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Environment Committee
New Zealand Parliament
Wellington

13 February 2026

Submission on Planning Bill and Natural Environment Bill

Introduction / High level views on policy intent on overall reform package

1. As one of the leading environmental Non-Governmental Organisations (eNGOs) in New Zealand, World Wide Fund for Nature New Zealand (WWF) supports science-based, pragmatic solutions that can deliver a future where humanity lives in harmony with nature. WWF appreciates the opportunity to make a submission on the Planning Bill and Natural Environment Bill to the Environment Select Committee. We wish to be heard.

2. If enacted, these Bills fundamentally change the way that Aotearoa New Zealand manages all facets of our environment, impacting our economy, cultural values and community life. We are deeply concerned by the lack of priority given to nature and the biodiversity that lives within it – as nature underpins all aspects of New Zealanders' lives and livelihoods.

3. Biodiversity underpins human health, wellbeing, resilience to climate change, and our economic prosperity. New Zealand's economic activity heavily relies on the natural environment. Primary industries in Aotearoa New Zealand make up 7% of our economy,[1] and tourism expenditure represents a 3.7% contribution to GDP.[2]

4. However, we are in the midst of a global biodiversity crisis, with New Zealand having one of the highest rates of extinction per capita. Our environmental decline is ongoing: 69% of New Zealand's river length is polluted by nitrogen,[3] 90% of wetlands have been destroyed,[4] and more than 75% of native animals are threatened or at risk of extinction.[5]

5. Around 60–70% of New Zealand's land is privately owned, and is home to much of our most threatened and ecologically significant biodiversity, particularly lowland and coastal ecosystems. Systematic decline has been driven by land-use intensification, habitat loss and nutrient pollution.

6. The resource management system is critical for managing impacts of human activities on nature. Reforming the Resource Management Act 1991 (RMA) presents an opportunity to create settings that ensure biodiversity recovers and the environment thrives for future generations.

7. However, in their current form, the Bills prioritise private property rights and economic growth above the environment, which will set New Zealand on a course for further environmental

[1] https://wwf.org.nz/sites/default/files/2024-11/A%20Nature%20Positive%20Aotearoa.pdf
[2] https://www.stats.govt.nz/information-releases/tourism-satellite-account-year-ended-march-2023/
[3] https://www.stats.govt.nz/indicators/river-water-quality-nitrogen/
[4] https://www.stats.govt.nz/indicators/wetland-extent/
[5] https://www.stats.govt.nz/indicators/extinction-threat-to-indigenous-species/

degradation, loss of precious taonga and species, and increased costs from impaired ecosystem services.

8. We strongly oppose the proposed Planning Bill and Natural Environment Bill in their current form and call on the Select Committee to:
    - Strengthen environmental limits and ensure stronger regulatory powers to uphold limits;
    - Restore community rights of participation and appeal;
    - Remove the ability of councils to approve wildlife authorisations and retain DOC as the responsible agency for authorisations;
    - Amend spatial planning to include areas that are ecologically significant and require protection; and,
    - Remove the regime to compensate landowners, and instead build on existing provisions to support landowners.

Strengthen environmental goals and limits, and ensure stronger regulatory powers to uphold limits

9. The Bills introduce an environmental limit framework for air, soil, water, and indigenous biodiversity, but allow breaches if councils can "justify" them, and permit public-benefit infrastructure to override these limits. We see a number of issues in the way that the limits framework will play out.

10. While human health limits will be set through national standards, there is no mandatory baseline for environmental limits or threatened species, with these left to variable regional interpretation (Natural Environment Bill, clause 50). Where limits are breached or imminent, councils are directed to prepare action plans but can avoid using regulatory tools where "it is not effective or feasible to do so" (Natural Environment Bill, clause 60), undermining enforceability.

