SUBMISSION ON NEW ZEALAND PRODUCTIVITY COMMISSION'S BETTER URBAN PLANNING DRAFT REPORT

1. SUMMARY

1.1 Vector Limited ("**Vector**") welcomes the opportunity to make a submission on the New Zealand Productivity Commission's Better Urban Planning Draft Report ("**Draft Report**").

1.2 Vector continues to strive for regulatory settings that deliver customer choice and value, evolve with technological change and promote the rapid innovation occurring in the energy sector. This approach reflects Vector's majority ownership by Entrust, which holds shares in Vector on behalf of 320,000 Auckland electricity consumers.

1.3 The Auckland region in particular is a key source of growth for Vector. With the city's population predicted to increase equivalent to the size Hamilton every five years between now and 2043, the growth Vector has seen on its electricity network recently looks set to continue.

1.4 Vector's networks are essential infrastructure for communities and for the economy. Vector is also evolving its networks to deliver the benefits that smart meters, solar panels, batteries, electric vehicle changing infrastructure, energy management services and other new technologies offer to customers.

1.5 Vector commends the work so far of the Productivity Commission in undertaking such a challenging and broad ranging review. Vector is also interesting in assisting the Commission as it looks to finalise its report and make its recommendations. The emphasis in Vector's submission has been to provide some examples which can assist the Commission in its application of frameworks.

1.6 The key themes that Vector addresses in this submission are:

(a) The key role that infrastructure plays in shaping urban areas.

(b) The importance of forward planning and making smart decisions at the outset.

(c) The need to enable infrastructure to provide for growth.

1.7 Vector would like to meet with the Productivity Commission to discuss its submission, its experiences working within the current planning system, and its aspirations for how New Zealand's urban planning system can help create successful, liveable urban areas.

2. INTRODUCTION TO VECTOR

2.1 Vector is New Zealand's largest distributor of electricity and gas and one of New Zealand's largest network infrastructure companies, owning and managing a unique portfolio of energy and fibre optic infrastructure networks. Vector's assets perform a key role in delivering energy and communication services to more than one million homes and businesses across New Zealand. Vector is a significant provider of:

(a) electricity distribution;

(b) gas distribution;

(c) electricity and gas metering installations and data management services;

(d) natural gas and LPG;

(e) fibre optic networks, delivering high speed broadband services; and

(f) new technologies, such as solar energy, electric vehicle chargers and Tesla batteries.

2.2 Vector is excited about New Zealand's future, and is committed to playing its part in providing effective, efficient, resilient and affordable infrastructure.

2.3 Vector has an extensive history of participating in Resource Management Act 1991 ("**RMA**") proceedings, both as an applicant and a submitter. Vector regularly works with councils when looking at new development and investment in its energy and fibre optic infrastructure. Ensuring that the planning processes are efficient, fair and certain is vital to enable certainty in relation to development and investment.

2.4 Vector has been actively involved in other Government policy initiatives this year, including the Resource Legislation Amendment Bill 2015. Vector's submission on that Bill is **attached**. As discussed in that submission, it is fundamental to the development of productive urban centres that growth does not hinder the effective current or future operation of critical infrastructure.

2.5 Vector's view is that the RMA generally functions well, and would be concerned about a fundamental reinvention of New Zealand's planning system. Within this submission, Vector identifies some key issues that it faces, and identifies the changes that could be made to the current planning system to better enable successful urban areas.

3. THE ROLE OF INFRASTRUCTURE IN HELPING SHAPE CITIES

3.1 The ongoing operation and development of network utility infrastructure is essential if New Zealand is to meet its cultural, social, environmental and economic objectives.

3.2 Network utility infrastructure needs to be located where growth occurs. This means that network utility providers are often not able to be selective as to where infrastructure is required. It is therefore critical that any planning system appropriately recognises the importance of infrastructure and the need for both new infrastructure to be enabled, and for existing infrastructure to be protected, particularly from reverse sensitivity effects.

3.3 Auckland, in particular, is undergoing rapid growth. Auckland needs efficient, effective and resilient infrastructure in order to provide for residents, businesses and public services to operate on a daily basis.

3.4 The network utility infrastructure that Vector provides is essential to the continued sustainable growth of Auckland and to its customers in other locations. Vector operates linear and other networks throughout Auckland, undertakes routine maintenance to ensure there is ongoing security of supply, upgrades components of the networks to ensure that there is sufficient capacity to meet existing and planned growth, and constructs and installs new components and connections to existing networks to enable utility servicing in newly developed areas.

3.5 Vector’s distribution infrastructure, together with other distribution networks (such as water and waste water), represent the capillaries which sustain the existing residential and business communities, and which are essential for continued growth and

intensification. These distribution networks are not merely significant infrastructure, for each and every person and business they serve, they are essential infrastructure.

3.6 The resilience and efficacy of network utilities (particularly distribution networks) lies within their connectedness and their interconnectedness. That in turn requires that each and every part of those networks are constructed, operated and maintained, in a manner that retains (and enhances) the network as a whole. The capacity of distribution networks is dependent on the voltage of assets (ie 11kV, 33kV or 110kV). Even those network utility assets with a "small" footprint can serve many hundreds of homes, and thousands of people.

3.7 In the next two sections, we address two key themes coming out of the Draft Report, in light of the critical role that infrastructure plays in helping shape cities.

4. FORWARD THINKING AND GETTING PLANNING DECISIONS RIGHT FIRST TIME

4.1 The Draft Report states that:

(a) Spatial plans should be a standard and mandatory part of the planning hierarchy in a future system.[1]

(b) The planning system shows considerable evidence of unnecessary, excessive and poorly targeted land use regulations.[2]

4.2 Vector considers that spatial planning is a critical tool that needs to be implemented to ensure successful urban areas. It is critical to enable infrastructure providers to make informed investment decisions about the size, scale and location of infrastructure to meet demand in a timely manner. Vector generally supports the enablement of growth, provided that ad hoc or short-sighted development does not leave longer term issues.

4.3 There is a real need for councils to take a firmer role in spatial planning to achieve district and regional outcomes, and to ensure that infrastructure provision is effective, efficient and timely so it is co-ordinated in an integrated fashion. Vector's view is that councils should take a lead role in coordinating spatial planning exercises and to facilitate the engagement of key stakeholders, including infrastructure providers, as early as possible.

Case Study: Spatial Planning

Vector works off urban zone boundaries (and future urban areas) in district plans, which provide the extent of development. Based on the extent of zoning, the number of predicted lots is estimated based on similar developments elsewhere. This provides approximate load information, but lacks timing information. Vector overlays Auckland Council population forecasts to get a crude assessment of the development timing and therefore what Vector's reinforcement requirements to its network to support this. Vector receives this information 5-10 years out. Developers then come to Vector sometime within 5 years of the development going ahead with a detailed design showing the number of lots and road layouts. This provides the exact detail of lot numbers and infrastructure required for each particular subdivision.

4.4 At an early stage in the planning process, it is also important that facilitated discussions involving central government, local government and private sector organisations can be effective in developing a shared understanding of land-use demand and associated infrastructure needs, and in prompting desirable investments. Vector's experience with the embedded networks provides an example of this.

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1 Draft Report, page 236, R9.1.
2 Draft Report, page 349, F7.1.

Case Study: Embedded Networks

Embedded networks are networks that are privately owned and operated. An example of a private embedded network in the Auckland Region is the Black Hills Road, Mangawhai, subdivision, which was originally a life style block subdivision. However, 10 years later the large lots themselves are now being subdivided. As the embedded network is private and the roads within the subdivision are also privately owned, no one has taken ownership of the maintenance or reinforcement of the network required within the subdivision. Current owners continually request that Vector maintain and reinforce the network, but as Vector does not own the network, Vector has no responsibilities in this area. If networks are not maintained appropriately, it raises health and safety concerns.

4.5 In terms of the level of regulation, Vector agrees that land use regulations are often unnecessary, excessive and poorly targeted. This is discussed further in the next section in relation to the controls on infrastructure. However, Vector also sees a number of controls or standards as being critical to ensure that development is carried out in a manner that is not short-sighted, or which leads to later issues.

4.6 Infrastructure is critical to supply new areas. In general this is through services laid within the road reserve. However, particularly in areas experiencing rapid growth, development is enabled without due regard to the need to future-proof infrastructure provision. For larger developments, it is also about ensuring that further growth is future proofed, for example, through land being set aside for substations and other utilities (ie a utility lot). However, for any scale of development it can be as simple as ensuring that there are adequate berm widths. Vector's experience at Hobsonville Point provides an example of this.

Case Study: Hobsonville Point

The bulk of network infrastructure is normally located where possible in road reserve. However, Vector has experienced issues with subdivisions being developed with insufficient berm width that results in unnecessary costs for the infrastructure provider to enable the developer to provide areas of high density housing. An example is the Hobsonville Point subdivision where the berm width is insufficient for all of Vector's assets to be installed within road berm and where Vector-owned Total Underground Distribution ("**TUD**") (underground fuses being the connection point to each property) have had to be installed on private property. This required easements in gross in favour of Vector for every lot in the development to be registered on the individual property titles to ensure that Vector's assets can be operated, maintained and upgraded.

