the Bill, and further work will be undertaken by the Ministry to identify any further secondary legislation that should be exempted via notice.	No change proposed
97.	13	Review of secondary legislation – Application to local government regulation	Framework should be extended to local government regulation over time	Business NZ, New Zealand Initiative	Local government regulation is currently covered by the proposal.	No change proposed
98.	13	Review of secondary legislation – Application to local government regulation	Inclusion of local government legislation will impose significant time and costs on local councils at the expense of other functions and will impact on abilities of councils to pass bylaws, proposal is legislative overkill as local authorities are already subject to rigorous legislative and procedural requirements, requirements could apply to district plans under s161A of the Local Government Act Secondary legislation made by local government should be expressly excluded	Taituarā — Local Government Professionals Aotearoa, Te Pane Matua Taiao - Greater Wellington Regional Council, Horizons Regional Council, Dunedin City Council, Christchurch City Council, Gisborne District Council, Northland Regional Council, Whanganui District Council, Simpson Grierson, Stephen Clark and others	The intent is that the requirements in the Bill apply to most legislation. Excluding local government legislation would undermine the effectiveness of the proposal. However, the Bill provides for some legislation to be exempted from these requirements via notices assented to by the House. Earlier this year, Cabinet agreed that the Ministry for Regulation would work in consultation with agencies to develop an initial list of exemptions that could be included in a notice to be issued as soon as the Bill comes into force (CAB-25-MIN-0148 refers) and further exemptions can be considered during this process.	No change proposed
99.	14	Review of secondary legislation - Exclusions	Exclusions for Treaty Settlement Acts, Defence legislation, court rules and local Acts, which can significantly impact rights and obligations, undercut the standards in the Bill; selective	Francis Harawira, Susan Bagshaw	While it is important for the Bill's effectiveness that requirements apply broadly across most legislation, the exclusions reflect that there will be good reasons why some legislation should not be subject to those requirements – for instance because it there are	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			exclusions are undemocratic, and all legislation should come under scrutiny		limited benefits (e.g. in the case of technical administrative legislation), or because it is inappropriate given the nature of the legislation (in the case of Treaty settlement legislation).	
100.	14(1)	Review of secondary legislation – exclusion of secondary legislation made by Remuneration Authority	Secondary legislation made by the Remuneration Authority should be excluded on the basis that the Authority is an independent body that determines the salaries, allowances and superannuation rights of members of Parliament, the judiciary, and certain statutory officers	Office of the Clerk	The Bill provides for some legislation to be exempted from these requirements via notices assented to by the House. Earlier this year, Cabinet agreed that the Ministry for Regulation would work in consultation with agencies to develop an initial list of exemptions that could be included in a notice to be issued as soon as the Bill comes into force (CAB-25-MIN-0148 refers) and further exemptions can be considered during this process.	No change proposed
101.	14(1)(a)	Review of secondary legislation – Exclusion of secondary legislation made under a Treaty Settlement Act	If Treaty settlement legislation is to be excluded, consideration should be given to establishing an alternative administrative mechanism to improve transparency in relation to secondary legislation, given its demonstrable impacts on existing commercial fishing rights	Seafood New Zealand, NZ Rock Lobster Industry Council, Pāua Industry Council	It is outside the scope of the Bill to establish alternative mechanisms for reviewing legislation that has been excluded from the review requirements set out in the Bill.	No change proposed
102.	14(1)(b)	Review of secondary legislation – Exclusion of secondary legislation made by Chief of Defence Force	NZDF has questioned whether the current drafting gives effect to Cabinet’s agreement that exclusions set out in clause 14 (and consequential exclusions in clauses 19(1) and 33(1)) provide for Cabinet’s intention that “excluding the identified classes of secondary legislation would have the effect of excluding that secondary legislation entirely from the scope of the Bill”. NZDF is seeking a broader clause that provides that nothing in the Bill applies to the identified secondary legislation instead of targeted exclusions from the various duties under the bill	NZDF (during department consultation on the proposal)	Current drafting adequately provides for Cabinet’s intention that none of the requirements for secondary legislation contained in the bill will apply to the identified exemptions. s 9(2)(h)  A consistent approach should be taken to all identified exclusions – which would mean that the Bill would need to contain a clause clarifying that nothing in the Bill applies to any identified exclusion.	Awaiting further advice
103.	15 and 16	Regulatory stewardship – increased transparency	Regulatory stewardship requirements and four yearly review of the Regulatory Management system will support higher standards and accountability, and reinforce the importance of long-term stewardship. Four yearly reviews should include an inward review of the Regulatory Standards Act.	Tuatahi Fibre, the Taxpayer’s Union, Edward Willis, Christchurch City Council, BusinessNZ		No change proposed
104.	15	Regulatory stewardship – duplications and lack of clarity.	Provisions overlap with existing provisions in the Public Sector Act 2020; it is not clear what is meant by a duty of “proactive engagement”	Donald Mathieson, Greg Scobie, Christopher O’Brien	The relevant stewardship provisions in the Public Service Act 2020 apply only to legislation. Clause 15 extends that responsibility to include all aspects of a regulatory system, which covers more than just legislation. Nonetheless, it does so in a way that is	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					intended to be consistent with the Public Service Act [in both its current and proposed amended form]. The responsibility is expressed as “proactively engaging in stewardship” rather than just “stewardship” because the stewardship of a particular regulatory system will often need to be a collective endeavour involving several agencies. The way they each exercise their responsibility for that regulatory system may need to vary between the agencies involved depending on their roles within that system. Further legislative clarification of the nature of “proactive engaging” is not considered desirable given the need for flexibility, and seems unnecessary in a responsibility owed solely to the Public Service Commissioner.	
105.	15	Regulatory stewardship – provision for external evaluation	Clause provides for no involvement of iwi and hapū, the public, the Courts or Parliament in evaluating whether legislation remains consistent with constitutional obligations, community outcomes, or Treaty commitments	Iarau Ltd	The regulatory stewardship responsibility is a broad and multifaceted one that is owed solely to the Public Service Commissioner. Nonetheless, we anticipate that the Commissioner’s expectations for regulatory stewardship would include appropriate engagement with interested stakeholders when that work involves assessing the performance or fitness-for-purpose of legislation within the relevant regulatory system. The Public Service Commissioner can address the question of public engagement through administrative expectations and guidance.	No change proposed
106.	15	Regulatory stewardship – requirement to engage/collaborate	Responsibilities should include engagement and collaboration with co-regulators including local government and tangata whenua	Horizons District Council	Regulatory system stewardship is expected to be a collective endeavour involving more than one agency, and this is reflected in the way that the regulatory stewardship responsibility has been drafted. Hence, we would expect co-regulators operating within the relevant regulatory system to be key collaborators for public service agencies engaged in proactive stewardship. However, different levels of engagement will be appropriate for different kinds of regulatory relationships and so we think further elaboration is best left to administrative expectations and guidance.	No change proposed.
