GREENPEACE

Greenpeace submission on the Natural Environment Bill and the Planning Bill

Submitter Details

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1. Executive Summary

We thank the Select Committee for the opportunity to submit on the Natural Environment Bill (NEB) and the Planning Bill.

Greenpeace opposes these Bills. They will replace our country's main environmental protection law, the RMA, with laws that will enable more environmental harm. In many cases, such as species extinction, this harm will be permanent and irreversible.

The Government has clear evidence of the severely degraded and deteriorating state of New Zealand's environment in its national state of the environment reports.[1]

[1] https://environment.govt.nz/publications/our-environment-2025/

These reports consistently show that polluted drinking water, dirty rivers, eroding topsoil, collapsing biodiversity, and climate-driven disasters continue to escalate. This is because successive Governments have failed to adequately legislate to protect nature and its life supporting systems on which we depend.

Today's political decisions are depriving future generations of the clean water, fertile soils, habitable climate, and thriving ecosystems that are essential for their survival.

The Government must change course quickly. It is vital that our environmental protection law is strengthened so that it restores what has been damaged, prevents further harm, and prepares our communities for the climate challenges ahead.

Yet, these Bills do more than just roll back existing environmental protections - they contain harmful new proposals.

The most egregious proposal is that the public should have to pay companies to stop polluting the environment or harming nature. This has been given the perverse name "regulatory relief". The predictable result will be mass regulatory retreat, as Councils abandon necessary environmental protections because they are simply too expensive.

The Bills strip current environmental protections of any legal certainty going forward in Aotearoa. They allow Ministers and Councils to deprioritise critical environmental protections in favour of short-term economic and 'development' goals.

At the same time, regulators are hamstrung from using effective tools - direct caps, rules and prohibitions - to prevent further breaches of environmental limits. Vague, undefined terminology in the Bills opens the door to lengthy and costly litigation.

These Bills provide industries with the exact tools they need to further delay regulatory action, enabling them to continue damaging the environment while pushing the escalating costs of their harm onto the public.

And importantly, these Bills get the fundamentals wrong. They prioritise property and fail to protect people's rights to clean water, clean air, and a healthy environment.

They do not recognise that a healthy environment is the very foundation of human wellbeing and our economy. They treat nature as merely a resource to be allocated or exploited for short

term commercial profit. They omit climate change, the most pressing and existential issue facing humanity.

In this submission we give recommendations for amendments to the most problematic elements. However **our key recommendation is that these bills are rejected in their entirety,** because, the RMA provides much stronger environmental protections than what is proposed here. In summary, the most problematic proposals include:

1) **Regulatory relief clauses,** including the "specified topics" and general pathway.
2) **Barriers preventing Councils from using resource caps** (direct input and land-use controls), including vague and restrictive "feasibility" tests.
3) **The removal of legal certainty of environmental protection,** via an incomplete list of environmental goals with no statutory hierarchy above other goals
4) **The absence of climate change** from our new "environmental" law.
5) **The override of the Wildlife Act**, allowing Councils to authorise the killing and harming of protected native wildlife and marine mammals.
6) **Problematic environmental limit setting processes** which allow the inclusion of economic considerations in the setting of limits.
7) **The weakened Te Tiriti o Waitangi provisions,** and narrowing of Māori participation in environmental decision-making.
8) **Reduced public participation and legal standing,** preventing environmental watchdogs and the public from engaging in environmental decision-making.

At their heart these Bills prioritise corporate property rights at the expense of nature, and the public interest. This is a major step backwards for Aotearoa.

Aotearoa can and should be a country that protects its rivers, its wildlife, and its people.

But this Government has outlined a clear plan in these Bills to legislate for more environmental harm and has had the immense short-sightedness and lack of care for future generations to call it progress.

We urge the select committee to reject these Bills and instead focus on updating our laws to restore clean rivers, healthy soils, and abundant biodiversity.

2. Compensation clauses: Regulatory relief / Regulatory takings

Summary: Greenpeace strongly opposes the so-called "regulatory relief" provisions in the Bills. They are deeply unjust and profoundly dangerous to the health of New Zealand's environment. We recommend all compensation clauses, both for 'specified topics' and general rules, be removed entirely and replaced by section 85 of the RMA which contains sufficient existing protections for landowners.

1. **The Bills propose that the public should pay compensation to corporations when environmental rules impact the use of their property.** Requiring the public to pay compensation for environmental regulations is perverse and unjustified and we strongly oppose it. Environmental regulations are a benefit to society, not a burden on corporations requiring "relief" - as they are presented in these Bills. Preventing harm to nature, the public and other landowners is not a "taking" of property, therefore there is no justification for compensating companies being required to stop causing harm. Regulations exist to protect nature and to prevent companies and individuals from imposing costs and risks on the wider public, and other property owners.

2. **There are two separate and unprecedented compensation pathways proposed. Both are unacceptable and must be removed.** The "specified topics" pathway (NEB cl 111; Planning Bill cl 92 and Part 4, sch 3), applies to *certain* rules. The general pathway applies to *all* environmental rules (NEB cl 122; Planning Bill cl 105). These clauses are discussed in more detail in point 9 of this submission. In summary, they direct Councils to compensate companies where environmental protection rules impact on their property by restricting "development potential", "affecting land value", or impacting the "reasonable use or enjoyment" of land (cl 66, Part 4, Sch 3). The Minister has confirmed that under these proposals, ratepayers may possibly be forced to pay compensation to offshore forestry companies in places like Gisborne for stronger rules to manage forestry slash. [2] This is clearly unjust and inverts the basic well-established principle that polluters should pay, not be paid.