In locations of high density housing, there is very little room for substations to be placed on road berms as they would be located directly in front of homes. Vector suggests that a standard minimum berm size, say 6 metres, would be appropriate to ensure effective and efficient provision of infrastructure.

Vector also suggests that, to meet increased capacity in the future, all subdivisions between approximately 30 and 70 lots are required to have a utility lot where substations and other network utilities can be located. This could also be used to locate new technologies in the future. The use of utility lots would ensure that utilities are not located on roads and that sufficient space is allocated for future requirements.

Consideration should also be given to the creation of infrastructure corridors where appropriate to ensure networks can continue to be operated, maintained and upgraded as required to service areas of projected demand.

4.7 More broadly, greater national consistency regarding the provision of infrastructure within roads would be desirable. There is scope, as suggested in the Draft Report, for central government to set minimum requirements in relation to works in relation to roading infrastructure. However, such requirements should adequately delineate between property rights and consenting requirements for works, to ensure no duplication of process. Vector considers that minimum standards could be introduced for berm widths and infrastructure provision for new developments.

4.8 In Auckland's CBD, Auckland Transport's road corridors are already congested with infrastructure, and roads are becoming increasingly congested in other areas. With

increased development in the CBD and with big projects such as the City Rail Link and the proposed Light Rail Transit project, reinforcing the network and providing the needed connections to big developments is becoming harder and more costly. Vector's operational costs increase when working in congested road corridor, and in some circumstances Vector cannot undertake its required works as there is no corridor space left.

Case Study: CBD roads - Congestion crowding out utilities

In Auckland's CBD, Auckland Transport's road corridors are already congested with infrastructure and roads are becoming increasingly congested in other urban areas. On Albert Street in the Auckland CBD, where the City Rail Link ("**CRL**") project is under construction, other infrastructure works have not been able to be undertaken due to Auckland Transport's project plan requirements. The CRL project generally requires all electricity, gas and telecommunications assets to be placed within a small corridor not taken up by the rail tunnel. In addition, Auckland Transport's initiative of installing tree pits (a cage placed underground that has the root ball of the tree within) has further restricted already congested areas as infrastructure cannot traverse through the cage. Vector's operational costs increase when working in congested road corridors and where Vector cannot undertake required works as there is no corridor available.

4.9 Vector also emphasises the importance of ensuring that spatial planning accommodates reasonable co-location of network utilities. This is illustrated by a number of projects, which must necessarily locate in the road corridor.

Case Study: Third party projects affecting Vector's assets

Third party roading and transport projects (such as the CRL, Auckland Manukau Eastern Transport Initiative, and Light Rail Transit) are in the most part located on or within road corridor, where infrastructure networks and assets are located. These projects therefore impact on existing networks, requiring assets to be relocated, often more than once, to accommodate the new project. While such asset relocation costs are usually reimbursed under the Electricity, Gas and Telecommunications Acts, the amount of time associated with being involved with these projects is not able to be reimbursed. These projects can also make it physically and practically more difficult for Vector to gain access to its network for necessary maintenance and upgrading more difficult.

4.10 Where a designation covers a large portion of the city, network utility providers seeking to traverse that designation (for instance to undertake routine maintenance, upgrading and operation) should be appropriately enabled to do so without the need for a spate of planning approvals, incurring undue cost and delay. Vector therefore suggests that there should be standardised approval process for crossing designated corridors, which applies unless a particular crossing will materially impact the designated asset.

5. ENABLING INFRASTRUCTURE TO PROVIDE FOR GROWTH

5.1 The Draft Report states that:

(a) The planning system shows considerable evidence of unnecessary, excessive and poorly targeted land use regulations.[3]

(b) A future planning framework should create clearer national direction, for instance through a Government Policy Statement.[4]

(c) A future planning system should be forward-looking, responsive, and adaptive.

5.2 Vector is committed to providing high-quality network utility infrastructure that meets the needs of a modern city. Any planning document must both enable Vector to serve the

[3] Draft Report, F7.1.
[4] Draft Report, page 207.

existing community and also provide for growth. Accordingly, careful consideration must be given to the planning framework for network utilities in order to ensure that:

(a) Growth in demand can be accommodated when and where it is required;

(b) Maintenance and repairs are enabled, minimising service disruptions that can cause significant social and economic adverse effects (and for some can be life threatening); and

(c) There are no unnecessary regulatory costs or delays imposed on the construction, operation, maintenance, and upgrading of infrastructure.

5.3 A planning system should impose the least regulation possible to achieve the environmental outcomes desired. A regulator needs to demonstrate a rationale or reason for controlling an activity. A regulator should avoid liberal controls with no obvious adverse effects or examples of poor/bad designs, or difficulties caused by network utilities being inadequately regulated.

5.4 Every dollar that is spent on unnecessary reports or regulation is a dollar that cannot be invested in infrastructure. While, individually, costs associated with minor consents may be small, those costs need to be agglomerated across all infrastructure projects, in all areas, over a long period of times. As a result, what on its face may seem like a small additional requirement or slightly more restrictive control can swiftly become a considerable cost.

5.5 There is also a drive for efficiency in infrastructure provision. This means obtaining standardised equipment and developing standard designs for items such as substations and distribution substations. On the whole, infrastructure is purchased overseas, and it is impossible to manufacture bespoke equipment, especially when there is no real environmental reason to do so.

5.6 As set out below, Vector's experience with the Unitary Plan was very positive in ensuring these principles were incorporated into the provisions being recommended by the Independent Hearing Panel.

Case Study: Vector's participation in the Auckland Unitary Plan process

For the Auckland region, the Unitary Plan goes a long way towards providing consistency of infrastructure provisions across the six former disparate district plans, and provides a positive blueprint for the rest of the country. Because network utility assets span the entire region, for any network utility works, even potentially minor maintenance work, it was previously extremely complicated for a contractor to determine whether resource consent was needed (for instance, having to refer multiple plans).

Through the Unitary Plan process, the Auckland Utility Operators Group Incorporated (of which, Vector was a member) collaborated with the Council, Transpower, and Housing New Zealand to arrive at a Combined Infrastructure Chapter (now, Chapter E26 Infrastructure in the Unitary Plan), which provides a one-stop shop for the relevant overlays and key Auckland-wide rules relating to network utilities. This enables a contractor to relatively easily determine, in nearly all cases, the activity status of an activity and what permitted activity standards or controlled activity standards apply.

For the most part, the provisions recently approved by Auckland Council incorporate the principles outlined earlier in this section.

5.7 However, with the Unitary Plan process, the ability for Council to have the final say creates risk and potential cost for businesses. If this is to be the case, the Council needs to be subject to independent oversight (for instance, appeal to the Environment Court). The practical benefit of such oversight is illustrated in the next case study. Plans and planning processes need to react, respond, and provide for these new

technologies, where appropriate. Vector's recent experience through the Unitary Plan in relation to providing for electric vehicle chargers in arterial roads provides an example of the importance of planning processes sufficiently enabling new technologies.

Case Study: EV Chargers and the Unitary Plan

Vector supports the outcome of the Unitary Plan process, and is in complete agreement with the recommendations by the Independent Hearing Panel. Vector lodged an appeal against one very minor aspect of the Council's decision that changed the Panel's recommended controls on electric vehicle charging stations. The effect of the Council's change would mean that electric vehicle charging stations are not a permitted activity on roads deemed to be arterial roads in the Unitary Plan, and would therefore require resource consent, even where parking spaces are provided. In the central area, for example, the effect of this would be that some 32 roads in the Central City alone would not be able to have electric vehicle charging stations constructed without resource consent; this would unnecessarily add uncertainty, costs and delays to the rollout of important infrastructure for Auckland. Vector does not believe that this outcome was intended by Council, and Vector looks forward to working with the Council and finding a mutually acceptable resolution.

5.8 Where located on private property, Vector considers that distribution networks (whether they are electricity, gas or communications) should be subject to the same regulations where similar issues exist. For instance, in 2015, the Ministry for Business, Innovation and Employment was considering options reduce unnecessary costs and delays with the Ultra-Fast Broadband ("**UFB**") rollout and in particular were looking at areas for improvement for access and installation of UFB services to right of ways, multi-unit complex premises and the required third party property consent process to support the installation.[5] Vector submitted on this proposal and at a high level sought similar provisions to apply to electricity networks as they also experience similar issues when maintaining existing networks or installing new infrastructure. Distribution networks (whether they are electricity, gas or communications) should be subject to the same regulations where similar issues exist.

5.9 Moreover, if councils are imposing conditions for amenity-related reasons, then they should pay costs over and above what is objectively required to maintain amenity. For instance, councils own all trees within the road reserve, and in urban areas the Auckland Council calls these trees the “urban forest”. With Auckland Council’s role as tree owner, Vector's maintenance and minor infrastructure upgrading works are impacted. Under district plans, normally infrastructure works underground are permitted, but this is frustrated as consent is required for works in close proximity to trees.