11. The constraints around the use of rules (e.g. Natural Environment Bill, clause 64) threatens to render limits aspirational only. These weaknesses undermine any meaningful protection for ecosystems, biodiversity and freshwater values, and risks failure to stop ecosystem decline. We recommend that natural environment limits are binding and that rules have a stronger role in the implementation of limits.

12. The goals in both Bills present a suite of topics such as that decision makers must "seek to achieve" (Natural Environment Bill, and Planning Bill, clauses 11), which is a vague obligation. Additionally, we recommend that there be a hierarchy of the goals, safeguarding nature as the top priority. Without clear priorities in the Bills, resolving conflicts through national direction will be as challenging as the current resource management system.

13. The goals proposed include, "to achieve no net loss in indigenous biodiversity", which is a useful start (Natural Environment Bill, clause 11(d)). However, we emphasise that no net loss, without clear limits on what the baseline for nature is, will continue overall biodiversity loss.

14. The concept of no net loss relies on biodiversity offsetting (rather than avoiding or mitigating effects to biodiversity). Biodiversity offsetting can be applied well, if it is required for residual, more than minor adverse effects on ecological values, and is accompanied by a strong foundation of environmental monitoring and enforcement. But biodiversity offsetting has also been shown to fail without these settings. It must be used with caution, in limited circumstances, and not relied on as the key regulatory setting to protect biodiversity. The goal should be replaced with "to achieve net gain in indigenous biodiversity" to ensure its effectiveness.

15. In comparison to the current RMA, the Bills swap the well-understood RMA purpose and principles for a disconnected list of "goals", lacking hierarchy or clarity on how conflicts among them will be resolved. Similar to the current RMA system, a lot will depend on the forthcoming national policy direction and national standards, as well as litigation to determine undefined goals and terms. We fear that the protection of nature will continue to be weak as a result.

Standing and rights to submit and appeal on decisions

16. We are deeply concerned by constraints on those who can be notified, make submissions and appeals. For example, under the Planning Bill, only residents in the relevant region can submit on resource consents, even when environmental effects are significant (Planning Bill, clause 131). The Natural Environment Bill would require public notification only where there are significant adverse effects, no specific affected parties are identified, and only for residents of the region.

17. Additionally, both Bills severely restrict appeals on plans, largely to points where the plan deviates from national policy direction and standards, despite the need for scrutiny over how national policy direction and standards apply in areas where there are specific local environmental circumstances.

18. All of these changes would likely exclude environmental and iwi organisations, undermining democratic decision-making and public oversight of national interests. Critical expertise will be missing when councils consider resource consents, such as national experts on ecosystems or species, further risking harm to New Zealand's biodiversity.

19. We recommend removing the constraints to who can submit on resource consents and broaden rights of appeal on plans, so that the general public, experts and nationwide organisations can inform decisions for better outcomes for Aotearoa New Zealand.

Wildlife Act authorisations

20. Under the Natural Environment Bill (clause 128), councils can approve what are currently Wildlife Act authorisations administered by the Department of Conservation (DOC). While this provision raises a good question about the overlap that sometimes occurs in information needed for resource consents and Wildlife Act permits, this is not the right solution and will lead to further loss of biodiversity.

21. This is particularly concerning when the relative strength of the biodiversity limits in the wider planning system is unclear, and given that this provision does not clearly connect back to any particular goal in the Planning Bill or Natural Environment Bill.

22. Additionally, we note that most councils do not have sufficient expertise on specific species to consider effects on them – and it would be costly for councils to bring in this expertise.

23. There will also be instances where a particular species may be nationally rare but regionally abundant. Each regional council would not have the appropriate oversight required to assess how effects to that species should be managed in order to protect it for New Zealand as a whole.

24. We acknowledge that reform of the Wildlife Act is required to ensure better protection of species, fulfil Treaty obligations, and improve processes for authorisations. However, until reform occurs, DOC is still the appropriate agency to authorise Wildlife Act permits and continue oversight of our taonga species.