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3. **The likely result of the compensation proposals will be large-scale regulatory retreat** whereby Councils will abandon environmental protections because they are simply too expensive. That is because Councils will face two choices under these proposals: They can either weaken or abandon environment protections. Or they can proceed, in which case they will face strategic litigation by companies seeking maximum compensation, and will ultimately have to divert scarce and potentially capped funds away from maintaining and upgrading stormwater and sewage infrastructure, flood protection, and other essential services. Councils will likely be forced to choose the former option, weakening or abandoning environmental protections, due to financial constraints. In this way these compensation clauses will prevent Councils from enacting the very environmental regulations that provide the foundation of a fair, safe, and well-functioning society.

4. The following is a non-exhaustive list of the types of environmental protections that are likely to be weakened or completely abandoned under these proposals:
    a. **Rules designed to prevent fatal and damaging landslides,** such as restrictions on clear-felling and earthworks on highly erodible land.
    b. **Restrictions on the clearance of virgin native forests and rare or critically threatened habitats**. Without these we will likely see further extinctions of indigenous species that cannot be replaced once lost.
    c. **Rules that limit pollution of drinking water**, such as nitrate contamination from intensive farming. Without these the decline of safe, potable water supplies across the country will accelerate.
    d. **Forestry controls designed to prevent slash and erosion damaging** communities, infrastructure, rivers and coastlines. Without these, places like Tairāwhiti remain at risk of another Cyclone Gabrielle-scale disaster.
    e. **Urban tree protection rules**, which create healthier and more live-able urban environments by reducing heat, managing stormwater, and improving air quality in towns and cities.
    f. **Rules protecting outstanding natural landscapes and coastlines** which underpin our second highest export earner - the tourism industry.

5. **Requiring compensation for environmental regulations is based on flawed ideology that treats property rights as absolute and detached from responsibilities.** Property rights have never been absolute. They exist within legal, social, and biophysical limits

and carry responsibilities to society and future generations. There is no "property right" to contaminate drinking water or soil, destroy biodiversity, or worsen climate change**.** Individuals and corporations are not entitled to harm nature and pollute the environment, so when restrictions are rightly placed on them for the good of society, there is no justification for compensation to be paid.

6. **These clauses only prioritise the property rights of those being regulated, at the expense of those whose properties are impacted by a lack of regulation.** For example, rules that protect vegetation cover in upper catchments are needed to ensure heavy rainfall does not result in flooding and debris damaging downstream properties, and ecosystems. Under the proposals native vegetation clearance rules would trigger compensation. As outlined the predictable result will be regulatory retreat and vegetation clearance will be allowed to go ahead. When an extreme storm or cyclone then inevitably causes flooding and debris to damage to downstream properties, those property owners will not be compensated. Nor will the public be compensated for the degradation of cherished rivers, lakes and beaches or any damage to public infrastructure.

7. **These clauses are unjust and shift yet more costs of corporate activity onto the public**. For decades, many industries have imposed pollution and environmental damage on communities without compensating them. The public have been left to pay the costs of cleaning up polluted drinking water, rivers and lakes, managing the impacts of climate change and saving wildlife from extinction - while the companies responsible for environmental degradation have kept the profits. Telling the public they now have to pay these same companies to stop causing harm is an affront to basic fairness.

8. **Regulatory "relief" is a new and dangerous idea in New Zealand's environmental law and must be rejected.** Currently, Councils can make rules to protect the environment and their communities from activities that pollute or degrade the environment without paying "compensation" to companies and developers. This does not mean property owners lack protections. Section 85 of the RMA already provides appropriate protection for landowners by allowing them to challenge rules that render land "*incapable of reasonable use*", a tightly defined and well-understood threshold. If that test is met, the Environment Court may direct amendment or removal of the rule, or in rare cases facilitate land acquisition - but not compensation. This framework already strikes an

appropriate balance between environmental protection and property rights, without rewarding pollution or undermining regulation.

9. **The two new and separate compensation pathways proposed in the Bills direct Councils to compensate companies in circumstances** where those rules restrict "development potential", "affect land value", or impact the "reasonable use or enjoyment" of land (cl 66, Part 4, Sch 3). Compensation can take many forms, including monetary payments, rates or fee relief, land swaps, alternative development rights, or access to grants. The pathways are:
    a. **The general pathway (**NEB cl 122; Planning Bill cl 105). This applies to **all** environmental rules. Compensation is triggered if a rule *"severely impairs"* the reasonable use of land. Severely impairs a novel and undefined threshold, far lower than the current RMA test for challenging a rule in the Environment Court, which says that the rule must "r*ender land incapable of reasonable use*" (s 85 RMA).
    b. **The "specified topics" pathway** (NEB cl 111; Planning Bill cl 92), lowers the compensation threshold further and applies to rules related to "specified topics". Compensation may be triggered where a rule has a *"significant impact"* on the reasonable use of land where the rule is designed to protect land-based indigenous biodiversity, significant natural areas (SNAs), sites of significance to Māori, outstanding natural landscapes and features and areas of high natural character within the coastal environment, wetlands, lakes, rivers, and their margins. This is an extremely broad range of topics.
    c. **Critically, neither Bill specifies that environmental limits override these compensation clauses.** As a result, Councils may be required to compensate landowners for rules that are necessary to prevent breaches of limits.