107.	16	Briefing on state of RMS – timing/process	Frequency of briefings should be every three years to align with Parliamentary term; timing of first report is too far away; reports should be more frequently (e.g. annually) to ensure delivery of meaningful, timely improvement feedback; should include review of the Regulatory	Taituarā — Local Government Professionals Aotearoa, Christopher O’Brien, Tuatahi First Fibre, Business New Zealand, Freda Whiu	Our expectation is that briefings on the state of the RMS would generally be provided every Parliamentary term. The four-year provision, however, offers some ability to alter the timing of publication within a Parliamentary term, which may be useful in a range of circumstances including, for example, the availability of up-to-date data from	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			Standards Act; Bill should require engagement with Māori in preparing the report		periodic comparative international surveys, which should offer additional independent evidence to inform briefing findings. The preparation of these briefings is expected to be a significant undertaking for the Ministry, including the development of a reporting methodology, approach to engagement, and establishment of new data collection arrangements. More frequent (e.g. annual) reporting would likely only allow delivery of a much narrower range of findings. The Regulatory Standards Act will be part of the RMS and hence its operation will be automatically within the scope of RMS briefings.	
108.	16	Briefing on state of RMS - content	More details should be provided on content of briefings, briefing should include reports by the Ministry on how the regulatory management system upholds Te Tiriti o Waitangi, briefing should include reporting on climate change and equity outcomes	Christopher O'Brien, Caulfield Te Hira	The scope and methodology for the proposed RMS briefing has not yet been developed or tested. Parliament and the Ministry will learn a lot about what is feasible and useful from the first briefing, after which it may be easier to make commitments on the content of briefings. That might involve addressing questions like how much the briefings need to report on the same matters each time and to what extent it may be valuable to allow for some different themes or topics to be addressed in different briefings.	No change proposed
109.	17 – 22	Plans for regularly reviewing legislation – support	Regular review will contribute to greater transparency and accountability. Some submitters supported the need for good regulatory stewardship but noted that time could be spent on general regulatory stewardship and the quality of new legislation.	The Taxpayers' Union, Seafood New Zealand, the NZ Rock Lobster Industry Council and the Pāua Industry Council, Eddie Clark		No change proposed
110.	17 - 22	Plans for regularly reviewing legislation – General	Proposed requirements duplicate existing regulatory review processes and performance management systems (e.g. requirements in chief executive performance agreements), which could be strengthened to achieve the same objective; requirements are not the best use of time and should just focus on new regulation; agencies will lack the capacity to do this, or it will displace other priority work, process should be more streamlined consistent with existing stewardship requirements	Deborah Te Kawa, Seafood New Zealand, the NZ Rock Lobster Industry Council, the Pāua Industry Council, Eddie Clark Christopher O'Brien, Jamie Nathan, Geraldine Murphy and others	See 80 above.	No change proposed
111.	17-22	Plans for regularly reviewing legislation –	The Bill should apply only to new legislation, and not require existing legislation to be reviewed	Carwyn Jones	The Bill is intended to apply to existing legislation to provide broad application and address outdated, unnecessary or poor quality existing legislation in order to lift overall regulatory quality.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
		application to existing legislation				
112.	17 - 22	Plans for regularly reviewing legislation – Reviewing existing laws	The Bill should not apply to legislation in force before the commencement of the Act, will be retrospectively applied in contradiction to its own principles, will override existing Treaty obligations, is constitutionally dangerous because it can be applied to Acts that Parliament has previously passed, exacerbates concerns about application and interpretation of the principles through its retrospective nature, has the potential to create regulatory uncertainty (particularly for international investors).	Simpson Grierson, Tania Waikato, The Religious Society of Friends (Quakers) Te Hāhi Tūhauwiri George Lake, A Richards, Desiree des Barres, Ngāti Paoa Iwi Trust, Mike Chi, Jota Firmin, KPM Consultants Ltd, Jordan Paddison, Alex Szczepaniak, Diane Hayes and others	The Bill does not override s 12 of the Legislation Act, and is not intended to have retrospective effect. The Bill only sets prospective obligations to review legislation against principles and proactively steward regulatory systems, i.e. an obligation to review legislation and publish analyses in the future. An equivalent example would be considering whether existing legislation is compliant with a new international Treaty New Zealand has entered into - publishing analysis does not affect the law in the past, only provides new frameworks to consider how or whether the law should be amended in the future It is standard practice for agencies to review legislation for which they are responsible, and the Bill does not require that changes are made to a piece of existing legislation if a review finds an inconsistency.	No change proposed
113.	20(a)	Regular review of Acts – How good law-making principles apply	The consultation principle should apply to reviews of existing legislation	NZEI Te Riu Roa, Iarau Ltd, Christopher O'Brien	The exclusion of consultation from 20(a) reflects that it would be difficult and not particularly helpful to try to assess in relation to existing legislation (which may have been in place for some time) whether the consultation that was carried out at the time the preceding Bill was being developed was consistent with the principles.	No change proposed
114.	21(3)(b)(i)	Plans for regularly reviewing legislation – Government reasons for inconsistency	Statements only reflect the views of the Minister, so the reasons are not the 'Government's'	Mereaira Jones	The clause reflects that Ministers are empowered to speak on behalf of the Government within their own portfolio responsibilities.	No change proposed
115.	23	Chief Executive must act independently	This requirement could create tensions between Chief Executives and their Minister, particularly because it would be a matter of judgement whether provisions are inconsistent or not; clause removes public accountability for chief executives to democratically elected Ministers	Jonathan Boston, Eugenie Sage, Maria Bartlett and others	This provision reflects that agencies are best placed to assess whether proposed or existing legislation is inconsistent with the principles (whereas responsible Ministers or other makers are best placed to determine how to explain the reasons for progressing with, or not seeking to amend, legislation that is inconsistent with the principles.) This tension is the same one found in relation to regulatory impact statements – where the responsible agency has a duty to undertake impact analysis independent of the Minister on a proposal that the Minister is choosing to take forward.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
116.	23	Chief Executive must act independently – application	Clause should be broadened to include members of Crown Entity boards to provide for cases where the board (rather than organisation) is responsible for making secondary legislation.	External Reporting Board	This clause is intended to cover the person responsible for making secondary legislation. In some cases, this will be the responsible Board. This clause should be broadened to reflect the policy intent.	Change proposed Clause will be broadened to cover the identified scenario
117.	23	Chief Executive must act independently – application	Amend as clause requires Chief Executives to act independently and not responsible to a Minister in relation to making CAS, in a manner that appears to usurp the role of Cabinet.	Bronwyn Hayward, Maria Bartlett	The approach is similar to that taken when developing RIS where agencies are responsible for providing independent assessment of regulatory proposals, and better informs Cabinet decision-making rather than undermines it. Responsibility for making legislative decisions remains with the Executive.	No change proposed