Spatial planning as a tool for integration and protecting the environment

25. Spatial planning is an essential part of the future of resource management, and we support its inclusion. This is particularly important for the integration of land use, freshwater management and managing the coastal environment.

26. However, clause 67 of the Planning Bill highlights that the purpose of the spatial plan is to "set the direction for development and public investment priorities in a region" and this falls far short of what is needed. Additionally, it appears that spatial plans will be required before regional environmental limits are set, meaning that spatial plans may not be informed by critical decisions about limits that are needed for environmental management. Spatial plans may give the green light to development that might not be appropriate once necessary environmental limits are known.

27. The purpose of spatial planning should also include spatially identifying important areas for biodiversity, the environment and ecosystem services. Overlays would signal where development could be appropriate where it does not impact these important areas. Spatial plans should be developed simultaneously with limits, so the instruments that are well-connected and evidence based, and work well to manage impacts that cross environmental domains like land and the coast.

Remove the regime to compensate landowners, retain existing provisions

28. The regulatory relief framework set out in Part 4 of Schedule 3 of the Planning Bill and clause 111 of the Natural Environmental Bill is problematic. Councils face liability for compensating landowners when specified rules (e.g. for significant natural areas, outstanding natural features and landscapes, heritage) affect "reasonable use" or impose costs.

29. The threshold definitions ("significant impact", "reasonable use", "substantially different") are vague, encouraging litigation by landowners and risk aversion by councils. For example, it is unclear if this would include general vegetation clearance rules, or only rules relating to a narrow set of sites of importance. This compensation framework incentivises councils to avoid environmental rules, damaging biodiversity and landscape protection.

30. While we agree there are specific circumstances where support could be provided to landowners where they are faced with protecting significant biodiversity or features on their land, these circumstances are limited and should not be tied to the setting of such rules. We all have a responsibility to ensure the sustainable management of our environment so that the benefits to all of us endure in the long-term. Rates relief may be an appropriate mechanism in some circumstances (such as where significant natural areas are identified) and other non-regulatory support and funding should be made available to landowners.

31. However, widespread compensation requirements as currently set out in the Bills would likely discourage local authorities from setting rules to protect indigenous biodiversity in their region as the compensation costs or potential costs would be too high for them to carry, particularly in the context of rates caps. This is a trade-off they should not have to make.

32. We propose retaining provisions similar to the current RMA section 85 that outline a clear and appropriate process where a proposed plan provision "would render that interest in land incapable of reasonable use".

Conclusion

33. Our natural environment is an integral part of Aotearoa New Zealand's identity and wellbeing. Protecting and enhancing our environment and biodiversity should be of upmost importance in the reforms of the resource management system. We have species and

landscapes that are found nowhere else on Earth that need to be protected and carefully managed to avoid further loss.

34. We agree reform of the resource management system is long overdue, and it presents an opportunity to better manage our environment and resources for benefits into the future. However, such reform must place nature at the centre of all decision-making. As currently drafted, we believe that the Bills would increase the cumulative effects to nature that the RMA has failed to address.

35. In current form, the Bills fail to guarantee strong, enforceable limits on environmental decline, restrict public and community participation, and introduce perverse incentives that will squash local environmental regulation.

36. In summary, we recommend that the Bills:

    - Strengthen environmental goals and limits by placing nature as the top priority, and ensure stronger regulatory powers to uphold limits;
    - Enable public and expert participation in decisions on consents and plans, through submissions and appeals;
    - Remove the ability for regional councils to grant wildlife approvals and retain DOC as the responsible agency for authorisations;
    - Ensure spatial planning's purpose is for better managing the environment, and ensure it is integrated with the limit-setting process; and,
    - Remove the regulatory relief framework to compensate landowners, and retain provisions similar to the RMA regarding plan provisions' impact to the reasonable use of land.

37. WWF would like to request to appear in front of the Select Committee and speak to our recommendations in this submission.