

The Chairman of Council

9 February 2026
2pm

Supplementary Report

Pursuant to Section 46A(7) of the Local Government Official Information and Meetings Act 1987, it is recommended that the following items be dealt with under Notification of Urgent Business

⇒ **Item 1 – Submissions to the Environmental Select Committee**

The reason that this item was not included on the agenda papers is because the request for the submission was not received until after the closing date for the preparation of agenda items.

The reason that this item cannot be delayed is because the closing date for the Environmental Committee to receive submissions is 13 February 2026 and this is the only Council meeting prior to that date.

R Phillips
Chief Executive

RECOMMENDATIONS IN COUNCIL REPORTS ARE NOT TO BE CONSTRUED
AS COUNCIL POLICY UNTIL ADOPTED BY COUNCIL

Report – Submission to the Environmental Select Committee

Objective ID: [click here to enter the Objective ID. Work from Objective. No copies](#)

Report by: Marcus Roy

Approved by: Rob Phillips, Chief Executive

Purpose

To seek approval from Council to lodge the proposed submission to the environmental Select Committee.

Recommendation

It is recommended that Council resolve to:

1. receive the report
2. direct staff to draft and submit Environment Southland's submission to on the Planning Bill and the Natural Environment Bill to the Environment Committee based on the key points as outlined in this report and as discussed at the meeting.

Background

The Environmental Select Committee is currently consulting the public on changes to the Planning and Natural Environment Bills. The consultation closes on Friday 13 February 2026.

Environment Southland has been actively engaged with Te Uru Kahika, Local Government New Zealand and the wider Regional Councils to develop this draft submission. It is important that the sector is largely coordinated with their responses to these submissions.

Attached is Environment Southland draft submission

Attachments

Objective number (A1420115)

Our Reference: A1420115

13 February 2026

Environment Committee
Parliament Buildings
Wellington



Environment Southland's Submission on Natural Environment Bill and Planning Bill

Introduction

1. The Southland Regional Council, trading as Environment Southland (Environment Southland), welcomes the opportunity to participate in the consultation on these Bills.
2. As the regional authority responsible for implementing national direction under the Resource Management Act (RMA) 1991, Environment Southland has developed extensive scientific, policy, regulatory, and relationship-based expertise in managing Southland's natural resources. Council is pleased to contribute insights drawn from this experience to support the development of an effective, efficient, and enduring legislative framework.
3. In preparing this submission, Council has benefited significantly from collaboration across the regional and unitary sector through Te Uru Kahika. These discussions have informed our thinking and, in turn, our contributions to sector-wide understanding. Environment Southland strongly supports Te Uru Kahika's submission, noting any points of divergence in this document. Council has also engaged widely with regional stakeholders, including industry and conservation groups, to ensure that this submission reflects a broad base of regional knowledge.
4. In summary, the key points of this submission are as follows:
 - Long-term economic prosperity relies on protecting environmental health, especially in Southland's resource-dependent economy.
 - The Bills must be designed alongside other national reforms to avoid conflicts that increase council costs and reduce system coherence.
 - Splitting the system into two Acts risks fragmentation, so strong integrated management and aligned goals are essential.
 - Excessive centralisation removes needed regional flexibility, and past experience shows national prescriptions can be unworkable without local input.
 - The Bills weaken established Te Tiriti partnerships in Murihiku by limiting iwi participation and certainty, undermining effective environmental outcomes.
 - Spatial planning is supported but must have clear authority, aligned frameworks, defined roles, and inclusive engagement to be effective.

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- Environmental limits need flexibility and local direction, allowing councils to aim higher than national minimums and stage implementation.
 - The proposed regulatory relief regime is unworkable, inequitable, and risks undermining environmental protection and spatial planning.
 - The consenting framework needs targeted fixes to ensure fair participation, workable notification thresholds, and practical handling of limits and cumulative effects.
 - Implementing the reforms requires more realistic timeframes and clearer, consolidated definitions to ensure the system works in practice.
5. For ease of reference, Part 1 of this submission outlines the key issues and recommendations, while Part 2 provides detailed analysis in table format to assist drafting of the legislation and future national instruments. Acknowledging the pace of this reform process, Council would welcome further discussion to clarify or expand on any aspect of this submission.

Introduction to Murihiku Southland

Southland has a unique economic, social, cultural and environmental context. Some of the key characteristics have been outlined below.

Biophysical characteristics

- Southland is the southernmost region of Aotearoa New Zealand with distinctive climatic conditions and ecological patterns.
- The region spans more than 3.1 million hectares and includes 3,613 km of coastline, giving Southland one of the most extensive coastal interfaces in the country.
- Southland encompasses significant areas of conservation land, including large tracts of national park in western Southland and on Stewart Island/Rakiura. The region contains a diverse range of natural landscapes, from alpine and coastal ecosystems to wetlands, rural areas, and protected conservation estates.
- Southland has the largest area of remaining wetlands in New Zealand. However, these represent less than 10% of their original extent.

Māori Context

- Southland has deep whakapapa connections for Māori, with early settlement concentrated along the coast.
- Four rūnanga hold mana within the region as part of Ngāi Tahu. Over the past three decades, these rūnanga have developed a strong and enduring partnership with Environment Southland.

Economy and Land Use

- Southland is a major exporting region, with its economy strongly reliant on agriculture, pastoral farming, forestry, and other primary sector activities. This dependence on natural resources makes the region highly sensitive to national reforms relating to land use, emissions, and freshwater management.

Flood Protection and Infrastructure

- Southland has extensive flood protection and drainage networks. Environment Southland manages approximately 1,400 km of drainage channels, alongside floodbanks, floodgates, and pump stations. The total value of the region's flood resilience infrastructure, including pump stations, exceeds \$460 million.

Part 1: Key submission points

Importance of sustainable economic development

6. Environment Southland supports the intention of the reform to enable a thriving economy. Environment Southland as regional council has statutory responsibilities to support the wellbeing of our communities, and work with key regional partners to play an important role in building the regional economy through our environmental, planning, and regulatory work.
7. Council considers that lasting economic growth must be supported by a healthy, functioning environment and strong, well connected communities. In Southland a strong economy depends on the natural systems it draws from. If short term social and economic gains are given too much weight at the expense of environmental sustainability, the foundations of long term prosperity will be weakened. Economic systems built on declining natural resources will face higher costs, lower productivity, and reduced community wellbeing in the future.
8. As previously noted, in Southland, the regional economy relies heavily on primary industries which are directly linked to the condition of freshwater, coastal waters, soils, land, and air. If environmental health continues to decline, there is a risk of serious business disruption and a loss of confidence from both industry and investors. If any of Southland's ecosystems reach a tipping point, the consequences for our rural economy would be severe and long lasting. This would affect not only the region but also the national economy, given Southland's significant contribution to primary production in Aotearoa New Zealand.
9. For these reasons, Council requires that environmental sustainability and the wellbeing of future generations, must be placed at the centre of the reform. Protecting and restoring the environment is not an obstacle to economic development. It is an essential investment in the resilience, strength, and long-term success of both Southland's and New Zealand's economies.

Recommendation

Uphold environmental sustainability and the wellbeing of future generations as key concepts in the reformed system.

Broader National Policy Reforms

10. The Government is progressing several major national policy reforms alongside the development of a new system to replace the Resource Management Act (RMA). These reforms shape the wider policy environment in which the current bill will operate. Their influence on implementation, costs, and outcomes will be significant and must be considered as part of the bill's development and assessment.

Key national policy reforms include (but are not limited to):

- Fast Track Approvals Act 2024
- Water Services Act 2021 (including Wastewater Environmental Performance

Standards)

- Emergency Management Reform
- Rates Capping Proposal
- Local Government Reform
- Amendments to the Climate Change Response Act

11. These reforms introduce inherent complexities that will increase implementation costs for local authorities, particularly in managing resources within limits and navigating overlapping statutory requirements. Councils will bear the operational consequences when intended outcomes do not materialise. As implementers and the primary interface with communities, councils have a significant stake in ensuring the system is coherent and workable. Council believes that central government has a responsibility to ensure local government is not “set up to fail” by minimising conflicts and inconsistencies within and between legislative frameworks.

Recommendations

Impact analysis of the bill should not be undertaken in isolation. Connections and interactions with the wider reforms listed above must be explicitly assessed.

Integration across relevant statutes should be optimised to support effective environmental, social, and economic outcomes.

Different policy settings should be tested against a range of possible configurations of the broader policy landscape.

Insights from this assessment should be shared with policymakers working on related frameworks to support coherent, system-wide outcomes.

More specifically, consider amendments to the Fast Track Approvals Act 2024 and relevant water services legislation to require key decision-makers, including Ministers, to consider regional spatial plans and regulatory plans when exercising statutory duties.

Ensure that interactions between these broader reforms are explicitly examined during the current consultation.

Legislative Framework & Goals

Purpose and overarching principles

12. Environment Southland is concerned that separating resource management functions into two Acts creates significant integration challenges. Operating within two legislative frameworks increases the risk of fragmentation at both the strategic level, where national direction and regional spatial planning occur, and the operational level, where consenting, compliance, and everyday decision making take place.
13. Council acknowledges that the policy process is already well advanced, and reversing the decision to progress two separate bills may no longer be realistic. If this is the case, it becomes essential to establish clear and durable connections between the two systems. This should include embedding mechanisms, principles, and tools that align strategic instruments such as regional spatial strategies, environmental limits, and national direction. Operational tools, including activity classifications, consent pathways, monitoring, and compliance functions, must also be interoperable and mutually reinforcing.
14. To avoid continued fragmentation and prevent the development of parallel or inconsistent systems, Council recommends that integration be embedded as a primary principle across both legislative regimes. This would signal that alignment between the systems is fundamental, and it would require all decision makers to interpret and apply both Acts in a way that promotes consistency, management of cumulative effects, and shared outcomes.

Goals of the bills

15. Council supports the clear statement in clause 11(a) that use and development should occur within environmental limits. However, the identification and application of limits depend on the availability of robust data, modelling, and supporting mechanisms. Limits alone cannot provide the full level of environmental protection required. A broader goal is needed to ensure that important values are not overlooked, especially in areas where limits are not yet available or well developed.
16. Council also notes that the proposed goals are not fully aligned with the purpose of the Natural Environment Bill, which refers to the use, protection, and enhancement of the natural environment. None of the six goals in the Natural Environment Bill explicitly refer to enhancement. Instead, they focus primarily on maintaining the current state through concepts such as limits and no net loss. To give effect to the stated purpose, goals that address environmental enhancement should be added.
17. As the frameworks of the two bills are intended to operate together in the planning system, it is essential that their goals align as closely as possible to support efficient and coherent decision making. In particular, goals relating to natural values must be consistent across both Acts. As currently drafted, the goals are not sufficiently aligned. For example, clause 11(g) of the Planning Bill refers to outstanding natural features and landscapes, areas of high natural character, and historic heritage. The Natural Environment Bill does not contain a corresponding goal, creating the potential for inconsistency.