5.10 While urban design best practice contributes to a quality compact city, it is critical that such considerations do not unduly inflate the cost of doing business. The Draft Report identifies certain urban design controls as examples of unnecessary regulation. Vector has its own examples through the proposed regulation of the design of substations.

Case Study: Substation design

Through the Unitary Plan process, the Council sought that the external design requirements of Vector's zone substations were required to be approved by Council.
Vector's position was that its zone substations should be treated like all other purpose built buildings and not be required to look like something that they are not. As such, it should not be required to add design treatments or details to these functional structures.

5.11 Vector is a leader in investigating, and adopting new, cutting edge technologies, with a view to improve customer experience. However, there is also a level of business uncertainty that comes with conducting research and development whereby returns to investment in new technology depend on the rate at which consumers adopt that new

[5] Land Access for Telecommunications Discussion Document, Ministry of Business, Innovation and Employment, June 2015.

technology. It is imperative that plan provisions are sufficiently adaptive and responsive to accommodate innovation, without adding to that uncertainty, or imposing unnecessarily onerous consenting requirements.

Case Study: New Technologies and thought leadership into the future

In conjunction with Ngāti Whātua Ōrākei, Vector was involved in a Future of Energy project, where Tesla batteries and solar panels were installed on houses, to reduce network losses and benefit to customers through lower electricity bills. This project is experimental in that it reduces reliance on the traditional network reinforcement.

A network battery has been installed in Glen Innes to reduce peak demand and losses in network, and to reduce required capital investment. An example of where disruptive technologies could develop in the future is the addition of solar panels on traffic lights. This would mean that all traffic lights in the Auckland Region could be run at zero network cost.

5.12 A further key concern for Vector is to ensure that infrastructure is not constrained as a result of reverse sensitivity effects. The Draft Report appears to suggest that reverse sensitivity is an issue that unnecessarily constrains development.[6] However, reverse sensitivity is an important factor to be considered when setting the planning framework. The issues Vector can experience with its substations is a good example of the ways that reverse sensitivity effects can add to the cost of infrastructure provision.

Case Study: Perceived Effects of Substations

Substations need to locate near demand. For residential areas, that inevitably means that they need to locate near houses. Often, there is a perception of adverse effects from substations due to Electromagnetic Field radiation. These perception issues can lead to complaints and more complex and costly consenting processes.

6. MEETING WITH PRODUCTIVITY COMMISSION

6.1 Vector would like to discuss the above submission points with the Commission, including its experiences with the current planning system, and its aspirations for how the planning system can facilitate liveable urban areas.

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6 Draft Report, F3.1.

SUBMISSION TO THE LOCAL GOVERNMENT AND ENVIRONMENT SELECT COMMITTEE ON THE RESOURCE LEGISLATION AMENDMENT BILL

1. SUMMARY

1.1 Vector Limited ("**Vector**") welcomes the opportunity to make a submission on the Resource Legislation Amendment Bill ("**Bill**").

1.2 We support the stated intention of the Bill, which (as set out in the explanatory note) is to create a resource management system that achieves the sustainable management of natural and physical resources in an efficient and sustainable way. However, it is our view that many of the proposed changes will not achieve the objectives of the reforms, or will have unintended consequences.

1.3 In particular, Vector seeks amendments to:

(a) ensure reverse sensitivity effects are effectively managed;

(b) ensure there is effective public participation in the development of national policy statements and the national planning template;

(c) avoid unintended consequences of some of the amendments seeking to streamline consenting and plan-making processes; and

(d) ensure there is appropriate Environment Court oversight for decision-making under the Resource Management Act 1991 ("**RMA**").

1.4 Vector also proposes further matters that could be addressed in the Bill to:

(a) protect and enable infrastructure;

(b) provide greater recognition of reverse sensitivity effects;

(c) provide greater investment certainty through requiring longer terms as a starting point for new consents;

(d) provide greater ease of access for surveys and investigations under the Public Works Act 1981; and

(e) provide greater consideration of existing electricity and gas works through the building consent process under the Building Act 2004.

1.5 These matters and proposed amendments to the Bill are detailed below.

2. INTRODUCTION TO VECTOR

2.1 Vector is New Zealand's largest distributor of electricity and gas and one of New Zealand's largest network infrastructure companies, owning and managing a unique portfolio of energy and fibre optic infrastructure networks. Vector's assets perform a key role in delivering energy and communication services to more than one million homes and businesses across New Zealand. Vector is a significant provider of:

(a) electricity distribution;

(b) gas transmission and distribution;

(c) electricity and gas metering installations and data management services;

(d) natural gas and LPG;

(e) fibre optic networks, delivering high speed broadband services; and

(f) new technologies, such as solar energy, electric vehicle chargers and Tesla batteries.

2.2 The continued operation and development of network utility infrastructure is essential if New Zealand is to meet its cultural, social, environmental and economic objectives. Network utility infrastructure needs to be located where growth occurs. This means that network utility providers are often not able to be selective as to where infrastructure is required. It is therefore critical that the Resource Management Act 1991 ("**RMA**") and the policy statements and plans that sit beneath it appropriately recognise the importance of infrastructure and the need for both new infrastructure to be enabled, and for existing infrastructure to be protected, particularly from reverse sensitivity effects.

2.3 Vector is excited about New Zealand's future, and is committed to playing its part in providing effective, efficient, resilient and affordable infrastructure.

2.4 Vector has an extensive history of participating in RMA proceedings, both as an applicant and a submitter. Vector regularly works with councils in New Zealand when looking at new development and investment in its energy and fibre optic infrastructure. Ensuring that the RMA processes are efficient, fair and certain is vital to enable certainty in relation to development and investment.

2.5 As a result of Vector's significant existing and planned further investment in New Zealand, Vector has a considerable interest in the Bill.

3. COMMENTS ON BILL

Reversal of subdivision presumption (clause 115, section 11(1A))

3.1 New subsection 11(1A) reverses the subdivision presumption so that a person may subdivide if the subdivision does not contravene a plan or National Environmental Standard.

3.2 Vector supports the reversal of subdivision presumption provided that the changes sought elsewhere in this submission regarding recognition of infrastructure is incorporated into the Bill and that there is a requirement that the proposed subdivision is serviced by adequate infrastructure and that adequate access to existing infrastructure is maintained.

Relief sought

3.3 Amend subsection 11(1A) as follows:

> (1A) A person may subdivide land under subsection (1)(a) if—
> (a) either—
> (i) the subdivision is expressly allowed by a resource consent; or

(ii) the subdivision does not contravene a national environmental standard, a rule in a district plan, or a rule in a proposed district plan for the same district (if there is one); and

(b) the subdivision is shown on a survey plan that is—

(i) deposited under Part 10 by the Registrar-General of Land, in the case of a survey plan described in paragraph (a)(i) or (b) of the definition of survey plan in section 2(1); or

(ii) approved as described in section 228 by the Chief Surveyor, in the case of a survey plan described in paragraph (a)(ii) of the definition of survey plan in section 2(1)~~.~~; and

(c) the subdivision is to be serviced by adequate infrastructure and adequate access to existing infrastructure is maintained.

Removal of council function of preventing or mitigating adverse effects of hazardous substances (clauses 11, 12, 109, sections 30(1)(c)(v), 30(1)(d)(v), 31(1)(b)(ii), and clauses 6(1)(c) and 7(1)(f)) Schedule 4)

3.4 Vector supports the removal of council functions regarding hazardous substances as this removes duplication between council functions under the RMA and the specific provisions of the Hazardous Substances and New Organisms Act 1996 ("**HSNO**") and provides greater efficiencies in managing hazardous substances.

3.5 Clauses 11 and 12 of the Bill also remove the functions from territorial and regional authorities regarding the prevention or mitigation of adverse effects of the storage, use, disposal or transportation of hazardous substances. In addition, clause 109 of the Bill proposes changes to clause (7)(1)(f) of Schedule 4 which would mean that assessments of environmental effects (AEEs) would not need to address risks of the use of hazardous substances.

3.6 As a consequence of the amendments proposed by clause 109, there is greater focus on the term "hazardous installations", which is retained in clause 7 of Schedule 4 of the Act.

3.7 Vector supports the proposed amendments as they will avoid on-going duplication between the RMA and the HSNO regime in relation to the management and use of hazardous substances, as well as reduce unnecessary regulatory cost and delay for the Company.

3.8 It is recognised that councils will still need to consider effects associated with hazardous substances (for example in assessing a full discretionary consent application, or in ensuring neighbouring land uses are compatible or there are reasonable setbacks provided from sensitive activities) rather than in relation to the minutiae of controls that are already provided in the HSNO regime.

Relief sought

3.9 Vector seeks that amendments to sections 30(1)(c)(v), 30(1)(d)(v), 31(1)(b)(ii) be retained.

New "development capacity" function (clauses 11 and 12, new sections 30(1)(ba) and 31(1)(aa))

3.10 New sections 30(1)(ba) and 31(1)(aa) establish new functions for councils that focus on ensuring that there is sufficient development capacity in relation to business and residential land.