118.	23(2)	Chief Executive must act independently – applies despite other legislation to the contrary	Clause makes Chief Executives accountable directly to the Minister of Regulation for assessments of legislation against the principle	Geoff Bertram	This provision does not create an accountability mechanism for Chief Executives to the Minister for Regulation. The provision requires the relevant Chief Executive to act independently and is not responsible to any Minister when carrying out the roles specified in the provision. While agencies will be expected to align with guidance issued jointly by the Minister for Regulation and Attorney-General, this is analogous to acting consistently with Treasury Guidelines on Setting Charges in the Public Sector, or with Cabinet guidance issued by DPMC. These guidance documents are provided by government, but agencies remain accountable to their own Ministers.	No change proposed
119.	24 - 26	Act does not confer or impose legal rights or obligations or affect validity – impact on effectiveness	The lack of legal enforceability provided for in these clauses meant that the Bill is a non-binding framework that cannot effectively hold legislators or agencies accountable; there would be no legal requirement for departmental CEs or Ministers to comply with their obligations	Jonathan Boston, Chrys Horn. Jade Thomas, Taylor Rae Bryant McBride, Taiawhio Wati-Kaipo, Charlene Dixon, Cristopher Wilson, Francis Harawira, D Meredith	The purpose of the Bill is to provide additional accountability mechanisms via increased transparency. See rows 120-122 below for explanation of rationale for clause 24.	No change proposed
120.	24 - 26	Act does not confer or impose legal rights or obligations or affect validity – strengthening clause	Despite these clauses, Courts may still use the principles when interpreting legislation; there will be heightened judicial review risk. Clause could be strengthened to ensure courts do not use the principles in unexpected and irreversible ways.	Simpson Grierson, Kevin Hague, Te Pane Matua Taiao - Greater Wellington Regional Council, New Zealand Initiative	The Bill does not require the courts to interpret law in any particular way, and provides that the principles should not be applied outside the purposes of the Bill. However, like all legislation, it is impossible to accurately anticipate how the judiciary may voluntarily choose to interpret the Bill beyond the scope of the Bill's functions and purposes. It is the role of the courts to interpret legislation in the manner it sees fit.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
121.	24	Act does not confer or impose legal rights or obligations	The provision would not prevent a person who gets an unfavourable result from the Board seeking judicial review of that result	Donald Mathieson	The Bill does not explicitly prevent judicial review over a Board recommendation. However, as the Board's recommendations are non-binding there is likely to be limited value in seeking judicial review of the Board's recommendations or process for undertaking its functions.	No change proposed
122.	24	Act does not confer or impose legal rights or obligations	This clause is inconsistent with the principle that it is responsibility of the courts, not ministers, to interpret legislation.	Geoffrey Palmer	The intent is that the Bill supports and strengthens Parliament in its role only in the ways explicitly specified in the Bill - i.e. by the establishment of principles and a Regulatory Standards Board; setting requirements for identifying and reporting on inconsistencies with the principles; setting regulatory stewardship responsibilities for public agencies; and setting specific requirements in relation to the Ministry for Regulation's broader regulatory oversight role (cl 3(2)). There is no intent in the Bill that the principles or other aspects of the Bill are applied or considered in other circumstances, or any intent to limit the role of the courts. Consistently with that role, the Bill does not attempt to restrict the courts from considering Executive decision-making under the Bill through issuing guidance under cl 27, or Board decisions under cl 29. Consistent with the principle of comity, the Bill does ensure that producing CAS to inform Parliament in its role maintaining Executive accountability is not a function open to the Judiciary.	No change proposed
123.	25	Act does not regulate reasons	Clause allows for superficial or uninformative justifications, undermining the transparency and usefulness of the statements	Christopher O'Brien	This clause reflects the intent that the Bill impose no restrictions whatsoever on the ability to proceed with legislative proposals or leave existing legislation in place, even where proposed or existing legislation has been found to be inconsistent with the principles. The presentation to the House and publication of Ministers' statements is intended to allow Parliament and the public to make up their own minds about the quality of reasons provide by Ministers. It also reflects that responsible Ministers (or other makers) are best placed to determine how to explain the reasons for progressing with, or not seeking to amend, legislation that is inconsistent with the principles, including weighing up the different factors and judgements that go into Ministerial decision-making.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
124.	27	Guidance – general	Guidance material will ensure flexibility and the material's ongoing development will improve efficiency, guidance should be clear and comprehensive.	Taxpayers' Union and New Zealand Initiative		No change proposed
125.	27	Guidance – Issuing by joint ministers	Gives significant powers to Ministers as to how principles will be interpreted and applied, means executive rather than judiciary is interpreting Parliament's intention, should be subject to Parliamentary oversight or have parliamentary involvement, should involve a role for the courts, use of <i>expectations</i> suggests public service will be accountable to the Minister for Regulation and the Attorney-General for the matters set out in the clause, may exert significant influence over regulatory bodies, could politicise the Attorney-General's role	Melanie Nelson, Kevin Hague, PSA, Christopher O'Brien, Bill Rosenberg, Alister Arcus, Waikato Regional Council, VUW Climate Clinic, Royal Australian and New Zealand College of Psychiatrists, Tōpūtanga Tapuhi Kaitiaki o Aotearoa, New Zealand Nurses Organisation, Bob Lack, A Richards, Johnson McKay Fraser Lovell, Hugh Notron and others	The guidance should be read in the context of the purpose of the Bill, which is the Executive setting expectations for itself to assist Parliament's scrutiny. It is not the intent of the guidance to limit the role of Parliament or the courts, nor does the Bill create mechanisms designed to achieve this.	No change proposed
126.	27	Guidance – Process for developing	Bill should require public consultation, or consultation with Ministers, departments or Parliament in the development of the guidance, there should be input from Māori legal and policy experts, it should include three examples of each principle showing compliant, non-compliant and borderline examples.	Eugenie Sage, Taiawhio Wati-Kaipo, Iarau Ltd, Ron Segal	The process for issuing guidance does not require legislative provision. However, as a significant policy matter, the guidance is likely to fall within guidance on what matters should be considered by Cabinet.	No change proposed
127.	27	Guidance – Duplication	Guidance duplicates <i>Legislation Guidelines</i> and clause should be deleted; clause isn't needed as there is nothing stopping Ministers giving guidance without it	Eddie Clark, Kevin Hague, Carwyn Jones	Guidance can be issued without a legislative provision. However, the clause recognises the significant reach the Bill will have across a broad range of organisations and provides certainty that additional guidance will be provided due to the high level nature of the principles and requirements set out in the Bill.	No change proposed
128.	27	Guidance - Enforceability	Guidance should be enforceable so agencies cannot ignore best practice advice without consequence	Charlene Dixon, Christopher Wilson, Jade Thomas, Francis Harawira	The intention is that the guidance is not binding in a legal sense. The guidance is intended to support agencies and Ministers to understand and meet the requirements set out in the Bill. This is similar to Cabinet circulars, which are another means for the Executive to set expectations on itself, but are not legally enforceable.	No change proposed