Recommendations:

Revert to a single Act if possible

If this is not possible,

- *develop a single purpose that applies to both bills*
- *Embed the principle of integrated management into the purpose of both bills and require all decision makers, including the Minister, to give effect to it*
- *Add a goal for maintaining and enhancing the quality of the natural environment to the Natural Environment Bill*
- *Better align the goals of the Natural Environment Bill and the Planning Bill, including a goal in the Natural Environment Bill that responds to clause 11(g) of the Planning Bill*

Centralisation – roles and responsibilities

18. Environment Southland understands the intent behind the proposed ‘funnel’ approach in decision making and supports national direction that establishes clear environmental bottom lines and provides consistency across the country. However, Council strongly opposes the various aspects of centralisation proposed in the Bills that do not sufficiently provide for the need for flexibility, regional discretion and community participation.
19. Council opposes the extent of centralisation of decision making reflected in the bills. The clauses relating to national instruments strongly signal that the space regional and territorial authorities occupy is going to be narrower, more prescribed and confined. Central government will predetermine most of the key policy settings through national instruments, leaving limited ability for regional councils to adapt them to local circumstances. In addition, relevant ministers have broad intervention powers. They can direct councils to prepare or amend plans within specified timeframes, resolve disputes, investigate council performance, require information, and step in to determine allocation of significant resources. It is notable that the Bills defer significant design elements such as the meaning of key goals, details of regional planning, methodologies for limit setting and resource allocation, and components of spatial planning to future national standards and regulations. One of the compounding impacts of such elements is the significant reduction of the autonomy of regional councils.
20. Environment Southland submits that such extensive centralisation is detrimental to providing for the specific needs of Southland region characterised by unique environment, economic structure, and history of successful collaborative management. National directions should not override the essential role of local expertise and local decision making.
21. As noted earlier in the submission, the region includes extensive coastline, large and diverse conservation lands, high value natural areas, and a small and dispersed population leading to a relatively low rating base. The environmental pressures Southland faces are equally unique. They include widespread wilding

pine spread, complex interactions between fisheries and aquaculture, pristine and fragile coastal ecosystems, and cumulative rural land use effects. The region's economy also relies heavily on primary industries that depend on predictable and regionally informed environmental management. This is a region where tailored, place-based solutions are truly required.

22. To address regional issues, Council has worked closely with mana whenua, farmers, catchment groups, environmental organisations, and industry representatives to develop effective and enduring place-based solutions. The Southland Economic Project (2016–2019) demonstrated the value of this collaborative approach, delivering a comprehensive, science-based assessment of Southland's economic–environmental trade-offs through partnership between councils, iwi, and regional stakeholders. Insights from such initiatives should meaningfully inform the reformed system. It is therefore deeply concerning that the proposals appear to reduce opportunities for public involvement in both system design and consent processes, which risks weakening local democracy, stifling innovation and leadership, and increasing the likelihood of policies that miss the mark due to the separation of system design from implementation.
23. Furthermore, the Bills' heavy reliance on national direction is particularly concerning given the extent to which national directions under the RMA have oscillated with the political cycle creating significant implementation uncertainty and cost for regional councils. The NPS-FM, amended seven times since its introduction in 2011, provides but one example. The current bills appear to take national prescription even further, increasing the risk of wild swings, which will erode business confidence to invest and develop.
24. It remains unclear how much scope will exist to provide Southland-specific policy and regulatory solutions, and what costs are going to be associated with developing those solutions. While there is value in national consistency, given Southland's economic and physical make-up is very different from the main urban centres, a centralised approach risks being consistently unsuitable for Southland.
25. To mitigate the risks, Council highlights the critical importance of engaging regional councils early in the development of national instruments to ensure they are fit for purpose.

Recommendations

Strengthen the role of regional councils as core implementation partners

- ***Amend the Bills (including clause 70) to require early and ongoing engagement with regional councils when developing national instruments.***
- ***Insert a statutory requirement for ministries to consult councils responsible for implementation when preparing national standards and regulations.***

Provide sufficient flexibility for regional adaptation

- ***Enable councils to use a full range of regulatory and non-regulatory methods, including locally tailored approaches suited to unique environmental conditions such as those in Southland.***

- *Amend clause 184 of the Planning Bill, clause 222 of the Natural Environment Bill, and the “must regulate and manage” requirement accordingly.*

Ensure national direction is supported by transparent information and clear reasoning

- *Require publication of evidence, advice, regional impact analysis, and clear statements of expected outcomes to support accountability and informed local implementation.*

Rebalance central and local roles to maintain effective place-based decision-making

- *Adjust centralisation settings across the Bills so national goals provide consistency while councils retain discretion to plan, regulate, and respond to local environmental issues.*
- *Establish clear, binding timeframes for developing national standards, unless alternative timing is agreed with implementing councils.*

Te Tiriti & Māori rights and interests

26. Environment Southland has significant concerns about the weakening of iwi's mana within Aotearoa New Zealand's resource management system. Our experience in working with the Runanga within Southland over the long term has shown that strong partnership with iwi is instrumental for achieving long term wellbeing of the region across all areas, but especially within the realm of environmental management.
27. Meaningful participation by iwi should be enabled and supported further. Murihiku Southland has nearly thirty years of effective council–mana whenua partnership through the Charter of Understanding and Te Rōpū Taiao. This longstanding model is central to how decisions are made across multiple shared catchments in the region, but the Bills appear to dismantle this model by removing guaranteed representation and excluding iwi from early system-design phases.
28. Council is also very concerned that treaty settlement certainty is undermined, as Murihiku councils rely daily on settlement instruments to deliver freshwater outcomes, protect cultural values, and maintain partnership. The phrase “to the greatest extent possible” weakens the legal effect of arrangements that underpin everyday environmental management.
29. Rigid plan-making timeframes hinder tikanga-based practice, because they do not allow for Murihiku's tikanga-based engagement, mātauranga Māori assessments, and iterative freshwater processes. The region's freshwater framework depends on place-based assessment and indicators of health that cannot be fitted into compressed templates.
30. Ministerial override powers undermine stable regional partnerships, even though the Murihiku Charter is designed to withstand political change. Broad intervention powers displace long-standing partnership arrangements without iwi consent, undermining trust and durable environmental outcomes.
31. Lastly, Council believes that consenting changes risk excluding iwi, as the Bills narrow effects tests and raise notification thresholds, meaning activities affecting Awarua peatlands, Waituna Lagoon, kanakana pathways and other cultural values may proceed with no iwi visibility. Under the Charter, all consents are currently referred to Te Ao Mārama Inc because many cultural values are not spatially mapped, and this workable practice is not maintained under the new framework.
32. Environment Southland recommends that mana whenua involvement in the consent process continues as per the RMA. Mana whenua involvement in consent processes is often mutually beneficial for mana whenua, council and consent applicants. We provide more details in the following to highlight such benefits, with several examples based on the experience of the council's consents section:
 - a. Mana whenua often have better or can valuably add to local knowledge than land owners or the consent authority, particularly information about important cultural or historic sites.
 - b. Early engagement between consent applicants and rūnanga generally results in stronger, and more achievable mitigation plans across the range of consent applications processes, than could be achieved without this engagement. In the Council's experience, a number of consent applicants already routinely carry out consultation with mana whenua prior to lodging an application with the council.

This process often results in written approval being obtained from mana whenua, and/or amendments to the proposed activity, including additional mitigations put forward in the application, which are generally beneficial for the environment.

- c. Consultation or engagement with mana whenua rarely prevents or impedes activities from proceeding. Where prior engagement/consultation has not been carried out by the applicant, and is required through the consent process, in most cases any delays caused (if any) are due to time and resourcing constraints, rather than mana whenua opposition, with mana whenua, consent applicants and the council general working to find a positive outcome for all parties.
- d. The suggestions of mana whenua are often useful for applicants and have improved the robustness of consent applications, which can make it easier to grant applications. Without this positive input, the pathway to granting challenging consents can be more difficult, with a higher chance of notification, and/or a decline recommendation.
- e. Based on the typically broad direction provided through objective, policies, and rules, the involvement of iwi with regard to effects on cultural and spiritual values is valuable to decision makers, who would otherwise decide matters on a solely technical basis, which may not always be appropriate for these matters.
- f. The value of Iwi Management Plans is acknowledged, with their direction often being more directive and helpful to decision making than the relevant regional plans, which can be pitched at a higher level. Conversely, where Iwi Management Plans provide higher level, the input of mana whenua can help to better focus on the key issues for an application.
- g. In the face of often high turnover in the council consent and technical roles and the loss of knowledge this brings, mana whenua can provide a longer term understanding to consent processes.
- h. Building strong relationships with mana whenua, both between the council and consent applicant/holders creates clear accountability, and reduce the likelihood of conflict or uncertainty going forward.

Recommendation:

- ***Guarantee mana whenua representation on planning committees and protect region-specific governance arrangements.***
- ***Lower notification thresholds and require cumulative cultural effects to be assessed. Ensure iwi and hapū have clear pathways to participate at consent stage.***
- ***Guarantee full legal and practical effect of Treaty settlements during transition and beyond.***
- ***Strengthen statutory recognition of Ngāi Tahu rangatiratanga and protect region-specific settlement commitments across plans and decision-making.***
- ***Enable councils and iwi authorities to jointly exercise, share, or transfer powers where mutually agreed.***
- ***Allow flexible, locally tailored governance and participation arrangements that uphold Tiriti-based partnership.***

- *Add safeguards so local partnership agreements cannot be overridden without transparent justification and meaningful engagement.*
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Spatial Planning

33. Environment Southland welcomes the proposal to use spatial planning as a tool to set a long-term strategic direction for a region's development within environmental limits, while supporting a coordinated approach to funding development and facilitating the integration of development planning with infrastructure planning.
34. A robust spatial planning regime could go a long way toward addressing the shortfalls of an effects based resource management system that is weak on leading regional development through long term strategic direction. In the management of indigenous biodiversity, the absence of an overarching understanding of the wider spatial context has often resulted in responses occurring at the individual property level, leading to fragmented and inadequate outcomes. In transport, new residential areas have been developed in an ad hoc manner without sufficient transport infrastructure to accommodate increased traffic volumes, resulting in high costs associated with retrofitting infrastructure.
35. Therefore, Council places considerable value on the role of spatial planning and is committed to actively participating to ensure this policy direction is implemented effectively. Achieving this requires that spatial plans are afforded clear and authoritative status, both legally and socially. In this regard, Council commends the Ministry for embracing measures that support this outcome, such as preventing changes to RPSs through private plan changes. At the same time, Council has identified a number of concerns that should be addressed to support effective implementation.
36. Firstly, Environment Southland submits that integration of interconnected national frameworks, including those referred to in the broader national frameworks chapter above, is essential for the successful development and implementation of regional spatial plans(RSPs). These interactions must be recognised and incorporated into the legislative framework. Without such alignment, the authority of RPSs will be undermined, and the anticipated benefits will not be realised, as land use and other activities granted under parallel frameworks can cut across agreements reached during spatial planning, necessitating reviews of RPSs and reducing public confidence.
37. Environment Southland also considers that clarity around roles and governance is essential for a successful transition to the new system. In most regions, including Southland, multiple councils collectively contribute to regional spatial outcomes. Early statutory clarity is needed to ensure effective governance arrangements, including defined responsibilities, clear expectations for joint committees, and appropriate secretariat support. We support the inclusion of unambiguous direction on the institutional roles associated with preparing RSPs, including the role of councils, iwi authorities, and the appropriate involvement of central government. Council considers that regional councils, with their longstanding expertise and networks in matters requiring a regional lens such as natural hazard management and river management, are best placed to lead and coordinate spatial planning work. At the same time, the minister appointed member of the spatial planning committee should play an advisory role only, in order to preserve the necessary level of local autonomy, particularly given that

national instruments are likely to provide detailed prescriptions for the relevant processes.