3.11 Vector supports the inclusion of these new regional and territorial council functions, provided amendments are made to recognise the role of infrastructure, and, the need to protect that infrastructure from reverse sensitivity effects.

3.12 Reverse sensitivity is a well-recognised concept that is relevant in the consideration of the actual or potential effects of a proposed activity. It has been variously defined, but essentially refers to the vulnerability of an established activity (such as significant infrastructure or industry) to objection from new, sensitive, land uses located nearby. As a result, the established use may be required to restrict or constrain its operations or may even be forced to relocate due to the presence of the new sensitive activity.

3.13 Vector is concerned that the detailed definition of "development capacity" does not appropriately address reverse sensitivity effects, which may result in sensitive land uses being enabled in proximity to Vector's network utility infrastructure. Reverse sensitivity issues will become more acute as cities like Auckland grow and intensify, and given that network utility infrastructure needs to be located where growth occurs.

3.14 Vector considers that a key tool that could be used in relation to this issue, as well as other parts of the RMA discussed later in this submission, is to introduce the concept of an "effects area". Across New Zealand, district plans commonly use tools such as air noise boundaries or contours to control the interface between significant industry or infrastructure with more sensitive land uses. They are critical tools to ensure that sensitive land uses do not establish in close proximity to other important activities, such as infrastructure and significant industry, which can in turn be constrained due to the proximity of those sensitive land uses.

3.15 Vector is frequently required to be involved in planning processes to ensure that its network is protected from reverse sensitivity effects and their growth and development is managed appropriately, and that local authorities are educated on the tension between residential intensification and the need to protect the networks' lawful operation and planned development.

3.16 In order to address these concerns, Vector proposes an express acknowledgement of "effects areas" (and a corresponding definition), to recognise that the effects from such activities cannot be internalised and that many planning documents expressly recognise that through the use of methods such as noise contours or other setbacks. Vector also seeks that councils are expressly required to manage reverse sensitivity effects.

Relief sought

3.17 Amend as follows:

30 Functions of regional councils under this Act

(1)...

(ba): the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in relation to <u>the supply of</u> residential and business land <u>and associated infrastructure,</u> to meet the expected long-term demands of the region:

[...]

(5) In this section and section 31, development capacity~~, in relation to residential and business land,~~ means the capacity of the land for development, taking into account the following factors:

(a) the zoning of the land; and

(b) the provision of adequate infrastructure, existing or likely to exist, to support the development of the land, having regard to—

(i) the relevant proposed and operative policy statements and plans for the region; and

(ii) the relevant proposed and operative plans for the district; and

(iii) any relevant management plans and strategies prepared under other Acts; and

(c) the rules and methods in the operative plans that govern the capacity of the land for development <u>including any effects area</u>; and

(d) other constraints on the development of the land, including natural and physical constraints<u>; and</u>

<u>(e) the need to manage reverse sensitivity effects.</u>

31 Functions of territorial authorities under this Act

(1) [...]

(aa) the establishment, implementation, and review of objectives, policies, and methods to ensure that there is sufficient development capacity in ~~respect~~ relation to the supply of residential and business land and associated infrastructure to meet the expected long-term demands of the district:

(b) the control of any actual or potential effects of the use, development, or protection of land, including for the purpose of—

(i) the avoidance or mitigation of natural hazards; and

(ii) *(Repealed)*.

(iia) the prevention or mitigation of any adverse effects of the development, subdivision, or use of contaminated land:

(iii) the maintenance of indigenous biological diversity:

(iv) managing reverse sensitivity effects.

3.18 Vector also seeks to include a corresponding definition of "effects area" in section 2 as follows:

> **effects area** means an odour or noise buffer, noise control boundary or other effects overlay identified in an operative or proposed district plan.

Striking out submissions (clause 120, new section 41D)

3.19 New section 41D establishes a requirement to strike out submissions (or part of a submission) if one or more specified circumstances exist.

3.20 As a frequent resource consent applicant, Vector supports the new section 41D as it will narrow the scope of submissions and appeals and support the objective of having more streamlined and focused resource consent and plan change hearing processes.

3.21 However, as Vector often takes on the role of a submitter on resource consents that directly impact on its operations, it is concerned with the restriction in subsection (2)(b)(iv) to submissions being made on particular kinds of effects (where the consent authority is required, under related amendments to the notification sections of the Act, to specify the effects which were the reason for notification). This could preclude legitimate participation in hearing processes as Vector is concerned with relying on a council's identification of the particular effects to provide scope for the right to submit. For example, plans often use a single effect as a consent trigger to enable consideration of the effects of the proposal as a whole.

3.22 Vector also considers that the requirement to strike out submissions for being frivolous, vexatious, disclosing no reasonable or relevant case, or being an abuse of process should be mandatory, rather than discretionary. This will reduce time and cost for applicants, councils and other parties.

Relief sought

3.23 Vector seeks the following amendments:

41D Striking out submissions

(1) An authority conducting a hearing on a matter described in section 39(1) ~~may~~ must direct that a submission or part of a submission be struck out if the authority is satisfied that at least 1 of the following applies to the submission or the part:

(a) it is frivolous or vexatious:

(b) it discloses no reasonable or relevant case:

(c) it would be an abuse of the hearing process to allow the submission or the part to be taken further.

(2) ~~However, t~~The authority must direct that a submission or part of a submission be struck out if—

(a) the submission is on an application for a resource consent, a review of a resource consent, or an application to change or cancel a condition of a resource consent; and

(b) the authority is satisfied that at least 1 of the following applies to the submission or the part:

(i) it does not have a sufficient factual basis:

~~(ii) it is not supported by any evidence:~~

(ii~~i~~) it is supported only by evidence that purports to be independent expert evidence on a matter but that is prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert evidence on the matter:

(iii~~v~~) it is unrelated to an activity's actual or likely adverse effects~~, if those effects were the reason for notifying the application or review~~; and

(c) the authority considers that the direction would not materially compromise the authority's ability to fulfil its obligations under Part 2.

(3) An authority—

(a) may make a direction under this section before, at, or after the hearing; and

(b) must record its reasons for any direction made.

(4) A person whose submission is struck out, in whole or in part, has a right of objection under section 357.

Restrictions on consultation process for NPS (clauses 30, 31 and 32, new sections 46A(2A), 48(1A) and 52(4))

3.24 The Bill proposes to enable the development of NPSs for a specific district or region or other part of New Zealand. If a proposed NPS is related to a specific district or region or other part of New Zealand, then new subsection 46A(2A) restricts the consultation process to only the public and iwi authorities within the specified area.

3.25 While Vector accepts that there may be situations where NPSs should only apply to a localised area, they are national policy statements and, given the status of a national instrument, the requirement for nationwide consultation should be retained. On a more practical level, consultation confined to a specific area may fail to capture the views of those who do not presently have operations in that area but intend to establish there. This will restrict the opportunity for potential investors who are interested in carrying out development in a specified area having input on a proposed NPS.

Relief sought

3.26 Vector seeks that sections 46A(2A), 48(1A) and 52(4) be deleted.

National planning template (clause 37, new section 58D)

3.27 New section 58D specifies the process to be followed for the preparation of the NPT.

3.28 Vector sees benefits in a consistent/standardised structure or "template" for plans around New Zealand. However the prospect of detailed plan provisions being developed (and/or subsequently amended) by the Minister of the day, with little scope for effective participation, gives rise to concerns for Vector.

3.29 Plans set a framework for the use and development of natural and physical resources, and reflect the community's expectations for that district or region. Vector has concerns if that local role is supplanted by a central Government template.

3.30 If the proposed NPT mechanism is to be included, Vector seeks improvements to this process such as a right for submitters to be heard. Vector also seeks a requirement to consult with appropriate stakeholders on technical provisions in preparing the NPT (for example, if it were to include rules regarding undertaking works on trees or rules to manage reverse sensitivity effects on Vector's substations). Vector also opposes the NPT including mandatory content for policy statements and plans.

Relief sought

3.31 Vector seeks the following changes:

58C Contents of national planning template

(1) The national planning template may specify—

(a) the structure and form of regional policy statements and plans:

(b) any of the matters specified in section 45A(2) and (4) (which applies as if the national planning template were a national policy statement):

(c) objectives, policies, methods (including rules), and other provisions that ~~must or~~ may be included in plans:

(d) objectives, policies, methods (but not rules), and other provisions that ~~must or~~ may be included in regional policy statements:

(e) a time frame or time frames for councils to give effect to the whole or part of the national planning template, including different time frames for—

(i) different local authorities:

(ii) different parts of the national planning template:

(f) if the national planning template specifies that a rule ~~must or~~ may be included in plans, whether the local authority must review a discharge, coastal, or water permit under section 130 to ensure compliance with the rule, if the local authority includes such a rule.

58D Preparation of national planning template

(1) If the Minister determines to prepare a national planning template, the Minister must prepare it in accordance with this section and sections 58E to 58J.