10. **Greenpeace strongly opposes the compensation regimes proposed in the Planning Bill and the NEB.** We recommend removing them entirely:
    a. Delete NEB clause 111; Planning Bill clause 92 and Part 4 of Schedule 3 to remove the specified topic compensation pathway by.
    b. Deleting NEB clause 122 and Planning Bill clause 105 to remove the general compensation pathway
    c. Replace the general pathway with section 85 of the RMA

3. Failure to directly restrict harmful and polluting activities

Summary: The NEB hamstrings Council's ability to impose direct controls on harmful land uses, inputs and pollution, (i.e “resource caps”). It also fails to give them permit clawback powers when environmental limits are breached. We oppose this and recommend amendments are made to both enable and direct regulators to use resource caps, and provide them permit clawback powers.

11. **A credible environmental law must include direct clear rules that restrict damaging activities**. The NEB uses the term "resource caps” as the collective term for direct rules on land use (such as intensive winter grazing), inputs (such as fertiliser), and outputs (such as nitrogen discharges). Under the RMA Councils can already create these clear rules. However, the NEB makes it much harder for them to do so by introducing several barriers to their use and giving industries greater grounds on which to challenge resource caps and prevent them being imposed. This will delay, and may ultimately prevent, the urgent action needed to tackle worsening environmental crises. In places like Canterbury, where nitrate contamination threatens drinking water supplies, restricting Councils from capping the use of fertiliser or imposing land use controls could have serious consequences for both public health and the environment.

12. **Clauses 60–65 of the NEB have several very restrictive conditions that will constrain Council's use of “resource caps”** that are not in the RMA and, which in practice are likely to discourage or even block Councils from using them:
    a. Councils can avoid using resource caps as a standalone measure, if they think it is “not effective or feasible” to do so (cl 60 3b) or it is “not feasible because the resource is affected by a range of different causes” (cl 60 4).
    b. This drafting all but rules out the use of standalone resource caps because almost all major environmental issues, like nitrate, erosion, biodiversity loss, are by their nature affected by “a range of different causes”.
    c. Additionally, the terms feasible and effective are subjective and undefined. In practice, this could allow Councils or industries to argue against resource caps based on economic or operational inconvenience.

d. If Councils do attempt to impose caps, industries are likely to litigate, exploiting the vague terms and caveats to delay or overturn decisions.

13. **Councils should not have to exhaust every other option before being allowed to impose a basic cap on a harmful activity or pollutant.** But in practice, once it is deemed not feasible to use a "resource cap" as a standalone measure the NEB makes it almost impossible for them to be used at all. Where a limit has been or is likely to be breached Councils are directed to implement an "action plan". Before including a resource cap in an action plan, the Council must prove that freshwater farm plans and non-regulatory measures will be insufficient (cl 64). This reverses sound regulatory logic by prioritising voluntary tools, which have little evidence of effectiveness, over enforceable rules, which are proven to work. This approach should be inverted so that a resource cap is required by default where limits are at risk, unless there is clear, demonstrable evidence that another method will achieve an equally effective outcome.

14. **Councils are not given the power to rescind or revise permits when environmental limits are breached** - even when there is clear evidence that an activity is causing serious harm. Under the RMA, consents can last up to 35 years, yet over time, new scientific evidence often emerges revealing the full extent of environmental damage. Despite this, Councils have no tools to amend or revoke permits, even where an activity is contributing to, or directly causing, a breach of environmental limits. This situation is not remedied in the NEB. This is a major flaw. Alongside resource caps, Councils must be empowered to alter or cancel existing permits when limits are exceeded or at risk. Without this ability, outdated or harmful permits will continue to undermine environmental health and limits and tie the hands of local authorities.

15. **The threshold for classifying an activity as prohibited is set too high in the NEB and must be lowered**. Requiring decision-makers to show that an activity will have an "unacceptably high" level of adverse effects and that those effects "cannot be managed by consent conditions" introduces vague and subjective tests that will undermine effective regulation. The term "unacceptably" is open to interpretation and should be replaced with more objective language. Additionally, requiring proof that impacts cannot be managed by consent conditions places an unreasonable burden of proof on Councils and invites reliance on implausible, unproven, or ineffective consent conditions.

16. **The RMA has relied primarily on using effects-based regulation to manage environmental impacts, and this is not enough on its own.** Despite decades of reliance on effects-based management, key environmental indicators continue to decline. This is a clear sign that effects-based regulation alone is not delivering the outcomes Aotearoa needs. Implementing effects-based management often requires complex, resource-intensive, property-by-property modelling and monitoring, something most Councils are not equipped to do. It is particularly ill-suited to managing diffuse pollution and cumulative impacts, which are among the most urgent challenges we face. While effects-based management has an important role, it must be part of a broader system that includes clear, precautionary rules on harmful practices and pollutants. Resource caps reduce regulatory complexity, offer immediate environmental benefits and prevent harm before it occurs.

17. **Evidence shows that direct controls work**. In 2020, in response to the worsening freshwater crisis an input cap on synthetic nitrogen fertiliser was introduced nationwide. Evidence shows it has already directly helped reduce nitrogen pollution[3] - one of the most urgent freshwater threats facing Aotearoa. It has provided certainty for farmers and regulators alike, avoiding complex, case-by-case assessments and bespoke arrangements. This demonstrates that setting clear rules on polluting inputs is both practical, efficient and effective.