38. Environment Southland also considers that constraints mapping through environmental limit setting should inform RSPs to enhance their effectiveness and relevance to the region. This mapping should extend beyond urban areas to encompass the full regional landscape, reflecting the integrated management responsibilities of regional councils. Council supports mandating and adequately supporting the establishment of a core set of environmental limits ahead of, or in parallel with, the development of RSPs.
39. Effective spatial planning must also rest on strong public engagement. Environment Southland supports embedding early and meaningful engagement with communities, industry, infrastructure providers, and tāngata whenua from the outset. RSPs set the strategic direction that future regulatory and funding decisions must follow, so it is critical that communities can shape that direction early rather than only react at later stages. This approach builds legitimacy and reduces the likelihood of conflict and litigation later in the process.
40. We also consider that the scope of RSPs must extend beyond urban form and infrastructure to encompass the broader environmental resource management responsibilities that sit at the core of regional council functions. Given the central role RSPs would play in the reformed system, integrated management of land, water, the coastal environment, and natural hazards cannot be achieved if the RSP is limited in scope. Environment Southland sees significant value in ensuring that RSPs provide strategic direction for the use, development, and protection of natural resources across all environments, including coastal and rural areas, in alignment with our statutory mandate and community expectations.
41. Finally, Environment Southland requests clarification of the dispute resolution mechanisms. As drafted, the bill lacks sufficient essential detail on the process, including key participants, timeframes, and procedural steps, all of which must be clearly specified to ensure that dispute resolution can be undertaken effectively without necessitating premature intervention by the Minister, who is proposed to be the final decision maker. In fact, the transparency and legitimacy of the dispute resolution process would be enhanced if the final decision making authority were assigned to an independent third party outside the political arena.

Recommendations(refer to Part 2 for more details and additional technical recommendations):

- ***Spatial planning should be given clear legal and social authority to guide long term regional development within environmental limits.***
- ***National frameworks related to land use, infrastructure, and environmental management must be aligned to avoid conflicts that undermine RSPs.***
- ***Statutory clarity is needed on roles and governance so regional councils, iwi authorities, and central government can participate effectively and avoid delays.***
 - o ***Regional councils could lead RSP development due to their expertise in natural hazards, river management, and other region-wide functions.***
 - o ***Ministerial appointee of the Spatial Planning Committee should play an advisory role only***
- ***Councils should be supported to undertake identification of a core set of environment limits as a priority matter to inform RPSs***

- *Spatial planning must include early and meaningful engagement with communities, industry, infrastructure providers, and tāngata whenua.*
- *The scope of RSPs should extend beyond urban areas to include land, water, coastal environments, natural hazards, and rural landscapes.*
- *Details of dispute resolution mechanisms should be spelled out in the Bill*
- *An independent body should be assigned the final decision making authority in dispute resolution.*

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Environmental Limits

42. Environment Southland strongly supports the effective use of environmental limits within the reformed resource management system. Getting the environmental limits framework right is critical, as it is a key mechanism for balancing the pro-growth and development orientation of the proposed system. If developed and implemented effectively, robust environmental limits that reflect the aspirations of local communities and respond to the specific needs of place could provide a strong foundation for sustaining New Zealand's economic growth while ensuring that our invaluable ecosystems remain healthy and resilient.
43. As proposed, the Natural Environment Bill leaves many crucial details, including methodologies for limit setting and the identification of management units and attributes, to future national direction. Council regrets that this lack of visibility prevents us from providing fulsome feedback. Given that these national directions will likely play a significant role in setting the context and prescribing central aspects of the new system, it is important that their development is given sufficient time to establish and refine essential details. Extension of timeframe should be considered if the proposed timeframe for implementation proves insufficient. Council also considers it important that the Ministry strengthens its engagement with regional councils as implementation partners to ensure that the development of these critical components is informed by local knowledge and the diverse expertise of regional council staff.
44. In terms of system design, Council believes that adopting an outcomes focused system could significantly improve the prospects of achieving positive results while providing the necessary flexibility to support an efficient process.
45. Council broadly supports the proposal to use environmental limits to protect human health and natural ecosystems. However, Council does not support assigning responsibility for setting human health limits solely to central government. Council considers that both types of limits, those for human health and for natural ecosystems, should be informed by meaningful community input to ensure they reflect local aspirations and priorities.
46. Council agrees that regional councils are best placed to develop and implement environmental limits that effectively address local issues, reflect the unique social, economic, and cultural makeup of the region, and draw on long-standing relationships with tangata whenua, stakeholders, and communities. Environment Southland is the only local entity operating with a region-wide lens, leading multiple regional initiatives supported by robust science, monitoring data, and insights, as well as proactive efforts to bring key partners together.
47. While national consistency and standardisation is welcomed where appropriate, this Council shares the concern expressed through many other submitters that extensive prescription in national direction can prevent councils from effectively meeting the needs of the region and its communities. Communities should be able to strive to achieve improved environmental outcomes, going beyond the minimum viable product outlined by the central government. flexibility in the limit setting system for local adaption is crucial. The clauses as proposed could allow national standards prohibiting councils from setting higher goals without going through the added burden of

producing a justification report at the cost of rate payers. In a financially constrained environment, this could discourage communities from aspiring to enhance the natural environment moving away from the status quo, disempowering local voices, weakening local innovation and leadership.

48. This will be especially unfortunate for Southland where extensive efforts to identify and strengthen communities voices in freshwater management have been yielding tangible results. Extensive engagement with communities was carried out to inform the current Southland Water and Land Plan, which is considered to be a forward-looking regional framework that effectively addresses key environmental issues despite some drawbacks. Furthermore, a substantial amount of investment was made by this Council since then in partnership with mana whenua to build up the community's voices to inform policy development. For example, Southland Values and Objective project was undertaken by Environment Southland and Te Ao Marama Inc, the environmental arm of Ngai Tahu ki Murihiku, over two years from 2019. Through this project, Southlanders values and aspirations for freshwater and estuaries which coalesced over twenty years of planning history were confirmed and developed into draft objectives.¹ In addition, Regional Forum was established as a group of community representatives advising this Council on how to achieve the communities' aspirations for freshwater. Their reports are serving as a key guideline for improving Southland's water and land for generations to come.² Such community resources should not be overlooked in setting future directions for Southland.
49. Furthermore, Council highlights that all the resources invested into developing a robust, scientific conceptual understanding of our natural systems should be used to provide the crucial context for applying limit setting methodologies and tools. A good example of this is understanding time lags in groundwater systems and the delayed impacts of contamination when setting time-bound target states. It is imperative that the relevant Ministry and the regional councils are directed to use the full range of tools and 'best available information' when developing the various aspects of the limit setting system. Many studies have been undertaken of specific natural systems in Southland. They must inform the design of the methodologies. Examples include studies of the Oreti, Aparima, Waiau and Mataura Rivers, Hydrodynamic models of Waituna Lagoon, groundwater models of Edendale Aquifer and mid-Mataura Rivers. Waituna Lagoon, in particular, is nationally characterised as its own system type due to its uniqueness in New Zealand. National standardisation will need to account for this unique characteristic.
50. Environment Southland is also concerned that the bills, as proposed, are overly restrictive and may not allow councils to use the full range of tools available to achieve desirable outcomes. The nature and purpose of national instruments outlined in the national instruments section, along with the clauses in the environmental limits section, indicate that regional councils could be limited to operating within a narrowly defined regulatory space, venturing into non regulatory methods only where explicitly permitted. Council considers that such an approach could increase costs and time requirements, reduce the likelihood of successful outcomes by limiting available options, and discourage early engagement with key partners. Furthermore, it could necessitate the use of more stringent limits than might otherwise be required. Regional councils should be able to use both regulatory and non regulatory methods in all cases

¹ <https://waterandland.es.govt.nz/>

² <https://waterandland.es.govt.nz/regional-forum>

to including when a limit has not been breached yet. Council also notes that the bill appears to envisage one cap for each environmental limit; however, the methods available to achieve limits are interconnected, and what is most efficient for one limit may not be the most efficient for others that are closely related.

51. Council diverges from the regional sector's in that it opposes the staged approach in setting limits. It is crucial for the design to enable integrated, catchment-wide management of the natural environment, consistent with the principle of ki uta ki tai which forms the backbone of environmental management approach in southland. Flexibility in implementation, such as focusing on over allocated catchments first, could be aid regional councils in developing action plans for places with greatest pressures.
52. Regarding the use of market-based resource allocation to give effect to environmental limits, Council notes that equity concerns must be carefully addressed, given the potential for poorly designed methods to advantage entities or individuals with greater resources over less affluent participants, regardless of the relative merits of their applications. Moreover, market based resource allocation systems should be designed to allow more flexible transfer of permits/authorisations in catchments which are not overallocated to enable transfer to highest-value use, creating economic levers to facilitate the development of infrastructure and catchment-scale mitigations to increase the amount, reliability and assimilative capacity of a resource available for economic use. Efficiency of water use and discharges should also be taken into account³.