(2) In preparing or amending the national planning template, the Minister may have regard to—

(a) the matters set out in section 45(2)(a) to (h):

(b) whether it is desirable to have national consistency in relation to a resource management issue:

(c) any other matter that is relevant to the purpose of the national planning template.

(3) Before approving the national planning template, the Minister must—

(a) consult with appropriate stakeholders and qualified experts on any technical provisions being proposed in the NPT; and

(~~a~~b) prepare a draft national planning template; and

(~~b~~c) prepare an evaluation report in accordance with section 32 and have particular regard to that report before deciding whether to publicly notify the draft; and

(~~c~~d) publicly notify the draft; and

(~~d~~e) establish a process that—

(i) the Minister considers gives the public, local authorities, and iwi authorities adequate time and opportunity to ~~comment~~ make a submission and be heard on the draft; and

(ii) requires a report and recommendations to be made to the Minister on those comments.

[...]

Deemed permitted activities (clause 122, new section 87BB)

3.32 This provision seeks to allow councils to issue a notice stating that a particular activity is a permitted activity where the consent requirement is due to a marginal or temporary non-compliance. Vector considers that changes are required to this provision. While the intent is supported, the drafting is uncertain and creates risks for applicants. In particular, the concept of "marginal or temporary non-compliance" is uncertain and could end up exposing development to judicial review risk.

3.33 Vector seeks that an applicant's agreement is required for a notice to be issued, and a right of objection should be clearly provided (as it is not clear whether the existing objection rights extend to cover a council's decision not to issue a notice).

Relief sought

3.34 Vector seeks the following amendments to sections 87BB and 357A:

87BB Activities meeting certain requirements are permitted activities

(1) An activity is a permitted activity if—
  (a) the activity would be a permitted activity except for a marginal or temporary non-compliance with requirements, conditions, and permissions specified in this Act, regulations (including any national environmental standard), a plan, or a proposed plan; and
  (b) any adverse environmental effects of the activity are no different in character, intensity, or scale than they would be in the absence of the marginal or temporary non-compliance referred to in paragraph (a); and
  (c) any adverse effects of the activity on a person are less than minor; and
  (d) the consent authority, in its discretion, decides to notify the person proposing to undertake the activity that the activity is a permitted activity.

(2) A consent authority may, with the agreement of the person proposing to undertake the activity, give a notice under subsection (1)(d)—
  (a) after receiving an application for a resource consent for the activity; or
  (b) on its own initiative.; or
  (c) upon request of the person proposing to undertake the activity.

(3) The notice must be in writing and must include—
  (a) a description of the activity; and
  (b) details of the site at which the activity is to occur; and
  (c) the consent authority's reasons for considering that the activity meets the criteria in subsection (1)(a) to (c), and the information relied on by the consent authority in making that decision.

(4) If a person has submitted an application for a resource consent for an activity that is a permitted activity under this section, the application need not be further processed, considered, or decided and must be returned to the applicant.

(5) Where a person makes a request under subsection 2(c), the consent authority must provide the person with notice of its decision whether or not to issue a notice.

…

357A Right of objection to consent authority against certain decisions or requirements

(1) There is a right of objection to a consent authority,—
  (a) in respect of a decision of that authority, for any person who has made an application under—
    (i) section 124(2) (which relates to the exercise of a resource consent while applying for a new resource consent):
    (ii) section 125(1A)(b) (which relates to the lapsing of consents):
    (iii) section 126(2)(b) (which relates to the cancellation of consents):
    (iv) section 139 (which relates to certificates of compliance):
    (v) section 139A (which relates to existing use certificates):
  (b) *(Repealed)*
  (c) *(Repealed)*
  (d) in respect of an application or a submission that a consent authority declines to process or to consider, as provided for by section 99(8), for the person who made the application or submission:
  (e) in respect of a decision of the authority under section 87E(5) to (6A), for a person who made a request under section 87D:
  (f) in respect of the consent authority's decision on an application or review described in subsections (2) to (5), for an applicant or consent holder, if—
    (i) the application or review was notified; and
    (ii) either no submissions were received or any submissions received were withdrawn:
  (g) in respect of the consent authority's decision on an application or review described in subsections (2) to (5), for an applicant or consent holder, if the application or review was not notified.
  (h) in respect of the consent authority's decision to refuse to issue a notice under section 87BB(5).

(2) Subsection (1)(f) and (g) apply to an application made under section 88 for a resource consent. However, they do not apply if the consent authority refuses to grant the resource consent under sections 104B and 104C. They do apply if an officer of the

consent authority exercising delegated authority under section 34A refuses to grant the resource consent under sections 104B and 104C.

(3) Subsection (1)(f) and (g) apply to an application made under section 127 for a change or cancellation of a condition of a resource consent.

(4) Subsection (1)(f) and (g) apply to a review of the conditions of a resource consent under sections 128 to 132.

(5) Subsection (1)(f) and (g) apply to an application made under section 221 to vary or cancel a condition specified in a consent notice.

Notification of resource consents (clauses 125 - 128, sections 95 - 95E)

3.35 The Bill proposes substantial changes to the notification requirements under the RMA that essentially reduce the chances of a resource consent application being either publicly or limited notified.

3.36 Vector considers the current notification regime (as established by the 2009 amendments to the RMA) is operating effectively. Vector does not see any need for further legislation reform of these provisions.

3.37 If changes are to be made, Vector seeks to ensure that significant infrastructure providers like Vector are appropriately notified of consents for sensitive activities in proximity to their assets and operations.

3.38 In addition, Vector has a duty to protect the transmission and distribution network from obstacles that pose a risk to their operations, such as trees.

3.39 In our experience, local authorities are often ill-equipped to understand and consider the effects of sensitive activities like residential development and trees on the transmission and distribution network, and often struggle to make good notification decisions. They will struggle even more with the changes to notification that the Bill is proposing.

3.40 The restrictions on limited notification set out in the new sections 95D to 95E are also opposed by Vector. New subsections 95D(ca) and 95E(2)(c) give a consent authority discretion to disregard adverse effects which are "already taken into account by the objective and policies of the plan". It is not appropriate to provide for an objectives and policies assessment at the notification stage, given that the focus of the notification enquiry should be principally on effects of the activity, and given the subjective nature of an objectives and policies assessment. Councils also already have the ability to restrict their discretion or control (or preclude notification altogether) at the planning stage through rules as to activity status and in a manner that is more certain than including an evaluation of objectives and policies into notification decisions.

3.41 New section 95DA specifies eligibility criteria to be considered an affected person for the purposes of limited notification. There is a serious risk that the restrictions proposed in section 95DA will result in situations where parties who are affected and "should" be notified, lose out on the opportunity to participate. In Vector's experience this is particularly problematic when land is subdivided without Vector knowing, resulting in Vector having stranded assets that are unable to be accessed through the new subdivided lot to maintain the existing work. If this provision is retained, the class of persons who are considered affected should include the owners of infrastructure which has or is associated with an "effects area" near the proposed activity.

Relief sought

3.42 Vector seeks that sections 95-95E be deleted, and the former sections 95-95E be reinstated.

Requirement to consider offsetting measures (clause 62, new subsection 104(1)(ab))

3.43 Vector supports this new provision requiring offsetting measures to be considered in determining an application for consent. However, in addition to providing clarity that offsetting is to be assessed under section 104, it is also important that offsetting is able to be considered when considering the effects of a proposal for the purposes of section 104D. Under the RMA in its current form, offsetting cannot be considered when assessing the adverse effects of a proposal for the purposes of section 104D(1)(a).

Relief sought

3.44 Adopt new subsection 104(1)(ab) and amend section 104D as follows:

> **104D Particular restrictions for non-complying activities**
> (1) Despite any decision made for the purpose of notification in relation to adverse effects, a consent authority may grant a resource consent for a non-complying activity only if it is satisfied that either—
> (a) the adverse effects of the activity on the environment (other than any effect to which section 104(3)(a)(ii) applies, and after allowing for any effect to which section 104(1)(ab) applies) will be minor or less than minor.

Consent authority provided with ability to refuse subdivision consent in light of natural hazards (clause 133, section 106)

3.45 Amendments have been proposed to section 106 that allow a council authority to refuse subdivision consent if there is a significant risk from natural hazard. Vector supports the amendments but seeks that section 106 is amended to exempt network utilities from this provision as, in order to have a functional and resilient infrastructure network, network utilities need to be located throughout New Zealand wherever their customers choose to locate, even in areas where there is a significant risk of natural hazards.