18. **Greenpeace supports a stronger system of direct rules and clear prohibitions on damaging activities.** Greenpeace recommends:
    a. Removing all barriers to using resource caps including by:
        i. Deleting clause 60(3)(b) and clause 60(4)
        ii. Delete clause 64(2) and amend clause 64 so that rather than giving preference to voluntary measures it explicitly **prevents** Councils from relying on voluntary measures in place of resource caps.
    b. Give Councils the power to revoke or amend permits when limits are breached or in danger of being breached.
    c. Lower the threshold for the classification of prohibited activity so that Councils have greater power to ban harmful activities.

[3] https://www.farmersweekly.co.nz/farm-management/nitrogen-cap-cuts-leaching-from-southland-dairy-farms/

d. Impose obligations on the Minister to require caps nationally where limits are breached.

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4. Stripping environmental protections of legal certainty

Summary: These Bills strip environmental protection of any legal certainty and will allow critical environmental protections to be easily overridden by economic or development goals. This is extremely dangerous for New Zealand' natural environment given these bills are set to replace our nation's primary environmental law - the RMA.

19. **These Bills strip environmental protection of any legal certainty,** by replacing the RMA's single environmental purpose with multiple competing goals that have no statutory hierarchy. The substance and hierarchy of these goals is critically important because they sit at the top of the system and will shape all subsequent planning and consenting decisions. Under the Bills, weak and incomplete environmental goals in the NEB are to be weighed against economic and development goals in the Planning Bill, with conflicts resolved through ministerial national direction at the Minister's discretion. This opens the door for economic objectives to override environmental protection, with no statutory requirement to prioritise ecological limits or the life-supporting capacity of nature. It invites ongoing political interference and industry lobbying in decisions that should be guided by science-derived ecological bottom lines. The effect of this will be to undermine environmental bottom lines and hasten the decline in the state of New Zealand's environment.

20. **The environmental protection goals in the NEB are weak and can be overridden.** Ministers are able to override NEB goals in the following ways:
    a. They may take into account the goals of either the NEB or the planning bill (cl 78(1)(b) and 81(1)(a)) and thereby elevate economic goals above environmental goals.
    b. There is an opt-out clause for Ministers when making national instruments that not all goals need to be achieved in all places at all times (cl 69(2)(b))

c. The NEB only requires decision-makers to "seek to achieve" its goals, which is an unacceptably weak direction, especially when applied to environmental limits**.** The RMA requires decision-makers to "recognise and provide for" matters of national importance, a much stronger approach than what is proposed under the NEB. This weak "seek to achieve" wording will allow decision-makers to avoid being held accountable for breaches of environmental limits.

21. **The environmental protection goals in the NEB are dangerously silent on key issues and wording in them is highly problematic.** Because the goals guide the entire system, the absence of key issues, and poor wording significantly weakens environmental protection. The following are just some of the issues with the short list of weak and incomplete goals in the NEB:
    a. The Bills are highly geared towards protecting property rights but contain no goals that protect the rights of people to clean water, clean air and a healthy environment.
    b. There is no goal that recognises the rights of nature to existence.
    c. There is no goal regarding mitigating climate change (see point 22 of this submission)
    d. There is no goal to protect the interests of future generations and their right to inherit a thriving and live-able world.
    e. Despite the already severe and ongoing degradation of natural resources and decline of biodiversity. There is no goal to restore what has been lost and degraded already.
    f. The Bill explicitly allows for further loss of nature in the biodiversity goal which aims for "no net loss". This sets up a flawed offsetting system allowing permanent destruction in one place to be traded for hypothetical gains elsewhere.
    g. The goal of protecting human health from harm caused by the discharge of contaminants does not refer to protecting ecological health.
    h. The Bill only requires the impacts of natural hazards, which are intensifying with climate change, to be "managed." This fails to address how planning decisions themselves can intensify impacts of extreme weather through inappropriate land and water management. Poor land-use and management decisions, such as allowing damaging land uses on highly erodible slopes, can directly worsen the impact of "natural" disasters.

22. **These Bills should enable and direct decarbonisation and lower emissions land uses but they fail to even include climate change**. Under these Bills climate emissions will not be considered at all in planning and consenting decisions. These Bills should guide planning decisions toward emissions reduction, including decarbonising transport, construction and energy. They should also guide the necessary shift in rural land use away from high-emissions production like intensive dairying toward more low-emission land uses. The RMA has not sufficiently done this and these Bills were an opportunity to address this pressing gap in New Zealand's climate mitigation efforts. Every additional tonne of greenhouse gas emissions worsens the impacts already being felt - such as more intense and frequent flooding. Our planning system and environmental law will continue to lack credibility and effectiveness if they fail to address climate change - the most significant challenge our society faces.