Key Environment Southland Recommendations (refer to Part 2 for more details)

Council supports all recommendations from TUK offered in relation to Environmental limits. In addition,

- **The implementation timeframe should be extended if the proposed timing proves insufficient.**
- **The Ministry should strengthen engagement with regional councils in designing the environmental limits system to ensure national direction is informed by local knowledge and expertise. Council recommends the adoption of an outcomes focused system to guide the limit setting process.**
- **Enabled councils to set more ambitious environmental targets without unnecessary procedural barriers such as justification reports.**
 - o **Remove 54(3)(b) referring to national standards specifying 'the minimum acceptable level' to ensure that local communities will be prevented from pursue improved environmental conditions through adopting limits more stringent than national directions.**
- **Flexibility for regional discretion in designing the system should be provided for as much as possible.**
 - o **Amend clause 58(1) by replacing the phrase 'national standards must' to 'national standards may' to address the conflict between that clause and clause 51(2)(b).**
- **Regional investment in community engagement and partnership processes and in science and catchment-scale initiatives should be valued and incorporated into national direction.**

³ The Land and Water Forum Reports

- ***Councils must be able to use the full range of regulatory and non regulatory tools to implement environmental limits effectively.***
 - o ***Amend clause 60(2) to clarify that the toolbox of methods for managing natural resource is not limited to a cap and an action plan.***
 - o ***Amend clause 60(3) to remove the requirement for regional councils to use a cap on resource as the first preference, including when a limit has not been breached yet.***
- ***Require and support a comprehensive approach to limit setting so that integrated management of environment will be enabled.***
- ***Market based allocation methods must include safeguards to ensure equity issues are well managed and should include how to facilitate the development of catchment scale mitigations and infrastructure, and incorporate efficiency criteria.***

Private property rights and regulatory relief

53. Environment Southland acknowledges the frustrations many users experience under the RMA and welcome the predicted reduction in consent numbers⁴. We note that the Bills carry over a number of sensible principles from the RMA and associated caselaw. These include the management of externalities (or effects) and excluding effects experienced by the resource user in consent considerations. However, the elevation of private property rights as the 'guiding principle'⁵ of resource management, the over-narrowing of applicable effects, and regulatory relief risks undermining the natural environment, cultural considerations and community wellbeing for the pecuniary benefit of individuals.
54. Environment Southland is particularly concerned about the regulatory relief proposals. It seems to lack a robust conceptual basis. Implicit in these provisions is an important philosophical question about whether such an approach has a place within the New Zealand legislative system. Particularly in relation to considerations of equity and natural justice, this proposal represents a marked departure from the status quo, with the potential to set a new standard across the statute book. Indeed, regulatory takings are arguably only one side of the ledger. An argument could also be made for 'environmental takings' to be imposed on those generating externalities, particularly those of the cumulative variety. We consider that the issue of 'takings' warrants explicit, specific consideration outside the broader resource management reform process and should be removed from the Bills for consideration at a later date.
55. Furthermore, the design appears to be flawed in terms of maintaining a good balance of roles and responsibilities. The proposal requires local authorities to compensate landowners when planning controls to protect biodiversity or landscapes significantly impact reasonable use. This creates a double standard: national direction may impose identical constraints, yet the Crown carries no equivalent obligation to provide relief, leaving local government, and by extension ratepayers, solely responsible for costs despite having far less fiscal capacity. This is inequitable, unsustainable, and inconsistent with principles of good regulatory design.

⁴ From RMLA briefing on the Planning Act – 11 Dec 2025.

⁵ CAB-25-MIN-0080.01 (the March Cabinet Minute) authorised drafting of replacement legislation for the RMA and provided drafting direction to officials.

56. Workability of the regulatory relief proposals is also deeply problematic. Environment Southland sees some merit in mechanisms to reward landowners for environmental enhancement that benefits the greater public. However, the idea of councils being required to make ratepayer-funded payments to landowners so that councils can meet their statutory mandates through regulation is bizarre. Layered on top of the rate target model proposals, which will constrain council revenue, the regulatory relief proposals appear to set councils up to fail. The only realistic way a regulatory relief system could be implemented would be to specifically provide for it as an additional rates take explicitly in the rates target model. Instead, consider a mechanism that rewards positive environmental action, such as wetland enhancement.
57. It should also be noted that the proposals also undermine the credibility and effectiveness of the spatial planning system. Spatial plans are intended to provide clear long-term direction, yet their implementation depends on councils being able to translate spatial plan outcomes into statutory controls. If imposing those controls carries substantial financial risk, councils may be deterred from giving full effect to spatial plans. This erodes the authority of spatial planning, increases uncertainty, and ultimately compromises the intended outcomes of the new resource management framework.
58. Environment Southland also opposes sites of significance to Māori being part of the regulatory relief scheme. Our concern is that this creates a 'balancing' exercise between the protection of these sites and the potential cost of regulatory relief to ratepayers. Legislative design which creates this inherent trade-off is inconsistent with the Crown's obligations under te tiriti and devalues the real benefit the Southland community derives from the holistic and long term views of Te Rūnaka o Ngāi Tahu ki Murihiku in resource management.
59. The uncertainty inherent in the rates relief proposal has drawn criticism from a broad church, which increases litigation potential and risks unduly discouraging councils from regulating. Environment Southland is particularly concerned by the backward looking regulatory takings provisions, which could result in a significant financial cost to councils to maintain the status quo of environmental regulation. If the regulatory relief proposals endure, they should only be applied to material changes to existing regulation, and the extent of their applicability more clearly constrained.

Recommendations:

Remove the regulatory relief provisions from the Bills and reconsider them separately, with a principled, system-wide discussion of "takings".

Consider reconceptualising regulatory relief as a mechanism that rewards positive environmental action, such as wetland enhancement.

If the regulatory relief proposals are retained:

- ***Add 'regulatory relief liability' as an additional rates take explicitly in the rates target model being prepared by DIA***
- ***Remove sites of significance to Māori from the scope of regulatory relief***
- ***Explicitly exempt flood protection, including soft infrastructure such as wetlands from the regulatory relief regime as drafted***

- ***Ensure the scheme does not undermine spatial planning by creating financial barriers to implementing spatial plan directives***
- ***Address inequities in responsibility, including removing the current double standard between Crown direction and local authority liability***
- ***Avoid backward-looking liability for existing environmental protections***

DRAFT

Consenting

60. Environment Southland is broadly supportive of the consenting regime proposed in the Natural and Built Environment Bill (NEB) and the Planning Bill (PB). The intent to simplify activity statuses, provide proportionate processing timeframes, and ensure activities do not lead to breaches of environmental limits is welcomed. However, several aspects of the proposed consenting framework create significant practical challenges, legal uncertainty, and risks to natural justice. These relate in particular to the consent duration extensions during the transition period, the design and enforceability of procedural principles, the assessment and notification framework, the consideration of cumulative and less-than-minor effects, the approach to environmental limits, and new restrictions on consent conditions. Environment Southland therefore seeks targeted amendments to ensure the new system is workable, fair, and effective for councils, mana whenua, applicants, and communities.
61. Drawing on our organisation's expertise, we have provided a detailed analysis and set of recommendations in this section. A summary of these recommendations is compiled in the table in Part 2 for your reference.

Transition: Scope of extension and its impact

62. The NEB and PB propose further extensions to consent durations during the transition from the RMA, in addition to the extensions currently being implemented. Environment Southland is concerned that only water permits are capped at 35 years, with no justification given for treating other consents differently.
63. Managing the existing duration extensions already places a significant administrative burden on councils, including approximately 500 consents in Southland alone. Additional broad-based extensions are expected to suppress renewal activity in the short term, followed by a surge of concurrent expiries after transition, creating a concentrated workload for consenting staff, consultants, and technical experts. This will affect processing times, staff retention, and certainty for consent holders.
64. To ensure fairness and prevent a future peak in workload, Environment Southland recommends that all transition-period extensions be limited to a maximum duration of 35 years.

Clarity and consistency: Procedural principles and terminology

65. The procedural principles in the NEB reflect good practice, but if they are enforceable against consent authorities they may invite legal challenge and additional cost. They are inherently subjective and qualified by "where practicable," which may reduce certainty for both applicants and councils. These principles should be retained as guidance only and not be enforceable obligations.
66. The distinction between "permits" (NEB) and "consents" (PB) creates confusion, particularly given the existing use of "permitted activities." Additionally, several different terms are used for local government roles. Environment Southland recommends using "resource consents" consistently across both bills.
67. This difference also runs into references in the PB and NEB, which variously reference territorial authorities, regional authorities, consent authorities and permit authorities. This is likely to result in uncertainty for prospective resource users around which

authority is relevant. Environment Southland submits that all of these terms should be captured under a single definition of local authority, which could also be flexible enough to cover any future changes as part of the local government reform.

Environment Southland notes that historic heritage is described in the PB goals, but not in the NEB. Environment Southland submits that the protection of historic heritage is equally important for natural resource activities, in particular many historic sites are located in or around the beds of waterbodies, or that may be affected by land disturbance activities.

Simplification

68. **Activity status categories** – The simplified activity status framework in the NEB is supported, including the removal of controlled and non-complying statuses.
69. **Permitted activity classification** – Environment Southland has several concerns with the proposed permitted activity framework.
- i. Cl 32(a) of the NEB and cl 31(a) of the PB include different tests for determining when permitted activities should be used. Environment Southland submits that they should be consistent. In addition, Environment Southland considers that the requirement for being able to ‘manage’ adverse effects sets a relatively low bar, given there are many activities whose adverse effects could be managed, but that may warrant a consent process. Environment Southland seeks that the term ‘managed’ be defined, or clarified via additional guidance.
 - j. Environment Southland considers that the specification of managing the effects on the natural environment means permitted activity conditions can’t be imposed that would manage effects on people, such as setbacks for discharges to boundaries, roads and dwellings, or requirements to not cause flooding or land instability on another property. Environment Southland submits that these are valuable parts of a permitted activity framework, and should be enabled to continue. The absence of such conditions could result in permitted activities causing significant adverse effects on people and communities, or alternatively such activities instead requiring consent rather than being able to be carried out as a permitted activity.
 - k. Environment Southland also submits that both cl 32(a)(i)(A) and (b) should apply to permitted activities, rather than the current ‘or’, as some activities may be acceptable but not well understood.
 - l. Environment Southland is uncertain about the requirement to provide sufficient allocation for the anticipated cumulative effects of permitted activities. Without the environmental limits framework being established, it is unclear how this would be implemented, or whether reference to the relevant environmental limits could be included as permitted activity conditions. Many councils have limited and incomplete information on currently permitted activities, so it may be difficult to estimate how many permitted activities are likely to occur, and their cumulative impact on environmental limits. Environment Southland submits that cl 32(a)(ii) should have more directive wording in relation to environmental limits,

or alternatively ensure that the NEB provides for permitted activities conditions to include reference to environmental limits.

70. **Permitted activity registration** – Environment Southland questions the value of requiring the registration of permitted activities in accordance with cl 39 of the NEB, and the administrative burden this will create for both the council and resource users.

- a. Environment Southland acknowledges that it is useful to know the location and extent of some permitted activities, but that this requirement is better to be specified in a regional plan, and activities where registration is or is not required justified through evaluation and/or justification reports. Environment Southland submits that the requirement for permitted activities to be registered be at the discretion of the consent authority (specified in the natural environment plan), and specified through national direction for particular activities. Environment Southland considers that the registration requirements for permitted activities, including the preparation of certificates, and accept or reject process by councils effectively results in a pseudo certificate of compliance or controlled activity type process. Environment Southland questions whether this is consistent with the procedural principles to act in a cost-efficient and enabling manner, noting that the registration process is likely to add cost and complexity to the permitted activity process for both resource users and councils. There is also no clarity in cl 39 of the NEB around what constitutes a qualified person.
- b. If the registration requirements are to be retained, Environment Southland recommends that the terminology between clauses 39 and 202 be consistent (territorial authority or relevant permit authority), as described more generally elsewhere in this submission. In addition, Environment Southland submits that consideration be given to the nature of the registration process, and whether a simpler provision of information approach, as is required under Regulations 62-68 of the National Environmental Standards for Freshwater.

71. **Changes in conditions** – Environment Southland submits that to align with cl 33 of the NEB, changes of conditions should be treated as restricted discretionary under cl 185(3)(a), rather than discretionary, as this would better support the limitation of the assessment of these applications to the effects of the change and how the assessment is carried out in practice.

72. **Affected applications** – While Environment Southland appreciates the intent behind dealing with affected applications the same under cl 212 of the NEB, it is uncertain how this would be managed in practice, noting that it may be impractical to process a large number of applications at the same time.