Relief sought

3.46 Vector seeks that section 106 be amended as follows:

> **106 Consent authority may refuse subdivision consent in certain circumstances**
> (1) A consent authority may refuse to grant a subdivision consent, or may grant a subdivision consent subject to conditions, if it considers that—
> (a) with the exception of subdivision by a network utility operator, there is a significant risk from natural hazard; or
> (b) sufficient provision has not been made for legal and physical access to each allotment to be created by the subdivision.
> (1A) For the purpose of subsection (1)(a), an assessment of the risk from natural hazards requires a combined assessment of—
> (a) the likelihood of natural hazards occurring (whether individually or in combination); and
> (b) the material damage to land in respect of which the consent is sought, other land, or structures that would result (recognising the technical, operational and functional requirements for structures to locate within areas subject to significant risk from natural hazards) from natural hazards; and
> (c) any likely subsequent use of the land in respect of which the consent is sought that would accelerate, worsen, or result in material damage of the kind referred to in paragraph (b).
> (2) Conditions under subsection (1) must be—
> (a) for the purposes of avoiding, remedying, or mitigating the effects referred to in subsection (1); and

(b) of a type that could be imposed under section 108.

Limited conditions of consent (clause 64, new section 108AA)

3.47 New section 108AA sets requirements for conditions of consent to be limited to conditions agreed by the applicant, or directly connected to an adverse effect of the activity or an applicable rule.

3.48 Vector supports this section and seeks it be retained as it has the potential to reduce unnecessary and unreasonable conditions which councils have in the past placed on resource consents for Vector's operations.

Relief sought

3.49 Vector seeks that new section 108AA be retained.

Restriction on appeal rights (clause 135, new section 120(1A))

3.50 Amendments proposed to section 120 restrict appeal rights for certain activities including boundary activities and subdivision (unless non-complying).

3.51 In considering applications for resource consent, particularly for subdivisions or for new sensitive activities, it is critical that effects on infrastructure providers are considered and that reverse sensitivity effects are also considered. In practice these effects can often be overlooked by councils (who are often ill-equipped to comprehensively understand and consider the effects of sensitive activities on Vector's transmission and distribution network) in deciding whether to grant consent. It is critical that rights be retained for appeals to be brought on reverse sensitivity or infrastructure related grounds for inappropriate proposals in order to adequately protect significant infrastructure.

3.52 In addition, the phrase "provision or matter" is ambiguous in the context of resource consent applications and should be replaced. Vector has suggested wording that is more appropriate for the resource consent context.

3.53 Vector also seeks that provisions are made for appeals to be lodged where a matter was not included in the submitter's submission, if the submitter could not reasonably have raised the matter in their submission, for example, if a proposal has materially changed after the submission period.

Relief sought

3.54 Vector seeks the following amendments to section 120:

120 Right to appeal

(1A) However,—

(a) there is no right of appeal under this section against the whole or any part of a decision of a consent authority referred to in subsection (1) to the extent that the decision relates to resource consent for—

~~(i)~~ a boundary activity unless the boundary activity is in an effects area; ~~or~~

~~(ii) a subdivision, unless the subdivision is a non-complying activity;~~ and

(b) there is no right of appeal under this subsection against the whole or any part of a decision of a consent authority referred to in subsection (1) to the extent that the decision relates to resource consent for an activity that—

(i) is a residential activity (being an activity associated with the construction, alteration, or use of a dwellinghouse on land that, under a district plan, is intended to be used solely or principally for residential purposes); and

(ii) is to occur on a single allotment; and

(iii) is a controlled, restricted-discretionary, or discretionary activity; and

(iv) is outside an effects area; and

(c) a person described in subsection (1)(b) may appeal under this section only in respect of a ~~provision~~ resource consent condition, environmental effect, or other matter raised in the person's submission (excluding any part of the submission that is struck out under **section 41D**).

(1B) To avoid doubt, section (1A)(c) does not prevent a person described in subsection (1)(b) from appealing in respect of a part of the decision of a consent authority on an application for resource consent if the resource consent condition, environmental effect, or other matter to which the appeal relates could not reasonably have been raised in the person's submission.

Regulations to permit land use or prohibit certain types of rule (clause 105, new section 360D)

3.55 New section 360D allows new regulations to be made to permit land use or prohibit certain types of rules.

3.56 Section 360D duplicates a number of options for national direction which are already in place, and there is no demonstrable need for this additional power to reside with the Minister. While there may be some potential benefits, this provision does not appear to require consideration of potential adverse effects that could result from the establishment of certain land as residential.

3.57 As an alternative and less preferred position, if the provision is to be retained, amendments are required to provide additional procedural safeguards, in particular a requirement for the public to have a right to submit and be heard on any proposed new regulation.

Relief sought

3.58 Vector seeks that section 360D be deleted.

Regulations to require administrative charges to be specified (clause 105, new section 360E)

3.59 New section 360E allows new regulations to be made to require administrative charges to be specified. In addition, new subsection 36(cc) and new subsection 43A(8) enables an NES to empower a consent authority to charge for monitoring any permitted activities specified in the NES.

3.60 Vector considers that it is reasonable to expect some compliance monitoring of permitted activity standards and that associated reasonable costs should be recoverable. Permitted activities should pose a low risk of adverse environmental impact and should have a correspondingly low need for monitoring. Vector's concerns rest with who bears the cost, the potential size of the cost, and awareness of the cost.

3.61 While the Bill proposes a new section (36AAA) outlining criteria for fixing administrative charges there is still room for sizable local judgment on reasonableness of costs and the extent to which the community benefits versus individuals.

Relief sought

3.62 Vector seeks that new section 360E be retained. However, Vector also seeks greater guidance be provided by Central Government to local authorities as to how to set monitoring fees.

Regulations to preclude public and limited notification and set eligibility criteria for limited notification (clause 151, new section 360G)

3.63 New section 360G allows regulations to be made precluding public and limited notification and setting eligibility criteria for limited notification.

3.64 Vector opposes section 360G as this power is also created through section 77D in relation to plan provisions, and the corresponding NES provisions. As such, it is not clear why an additional power needs to be provided to the Minister in this regard, particularly given that there is reduced public input required through the proposed section 360G process.

Relief sought

3.65 Vector seeks that section 360G be deleted.

Limited notification of plan changes (clause 108, Schedule 1 new clause 5A)

3.66 New clause 5A of Schedule 1 enables limited notification for plan changes if the local authority can identify all the persons directly affected by the proposed change.

3.67 Vector supports the intent of this clause to the extent that there may be some discrete plan changes where limited notification is appropriate. However, notification to only "directly affected" persons risks submitters with genuine concerns being excluded from the process. Vector seeks amendments to this provision to clarify which parties should be notified. In particular, the owners of infrastructure that serves the affected land or which passes on, over or under the affected land should be required to be notified.

3.68 Limited notification should also be an option for private plan changes that are accepted by a local authority (not just for private plan changes which are "adopted", which is how the amendments are currently drafted).

Relief sought

3.69 Vector seeks the following amendments to clause 5A:

> **5A Option to give limited notification of proposed change**
> (1) This clause applies to a proposed change to a policy statement or plan and a proposed private plan change that has been accepted by the local authority under clause 25(2)(b) of Schedule 1.
> (2) The local authority may give limited notification, but only if it is able to identify all the persons directly affected by the proposed change.
> (3) The local authority must serve limited notification on all persons identified as being directly affected by the proposed change.
> [...]
>
> (11) For the purposes of this section, a local authority must identify a person as being directly affected by a proposed change if:
> (a) the person is the owner or occupier of land to which the proposed change directly relates; or
> (b) the person is the owner of an operation that has or is associated with an effects area over land to which the proposed change directly relates; or
> (c) the person is affected by an effect of the proposed change that is minor or more than minor (but not less than minor); or
> (d) the person is the owner of infrastructure that serves or passes through, over or under the land to which the proposed change directly relates.

Collaborative planning process (clause 108, new Part 4 of Schedule 1)

3.70 New clause 38 of Schedule 1 sets out the notification of planning process to be adopted and new clause 40 sets out the process for appointment of the collaborative group.

3.71 It is critical that there be a transparent process for the selection of the collaborative group. Amendments are proposed to introduce a requirement for the council to give notice that it wishes to establish a collaborative group and to request expressions of interest. Those expressions of interest must then be considered in selecting the collaborative group.

3.72 In addition, given the RMA's forward-looking and intergenerational focus, it is important to enable prospective investors in an area to be able to be involved in a collaborative group process.

3.73 New clause 41 of Schedule 1 sets out what the terms of reference for the collaborative group must contain.

3.74 Vector supports clause 41, but considers an amendment is required to provide a long stop date for changes to the terms of reference for the collaborative group to ensure the terms of reference can only be amended before the collaborative group reports to the local authority under clause 43.

3.75 An appeal by way of rehearing process for decisions made under the collaborative planning track is established under new clauses 58 to 61 of Schedule 1.

3.76 The "rehearing" model is new to RMA processes, and the guidance on this process provided in the new section 277A is relatively limited.

3.77 Vector has some real access to justice concerns with this restricted appeal right. There are a number of potential scenarios in which it is entirely appropriate for full appeal rights to be provided. For example:

(a) The collaborative group may reach full consensus on an issue, however, if the review panel (and council) disagrees with the collaborative group, there is no full right of appeal.

(b) The collaborative group may not reach agreement on one or more issues. This is most likely to occur in relation to complex issues such as reverse sensitivity effects. There will therefore be no consensus position against which the review panel and council can assess consistency. On issues where the collaborative group have not been able to reach consensus, it is more important that provisions be made for judicial oversight in order for them to be fully and appropriately considered.