23. **The NEB abandons the internationally accepted and best-practice[4] "avoid, remedy, mitigate" hierarchy for managing environmental harm.** This hierarchy is a core safeguard in environmental law because it ensures the most effective intervention - avoiding harm - is considered first, and this is particularly important where environmental limits are at risk of being breached or harm is irreversible. Clause 15 dismantles this safeguard in several ways:
    - **a.** It explicitly converts the hierarchy into a menu of options by stating that "the order in which an approach to managing effects appears in this section does not assign an order of importance."
    - **b.** It requires Councils only to *consider* how adverse effects are to be avoided, minimised, or remedied "where practicable" but it does not require avoidance to be prioritised. "Practicable" is undefined and open to broad interpretation, creating a real risk that avoidance will be dismissed simply because it would require a damaging proposal not to proceed.
    - **c.** The Minister via national instruments can specify "how, and in what order" adverse effects are to be managed. Regional plans are then required to comply. This fundamentally undermines the environmental limits framework. Where a limit has been breached or is at risk of being breached at a local level, avoidance is often the only effective response to ensure compliance. Yet national direction

[4] https://environment.govt.nz/acts-and-regulations/freshwater-implementation-guidance/clarification-of-the-essential-freshwater-programme-implementation-requirements/

could prevent Councils from requiring avoidance, even where it is necessary to meet a limit.

d. The Bill further weakens protection by introducing offsetting and compensation as ways to manage effects and allows them to be used first, rather than treating them as measures of last resort.

24. **This approach will allow regulators to consistently choose management approaches that will lead to greater environmental harm**, without first exhausting the option of a more effective intervention. Certain effects must be avoided - such as extinctions or irreversible ecosystem damage - they cannot be merely mitigated, offset, or compensated. Introducing offsetting and compensation as alternatives to avoiding harm reflects a mistaken assumption that environmental and health impacts can be meaningfully reduced to monetary values. While there are indeed genuine economic costs from negative environmental externalities, not all impacts can be reduced to a measured economic cost. There is no meaningful way to compensate for the loss of an ancient endemic species that has evolved over millennia like the tuatara, or for the long-term health impacts on children exposed to polluted air or contaminated drinking water. Issues with offsetting are discussed in more detail in section 9.2 of this submission.

25. **The Bill should contain a clear and explicit effects management hierarchy** that prioritises avoidance, with remedying and mitigating only where avoidance is genuinely not possible, and limit offsetting or compensation to minor, residual effects that cannot otherwise be managed. Regulators should also be directed to protect the health and wellbeing of the environment and provide for essential human needs such as access to safe drinking water before enabling the commercial use and development of natural resources.

26. **Greenpeace recommends the following changes:**

    a. Remove all clauses allowing Planning Bill goals to override NEB goals. Include a clear decision-making hierarchy in the Bills that explicitly prioritises environmental protection goals where there is conflict with economic or commercial use of natural resources**.** This hierarchy should be included in the Bill and apply across all levels of decision making from national instruments down to permits.

b. The goals of the NEB should be focussed on restoration of what has been lost and degraded and protection of what remains. They should be expanded to include goals that:
    i. Restore all aspects of the natural environment and prevent further degradation
    ii. Uphold intergenerational equity
    iii. Explicitly recognise and protect the rights of future generations to clean water and a healthy environment
    iv. Explicitly recognise the rights of nature to exist
    v. Reduce emissions and adapt to climate impacts
c. Replace the term "no net loss" biodiversity goal in the NEB with “net gain” so that the goal is to achieve net gain in indigenous biodiversity.
d. Amend the goal of protecting human health from harm caused by the discharge of contaminants so that it also protects ecological health.
e. Amend the “seek to achieve” language so that it is made clear that these goals must be achieved.
f. Remove opt-out clause 69(2)(b)
g. Delete clauses that convert the effects management hierarchy into a menu of options.

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5. Removing Wildlife protections

Summary: Greenpeace opposes the Wildlife Act override that has been inserted into NEB. It would severely reduce legal protections for endangered wildlife at a time when the vast majority are already on the brink of extinction. Greenpeace opposes this and recommends clause 128 of the NEB is removed entirely.

27. **Native wildlife in New Zealand is in crisis.** We have one of the highest extinction rates in the world [5]and presently the vast majority of native species are threatened with or at risk of extinction including:
    a. 91% of seabirds
    b. 78% of terrestrial native birds
    c. 68% of indigenous freshwater-dependent birds
    d. 76% of freshwater fish
    e. 94% of reptiles
    f. 93% or 13 out of 14 indigenous frog species,[6]

28. **Recent amendments to the Wildlife Act have already weakened wildlife protections.** Until last year, DOC could only lawfully issue permits to kill or harm protected wildlife for conservation purposes to ensure harm was rare and conservation-led. Following the Government's 2025 amendments to the Wildlife Act, DOC can now issue permits allowing the incidental killing or harm of wildlife for commercial activities. However, decision-making authority sits with DOC and some safeguards remain in s53 of the Act. Council cannot issue resource consents under the RMA to kill or harm protected wildlife**.** This creates a clear separation between development consenting and wildlife protection.

29. **The NEB proposes to override the Wildlife Act and allow Councils to authorise killing and harming protected wildlife,** and undertaking otherwise prohibited activities in wildlife sanctuaries. DOC would no longer hold any decision-making authority and Councils would not be required to consult DOC before granting permits to kill wildlife. The protective purpose of the Wildlife Act would no longer apply, instead the more permissive and competing goals of the Planning Bill and NEB would govern these decisions. The safeguards in s53 of the Wildlife Act would be bypassed. These proposals will make it easier for companies to get permits to kill and harm native wildlife.