73. **Proportionality** – The requirement in Section 2(5)(1) of the NEB for applications to be proportionate to the scale and significance is generally supported. However, Environment Southland submits that the council and consent applicant understanding of this may differ, and some additional certainty around this matter would be useful.

Commented [DK1]: This doesn't feel like a very helpful submission point, but just raising the risk of objections, when this already occurs at s88 stage with more certain requirements.

Timeframes

74. **Timeframes / working days** – Under cl 130(5) of the NEB and cl 109(5) of the PB, an application is deemed to be ‘lodged’ on the date that it is received by the local authority. Under the provisions, the timeframes for processing the application begin on the date that the application is lodged (cl 138 NEB). Under the RMA, the date of lodgement is day ‘zero’ and the processing timeframes commence the next day. Given the administration involved in receiving, uploading, and assigning an application, Environment Southland considers that the processing timeframe should commence from the day after the application is lodged. Environment Southland also notes that some clauses in the bills refer to ‘days’ instead of ‘working days’, and considers that the use of these terms should be reviewed to ensure that it is intentional.
75. **Replacement applications** – Environment Southland notes the removal of the 3 and 6 month timeframes for continuance rights for replacement applications. While no significant concerns are raised, it is noted that this change may impact consent holders with expiring consents, particularly as it removes the RMA buffer for applications that are lodged close to the continuation timeframe, but are returned as incomplete.
76. **Non-notified applications** – Environment Southland acknowledges the changes in processing timeframes set out in cl 138 of the NEB and cl 117 of the PB, and supports the 45 working day timeframe for non-notified applications. The longer timeframe under the NEB and PB may reduce the use of timeframe extensions as used under the RMA, such that processing days overall may be similar, or lesser than under the current system.
77. **Targeted and publicly notified applications** – Based on the changes to the notification tests, and the limits around who can be involved in the notification process, Environment Southland questions whether the difference in timeframes for targeted and publicly notified permit applications is warranted, or whether they should be aligned. In current practice, limited notified applications often have a similar level of complexity, and receive a similar number of submissions to publicly notified applications, such that the time taken to issue a decision is likely to be similar.
78. **Minor corrections** – Environment Southland supports the ability to make minor corrections to resource consents (NEB cl 192), but requests that the 20 working day timeframe is removed, with an equivalent change made to the Planning Bill. In practice, many councils, including Environment Southland, make minor corrections outside the 20 day timeframe, through the use of s37 timeframe extensions. The nature of these corrections is that they are minor, and typically administrative processes, that do not warrant a formal consenting process and there is no benefit to including a timeframe for such corrections to be made. This would make the process to make minor corrections on consents more efficient and effective.
79. **Consent reviews** – Environment Southland queries the application of cl 42(3)(b), and whether timeframes for reviews would be mandated by the national rules. If not, it is unclear how this clause would apply.

Notification and submissions

80. **Notification thresholds** – Environment Southland questions whether the changes in thresholds under the NEB for both targeted (from minor to more than minor) and public (from minor to significant) are appropriate, noting the uncertainty associated with ‘significant adverse effects’, as this term has not been defined in the bills, and is not generally used in the current framework. The thresholds under the RMA are relatively well understood, and it is unclear why the operative thresholds are not deemed fit for purpose under the NEB, despite being carried over into the PB. This difference in the effects threshold between the two bills also adds additional complications and inconsistencies when consent is required for an activity under both the NB and PB. In addition, while the benefits of front-loading consultation through the ‘funnel’ approach to plan making are acknowledged, the changes to the notification tests under the NEB could result in the exclusion of parties, notably iwi, and particularly for activities that were not foreseen at the planning stage.

- a. Environment Southland opposes the use of a ‘significant’ threshold for public notification in cl 148 and 148 of the NEB, and instead seeks that a ‘more than minor’ threshold is used instead, in line with the provisions in cl 125 of the PB.
- b. In addition, Environment Southland opposes the use of a “more than minor” threshold for determining affected parties for the purposes of targeted notification, and considers that a “minor” threshold is more appropriate (cl 146 and 149 of the NEB).
- c. Under the RMA framework, Environment Southland is not aware of special circumstances being commonly used as justification for publicly or limited notifying consent applications. However:

- Should the threshold for public notification of applications be reduced to circumstances where there are “more than minor” effects, the deletion of public notification in special circumstances is supported by Environment Southland. However, if the test for determining public notification remains at “significant” effects, then Environment Southland requests that the special circumstances test should be reintroduced, to provide a pathway for public notification where it is justified by an unusual or exceptional application.

Should the threshold for determining affected parties for targeted/limited applications be reduced to circumstances where there are minor effects, the deletion of notification in special circumstances is supported by Environment Southland. However, if the test for determining affected parties for targeted notification remains at “more than minor” effects, then Environment Southland submits that the special circumstances test should be reintroduced, to provide a pathway for target notification to particular parties where it is justified by an unusual or exceptional application.

81. **Standing of submitters** – Coupled with the changes to the notification thresholds, Environment Southland does not support the limiting submissions for publicly notified applications to qualifying residents and affected persons identified under cl 149 of the

NEB. The existing tools under the RMA for the management of submissions are sufficient to provide for and manage submissions. The specific concerns include:

- a. The administrative burden placed on the Council to verify whether submissions are from qualifying residents. The qualifying resident approach is similar to the framework set out under the Town and Country Planning Act, which caused a number of administrative issues for Councils, including in relation to absentee owners, trusts, corporations and societies. Consequently, this test was not carried over into the RMA.
- b. The potential for people or organisations to circumvent the restrictions. It is anticipated that people or organisations located outside of the region could use a resident of the relevant region to act as a proxy and submit on behalf of non-qualifying residents.
- c. The positive impact that submissions from what would be non-qualifying residents currently have on publicly notified consent processes. In the experience of Environment Southland, such submissions can provide valuable inputs to the hearing process, particularly where they are from nationally based organisations or interest groups that hold different knowledge to local residents. In many other cases, submissions from outside the region may be proforma with submitters that do not wish to be heard such that they have a limited impact on the hearing process (noting that current practice is to look at the matters raised in the submission, rather than focus or put weight on the total number of submissions), or can be struck out under s41D of the RMA if they are frivolous or vexatious.
- d. The effects of activities for notified applications typically extend beyond the land parcel on which the activity will occur. For activities occurring close to regional boundaries, residents of the region where the activity will be able to occur will be able to submit, while those in the neighbouring region where the effects will also be experienced will not be able to submit.
- e. If the definition of **qualifying resident** is intended to be maintained, clause (d) in the NEB definition should be updated to refer to having an office or operating in the region rather than district as currently referenced.

82. **Striking out submissions** – Coupled with the changes to the standing of submitters, Environment Southland does not support the changes to the ability to strike out submissions (PB Cl 133), and recommends retaining the current wording in s41D of the RMA. The PB, and NEB by reference, seek to significantly curtail the consent authority's ability to strike out submissions, limited only to where the submission or part thereof discloses no reasonable or relevant case in relation to the application. As described in relation to standing, s41D of the RMA provides wide ranging powers to strike out submissions. While these are perhaps not as widely enforced as they could be, more consistent use of the s41D powers would reduce the perceived issues that the limits on standing appear to be trying to resolve, with fewer issues or unanticipated consequences.

83. **Direct referral to the Environment Court** – Under the NEB, the ability for the Environment Court to consider direct referrals and nationally significant proposals will be removed from the system. Environment Southland does not support this. While the use of the direct referral track may be partially addressed by the Fast-Track Approvals process, Environment Southland considers that the use of the direct referral process should still be available for those larger or more complex applications that do not meet the tests to be considered under the Fast-Track process. The direct referral process streamlines decision-making for large scale and/or complex applications that are otherwise likely to end up in the Environment Court on appeal following the council hearing and decision. The direct referral process can save time and costs for both applicants and submitters. Environment Southland seeks the continued use of direct referral to the Environment Court as an option with the RMA equivalent provisions (i.e., being at the applicant's request and council's discretion).
84. **Transferring powers between councils** – Under the proposed new system, there will still likely be situations where consents will be required from more than one local authority (i.e., either from both the relevant district and regional council, or from two local authorities where an activity spans across a district or regional boundary, which is the case for a number of farming activities). Environment Southland seeks easier processes for transferring powers between councils for the purpose of processing consent applications, and to allow for existing transfer agreements to carry over under the new legislation. This will help enable more streamlined consent processing in these situations.

Hearings

85. **External decision making** – The mandate in cl 136 of the PB and cl 153 of the NEB for notified consent decisions to be made by external commissioners is not supported by Environment Southland. Under the current system, a number of notified applications are able to be decided without a hearing (on the papers), in a similar way that commonly occurs for non-notified applications. Where hearings are required, it is not uncommon for elected members to sit on the decision panel alongside independent commissioners, with elected members in this position required to hold a Making Good Decisions certification. Environment Southland would prefer to retain the ability to decide applications on the papers internally, and retain the ability to have elected members sit on hearing panels, noting that the former often comes with faster timeframes and lower costs than external decision makers. Environment Southland considers that the decision making requirements under cl 136 of the PB are likely to increase the cost of decision making and reduce flexibility for both the council and applicants.
86. **Hearings for notified consents** – Under cl 135 of the PB and cl 153 of the NEB, hearings for notified applications are not the default position. Environment Southland acknowledges the time and costs involved in hearings but also notes that they are relatively infrequent, compared to the number of non-notified decisions and notified decisions that are resolved prior to a hearing (via further consultation or mediation etc). Environment Southland has concerns about the decision on whether to hold a hearing primarily being at the request of submitters, and the alternative pathway likely being subject to challenge regardless of the decision. For the latter, submitters may challenge

a decision not to go to hearing as not being effective, while applicants may challenge a decision to hold a hearing as not being efficient. Environment Southland considers that the proposed approach is not an appropriate solution, and considers that some additional flexibility as contained in s100 of the RMA may reduce the number of hearings for notified applications. The proposed approach may also lead to perverse outcomes, where an applicant can refuse a hearing and instead seek to rely on the objection or appeal processes on notified consent decisions, which are not cost-recoverable for the Council, and may not result in the same collaborative outcomes that are often achieved through hearings or via the pre-hearing or alternative dispute resolution processes, such as mediation or expert witness conferencing. Environment Southland submits that the council should retain discretion on whether a hearing is required.