3.78 The reduced appeal rights under the collaborative planning track run the substantial and serious risk that often complex reverse sensitivity effects are not taken into account under a proposed policy statement or plan or change to a policy statement or plan.

Relief sought

3.79 Vector seeks that new clauses 38, 40, and 41(4) of Schedule 1 be amended as detailed below and clauses 58 to 61 of Schedule 1 be deleted and replaced with the proposed clauses 58 and 59 detailed below.

> **38 Notification of planning process to be adopted**
> (1) A local authority must give public notice of its decision made under **clause 37**, stating—

(a) the extent of the area that will be subject to the proposed policy statement or plan; ~~and~~
(b) where the decision and reasons for the decision of the local authority may be inspected~~.~~; and
(c) that it intends to establish a collaborative group under clause 40, and calling for expressions of interest for the membership of that group.

(2) If a local authority gives notice that it intends to use the collaborative planning process to prepare a policy statement or plan, it is not permitted to withdraw from that process at any stage and progress the preparation of a policy statement or plan under any of the other processes in this schedule.

(3) However, subclause (2) does not apply if—
(a) a local authority has been unable to appoint a collaborative group in accordance with clause 40; or
(b) a collaborative group has breached its terms of reference and the local authority has followed the process specified for dispute resolution in the terms of reference, but the dispute is not resolved. ...

40 Appointments

(1) In establishing a collaborative group, a local authority must consider any expressions of interest received in response to its notice under clause 38, and appoint—
(a) at least 1 person chosen by iwi authorities to represent the views of tangata whenua; and
(b) in the case of a regional policy statement or plan (other than one prepared by a unitary authority), at least 1 person to represent the views of territorial authorities within the relevant area; and
(c) in the case of a regional coastal plan, 1 person chosen by any customary marine title holder to represent the views of any customary marine title groups within the relevant area; and
(d) other persons who, in the opinion of the local authority:
(i) have the knowledge, experience, and skills (including skills in collaboration) that are relevant to the resource management issues to be considered by the group, and
(ii) will assist in ensuring that the membership of the group complies with subclause 5.

(2) A local authority may appoint as many persons as it considers appropriate, having regard to—
(a) the scale and significance of the resource management issues to be dealt with; and
(b) the need to comply with subclauses (4) and (5).

(3) A local authority must not appoint persons who are employees or officers of any local authority within the relevant area.

(4) However, the collaborative group may include 1, but not more than 1, elected member from—
(a) the local authority that is using the collaborative planning process to prepare or change a policy statement or plan; or
(b) in the case of a combined instrument under section 80, each local authority that is using the collaborative planning process to prepare or change a policy statement or plan.

(5) The appointments made under this clause must result in a collaborative group whose membership, collectively, reflects a balanced range of the community's interests, values, and investments (including prospective investments) in the relevant area as they relate to the resource management issues to be considered by the group.

(6) The Local Government Official Information and Meetings Act 1987 applies to a collaborative group established under this Part as if it were a committee of the local authority under the Local Government Act 2002. ...

41 Terms of reference for collaborative group [...]

(4) A local authority may, at any time after consulting a collaborative group and before the collaborative group reports to the local authority under Clause 43, amend the terms of reference that apply to the group. …

58 Right to appeal

(1) The following groups and persons may appeal to the Environment Court in respect of a decision under clause 54(1):
(a) a collaborative group that provided, in relation to the provision or matter that is the subject of the appeal,—

(i) comments to a local authority under clause 50(2)(b):
(ii) information to a panel under clause 52:

(b) an iwi authority that provided comments to a local authority under clause 50(2)(b), but only in relation to a provision or matter on which it provided those comments:

(c) a person who made a submission to the local authority under clause 6 or 8 (as applied by clause 49), but only in relation to a provision or matter on which the person made a submission.

59 Procedural matters

(1) A notice of appeal under clause 58 must,—

(a) not later than 30 working days after a local authority publicly notifies a decision under clause 56,—

(i) be lodged with the Environment Court in the prescribed form; and

(ii) be served on the local authority whose decision is the subject of the appeal; and

(b) if the notice of appeal relates to the coastal marine area, be served on the Minister of Conservation not later than 5 working days after the notice of appeal is lodged with the Environment Court.

(2) Parts 11 and 11A of this Act apply to appeals under clauses 58.

Streamlined planning process (Clause 52, new section 80C; clause 108, new Part 5 of Schedule 1)

3.80 The streamlined planning process, if a council decides to use it, hands control of both the process and the substantive outcome to the Minister.

3.81 While conceivably this mechanism could be useful for confined and urgent issues (eg natural disasters), overall Vector considers it gives rise to fundamental concerns regarding access to justice.

3.82 While there may be some plan processes that require bespoke submission and hearing processes, these are rare (for example the Proposed Auckland Unitary Plan and Christchurch Replacement District Plan Processes). In those situations there has been specific legislation developed to cater to those specific circumstances. There is no clear justification for a general power to be provided to the Minister to depart from the normal plan development processes. This is reinforced by the removal of the safeguards that there will be effective participation provided both through the submission process itself and through environment court oversight.

3.83 Planning documents provide critical elements of the regulatory framework and development of these regulatory instruments needs to be given due consideration that is appropriate to the scale of the implications.

3.84 The ability for Vector to participate in any planning process that could affect operations and the surrounding communities they support is critical to ensure that they function efficiently and effectively. Any reverse sensitivity effects that arise from planning instruments developed under the streamlined planning process could not only effect the successful operation of Vector's networks but the communities and regions they support.

3.85 We also have significant concerns with the removal of the right to appeal in respect of a decision of the responsible Minister or local authority under the streamlined planning process. The Environment Court represents a healthy "check" on council decision making, and Vector has a large number of examples where appeals are resolved quickly and constructively, or when a further hearing is necessary to achieve a better planning result on a difficult issue (particularly competing use of resources - where collaboration can only go so far).

Relief sought

3.86 Vector seeks that the new Part 5 to Schedule 1 (and new section 80C) is deleted in its entirety.

4. OTHER AMENDMENTS SOUGHT

Better enabling and protecting infrastructure

4.1 There is a clear focus on the enablement of residential development through the Bill. However, as discussed above, in order to effectively provide for residential growth, it is imperative that the supporting infrastructure (such as transmission and distribution networks) is protected from incompatible land use and development. Otherwise there is a real risk that the streamlining of approvals for residential development will impede on the operation of the infrastructure necessary to support it.

4.2 The Government's desire to increase land supply to promote affordable housing creates a tension with the need to protect established significant infrastructure. In our view, it is critical that reverse sensitivity issues are recognised and provided for in developing any reform designed to increase housing supply. This will ensure the increase in housing supply or business growth is not constrained by difficulties or delays in providing the essential infrastructure that is vital to support the growth.

4.3 Collectively, Vector has extensive experience in engaging in plan change, designation and consenting processes. The plan changes and designation processes in particular often aim to include aspects designed to protect Vector's infrastructure from incompatible activities, or to provide for sensible expansion.

4.4 It would considerably assist those processes and reduce unnecessary levels of time and cost if there was greater, and more direct, recognition of infrastructure such as Vector's transmission and distribution network in Part 2. Well-functioning transmission and distribution networks are critical to the New Zealand economy and social well-being, and it is appropriate to recognise and protect such infrastructure in Part 2.

Relief sought

4.5 Vector seeks the following subsection is inserted into section 6:

> (i) the efficient provision of new infrastructure and the protection of existing infrastructure.

Greater recognition of reverse sensitivity effects

4.6 In addition to the various changes sought above in order to address the reverse sensitivity issue, in Vector's view, it would greatly assist if "reverse sensitivity" were clearly referred to as a relevant effect under the RMA. That would make it clear to those developing plans or considering resource consent applications that reverse sensitivity effects need to be considered.

4.7 Vector seeks that specific reference be made to "reverse sensitivity" as a category of effect in the section 3 definition of "effects". While it has been accepted as an effect in case law, having it explicitly referred to will be a significant practical advantage (just as, for example, having effects of "low probability but high potential impact" specifically identified is often relied on).

Relief sought

4.8 Vector seeks the following amendment to section 3:

> **3 Meaning of effect**
> In this Act, unless the context otherwise requires, the term effect includes—
> (a) any positive or adverse effect; and
> (b) any temporary or permanent effect; and
> (c) any past, present, or future effect; and
> (d) any reverse sensitivity effect; and
> (~~d~~e) any cumulative effect which arises over time or in combination with other effects—regardless of the scale, intensity, duration, or frequency of the effect, and also includes—
> (~~e~~f) any potential effect of high probability; and
> (~~f~~g) any potential effect of low probability which has a high potential impact.