129.	27	Guidance - Content	Guidance material must be clear and comprehensive on applying the principles, particularly regarding property rights and compensation and what constitutes an impairment; should include how to interpret the principles with examples, the level of analysis, how to assess trade-offs between competing	New Zealand Initiative	These are all matters that will be considered through the development of the guidance and does not need to be clarified in the legislation.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			principles, standards for cost benefit analysis and how to assess, and how the principles apply to secondary legislation			
130.	27	Guidance – Child impacts	Guidance should include direction for a Child Impact Assessment to be undertaken to ensure comprehensive, intentional and meaningful consideration of children and their rights	Mana Mokopuna Children and Young People’s Commission	The guidance will be developed during the implementation phase. No further legislative clarification on the content of guidance material is required.	No change proposed
131.	28	Establishment of the board	There was support for the board, and the non-binding nature of its recommendations, provided there were people with the appropriate expertise appointed and some suggestions for appointments and function as set out below.	The Taxpayers Union, New Zealand Initiative, Energy Resources Aotearoa		No change proposed
132.	28	Establishment of the board and alternative options	Consider alternative options to the Board including no board and/or complaints mechanism or a new select committee, amending the scope of the Regulatory Review Committee or Office of Parliament, a non-partisan body, a non-partisan Government department or an independent panel appointed by the judiciary. Suggestions also included co-design with Māori and established as a 50% Crown-50% Māori nominated membership.	Carwyn Jones, Bob Lack, Stephanie Coutts, Regan Sayer, The Religious Society of Friends (Quakers) Te Hāhi Tūhauwiri, Dean Knight, Eddie Clark, Deborah Te Kawa, Edward Willis, Waikato Regional Council, Waikato River Authority, Michael Hata, Ananish Chaudhuri, Edward Willis, A Richards, Bob Bickerton, Fraser Lovell, Ani Mikaere, Tristram Ingham, Taiawho Wati-Kaipo, Jane Raymond-Paikea and others	The intent of establishing a Board is to function as an assurance mechanism to incentivise the production of robust CASs for Bills and legislation, and to provide an avenue for people to raise concerns about the consistency of legislation. A range of options including expansion of the current Regulatory Review Committee’s scope, a new select committee, the establishment of an Officer of Parliament and the function being undertaken by the Ministry for Regulation were considered in the Ministry for Regulation’s Regulatory Impact Assessment (RIS). The RIS concluded, on the basis of its assessment of options against criteria including cost and effectiveness, that a Parliamentary option was not preferred. The RIS also concluded that, while the function being undertaken by the Ministry may have been more cost effective than a Board, a Board would provide a dedicated and efficient assurance mechanism that can provide expert outside opinion.	No change proposed
133.	28	Establishment - overlap with functions of other entities	The Board should be removed or its role clarified in relation to existing entities to prevent duplication and ensure efficiencies. Examples provided include the role being analogous or cutting across the Waitangi Tribunal, Ombudsman, and the Human Rights Commission, government departments such as Crown Law and Ministry for Regulation, LDAC and PCO.	Te Kāhui Tika Tangata – Human Rights Commission, The New Zealand Initiative, Jonathan Boston, Joanna Mossop, Esko Wiltshire, The Law Association of New Zealand, Chirstopher O’Brien, Chris Nelson, Eugenia Devoto, Seafood New Zealand, the NZ Rock Lobster Industry Council and the Pāua Industry Council, Gregory Gouws and others	The role of the Board is limited to the functions set out in clause 29(1). This role is narrower in scope than the functions undertaken by many of the examples provided. Where there is potential for overlap, any overlap can be addressed during the development of guidance material and the establishment of the Board, including its Terms of Reference and operating procedures.	No change proposed
134.	29	Functions – overlap with existing	The Bill does not address how the Board will link to or avoid overlapping with existing parliamentary scrutiny processes such as	Office of the Clerk of the House of Representatives, Geoffrey Palmer, David Cunliffe, Kevin	The Bill does not impact on existing functions undertaken by Parliament. The role of the Board in providing non-binding recommendations through	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
		Parliamentary scrutiny processes	Parliament's role, the role of the Regulations Review Committee.	Hague, Bill Rosenberg, Deborah Te Kawa, Te Ao Mārama Incorporated, Seafood New Zealand, the NZ Rock Lobster Industry Council and the Pāua Industry Council, Sophie McInnes and others	the publication of reports is intended to support these existing processes, such as select committee scrutiny of Bills.	
135.	29	Functions - transferring responsibilities from the Executive	The Board's functions should be amended to ensure decision-making power and ministerial responsibility is not shifted to the Board	Kim Tuaine	The Bill does not transfer any decision-making power from the Executive to the Board. The Board does not have decision-making powers and cannot make binding recommendations. Its role is limited to providing reports to select committees and making non-binding recommendations to the Minister for Regulation.	No change proposed
136.	29	Functions - transferring responsibilities from Parliament	The Board's functions need to be amended to ensure the Board does not shift power away from Parliament, impinge on democratic processes or have a chilling effect on Parliament's lawmaking ability.	Geoffrey Palmer, Sally Hughes, Benedict Andrews, Wayne Anderson, Chris Beirne, Susanne Vincent, Christopher Lipscombe, Shane Shaw-Williams, Joseph Winiana, Justin Paul, Mike Chi, Michael Hata, Howard Whanau and others	The Bill does not transfer any responsibilities away from Parliament. The Bill does not impact on existing functions undertaken by Parliament. The role of the Board in providing non-binding recommendations through the publication of reports is intended to support these existing processes, such as select committee scrutiny of Bills. The Board's recommendations are non-binding and do not prevent or require legislation to be amended or developed in a particular way.	No change proposed
137.	29	Functions - transferring responsibilities from Judiciary	The Board's functions should be amended to ensure its creation does not concentrate power away from the judiciary to the Executive or reduce the courts' role in ascertaining the meaning of legislation, or undermine the role of judicial review.	Amokura Panoho, Alyssa Dunster, Anthony Simpson, Carmen Parahi, Chris Beirne, Cherish Wilkinson, Geoffery Blair, Hazel Gray, Christopher Pani, Juliet Tainui Hernandez, Michael Hata, Ngāti Tama ki te Waipounamu Trust, S Hall	The Bill does not transfer any power away from the Judiciary, and is not intended to have any impact on the constitutional place of the courts or their lawmaking functions. The roles and powers of the courts arise from their inherent jurisdiction, and those other jurisdictions conferred by legislation.¹ The Bill is designed to have no legal effect on these abilities, roles, or legislation. The Bill is intended to only have legal effect via the functions listed in cl 3(2).	No change proposed
138.	29	Functions – disproportionate influence	The Board's functions should be amended to address concerns that the Board will have disproportionate influence and lack independence due to ability for ministerial influence and direction.	Public Service Association, Papa Pounamu, Christchurch City Council, NZEI Te Riu Roa, Mike Potton, Julie Seal, Ngāti Koata Trust, Susan Bagshaw, Mezlya Yelash, Freda Whiu, Jonathon Avery, Kiri Reihana	The Bill does not provide for the Minister for Regulation to direct it to undertake particular inquiries, or to cease any inquiry. Appointments to the Board will be consistent with established processes and will be considered by Cabinet through the Cabinet Appointments and Honours Committee process.	No change proposed

¹ LexisNexis NZ Limited: *The Laws of New Zealand*, paras 251-252.

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					See row 152 for a proposed recommendation for joint appointments.	