Consideration of applications

87. **Permitted baseline** – Environment Southland considers that the direction for applying the permitted baseline is unclear, and unhelpfully discussed in four different clauses of the NEB. For all clauses where the permitted baseline is used, the NEB describes that consent authority must disregard effects if a rule permits an activity with that effect, subject to the consent authority having discretion to consider adverse effects, regardless of whether a rule permits an activity with that effect, if the activity is a natural resource use activity. It is anticipated that many activities authorised under the NEB will be resource use activities, such that the exception is likely to apply more often than the rule. Environment Southland submits that consent authorities be enabled to use their discretion on the application of the permitted baseline in all cases, to reduce duplication and confusion. In addition, in the experience of Environment Southland, the application of the permitted baseline under the RMA can be unclear and uncertain, and can be of limited benefit to the overall conclusions of effects assessments.
88. **Considering adverse effects** – Under cl 15 of the NB, the consent authority “must not consider adverse effects that are less than minor, unless the cumulative effect of 2 or more such effects create effects that are greater than less than minor”. This wording creates considerable uncertainty in its application. In addition, this creates an incentive for applicants to lodge consents early, or before other resource users, and could create considerable costs at the application stage, or result in legal challenges to decisions on the priority of applications. For example, for discharges to land or water, those applying later will be ‘worse’ off in terms of process than those who seek/obtain permits earlier, as the cumulative effects can only be considered once they reach a certain threshold.
89. **Effects management hierarchy** – Environment Southland is concerned about the lack of a hierarchy for effects management in the NEB, and the impact this may have on the environment. Although national instruments may provide more detail on this, in the absence of such direction it will fall to the consent authority to consider. In some cases, this may result in applicants seeking to proceed straight to offset or compensation measures, which in the experience of Environment Southland can be difficult to quantify and conclude with certainty that they will be appropriate based on the effects caused by the proposed activity. While Environment Southland considers that offsetting or compensation are useful and appropriate measures in some circumstances, the Council is concerned that the lack of a hierarchy may result in some consent applicants looking

straight to these measures, and overlooking opportunities to avoid, remedy or minimise adverse effects. Environment Southland submits that it may be beneficial to include a default effects management hierarchy in the NEB, which would apply when national instruments do not include an alternative hierarchy.

90. **Consideration of compliance history** – Clauses 162 and 183 of the NEB both require consideration of compliance history.

- a. This power is similar to recent amendments introduced into the RMA in August 2025. The NEB contains a new definition of “significant non-compliance”. This definition largely reflects the ordinary meaning of “significant” that Environment Southland is using to interpret the current RMA section. However, the NEB and PB definition contains an additional requirement that the non-compliance was “serious enough to warrant attention and further action from regulatory bodies and relevant authorities”. This appears to be a ‘self-fulfilling prophecy’ given the non-compliance has already resulted in enforcement action or a conviction to be relevant under this clause, and the only further action the council will be considering is additional conditions or to decline the new application. Environment Southland considers this phrase should be deleted. There is also a discrepancy between the types of non-compliance referred to in the definition⁶ (abatement order, enforcement order, infringement notice, or conviction) and the use of the term in the clauses (which is restricted to enforcement orders or convictions), which should be resolved.
- b. Environment Southland supports the proposed addition to enable consideration of the compliance history of directors or persons concerned with the management of the applicant, as this enables a wider scope of compliance history that can be considered, and is a short-coming with the equivalent provisions in section 104 of the RMA (which is limited to companies and does not account where a company applicant can simply change its name and ‘hide’ any previous compliance history).
- c. The guidance in cl 183(4), which is specific to replacement application, is more specific and limited in the consideration required and does not align with the matters in cl162(3). The only difference appears to be the timeframe to be considered, with cl 183 not restricted to 7 years in the same circumstances as cl 162. In practice, the matters set out in cl 183(4)(c) are the matters that will be considered when assessing compliance history under cl162. It is not clear to Environment Southland what the purpose of cl 183(4)(c) is if cl 162 will also apply and provide for broader discretion. Environment Southland recommends the deletion of cl 183(4)(c), given cl 162 provides sufficient direction, or including the matters set out in cl183(4)(c) in cl 162.

91. **Scope of compliance history** – The consideration of compliance history under cl 162 of the NEB is not clear as to whether it includes consideration of compliance actions under the RMA, PB and/or NEB. Environment Southland is concerned that if this consideration

⁶ NEB Clause 3

is limited only to enforcement action taken under the NEB and/or PB, it effectively provides a 'clean slate' for operators who have a poor compliance history under the RMA. Environment Southland requests that the intended scope of compliance history be clarified, with a preference for this to include consideration of compliance action carried out under the RMA.

92. **Environmental limits** – CI 164 of the NEB requires that applications must not be granted if the activity would result in an environmental limit to breach, unless the breach is authorised by a national standard or water services standard. Environment Southland notes that prior to the limit setting process being completed, it is unclear how this will impact consent applications, particularly for existing activities. However, based on current information, there are two key concerns:

- a. It is expected that when established, environmental limits in some areas (for example water quantity or quality) may already be exceeded, such that any replacement applications, including those extended through the national direction, will not be able to be granted and existing activities cannot continue. While the importance of limits is acknowledged, Environment Southland submits that the NEB needs to provide a mechanism to enable transition to a limit, similar to s107(2A) of the RMA, but which applies to all activities subject to environmental limits. This could be by way of an approach similar to s107(2A) being specified in the bills, or providing regional councils with the ability to determine an appropriate mechanism for enforcing or applying environmental limits as the region transitions toward the desired state of environmental attributes. Without a transition mechanism, this may result in a race to be last, whereby those seeking replacement consents first will face the greatest consequences. Under the current framework, some regional plans provide a pathway for gradual improvement and progress toward achieving limits, such as for the gradual reduction in the over-allocation of water quantity. Environment Southland considers that building in a transitional approach will improve flexibility and fairness for resource users, such that all existing users are required to contribute towards achieving the environment limits.
- b. The ability to grant consents for some activities to breach environmental limits, including applications granted under the Fast-Track Approvals Act, effectively undermines the purpose of limit setting and the underlying process, and will limit the ability of activities in the same catchment to be authorised, including replacements of existing consents as described above. While the limits on these activities (ie significant infrastructure) are acknowledged, Environment Southland is concerned about the nature of activities that may be deemed to be significant infrastructure, and therefore eligible for this consent pathway.

Commented [SL2]: Again, this appears to be an important issue to address in the submission. At the same time, it is somewhat sensitive, as we will effectively be arguing against strict enforcement of environmental limits—an outcome we ultimately do not want. We should therefore be very clear about what we are advocating: necessary flexibility in how environmental limits are enforced as the region transitions toward the desired state of environmental attributes

Commented [DK3R2]: We've added some more detail here, and tried to emphasise that achieving environmental limits is still the end goal.

Consent conditions

93. **Scope of consent conditions** – Environment Southland oppose the restrictions in CI 168 of the NEB on the content of conditions.

- a. Environment Southland is concerned that the ability of the applicant to refuse conditions intended to mitigate adverse effects will have unintended consequences, being the decline of more applications. This outcome appears to be in direct opposition to enabling the use and development of natural resources, and acting in an enabling (solutions-focussed) manner.
- b. Environment Southland considers that it is unclear how the requirement for conditions to be connected to an applicable provision will be enforced. In particular, this perceived restriction on conditions could be circumvented by way of some general and generic policy direction in a regional plan, which could provide wide ranging scope for conditions.
- c. The context around administrative conditions is helpful, but Environment Southland is not aware of many circumstances where these types of conditions have been questioned or opposed by applicants. In addition, many existing plans, either through a policy, rule, or rule conditions provide discretion to include administrative conditions.
- d. Environment Southland is concerned that the wording of clauses 168 and 169 of the NEB suggests that a condition may only manage one specified matter, and submits that this be reviewed to ensure conditions can cover multiple matters, and that more than one condition can manage a matter.

Transition & Implementation

92. Considering the importance of getting the setting rights and the need to collaborate with relevant players, including regional and territorial authorities, iwi, industry stakeholders, Council recommends extending the timeframes by 9 months.

Part 2: Detailed Analysis of Planning Bill(PB) and Natural Environment Bill(NEB)

Topic	Bill	Clause	Proposal	Observations	Recommendations
Legislative Framework					
	NEB PB	NA	Two separate bills establish and govern the regulatory frameworks for managing natural resources of Aotearoa New Zealand.	The split approach could lead to inefficiency, confusion due to the lack of integration, raising costs of implementation and the risk of legal challenge.	Revert to a single Act if possible
	NEB PB	Clause 4 in both bills	The purpose clauses in the Natural Environment Bill and the Planning Bill are currently task focused and do not articulate any central concepts or principles to guide decision makers. Council considers that the purpose sections are the most appropriate place to set out the key principles that should inform all decisions under both bills.	One fundamental principle needed to address the inherent complexity created by splitting the system into two bills is the principle of integrated management. This principle is essential to ensure the two systems operate in a coordinated way and do not drift into misalignment over time. Integrated management should be used to ensure strategic instruments and operational tools across both bills work together as consistently as possible.	Develop a single purpose with necessary principles incorporated. It should apply to both bills. Council strongly recommends embedding the principle of integrated management.
		11 in both bills	[copy from text]	[copy from text]	Add a goal for maintaining and enhancing the quality of the natural environment to the Natural Environment Bill
		11 in both bills	copy from text]	copy from text]	Better align the goals of the Natural Environment Bill and the Planning Bill, including a goal in the Natural Environment Bill that responds to clause 11(g) of the Planning Bill
Centralisation of decision making					

For now
& our future

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Topic	Bill	Clause	Proposal	Observations	Recommendations
		70	Process for Making National Instruments	The Bill currently requires consultation with iwi but not with regional councils, despite councils' close partnership with mana whenua and the key role they play as the partner in implementation of national instruments. The Minister should be required to consult regional councils at the same time as iwi authorities. Concurrent consultation would help ensure national direction is workable and informed by regional experience.	Amend clause 70 to require consultation with regional councils as well as iwi authorities before publicly notifying a national instrument.
		NEA 71	Regional council must implement national instrument	It does not provide clarity on actions required if national instrument no longer requires the inclusion of specific provisions. Context: Council experienced this issue with the National Policy Statement for Freshwater Management (NPS-FM). Council had to put policies in under the 2017 NPS-FM but then the 2020 NPS-FM didn't require them and Council was left with outdated direction and no mechanism to take it out. It shouldn't be an issue for a few years, but is likely to come up again at some point in the future.	Include direction/ clarity on taking out provisions from plans if the direction to include them is removed from the national direction.
	NEB	78, 79, 80	Cl78 Purpose of national policy direction is either to; 1) particularise the goals and direct how they must be achieved (this is the primary purpose) or 2) to help resolve conflicts between the goals in s11 of the Act	This purpose suggests that the NPD would establish binding implementation requirements, not merely set aspirations. This approach is somewhat misaligned with the intended strategic and high-level nature of the NPD, which is meant to provide a single, overarching direction under each bill.	Amend clause 78 to clarify that the NPD's purpose is not to limit local methods unnecessarily Remove clause 79(2)(b), given this specific function does not suit the strategic nature of NPD well. Council believes it is better suited to be provided through national standards (clause 84) on a topic specific basis.