Term of consent

4.9 In Vector's view, a significant way in which the RMA is, to quote the Minister, "stymying much needed infrastructure" is the limitation of term of consent (other than for land-use consents) to a maximum of 35 years - often with lesser terms being granted. This is particularly restrictive when applied to infrastructure that requires a significant investment and has a long design life, eg of 100 years or more. Nationally significant infrastructure, which has a high capital value, long design life, and wide public benefit, should qualify for a minimum longer term of consent. The cost of re-consenting such major works (on the basis of some fictional notion that, at the time of re-consenting, the decision maker should "pretend" that those works do not exist), is significant. Those costs will generally fall upon the relevant communities, ratepayers, or wider public. In the case of nationally significant infrastructure, the costs will fall on all New Zealanders and may impact our national competitiveness.

4.10 Building on the greater investment certainty provided to aquaculture activities in 2011 through amendments introducing a requirement for minimum duration consents, Vector recommends that:

(a) "nationally significant" long-term infrastructure is given a minimum term of consent of 50 years, with the decision maker being required to provide specific reasons for any lesser term (eg scientific uncertainty and a high risk of significant or cumulative effects); or

(b) if it were decided that a term of 50 years is not appropriate, then an alternative solution is that all long-term infrastructure resource consents are granted with a minimum term of consent of 35 years, with the decision maker being required to provide specific reasons for any lesser term (as above).

Relief sought

4.11 Amend section 123 as follows:

> **123 Duration of consent**
> (1) Except as provided in section 123A or 125,—
> (a) The period for which a coastal permit for a reclamation, or a land use consent in respect of a reclamation that would otherwise contravene section 13, is granted is unlimited, unless otherwise specified in the consent:
> (b) Subject to paragraph (c), the period for which any other land use consent, or a subdivision consent, is granted is unlimited, unless otherwise specified in the consent:
> (c) The period for which any other coastal permit, or any other land use consent to do something that would otherwise contravene section 13, is granted is such period, not exceeding 35 years, as is specified in the consent and if no such

period is specified, is 5 years from the date of commencement of the consent under section 116:

(d) The period for which any other resource consent is granted is the period (not exceeding 35 years from the date of granting) specified in the consent and, if no such period is specified, is 5 years from the date of commencement of the consent under section 116.;

(e) Notwithstanding subsections 1(c) and (d) above, a resource consent may be issued for a period not exceeding 50 years if the activity to which the resource consent applies is infrastructure as defined by s 2, Resource Management Act 1991, and if that infrastructure has a design life exceeding 50 years.

(2) The periods specified under subsection (1)(c)-(d) must be not less than 20 years, and in respect of a period specified under subsection 1(e) must be not less than 35 years, from the date of commencement of the consent under section 116 unless—

(a) the applicant has requested a shorter period; or

(b) a shorter period is required because:

(i) special circumstances exist in relation to the application; and

(ii) the adverse effects arising from those special circumstances cannot be avoided, remedied or mitigated through consent conditions; or

(c) a national environmental standard provides a different minimum term for the consent.

Powers of entry for other survey and investigation purposes under section 111A of the Public Works Act 1981

4.12 The Bill also includes some changes to the Public Works Act 1981 ("**PWA**"). A continued issue Vector has encountered with the PWA is the need to enter private land to survey and carry out other investigations under section 111A of the Public Works Act 1981. This can often be a time consuming and expensive process that is not comparative to the actual effects on a private landowner of carrying out such work. Vector has firsthand knowledge of considerable delays in securing access to a property for initial surveys associated with the potential relocation of a section of the nationally significant Maui and Kapuni gas pipelines, with the matter ending up before the District Court and then the High Court.

4.13 Currently, network utility operators (who are classified as developers under section 111A of the PWA) are subject to a different regime than the Minister of Land Infrastructure or a local authority. The outcome is that a landowner can refuse access to a network utility operator and an order from the Court is required before access can be obtained. Vector sees real benefit in developers (as defined under section 111A of the PWA) having the same powers of entry as the Minister or local authority.

4.14 If this amendment was made it would also be in line with the streamlining objective of the Bill.

Relief sought

4.15 Vector seeks that section 111A be deleted and section 111 of the Public Works Act 1981 be amended as follows:

111 Powers of entry for other survey and investigation purposes

(1) Subject to subsections (2) to (5~~8~~), any person authorised either specifically or generally by the Minister or local authority, as the case may require, or a developer may, for the purposes of carrying out any public work or any proposed public work, and subject to the limitations of any authorisation so granted—

(a) enter and re-enter any land at reasonable times, with or without such assistants, aircraft, boats, vehicles, appliances, machinery, and equipment as are reasonably necessary for making any kind of survey or investigation:

(b) dig and bore into the land and remove samples of it:

(c) erect temporary buildings on the land:

(d) set out the lines of any works on the land.

(2) Unless the owner and occupier of the land otherwise agree, the powers conferred by subsection (1) shall not be exercised unless the owner and occupier of the land affected have been given 10 working days' notice in writing of—
  (a) how and when entry is to be made; and
  (b) the specific powers intended to be exercised; and
  (c) a statement of the owner's or occupier's rights under subsection (4); and
  (d) a statement that the owner or occupier may be entitled to compensation under this Act.

(3) Any person exercising any power under subsection (1) (including every officer, employee, or agent of a developer acting in pursuance of an order made under this section) shall have with him, and shall produce if required to do so, evidence of—
  (a) his authority; and
  (b) his identity.

(4) The owner or occupier may, within 10 working days after receiving the notice and after giving notice to the Minister, ~~or~~ local authority, or developer as the case may be, of his intention to do so, object to the District Court nearest to the land concerned, and the court may summon the Minister, ~~or~~ local authority, or developer or his or its representative, to appear before the court at a time and place named in the summons.

(5) If it appears to the court that the proposed survey or investigation is unreasonable or unnecessary the court may—
  (a) order that the survey or investigation shall not be undertaken, or shall not be undertaken in the manner proposed; or
  (b) direct that the survey or investigation be undertaken in such manner and subject to such limitations and restrictions as the court thinks fit—
  and all persons concerned shall be bound by any such order.

(6) A developer exercising its power under subsection (1) shall fully compensate every person having any right, title, estate, or interest in any land or property injuriously affected by the exercise of any of the powers authorised by an order made under this section for all loss, injury, or damage suffered by that person.

(7) In default of agreement between the parties in relation to compensation under subsection (6), claims for compensation under this section shall be made and determined within the time and in the manner provided by Part 5, and the provisions of that Part shall, as far as they are applicable and with the necessary modifications, apply with respect to claims under this section.

(8) In this section, developer means—
  (a) a network operator within the meaning of section 5 of the Telecommunications Act 2001; or
  (b) a network utility operator within the meaning of section 166 of the Resource Management Act 1991 which has approval as a requiring authority under section 167 of that Act; or
  (c) the Airways Corporation of New Zealand Limited, a company that is a State enterprise under the State-Owned Enterprises Act 1986.

Content of an application for a project information memorandum under section 3A of the Building Act 2004

4.16 Under the Building Act 2004, when a person seeks building consent, consideration is required to be given to any water, stormwater or wastewater infrastructure in close proximity to the proposal. One of the key concerns is ensuring ongoing access to those assets. However, those considerations do not expressly extend to electricity and gas infrastructure. Vector has had experiences where access to its assets has been compromised due to development being granted building consent without consideration of maintaining access to existing electricity and gas infrastructure. It is critical that this be a requirement in order to avoid the potential for standard assets or Vector having difficulty in obtaining access for critical maintenance or upgrading of its network.

4.17 Requiring a building consent authority to have regard to whether access is maintained to any existing works, as defined under the Electricity Act 1992 or Gas Act 1992 in deciding whether to grant or refuse an application for building consent, will assist Vector in ensuring that these existing works are given adequate consideration before building works take place.

Relief sought

4.18 Vector seeks that subsection 48 of the Building Act 2004 be amended as follows:

> **48 Processing application for building consent**
> (1) After receiving an application for a building consent that complies with section 45, a building consent authority must, within the time limit specified in subsection (1A),—
> (a) grant the application; or
> (b) refuse the application.
> (1A) The time limit is—
> (a) if the application includes plans and specifications in relation to which a national multiple-use approval has been issued, within 10 working days after receipt by the building consent authority of the application; and
> (b) in all other cases, within 20 working days after receipt by the building consent authority of the application.
> (2) A building consent authority may, within the period specified in subsection (1A), require further reasonable information in respect of the application, and, if it does so, the period is suspended until it receives that information.
> (3) In deciding whether to grant or refuse an application for a building consent, the building consent authority must have regard to—
> (a) a memorandum provided by the New Zealand Fire Service Commission under section 47 (if any); and
> (b) whether a building method or product to which a current warning or ban under section 26(2) relates will, or may, be used or applied in the building work to which the building consent relates.; and
> (c) any existing works, as defined under the Electricity Act 1992 or Gas Act 1992, in proximity to the building work to which the building consent relates.
> (4) Subsection (3) does not limit section 49(1).

5. OPPORTUNITY TO APPEAR

5.1 Vector seeks the opportunity to appear at Select Committee hearings in support of this submission.

VECTOR LIMITED:

Date: 14 March 2016

Signature:

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