30. **Councils do not have the specialist expertise needed to assess harm to protected wildlife.** Assessing impacts on protected species requires species-specific knowledge

[5] https://www.doc.govt.nz/nature/biodiversity/te-mana-o-te-taiao-aotearoa-new-zealand-biodiversity-strategy-2020/aotearoa-new-zealand-biodiversity-strategy

[6] Environment Aotearoa 2025.

and national conservation oversight, which sit with DOC, not Councils. Transferring wildlife permitting authority to Councils risks poorly informed decisions that could threaten the survival of species.

31. **Shifting wildlife "protection" into the more permissive, trade-off-based framework of the planning system risks irreversible biodiversity loss.** The Wildlife Act has a clear purpose: to protect wildlife, and it has constraints on giving out permits to kill or harm wildlife. It is therefore the appropriate statute for managing any activity that kills or harms protected wildlife. By contrast, the NEB and Planning Bill contain multiple competing goals. Biodiversity protection is only one objective among many and is not given statutory priority, as discussed in section 4 of this submission.

32. **Humans are not entitled to permanently and irreversibly destroy wildlife simply because one Government decided it is inconvenient to protect it.** Extinction is permanent. When a species is lost, it is gone forever. Healthy ecosystems rely on biodiversity and when species are lost, these life-supporting systems are weakened, increasing long-term risks to people, communities, and the economy. Native wildlife, including kiwi, have intrinsic value and an inherent right to exist as living, irreplaceable expressions of life on Earth, shaped by millions of years of evolution.

33. **It is also clear that New Zealanders love and cherish our native wildlife and want it to be protected.** Native birdsong marks the hour on our national radio, pictures of native species adorn our money, and tens of thousands of people volunteer their time around the country in efforts to protect Kiwi and other native wildlife. Our laws should reflect these values we hold as a nation, of care, guardianship, and responsibility to nature and they should not strip future generations from their right to inherit a world that contains the richness and diversity of life that exists today.

34. **Greenpeace strongly opposes clause 128 and recommends it be removed in its entirety.** Decision-making authority over activities that harm protected wildlife must remain with DOC and the Wildlife Act should continue to be the sole statute under which permits affecting protected wildlife are granted or denied.

6. Lack of binding and meaningful environmental limits

Summary: Greenpeace opposes the failure of the Bills to establish a credible system of both setting and defending environmental limits. Significant amendments are required so that strong science-based limits are set, clear direction is given that they must be met and adequate tools are given to regulators to meet them.

35. **There are tangible, biophysical limits to the level of degradation that land, water, air, and biodiversity can sustain.** When these real-world limits are breached, the impacts on ecosystems and human health are severe and compounding. For example, Canterbury is experiencing a freshwater crisis due to the nitrogen limit being exceeded in both surface and groundwater. This has resulted in polluted lakes and rivers and loss of aquatic life. Nitrate contamination in many people's drinking water now exceeds the current legal human health limit, which many scientists consider dangerously outdated. When an environmental limit is breached, urgent action should follow. Regulators should direct harmful activities to stop or scale back immediately to restore the system and prevent further degradation. This has not occurred in New Zealand to date, as evidenced by the above example.

36. **Although proponents of the Bills claim they set binding limits and safeguard nature and human health through this framework, the Bills do the opposite.** There are three key issues with the proposed environmental limits framework:
    a. There is no firm statutory obligation on regulators to meet limits. Section 4 of this submission elaborates on this issue.
    b. Limits will not be set by science and treated as environmental bottom lines. Instead the "limits" themselves are able to be watered down by inappropriate considerations including local economic aspirations.
    c. Regulators are not given adequate tools to defend the limits once set. Section 3 of this submission elaborates on this issue.

37. **Clause 56 of the Bill attempts to redefine the idea of an environmental limit as an ecological bottom line**. Rather than directing Councils to identify and respond to biophysical thresholds, it requires them to consider a number of unrelated and inappropriate factors, including:

a. "the needs or aspirations of communities for the economy" (cl 56b).
b. "the implications of the proposed limit for the current and future use of natural resources and the benefits associated with that use:" (cl 56 d)
c. "the efficacy and cost of available methods to manage effects:" (cl 56e)
d. how polluted or degraded the environment already is (cl 56c)

38. **The Bill proposes an incredibly broad carve-out, opening the door to widespread exemptions that would render environmental limits meaningless.** Clause 86 allows national standards to create a consenting pathway for "significant infrastructure" that breaches or is likely to breach environmental limits. The term "significant infrastructure" is not defined and is left to the Minister's discretion. It is not restricted to essential public works and could include private irrigation schemes or other projects that serve a narrow group of people and their commercial interests.

39. Greenpeace recommends:

a. Limits must be based solely on biophysical and ecological evidence therefore we recommend keeping clause 56(a) and deleting Clause 56 b-f
b. Remove the ability for Councils to weaken national limits through justification reports by deleting clause 51(4)
c. Remove the infrastructure carve-out by deleting Clause 86.

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7. Failure to uphold Te Tiriti o Waitangi

Summary: These Bills propose dismantling legal foundations that have enabled Māori participation in environmental decision-making for more than three decades. They narrow Māori participation in decision-making and will actively prevent decision makers from upholding Te Tiriti o Waitangi. This is both unjust and will likely lead to poorer environmental outcomes. We oppose this. Te Tiriti should be placed at the heart of our planning and environmental laws, in a meaningful and operative way.