Topic	Bill	Clause	Proposal	Observations	Recommendations
			79(b) national policy direction may direct the content of plans, including by constraining or limiting plan content	Embedding highly operational detail in the NPD this way could require frequent reviews, leading to unnecessary costs, increased risk of shifts in overall policy direction with changes in government, and ultimately undermining New Zealand's ability to support growth and development within environmental limits.	
	NEA	81	A national policy direction may..		
		81 (2)	"long term impact means an impact spanning 2 or more human generations"	The term "long term impact" is defined as an effect lasting "two or more generations," but this is an extremely loose formulation. A generation can be interpreted in several ways. It might refer to demographic cohorts (for example, Generation X from 1965 to 1980 and Millennials from 1980 to 1995, a span of around 30 years), or it could be taken to mean the lifespan of a parent and child combined, which could easily exceed 100 years. It is unclear what intent sits behind using such an open ended concept, and it raises the question of why a clear timeframe was not provided instead. In Southland, we have seen firsthand that the long term environmental effects of dairy intensification can extend over 50 years or well beyond 100 years, depending on the receiving environment and rate of recovery.	Tighten the definition of <i>long term</i> by assigning a specific, workable number of years.
Allocation of authorisations for space in coastal marine area	NEB	Sch 3, clause 10(3)	The Minister can give directions that override the regional council's ability to determine how authorisations will be allocated through a rule in a natural environment plan.	Clause 10(3) sets out the criteria for exercising this ministerial power. The first criterion, "to give effect to Government policy in the common marine and coastal area," is extremely broad and lacks precision. A narrower and more clearly defined criterion is necessary to safeguard the authority, coherence, and	Amend clause 10(3) 1) to provide a more specific criteria such as "to resolve a demonstrated inconsistency between the regional plan and a specific, gazetted Government policy document"

Topic	Bill	Clause	Proposal	Observations	Recommendations
				effectiveness of natural environment plans. In addition, the clause does not explicitly require the Minister to consult with affected regional councils or demonstrate why intervention is necessary. This absence of an evidential threshold weakens the transparency and accountability of the decision making process.	2) to insert a requirement that the Minister must be satisfied on the basis of evidence before intervening 3) to require the Minister to publish: - a full statement of reasons, - the evidence relied on, and - an explanation of alternatives considered (including why non-intervention was rejected). 4) To require consultation with the affected regional council
Spatial Planning					
To be added					
Environmental Limits					
Who sets environmental limits	NEB	47(2) & 54(3)(b)	Ecosystem health limits are to be set by a regional council in its natural environment plan. But under Section 54(3)(b), a national standard can determine the 'minimal acceptable level'.	It appears that a justification report may be required if regional councils wish to set a more stringent level of limits than the level set by national standards to give effect to community aspirations.	Remove clause 54(3)(b) to ensure that regional councils can set more stringent levels of environmental limits if desired by the communities without the need to prepare a justification report.
		50(1)(b)	Provides for where ecosystem health limits must be set	It is not clear which definition of coastal water applies - section 3 or section 45	Clarify which definition of coastal water applies. The definition provided in s 45 is recommended as it is more descriptive and inclusive.
		50(3)	Air domain exclusion		Regional councils are allowed to develop ecosystem health limits for all other domains. Removing the air domain is un-necessarily restrictive, when regional councils are best placed to deal with regional problems.
		51(2)(b) & 58(1)(a)	How ecosystem health limits must be set in plans	Section 51(2)(b) allows a regional council to determine its own methodology if no national methodology is	Remove paragraph (a) and enable regional councils to determine management units within nationally provided guidance. (Please refer to our comment for clause 58 below)

Topic	Bill	Clause	Proposal	Observations	Recommendations
				specified. However, section 58 requires national standards to prescribe methodologies for all relevant domains and attributes. These two sections appear to conflict.	
		52(2)(c)	Criteria for decisions relating to environmental limits	Section 52(2)(c) allows a regional council to set a management unit when one has not been set in a national standard. However, section 58 states that national standards must set management units for each domain or attribute. This appears contradictory. There is also uncertainty about whether regional councils will ever actually set management units.	Retain section 52 and amend section 58 to ensure both provisions work together. Provide clarity on whether regional councils will have a meaningful role in setting management units.
		53	Developing human health limits	There is significant emphasis on the Minister considering non-health factors when setting human health limits. This may dilute the focus on achieving improved health outcomes.	Consider a more health-centred approach, with flexibility to allow councils staged or long-term pathways toward achieving more ambitious limits.
		54(1)	Specifying methodologies for ecosystem health limits	Section 54(1) requires the Minister to specify methodologies that regional councils must use. However, section 51(2)(b) implies councils may create their own methodology when none is provided. If a methodology is always required under section 54(1), section 51(2)(b) becomes redundant.	Clarify whether national methodologies are mandatory in all cases, and reconcile section 51(2)(b) with section 54(1).
		56(b)	Assessing impact of proposed environmental limit or methodology	The clause refers to community aspirations for the economy, society, and natural environment but excludes cultural needs, which are equally important and interconnected.	Include cultural aspirations to ensure the assessment reflects all key dimensions valued by communities.

Topic	Bill	Clause	Proposal	Observations	Recommendations
		57(f)	Assessing existing capacity of the natural environment	The Bill does not define how a species is classified as rare, threatened, or endangered. Without national consistency, councils may develop differing interpretations leading to confusion and inefficiency. The role of taonga species is also unclear.	Include national references or standards for classifying species status—e.g., DOC conservation status lists—and ensure taonga species are explicitly incorporated.
		58	National standards must set management units	If national standards must set management units, it is unclear how they will meet the criteria in subclause (4) without regional input. Nationally prescribed units may not reflect regional variation.	Remove paragraph (a) and enable regional councils to determine management units within nationally provided guidance.
		60(1)	Tools for managing resources subject to limits	The reference to “every natural resource” is ambiguous. It is unclear whether this term corresponds to the domains listed in s50.	Confirm whether “every natural resource” corresponds to the domains in s50 and amend wording for consistency if appropriate.
		60(2)(c)	Tools available	Only caps on resource use or action plans are listed, excluding non-regulatory tools that may also be effective.	Clarify why non-regulatory tools are excluded or expand the list of available tools.
		60(3)	Preference for caps on resource use	Requiring regional councils to give first preference to caps on resource use is overly restrictive. Non-regulatory methods within action plans may complement or reduce the need for caps. Environmental limits are interconnected, and the most effective method for one limit may not suit another.	Provide clearer justification for prioritising caps, or allow councils greater flexibility to choose the most effective combination of tools.
			Section Title: “Rules in proposed plan must be treated as operative if...”	The current title is unclear and cumbersome.	Adopt a clearer title, such as “When rules in proposed plans must be treated as operative,” consistent with RMA section 87F.
		62(1)(b)	Cap on resource use: maximum quantum	The term “maximum quantum of resource use” is unclear and ambiguous.	Replace with plain language clearly describing what the cap represents.

Topic	Bill	Clause	Proposal	Observations	Recommendations
		63(1)(a)	General content of action plans	It is unclear what is meant by “an action plan may set out matters relating to decision-making on applications for natural resource permits.” It is also unclear whether caps are considered rules within a plan. If caps are not rules, this could reduce flexibility for applicants to propose alternative solutions.	Clarify the relationship between caps, rules, and action plans to ensure innovation and alternative approaches remain possible.
Private property rights & regulatory Regime					
Private property rights & regulatory relief	Planning Bill, but cross referenced in NEB	Both Bills at a fundamental level. Regulatory relief, primarily the Planning Bill: Schedule 3, Part 4.	Private property rights are elevated as the ‘guiding principle’ in the resource management reforms. It is anticipated that, in practice, this will see a reduction in regulatory oversight of activities and associated environmental effects. The regulatory relief framework contributes to this by providing a mechanism by which landowners can be compensated for regulations imposed on them by councils.	The current regulatory relief proposal appears underpinned by the assumption that unfettered property rights are a base entitlement, but this has never been the case. Property rights have always been constrained by regulation. By definition they are the ability of landowners to own, use, control and transfer their land without interference, <u>subject to the law</u> . Requiring councils to make ratepayer-funded payments to landowners so that councils can meet their statutory mandates through regulation not only disincentivises otherwise justifiable regulation, but it also attempts to redefine private property rights in the process.	Remove the regulatory relief provisions from the Bills. Reconsider the way private property rights are conceptualised within the legislative framework.
Regulatory relief	Planning Bill, but cross referenced in NEB	Primarily Planning Bill: Schedule 3, Part 4.	The regulatory relief framework contributes to this by providing a mechanism by which landowners can be compensated for regulations imposed on them by councils	Environment Southland is particularly concerned about the regulatory relief proposals. Implicit in these provisions is an important philosophical question about whether such an approach has a place within the New Zealand legislative system. Particularly in relation to considerations of equity and natural justice, this proposal represents a marked departure from the status quo, with the potential to set a new standard across the statute book. Indeed, regulatory takings	Remove the regulatory relief provisions from the Bills for detailed consideration at a later date.

Topic	Bill	Clause	Proposal	Observations	Recommendations
				are arguably only one side of the ledger. An argument could also be made for 'environmental takings' to be imposed on those generating externalities, particularly those of the cumulative variety. We consider that the issue of 'takings' warrants explicit, specific consideration outside the broader resource management reform process and should be removed from the Bills for consideration at a later date.	
Regulatory relief	Planning Bill, but cross referenced in NEB	Primarily Planning Bill: Schedule 3, Part 4.	The regulatory relief framework contributes to this by providing a mechanism by which landowners can be compensated for regulations imposed on them by councils	Environment Southland sees some merit in mechanisms to reward landowners for environmental enhancement that benefits the greater public. Perhaps the regulatory relief provisions could be reconceptualised with positive environmental action as the trigger for regulatory relief. This could be a mechanism that rewards positive environmental action, such as wetland enhancement. The current regulatory relief proposal is untenable. Requiring councils to make ratepayer-funded payments to landowners so that councils can meet their statutory mandates through regulation is unconventional at best. Worse, layered on top of the rate target model proposals, which will constrain council revenue, the regulatory relief proposals set councils up to fail. The only realistic way a regulatory relief system could be implemented would be to specifically provide for it as an additional rates take explicitly in the rates target model.	Remove the regulatory relief provisions from the Bills. If the regulatory relief proposals are retained: Reconceptualise regulatory relief as a mechanism to encourage positive environmental action from landowners that benefits the general public, such as wetland enhancement. Add 'regulatory relief liability' explicitly in the rates target model being developed by DIA. Exempt flood protection, including soft infrastructure such as wetlands from regulatory relief.

Topic	Bill	Clause	Proposal	Observations	Recommendations
				Regulating to protect these flood resilience assets, including soft interventions such as wetlands and the broader floodplains, is critical to safeguarding lives, properties, and livelihoods, particularly in areas prone to flooding. Having regulatory relief potentially apply to flood infrastructure (should the scope of regulatory relief be expanded or due to the intersection with indigenous biodiversity matters) could be hugely costly to Southland ratepayers given the large number of affected properties.	
Regulatory relief	Planning Bill, but cross referenced in NEB	Planning Bill: clauses 3 and 93, and Schedule 3, Part 4. NEB: Explanatory note, clauses 3 and 111.		Environment Southland is committed to an enduring partnership with Ngāi Tahu ki Murihiku. On that basis, Environment Southland opposes sites of significance to Māori being included in the regulatory relief scheme. The existing proposal creates a situation where ratepayers may have to pay landowners if Environment Southland protects sites of significance to Māori. Our concern is that this creates a 'balancing' exercise between the protection of these sites and the potential cost of regulatory relief to ratepayers. Legislative design which creates this inherent trade-off is inconsistent with the Crown's obligations under te tiriti and devalues the real benefit the Southland community derives from the holistic and long term views of Te Rūnaka o Ngāi Tahu ki Murihiku in resource management.	Remove the regulatory relief provisions from the Bills. If the regulatory relief proposals remain, ensure regulatory relief does not apply to sites of significance to Māori.
Regulatory relief	Planning Bill, but cross referenced in NEB	Schedule 3, Part 4, Clause 68(7)		Environment Southland acknowledges that there is significant uncertainty about how these provisions will operate in practice. But on the face of it, the backward looking regulatory takings	Remove the regulatory relief provisions from the Bills. If the regulatory relief proposals endure, constrain the applicability of regulatory relief to material changes to existing regulation.