139.	29	Functions – response to reports	The Board’s functions should be amended to require response to reports published by the Board and/or binding recommendations. <i>Note some submitters expresses a clear view that this change should only be made if the principles were amended.</i>	Seafood New Zealand, the NZ Rock Lobster Industry Council and the Pāua Industry Council, Te Rōpu Taiao ō Ngāti Ranginui Iwi.	The intent of the Board’s functions is to provide non-binding recommendations and for these to be made publicly available. The intent is that, where the Board identifies inconsistencies, this would create an incentive for the relevant lawmaker to give reasons for any inconsistency, or to amend the legislation in question. On this basis, the Bill does not require any action to be taken in relation to the Board’s reports beyond publication.	No change proposed
140.	29	Functions – non-binding	The Board’s functions should be amended to reduce possibility of non-binding recommendations effectively constraining legislative development or acting as a de-facto veto on legislation or casting doubt on the validity of regulatory schemes, or remove entirely to prevent non-binding aspect to be changed in future.	Daniel Nathan, Jonathan Boston, Simspson Grierson, Stephen Clark, Shane Shaw-Williams, Taiturarā – Local Government Professionals Aotearoa	The Board is advisory in nature and the Bill does not require any action to be taken in relation to the Board’s reports beyond publication. It will remain the responsibility of the relevant lawmaker to develop and action their own legislative priorities, including whether they wish to consider any recommendations made by the Board as part of this.	No change proposed
141.	29	Functions – application of principles	The Board’s functions should be amended to clarify the methodology or guidance for how trade-offs will be assessed when applying the principles	Jonathan Boston, Chris Nelson	No additional clause is needed as guidance material developed and published under clause 27 will support consideration of the principles.	No change proposed
142.	29	Functions – trigger for reviews	The Board’s functions should be amended to amend the trigger for instigating an inquiry. Options raised include only allowing inquires following complaints not on its own behest and/or on the direction of the Minister, alternatively it was also raised to amend to remove ability to initiate based on ministerial or public complaints.	Fraser Lovell, Law Association of New Zealand.	There is no provision in the Bill that allows the Minister to direct the Board to undertake or cease an inquiry. How the Board wishes to discharge its functions is deliberately broad to ensure its independence, and to enable the board to work flexibly without direction from the responsible Minister.	No change proposed
143.	29(1)	Focus inquiries on new legislation	The Board’s functions should be amended to avoid Board focusing on existing legislation and focus on general regulatory stewardship obligations and/or improving new legislation.	Seafood New Zealand, the NZ Rock Lobster Industry Council and the Pāua Industry Council, Asian Legal Network, VUW Climate Clinic, Daniel Haines	The Board is intended to act as an assurance mechanism that robust CASs are being completed, as well as responding to complaints that existing legislation is inconsistent with the principles. The Board’s focus on existing legislation is therefore a core part of the policy intent. The Board will have a focus on improving new legislation via its role in looking at CASs for Bills that are before the House.	No change proposed
144.	29(1)(c)	Consideration of CAS for Bills	The Board’s functions should be amended to avoid provision of reports before final decisions on a bill are made by Parliament.	Christopher O’Brien	The Board’s functions are intended to cover the scope of legislation that consistency assessment requirements apply to, including Bills.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
145.	29(1)(d)	Access to Select Committee by the Board	The Board's functions should be amended to avoid presumed access to a Select Committee as is a matter of parliamentary procedure for the relevant committee to determine and the bill should stay silent on.	The Clerk of the Committee, Office of the Clerk of the House of Representatives, David Gutierrez Roldan	Clause 29(1)(d) does not require a select committee to accept or review a report provided by the Board and therefore does not narrow Parliament's ability to determine its own procedure through Standing Orders. Any special provision for select committees to look at the reports would be a matter for the House to determine through its own processes.	No change proposed
146.	30	Board to operate on the papers	The Board's functions should be amended to increase transparency and enable genuine inquiry and discussion by enabling the Board to hold inquiries and undertake consultation with relevant experts, including obligations to engage with hapū, iwi and Māori.	Debbie Ngarewa-Packer, Eugenie Sage, David Gutierrez Roldan, Te Tiriti is Us, Edward Willis, Charlene Dixon, Christopher Wilson, Anthony Simpson, Christopher O'Brien, Caleb Rakete, Aged Care Association, SPCA and others	The requirement to undertake inquiries or consider CAS on the papers (and not hold inquiries) does not prevent the Board from seeking input from anyone they consider appropriate when undertaking its functions. The provision supports the Board's statutory role that provides a low-cost assurance mechanism but is advisory in nature only. This means there is no facility for individuals or organisations to be compelled to appear or give information.	No change proposed
147.	32	Complaints mechanism – general	The complaints function should be removed or amended as it could be used to challenge or change particular laws that provide a range of protections including for public health, education, and Māori specific rights, representations or protections.	The National Iwi Chairs Forum – Pou Tangata Chair Rahui Papa, Ngāti Tama ki te Waipounamu Trust, The New Zealand College of Public Medicine, Charlie Shilton-Hart, Christopher Willet, Desiree des Barres, Haylee King and others	The Board is advisory in nature and the Bill does not require any action to be taken in relation to the Board's reports beyond publication. The Board's functions are intended to cover the scope of legislation that consistency assessment requirements apply to.	No change proposed
148.	32	Complaint mechanism – scope of complainants	The mechanism should be limited to only allow complaints from those demonstrably affected.	Daniel Nathan	Narrowing the scope of who can make a complaint to the Board would not align with the Board's intended role as a transparent assurance mechanism available to all individuals. Since the Board is not empowered to investigate the actions or outcomes related to specific individuals, it would not align with the intent to restrict complaints to particular individuals.	No change proposed
149.	32	Complaints – establishment of process	A clear process for how complaints will be considered should be included to address transparency concerns.	Tuatahi First Fibre, Environment Southland, Christopher O'Brien, Vicky Hepi, Simpson Grierson, Iarau Ltd	It is unnecessary to include the details of the complaints process in legislation given that the Board is advisory only, and doing so could limit the Board's flexibility to choose how to consider different kinds of issues or complaints, consistent with its functions and duties set out in the Bill.	No change proposed.
150.	33(2)	When board must not inquire into legislation - in relation to particular act,	This clause should be amended to enable investigation into instances of harm on specific communities or individuals or when there is a credible specific concern in relation to a range of	Tauwhara Marae, Stet Limited, Jade Thomas, Taylor Rae Bryant McBride, Frances Harawira, Edward Willis, Charlene Dizon, Christopher	The Board cannot inquire into the performance or non-performance of a particular act or result in relation to a particular individual. However, this does not restrict the Board from developing an understanding of particular impacts when	No change proposed.

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
		results or in respect of a person or persons	topics including the environment, public health and conflicts with international obligation.	Wilson, Te Hunga Roia Māori o Aorearoa	undertaking an overall assessment of the legislation. This will be particularly relevant when applying the good law-making principles, particularly when evaluating who is likely to have benefited and who is likely to have suffered a detriment from the legislation.	