40. **The Bills propose removing the operative Treaty clause in section 8 of the RMA** which requires decision makers to take into account the principles of the Treaty of Waitangi when managing natural resources. Section 8 of the RMA currently operates as a single, overarching instruction that applies across all planning and consenting decisions. While

not perfect, over time, the courts have given this provision real effect, using it to require meaningful engagement, protection of Māori interests, and lawful consideration of rangatiratanga. Crucially, the Treaty obligation in the RMA is broad and adaptable, allowing it to respond to the different local contexts spanning the country.

41. **These Bills significantly weaken the role of Te Tiriti in environmental decision-making.** Instead of this operative Treaty clause in section 8 of the RMA the bills propose a descriptive and limited Treaty clause that lists specific mechanisms through which it says Treaty responsibilities are "provided for". The proposed clause does not operate as a strong, universal instruction that Treaty principles must be applied in every decision. Instead it reframes Treaty responsibilities as procedural steps - participation in planning, identification of sites of significance, and enabling Māori land development. This reduces Treaty responsibilities to a compliance checklist, where decision-makers can technically meet procedural requirements while still producing outcomes that undermine the principles of the Treaty and Māori rights and interests.

42. **Māori interests are said to be primarily protected through the goals that are proposed in the Bills but these can be deprioritised in favour of economic or development goals**. In practice this means these goals can be essentially ignored by decision makers. As outlined in section 4 of this submission the Māori interest goal, like the environment goals in the NEB, sit alongside several other conflicting goals across both Bills. There is no statutory hierarchy to the goals and several mechanisms are provided to the Minister to decide that economic and development goals can override the Māori interest goal.

43. **The Bills threaten the protection of sites of significance to Māori and are likely to drive Councils to retreat from safeguarding them through planning.** Under the "regulatory relief" proposals, Councils are required to compensate landowners when rules are introduced to protect sites of significance to Māori where those rules have a *"significant impact*" on the reasonable use of land. As outlined in section 2 of this submission, this is unjust and will likely lead to mass regulatory retreat whereby Councils do not protect sites of significance to Māori because it is simply too expensive to do so. The injustice of this regulatory relief proposals are compounded in the context of the violent colonisation and land dispossession that has occurred in Aotearoa. Māori should never be expected to pay private landowners for the protection of sites of immense cultural importance to them.

44. **Māori participation in decision-making is significantly narrowed in the Bills.** Iwi, hāpu and whānau will have fewer opportunities than they do under the RMA to submit and challenge plans and consents in their rohe. There are several ways this occurs, including:
    a. Māori who whakapapa to an area will be excluded from submitting on consents if they do not currently live in that area, because the NEB excludes people from submitting if they live outside of the region.
    b. Māori who whakapapa to an area may be excluded from submitting on plans if they do not currently live in that area, unless they can prove, and it is agreed by the decision maker that they have an interest greater than that of the general public
    c. The NEB proposes to raise the threshold for public notification of consents from more than minor effects to significant adverse effects. If a consent is not notified then no one, including Māori, are able to submit on it or challenge it on merits.
    d. In the system national direction and ministerial control takes more precedence than under the RMA. Councils will lose flexibility on the ground to design bespoke, rohe-based arrangements that reflect tikanga, mātauranga, and local Treaty contexts.

45. **Greenpeace strongly opposes the weakening of Te Tiriti provisions, and narrowing of Māori participation in environmental decision-making.** We recommend:
    a. The Bills include clear, operative obligations on decision-makers to uphold Te Tiriti o Waitangi.
    b. The Bills ensure that Māori rights, interests, and relationships with Te Taiao are upheld and protected across the planning system.
    c. The removal of all regulatory relief provisions, including those related to sites of significance to Māori as well as the general pathway.
    d. The additional recommendations regarding removing restrictions on general public participation are outlined in section 8 of this submission.

8. Restricting Public Participation

Summary: Greenpeace opposes the restrictions on public participation and legal standing in the Bills. These restrictions are designed to make it more difficult for the public and environmental watchdogs to challenge environmentally harmful projects. We recommend removing all restrictions.

46. **Meaningful public participation in planning and consenting improves decision-making,** strengthens the social licence of companies to operate, and improves environmental outcomes. However, these Bills propose to severely curtail public participation in the planning and consenting process and restrict who can appeal consents or plans, and on what grounds. This risks poorer environmental outcomes, increased conflict and an overall undermining of the public confidence in the system.

47. **The NEB proposes to raise the threshold for public notification of consents from more than minor effects to significant adverse effects**. If a consent passes this increased threshold and is publicly notified, the NEB then proposes to exclude people from submitting if they live outside of the relevant region. The same exclusion applies to participation in plan making. Non-residents are excluded from submitting on plans and appealing them on merits in Court, unless they can show they have an interest greater than the general public. National environmental watchdogs, independent technical experts, and members of the public concerned about shared resources like rivers, lakes, and coastal waters would therefore be excluded simply because they live outside the region. This removes informed scrutiny from decision-making, and increases the risk that damaging decisions go unchallenged.

48. **Even when people pass the hurdles in place to prevent them from making a submission on a plan, the Bills severely limit what they're allowed to talk about.** The Bills propose that people can only challenge a plan if the council has departed from nationally standardised rules. If a council simply applies the standard rules, the public is effectively barred from challenging whether those rules are appropriate for their local environment. In practice, this means Councils are strongly disincentivised to make locally specific plans, even where these are necessary to appropriately manage their

locally specific soil types, geography or climate. Councils will be incentivised to roll out generic, one-size-fits-all rules across an entire region to avoid appeals, cost, and delay. New Zealand is a highly diverse country with a range of different soils, climates, and natural landscapes making this approach deeply flawed. Locally tailored rules are essential in many cases, particularly in ecologically sensitive areas such as the Mackenzie Basin and in regions vulnerable to climate-driven disasters such as Tairāwhiti.