151.	35	Ability to appeal Board decisions	This clause should be amended to provide a mechanism for appealing or challenging Board decisions and provide for natural justice rights.	Bill Atkin, Geoffrey Palmer, Geoffrey Blair, Daniel Nathan	The Board cannot look into individual cases and cannot make binding recommendations, therefore there are unlikely to be many circumstances for when such provisions would be necessary. In these cases, nothing in the Bill prevents the Board undertaking natural justice processes where necessary depending on the particular circumstances of their considerations (for example, providing draft recommendations to affected parties for comment). Similarly, there is nothing in the Bill that would prevent the Board reconsidering its recommendations or report on a particular piece of legislation or bill should a particular issue come to its attention. If an individual was unsatisfied with the process undertaken in a particular consideration of the Board, they would be able to use the Courts as an appropriate review mechanism.	No change propose
152.	38(1)	Members appointed by the Minister for Regulation	This clause should be amended to reduce possibility of political appointments, disproportionate influence of the Minister for Regulation and circumvention of democratic processes in the makeup of the Board	NZEI Te Riu Toa, Environment Southland, Christchurch City Council, Te Rōpu Taiao o Ngāti Ranginui Iwi Society Bill Rosenberg, Pacific Lawyers Association, Wellington Tenth's Trust, Palmerston North Māori Reserve Trust, Hīkoikoi Management Limited, Toi mata Hauora (the Association of Salaried Medical Specialists, Te Pumautanga o te Arawa Trust Tapuhi Kaitiaki o Aotearoa, New Zealand Nurses Organisation, Francis Harawira, Tōpūtanga Charlene Dizon, Christopher Wilson, Cameron Hunter, Eugenia Devoto, Desiree des Barres, VUW Climate Clinic, Stephen Clark, Mary Beaumont, Charlie Shilton-Hart, Elliot Collins, Christopher Lipscombe, Juliet	Appointments to the Board are intended to be consistent with established processes (including consideration of guidance to support diverse and balanced representation on the Board) and will be considered by Cabinet through the Cabinet Appointments and Honours Committee process. However, to provide reassurance and avoid perceptions of disproportionate influence from any Minister, members could be jointly appointed by the Minister for Regulation and the Attorney-General. As the Attorney-General also has a role in providing guidance material under clause 27 they would be well-placed to understand the expertise required on the Board. There is nothing in the Bill that would prevent the Minister from calling for public nominations or consulting with public organisations ahead of any appointment processes.	Change proposed Provide for joint appointments to the Board by the Minister for Regulation and the Attorney-General

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
				Park, Vicky Hepi, Geoffrey Blair, Lyla Atutahi, Nikole Wills, Chrys Horn, Ash Hamilton, Jay Tohill, Eamon Frazer, Jeremy Finn & Anne O'Brien and others		
153.	38(1)	Consultation ahead of appointment	This clause should be amended to require appointment following consultation – for example with specific Ministers such as the Ministers for Māori Development, Māori-Crown relations and Treaty of Waitangi Negotiations; following public consultation; consultation with Māori including Kīngitanga, the Law Society, consultation with the Attorney-General in the case of a member who is a barrister or a solicitor;	Orion, Te Pūmāutanga o te Arawa Trust, Ari Lucock, Dan Thurston Crow, Amokura Panoho, Debbie Ngarewa-Packer, Caulfield Te Hira, Tahauariki Thompson	Appointments to the Board are intended to be consistent with established processes (including consideration of guidance to support diverse and balanced representation on the Board) and will be considered by Cabinet through the Cabinet Appointments and Honours Committee process. There is also nothing in the Bill that would prevent the Minister from calling for public nominations or consulting with public organisations ahead of any appointment processes.	No change proposed
154.	38(1)	Alternative appointment processes	Alternative appointment processes should be considered for increased independence, for example appointment by Parliament, cross-party support for appointments, appointment of MPS, appointment by 75% majority if the House, public nominations and election, provide for a detailed appointment process such as that provided in s 33 of the Local Government Act	Taituarā – Local Government Professionals Association, Orion, Bill Atkin, Horizons Regional Council, Daniel Nathan, Energy Resources Aotearoa, Gregory Gouws, Rock the Vote NZ, Christopher O'Brien, Joshua May-Jans, David Gutierrez Roldan, Ari Lucock, Ash Hamilton, Jay Tohill, Fraser Lovell, Aged Care Association and others	The proposed appointment process is appropriate for an advisory Board whose recommendations are non-binding.	No change proposed
155.	38(5)	Expertise of Board Members	This clause should be amended to set out specific prerequisites for the expertise and skillsets of Board members to ensure a cross section of expertise or experiences, including cost benefit analysis, practical expertise, legal – particularly constitutional and statutory interpretation, regional, diverse community interest, Pasifika, LGBTQIA+ and subject matter expertise for particular areas of regulation such as health, economics, environment, regulatory design and stewardship, implementation and evaluation, perspectives of regulatory sectors or industries and collective knowledge of how public and regulatory policy is formed and given effect to, children's right including from a Tiriti perspective, ability to contribute to a holistic, inclusive and diverse approach.	BusinessNZ, the New Zealand Initiative, Dunedin City Council, Bryce Wilkinson, Orion, Environment Southland, Mana Mokopuna Children & Young People's Commission, Taituarā – Local Government Professionals Aotearoa, Eugenie Sage, Christchurch City Council, Waikato Regional Council, Wellington Tenth's Trust, Palmerston North Māori Reserve Trust and Hikoikoi Management Limited and others	Appointments to the Board are intended to be consistent with established processes (including consideration of guidance to support diverse and balanced representation on the Board) and will be considered by Cabinet through the Cabinet Appointments and Honours Committee process. In some cases when statutory boards have a particular focus on certain policy areas, for example social, economic, environmental, medical or other activity it can be appropriate to set required skills and expertise for board membership relevant to the particular area of the board's focus. However, in this case, as the Board's functions cover the ability to inquire into legislation covering a broad range of subject matters, it is important that flexibility is provided to enable appointment of a broad range of expertise over time.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
156.	38(5)	Māori representation on the Board	This clause should be amended to set out prerequisites for Māori representation and expertise in Te Tiriti o Waitangi, tikanga Māori and Māori legal and economic expertise	Asian Legal Network, Papa Pounamu, Taituarā – Local Government Professionals Aotearoa, Christchurch City Council, Dunedin City Council, Debbie Ngarewa-Packer, Te Rūnanga o Ngāti Kēaroa, Ngāti Tuara, Toi mata Hauora (the Association of Salaried Medical Specialists, Te Pūmāutanga o te Arawa Trust, Taiawhio Wati-Kaipō, Amokura Panoho, Caulfield Te Hira, David Gutierrez Roldan, Fraser Lovell, Mere Takurua, St Peter's on Willis Social Justice Group, Te Rōpu Taiao o Ngāti Ranginui Iwi, Tahauariki Thompson, Wellington Tenth's Trust, Palmerston North Māori Reserve Trust and Hikoikoi Management Limited, Ngāti Tama ki te Waipounamu Trust, Carmen Parahi, Te Hunga Roia Māori and others	See row 155.	No change proposed
157.	39	Board reports	This clause should be amended to require a statutory obligation to publish all inquiries and annual work plans and require the board to disclose any third party and their costs used in the delivery of their functions.	Rock the Vote NZ	The Bill already requires that all inquiry reports be published (clause 36) as well as an annual report (clause 39). As annual work plans may be dependent on the particular complaints received it may be difficult to require annual workplans in advance. The Board will be provided secretariat support and funding through the Ministry for Regulation who already has annual reporting obligations.	No change proposed
158.	New	Select Committee scrutiny	This clause should be amended to enable the appropriate select committee to allow public submissions on board reports.	BusinessNZ	If the Board provides a report to a select committee, it is likely to be provided in the same way a public submission on a bill is provided. It would be inappropriate to provide an avenue to require a Select Committee to seek further public commentary on a submission, although the Board could choose to make its submission public in advance of Select Committee submissions periods closing, to enable interested public to consider it.	No change proposed
159.	New	Review of Board	This clause should be amended to include provision for how the Board would be held accountable for decisions and dissolved in future if need be.	Energy Resources Aotearoa	The Board reports will be published, ensuring transparency for the public. The ability to dissolve the Board would follow normal processes for disestablishing a statutory board, i.e through legislative amendment.	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
160.	Sch 2, 2	Removal of members	This clause should be amended to require parameters on when a member can be removed.	Alex Szczepaniak, Royal Australian and New Zealand College of Psychiatrists	As the Board is advisory in nature with no ability to provide binding recommendations, it is appropriate to enable removal via the same mechanisms as appointment, without requiring particular reasons. The change proposed in row 152 would likely result in removal requiring joint agreement of the Minister for Regulation and the Attorney General.	No change proposed
161.	Sch 2, 5	Accountability of members to Minister	The provision requiring accountability to the responsible Minister should be amended to avoid Executive influence and shifting the relationship between the judiciary and Executive due to the 'quasi-judicial' role of the Board. Alternatives suggested including accountability to Parliament and iwi/Māori collective or provide a mechanism to challenge the board.	Kevin Hague, Shane Shaw-Williams, Mary Beaumont, Taiawhio Wati-Kaipō, S Hall, Justin Hygate	As the role of the Board is advisory with no ability to make binding recommendations, it will not have a 'quasi-judicial' role. See rows 132 and 151 in relation to alternative suggestions and appeal mechanisms respectively.	No change proposed
162.	Sch 2, 14	Immunity for liability	Amend to ensure protection for liability is not wider than the provision set out in s 126 of the Crown Entities Act.	Aedeen Boadita-Cormican	This is a drafting matter that will be raised with PCO.	This point will be raised with PCO as a drafting matter
163.	Sch 2, 17	Application of Official Information Act 1982 and Ombudsman Act 1975	This clause should be amended to apply the OIA directly to the Board, instead of deeming information held by the Ministry. Additionally, apply the Ombudsman's Act to the Board.	Chief Ombudsman	The Official Information Act 1982 should be applied via the Ministry for Regulation, as all information will be held by the Ministry. The Ombudsman Act 1975 relates to matters of administration and affecting individuals. The Board cannot look into particular acts or the bringing about of particular results in relation to a particular individual (see cl 33(2)), is advisory in nature and can provide only non-binding recommendations and only in relation to the consistency of legislation or bills with the principles. Its functions therefore are not within scope of the current mandate of the Ombudsman's Act. Given this, and the fact the Bill does not limit judicial review over Board decisions, we do not consider it necessary to extend the scope of the Ombudsman's Act to apply to the Board.	No change proposed
164.	Sch 2, new	Maximum term	A new clause should be inserted stating no member may be reappointed for more than two consecutive terms.	Orion	Public Service Commission guidance states that is the decision of the responsible Minister to determine when reappointment might be appropriate.	No change proposed
165.	41	Instigation of regulatory reviews	Clause should clarify that the Minister for Regulation or Ministry for Regulation should not have the power to decide when or how reviews are undertaken, and agencies are not answerable to the Ministry for Regulation in a way that subordinates other ministries.	Kirwin Hampshire, Wellington Tenth's Trust, Palmerston North Māori Reserve Trust and Hikoikoi Management Limited	The undertaking of regulatory reviews is an existing function of the Ministry for Regulation and therefore does not need to be provided for in legislation. The purpose of regulatory reviews is to ensure regulatory systems are achieving their objectives, do not impose unnecessary compliance costs, and do not unnecessarily inhibit investment, competition and innovation. They do this by considering matters	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
					relating to the design, operation and performance of regulatory systems as provided for under a Terms of Reference setting out the scope of an individual review. In practice each review topic is confirmed by Cabinet and Terms of Reference confirmed by relevant ministers. The Bill itself does not give the Minister or the Ministry to unilaterally decide when or how reviews are undertaken.	
166.	41	Terms of Reference for Regulatory reviews and matters to be taken into account	Terms of Reference should be designed and developed by affected agencies and ministries. Specific requirements should be set for regulatory reviews to take into account matters such as Māori rights, equity and public trust. Include an amendment to make publication timebound and meaningful in substance.	Fraser Lovell, Wellington Tenth Trust, Palmerston North Māori Reserve Trust and Hikoikoi Management Limited, Christopher O'Brien	In practice each review topic is confirmed by Cabinet and Terms of Reference confirmed by relevant Ministers, with input from relevant Ministries in the drafting of the Terms of Reference. The Terms of Reference sets the scope of an individual review within the parameters of considering matters relating to the design, operation and performance of regulatory system, and is the best place to set specific requirements for what a particular review will consider. It is appropriate for relevant Ministers to determine the scope of the Terms of Reference to enable flexibility rather than setting specific requirements in legislation. The Bill already provides for reports to be provided to the House of Representatives (see cl 41), alongside a statement from the Minister for Regulation setting out the Government's response as soon as reasonably practicable. This approach provides flexibility for timeframes to be dependent on the scope and nature of particular review and any proposed response.	No change proposed
167.	41(3)	Publication of regulatory review reports	This clause should be amended to make publication timebound and meaningful in substance.	Christopher O'Brien	Clause 41(3) provides for reports to be presented to the House of Representatives as soon as "reasonably practicable". This wording leaves flexibility for when it may be appropriate to present the report to the House based on the nature and scope of the inquiry and the Government's proposed response.	No change proposed
168.	42 & 43	Information gathering powers	There was some support for the information gathering powers	BusinessNZ, Tuatahi First Fibre	No suggested changes.	No change proposed
169.	42 & 43	Remove information gathering powers	This clause should be amended to remove powers to prevent expansion of Ministry for Regulation powers or the targeting of particularly organisations or people such as Māori. Alternatively limit the scope to the same powers provided to the Public Service Commission or	Māori Women's Welfare League, Rainbow Support Collective, Ngāti Koata Trust, NZEI Te Riu, Charlene Dizon, Mere Takurua, Moana Bennet, Mezlja Yelash, Shane Shaw-Williams, Vicky	It is intended that the powers would only be used when necessary or desirable information has not been made available through engagement or consultation processes. There are also cascading	No change proposed

#	Clause	Area	Issue	Who raised	Comment	Proposed approach
			give the powers to the Commission if they are needed. Remove third party service providers from scope.	Hepi, Francis Harawira, Public Service Association, Te Ātiawa o Te Waka-a-Māui Trust	restrictions on the use of the power for agencies outside the public service.	