49. Greenpeace recommends;

a. Removing all geographic restrictions on public participation in the planning and consenting system so that any member of the public can submit on publicly notified consents and plans
b. Lower the threshold for public notification in the NEB back to the RMA level of more than minor impacts.
c. Remove the proposal that the public can only submit on and challenge plans where the council has departed from nationally standardised rules.

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9. Other Matters

9.1 Fishing controls

50. Prior to its amendment last year, through the RMA communities had been addressing the environmental effects of fishing on the marine environment through regional coastal regulations. This included the protections around the Motiti Islands and in Northland. The current Government amended the RMA to restrict the ability of communities to secure future protections for their local marine environment. The NEB carries over these restrictions (cl 113) in a way that aims to limit the opportunity of communities to protect nature from the environmental impacts of fishing. Under the NEB, Regional Councils will only be able to adopt prohibitions on fishing if they initiate the proposal themselves. This is particularly problematic that proposals for marine protection cannot be made by submitters because in the Motiti and Northland examples, proposals were driven by communities who had identified a need and sought protection for nature through the regional plan process

51. We recommend clause 113 is deleted.

9.2 Use of Offsetting

52. **The NEB has a strong emphasis on offsetting which evidence suggests will lead to greater environmental harm.** The NEB has a goal of "no net loss" of biodiversity which implies offsetting will be used. Additionally, the effects management hierarchy is no longer a hierarchy but is converted into a menu of options, which include offsetting and compensation. Greenpeace opposes this emphasis on offsetting for the following reasons.
    a. **Uniqueness:** Different areas of the natural environment have their own unique natural history. Genetic diversity is often very localised and species are not substitutable. People have their own relationships with biodiversity and locations which make substitution inappropriate. This makes it difficult to ensure like-for-like when considering offsets.
    b. **Accounting versus the real world:** Offsetting tends to involve the protection of one location in return for a loss of protection in another location. This results in an accounting transfer that may appear to be a net conservation benefit from the perspective of assets on the books, but in the real world where you had two natural areas, you now have one.
    c. **Challenges with measurement:** Biodiversity is complex and expensive to measure. Just measuring the carbon in forests is costly, which has led to the development of look-up tables that establish low cost approximations instead of measurement. Measuring the biodiversity of a location is much more complex, requiring expertise across the suite of biodiversity (birds, invertebrates, reptiles, plants, as well as the interrelationships between them). Determining "like for like" is objectively difficult. The experience of establishing nature markets in Australia (referred to below) shows that demonstrating no net loss, monitoring actual loss and measuring benefits has been difficult or impossible.
    d. **Incentive to cheat nature:** Offsetting creates a built-in incentive to short-change nature. Because nature is not a party to the transaction, neither side is directly accountable for whether real environmental gains actually occur. The seller benefits by spending as little as possible on restoration, while the buyer benefits by paying as little as possible for the offset. This encourages inflated claims,

weak monitoring, and paper gains that do not match real losses - much like the "hot air" carbon credits that undermined early international carbon markets.

53. **The Australian experience with nature markets, offsetting and "no net loss" has shown that they do not work.** The lesson from Australia is that poorly designed offsetting has failed nature. The Victorian Auditor General reviewed Victoria's policy of no net loss in 2022[7] and found that it was not achieved. The reasons for this included
    a. Difficulties in accurately measuring losses
    b. Regulators being unable to determine the required offsets and unable to monitor and enforce the rules
    c. Inconsistent monitoring of third party offsets and illegal vegetation clearings
    d. Emphasis on easier to measure outputs and processes over harder to measure outcomes

54. Given New Zealand biodiversity is in crisis and much has been lost already, avoiding impacts should be the main priority of the legislation. Goals should be much more ambitious than stopping further net loss, there must instead be a strong emphasis on restoration.

Conclusion

These bills are set to replace our nation's primary environmental law - the RMA. In a country already facing polluted drinking water, collapsing biodiversity, and escalating climate-driven disasters, these bills take us firmly in the wrong direction.

Greenpeace urges the Select Committee to reject these Bills. We wish to be heard in support of our submission

[7] https://www.audit.vic.gov.au/sites/default/files/2022-05/20220511-Offsetting-Native-Vegetation-Loss-on-Private-Land.pdf

Annex 1 – About Greenpeace Aotearoa

Greenpeace is a global, independent campaigning organisation that acts to protect and conserve the environment and to promote peace. Greenpeace is one of the world's largest and oldest environmental organisations, operating for half a century, since 1971, and now works in more than 55 countries. The New Zealand branch of Greenpeace (Greenpeace Aotearoa) was founded in 1974 and represents many tens of thousands of supporters. Our mission is to ensure Earth's ability to nurture life in all its diversity.

Greenpeace Aotearoa recognises Te Tiriti o Waitangi signed in Te Reo Māori on 6 February 1840 as the foundation for the relationship between the Crown (and so the New Zealand Government) and the indigenous hapū of Aotearoa. Greenpeace Aotearoa recognises that Te Tiriti o Waitangi affirmed the sovereignty of the tangata whenua, which has never been relinquished despite the violent colonisation of Aotearoa.