170.	43	Information gathering powers – additional safeguards to prevent excessive use and ensure reasonableness	This clause should be amended to ensure powers are not excessively used, prevent fishing expeditions, reference ‘necessary’ or ‘proportionate’ instead of ‘desirable’, and protections under NZBORA, Privacy Act and Human Rights Act are complied with. Include provision to require safeguards that ensure sensitive environmental or conservation data is protected from misuse.	New Zealand Council of Trade Unions Te Kauae Kaimahi (NZCTU), Te Ātiawa ki Whakarongotai Charitable Trus, Christopher O’Brien, Geoff Bertram, Melissa Bryant, Frank Cook, Iarau Ltd, Stet Limited	Information can only be used for the purpose it is gathered, as set out in row 165. Clause 43(5) provides an additional protection as the powers do not limit any legislation that imposes a prohibition or restriction on the availability of any information.	No change proposed
171.	43(4) & 43(5)	Legal, commercially sensitive or classified information	This clause should be amended to include protections to ensure information is lawfully obtainable and provide protections for agencies relating to legal, commercially sensitive or classified information. Strengthen to apply confidentiality requirements to information and penalties for disclosing, as OIA mechanisms would only be available after information had been disclosed, which would not protect commercially sensitive information.	Orion, Christopher O’Brien	As above. Clause 43(5) provides an additional protection as the powers do not limit any legislation that imposes a prohibition or restriction on the availability of any information. Information that otherwise does not have a legislative prohibition or restriction but would still be considered confidential or commercially sensitive would be managed on a case-by-case basis depending on the circumstances. We note that section 9(2)(ba) of the Official Information Act 1982 allows for good reasons to withhold information if necessary to protect information which any person has been or could be compelled to provide under an enactment. It is intended that the powers would only be used after non-mandatory avenues have been attempted, and requests would need to be necessary or within the scope of the Terms of Reference for the particular review. There is nothing in the Bill that prevents agencies mutually agreeing to particular terms for the provision or management of information before a formal request is made and we anticipate it would be a highly unlikely scenario that a request would be made for sensitive information.	No change proposed
172.	43(3) and (4)	Timing and scope of request	This clause should be amended to ensure agencies are provided a reasonable amount of time and ensure request are reasonable so as not to unduly constrain agencies functions or create compliance burdens and clarify what information is required, ability to ask for extensions, and clear escalation pathways for dispute resolution.	Environment Southland, Waikato River Authority, Amber Snell, Horizon Regional Council, Desiree des Barres, Kiri Reihana	The Bill provides that a date for providing information is required. As it is intended that the powers would only be used after non-mandatory avenues have been attempted to gather the relevant information, there will be scope to ensure the date provide is reasonable based on the context of the particular review. Similarly, unreasonable exercise of a statutory power would be subject to judicial review. There is nothing in the Bill that would prevent requests for extensions and normal departmental	No change proposed

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					escalation pathways can be utilised to resolve any disputes (i.e escalation to senior leadership and if necessary concerns can be raised with Ministers responsible for the particular review).	
173.	44	Additional protections or exemptions – Māori organisations and information	This clause should be amended to include exemption or protections for Treaty Settlement Acts, iwi/Māori without consent and co-design, of additional safeguards to protect mātauranga, kōrero tuku iho, or governance practices that are intrinsic to hapū and iwi self-determination and data sovereignty.	Te Ātiawa ki Whakarongotai Charitable Trust, Te Ātiawa o Te Waka-a-Māui Trust, Te Rūnanga o Ngāti Kearoa, Ngāti Tuara and Te Rūnanga o Ngāti Manawa Adelaide Boud	See 154 and 155 above for scope of regulatory reviews. Regulatory reviews focus on a regulatory system not specific legislation, and requests can only be made to a particular group if they are one of the agencies or persons set out in cl43(2). The Terms of Reference that can identify necessary consultation or matters outside the scope of a particular review. Setting such requirements in legislation are outside the policy intent of the Bill. In relation to specific information requests, a request can only be made within the scope of the terms of reference for a particular review. There are additional parameters for requests to non-public service agencies and contracted persons as provided for in clauses 45 and 46. The additional parameters require consultation with particular agencies ahead of requests being made to contracted agencies or non-public service agencies, and the approach for making a request can be tailored to ensure it meets appropriate and necessary cultural requirements.	No change proposed
174.	47	Failure for non-compliance	Remove consequences for non-compliance as heavy handed and draconian.	Raukura Hauora o Tainui	We understand in the absence of any penalty or punishment set out in the Bill, failure to comply with the information-gathering powers would constitute a general “Contravention of statute” under s 107 of the Crimes Act. That contravention would make the person liable to imprisonment for up to one year. Such a consequence would be more disproportionate and heavier handed than the proposed approach to enable enforcement via a Court order, and is the underlying rationale for the court order. Any decision to use the provision set out in clause 47 to enforce the supply of information via a court notice would be used on a case-by-case basis depending on the particular circumstances of non-compliance.	No change proposed
175.	New	Cost recovery mechanism	Add provision for cost recovery for responding to requests	Waikato Regional Council	We do not recommend implementation a cost recovery mechanism. Any concerns about cost or resourcing for fulfilling request can be discussed directly with the Ministry for Regulation to enable an appropriate solution on a case-by-case basis.	No change proposed

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176.	New	Implementation requests	A range of requests were made for additional clauses relating to implementation. For example; establish a Māori-Led advisory Group to co-design the RSB's implementation; provide for formal consultation with Māori on implementation, consistent with te Tiriti principles, updates to Parliament on implementation process, urgent work to ensure complementary measures to embed the principles with comparable statements in other official laws, regulations and guidelines, include a pilot phase with key agencies to test the CAS process, expedite work to establish Board training courses for officials who will have to apply the guidance, independent scrutiny of the Ministry's stewardship role particular where there are impacts on Māori rights or the balance of power in regulatory systems, requirements for the Ministry for Regulation to develop a strategy to deliver on its purpose and maintain a register of department regulatory stewardship strategies as well as have a map of what documents are covered by the Bill, and requirements for regulators to publicly report on how they are meeting the standards.	Amokura Panoho, KPN Consultants Ltd, Bryce Wilkinson, the New Zealand Initiative, Te Rōpu Taiao ō Ngāti Ranginui Iwi, McGuinness Institute, Joanne Blair and others	Various implementation requests are either outside the policy intent of this Bill or will be managed through the implementation process without requiring legislative provisions.	No change proposed
177.	New	Trigger for review.	Include a sunset clause to review and assess impact of the Act (options raised include 3 or 5 years). Additional options suggested including joint review by the Auditor-General and Human Rights Commission and an independent panel of tāngata whaikaha Māori data kaitiaki,	The New Zealand Institute, Business NZ, David Gutierrez Roldan, McGuinness Institute, Ash Hamilton, Jay Tohill, Daniel Nathan, Tristram Ingham, Izak Tait	Scrutiny requirements and post implementation reviews do not require legislative provision. We note the RIS stated that the Ministry plans to conduct a Post-Implementation Review of the Act within five years after its enactment to evaluate whether it is meeting its objectives, identify costs and benefits following its implementation, and consider any proposals that could enhance the Act's fitness for purpose in the context of the wider RMS at the time of the evaluation.	No change proposed
178.	New	Requests for requirements in other legislation or on Parliament.	Requests included requiring sunset clauses in legislation, or mandatory review by the Auditor-General, mechanisms to trigger binding referendum, provision for Māori representation at all levels of decision-making within regulatory frameworks, requirements for publication of information during policy processes, provisions to clarify the role of Parliament and processes for select committee reviews, add enforcement mechanisms such as mandatory parliamentary debate for legislation with significant inconsistencies or require remedial action plans.	Michael Hata, Murray Coppen, James Maddock, Kevin Evans, Clayton Wikatene, Deborah Te Kawa, Aaron Mcewan, Jonas Hare-Taoho, Kapiti District Council, D Meredith, Ron Segal	These requests are outside the scope of the Bill. The Bill does not set requirements for particular provisions that future legislation must contain. Additionally, it would be inappropriate for the Bill to set requirements for Parliament's processes.	No change proposed