Topic	Bill	Clause	Proposal	Observations	Recommendations
				provisions, could result in a significant financial cost to councils to maintain the status quo of environmental protection. Clarification is required to remove the risk of provisions being interpreted in this way.	
Reverse sensitivity	Signalled in government material for the resource management reforms	N/A	It was signalled that the reforms would take this further, so that 'newcomers' wouldn't be able to challenge the expansion of the effects generating activities. It is unclear whether the government still intends to implement this, and if so, how.	Environment Southland wishes to stress its opposition to any broadening reverse sensitivity to preclude people from challenging expansion of effects-generating activities. Whether this is done through the Bills or through regulation. Expanded activities are likely to be accompanied by expanded effects, and to allow expansion without challenge by those affected undermines procedural fairness and equity more generally, generating uncertainty for all those living in the vicinity of an effects-generating activity.	Retain the concept of reverse sensitivity as it is currently understood. Do not expand the concept to enable expansion of existing activities without challenge either through the Bills or subsequent regulation.
Te Tiriti & Iwi Rights and Interests					
Meaningful mana whenua participation	Both Bills	NEB: Cl 8 PB: Cl 8 & 70	Māori participation/consultation is provided for through specified Treaty-related provisions and iwi consultation requirements in spatial planning and related processes.	Meaningful iwi participation in Murihiku is standard practice, built over nearly three decades through the Charter of Understanding. Te Rōpū Taiao and Pou Te Rōpū Taiao anchor partnership at political and operational levels. These reflect Murihiku's geographic reality across multiple catchments and shared alpine headwaters. The Bills do not secure this model. They fail to guarantee mana whenua representation on planning committees or protect region-specific governance	Guarantee mana whenua representation within regional spatial planning committees and protect bespoke joint governance arrangements from dilution or override.

Topic	Bill	Clause	Proposal	Observations	Recommendations
				arrangements. Excluding iwi from early engagement on national direction, when system architecture is set, further undermines Tiriti obligations. Murihiku's experience demonstrates that early participation improves decisions, reduces conflict, and supports durable outcomes.	
Consenting changes risk excluding mana whenua	Both Bills	NEB: CI 15; 148; 149 PB: CI 15; 127; 128	The Bills apply higher thresholds for when adverse effects and participation routes (affected-person status and notification) are triggered, and limit consideration of "less than minor" effects except where cumulative effects apply.	The Bills' consenting framework restricts where cultural effects can be identified, conflicting with Murihiku practice under the Charter where all consents are referred to Te Ao Mārama Inc because many cultural values are not mapped. Under narrowed effects tests and high notification thresholds, activities with cultural impacts could proceed without iwi visibility. Examples include cumulative pressures on Awarua peatlands, Toetoes Estuary, Waituna Lagoon, Waihopai and New River Estuary, and kanakana migration pathways on the Mātaura. Key freshwater concepts such as hauora, mahinga kai, and Indicators of Health depend on assessing cumulative effects that only become visible at proposal stage.	Lower notification thresholds and explicitly require assessment of cumulative cultural effects. Ensure iwi authorities and hapū have clear, practical pathways to participate at consent stage, consistent with the Murihiku Charter. Provide engagement pathways for tangata whenua with legitimate rights outside settlement frameworks.
Certainty for Treaty settlements during transition	Both Bills	NEB: CI 9; 10 PB: CI 9; 10	Both Bills include transition mechanisms requiring Treaty settlement redress/arrangements to be maintained with the same or equivalent effect "to the greatest extent possible," and	Treaty settlement mechanisms underpin everyday environmental management in Murihiku. Councils rely on their continued legal effect to recognise cultural values, deliver on	Remove "to the greatest extent possible" and guarantee full legal and practical effect of Treaty settlements throughout and after transition.

Topic	Bill	Clause	Proposal	Observations	Recommendations
			provide for Crown agreements with post-settlement governance entities.	freshwater obligations, and maintain partnership through Te Rōpū Taiao. Any ambiguity risks legal, relational, and planning uncertainty.	
Ngāi Tahu context requires strong recognition of rangatiratanga	Both Bills	NEB: CI 8; 11 PB: CI 8; 11	The Bills provide for Māori interests through goals and Treaty clauses that focus on participation, sites of significance to Māori, and identified Māori land, rather than explicit region-specific rangatiratanga mechanisms.	Rangatiratanga in Murihiku is practical, embedded in governance structures, engagement processes, freshwater planning, cultural monitoring, and heritage protection. The Bills rely on high-level statements without ensuring region-specific commitments remain operative, risking inconsistency across the takiwā and weakening established practice.	Strengthen statutory recognition of Ngāi Tahu rangatiratanga and ensure region-specific settlement commitments remain fully effective.
Loss of transfer powers reduces partnership options	Both Bills	NEB: CI 232; 236 PB: CI 193; 197	Both Bills provide for transfer of powers and joint management agreement tools through their respective transfer/joint management clauses.	The Charter identifies transfers and joint management as legitimate tools to recognise rangatiratanga and improve environmental outcomes. The Bills constrain these mechanisms by limiting which entities qualify as public authorities. With large catchments, nationally significant wetlands (Awarua), and coastal environments, flexible governance tools are essential.	Provide statutory provision for councils and iwi authorities to jointly exercise, share, or transfer powers where mutually agreed.
Plan-making timeframes and templates lack flexibility	Both Bills	NEB: CI 95; 96; 106-110 (requirements for evaluation/justification reports)	Plans must implement national instruments and default to standardised provisions, with bespoke provisions requiring supporting evaluation/justification reporting; the system also includes set timeframes for	Murihiku's freshwater framework (Ngāi Tahu ki Murihiku Freshwater Objectives 2020) emphasises Te Mana o te Wai, mahinga kai, hauora, and indicators of health. These require nuanced, place-based	Allow councils and mana whenua to design locally appropriate governance and participation arrangements, reducing reliance on ministerial discretion.

Topic	Bill	Clause	Proposal	Observations	Recommendations
		PB: 78; 79; 87-91 (evaluation/justification reports); Schedule 2	notifying and deciding the first spatial plans and subsequent plan steps.	assessments and collaborative development. Rigid templates and compressed statutory schedules risk displacing iwi values and tikanga from plan development.	
Ministerial override powers undermine local partnership	Both Bills	NEB: CI 217; 218 PB: CI 203; 204; 205	Both Bills provide ministerial direction/intervention powers over local authority plan preparation and review processes	The Murihiku Charter was designed to withstand legislative change by grounding partnership in dialogue, mediation, and consensus. Ministerial override powers risk displacing these arrangements without iwi consent, undermining trust and environmental outcomes.	Include statutory safeguards to prevent central override of local partnership agreements without transparent justification and meaningful iwi engagement.
Regulatory plan making & Consenting					
Scope of extension		PB Sch 1 cl 17; NEB Schedule 1	Duration extensions apply broadly but 35-year cap applies only to water permits	The distinction between water permits and other consents is unclear. Without consistent limits, some consents may receive very long extensions even when this creates future workload spikes.	Limit all transition-period duration extensions to a maximum of 35 years.
Impact of extension		PB Sch 1 cl 17; NEB transition provisions	Large-scale transition-period extensions	Significant number of consents already extended; broad further extensions create a “cliff” of future expiries and heavy simultaneous workload for councils, consultants, and technical experts. This reduces certainty for consent holders and risks delays.	Adjust extension provisions to avoid clustered expiry peaks and manage transition workload more evenly.
Procedural principles	NEB	cl 13	Principles may be enforceable	Principles reflect good practice but are subjective, difficult to measure, and caveated by “where practicable,” creating potential for challenge and	Retain as guidance only and clarify they are not enforceable.

Topic	Bill	Clause	Proposal	Observations	Recommendations
				inconsistent interpretations. Such principle creates significant legal uncertain and risk for councils.	
Consents or permits	NEB, PB	Various	"Permits" vs "consents" terminology	"Permit" terminology creates confusion with "permitted activities." Multiple terms for local government bodies reduce clarity for applicants navigating the system.	Use "resource consent" consistently and adopt a single "local authority" definition.
Activity status categories	NEB	cl 33	Simplified activity framework	Simplification provides clarity and aligns with good practice. Retaining fewer categories reduces unnecessary complexity.	Retain proposed activity status framework.
Permitted activities – tests, conditions, cumulative effects	NEB, PB	NEB cl 32; PB cl 31	Inconsistent tests; limits on conditions; unclear cumulative requirements	Different tests across the two bills create confusion. Undefined "managed" threshold creates risk of activities with significant potential effects being incorrectly permitted. Restrictions on conditions may prevent councils managing effects on people. Cumulative effect references lack clear implementation pathways.	- Align tests - define "managed" - allow conditions relating to effects on people - clarify how cumulative effects and limits are incorporated.
Permitted activity registration	NEB	cl 39	Mandatory registration of permitted activities	Registration is complex, resource-intensive, and similar to a pseudo-consent process. It places cost and administrative burdens on both councils and users, with unclear benefits.	Remove blanket requirement; use targeted plan-based registration where justified.
Timeframes and minor corrections	NEB, PB	NEB cls 130, 138, 192; PB cl 109	Lodgement rules and 20-day correction limit	Processing clocks start before practical work begins. Minor corrections often occur after 20 days without issues, making the timeframe unnecessary and inefficient.	Start clock the day after lodgement; remove 20-day correction limit.
Notification thresholds	NEB, PB	NEB cls 146–151; PB cl 125	Higher thresholds and inconsistency between bills	Higher thresholds may exclude affected parties, especially iwi.	Use "more than minor" for public notification and "minor" for targeted notification.

Topic	Bill	Clause	Proposal	Observations	Recommendations
				"Significant" effects threshold is unclear, and inconsistency across bills complicates dual-trigger applications.	
Standing of submitters	NEB, PB	NEB cl 152; PB cl 133	Limits standing to qualifying residents	Creates administrative burden, is easily circumvented, excludes expertise from national organisations, and risks unfairness for communities near regional boundaries. Existing powers already manage frivolous submissions.	Retain broad standing and current strike-out powers.
Direct referral to Environment Court	NEB	Various	Removes direct referral pathway	Direct referral provides efficient resolution for large or complex applications, reducing duplication and appeal costs. Removing it reduces flexibility.	Retain direct referral option.
External decision-making	NEB, PB	NEB cl 153; PB cl 136	Mandates external commissioners	Eliminates councils' ability to decide notified applications on the papers or include trained elected members. Increases costs and reduces flexibility and timeliness.	Allow use of internal decision-makers and elected members.
Hearings for notified consents	NEB, PB	NEB cl 153; PB cl 135	Hearings not default; submitter-driven	Submitter-driven process may trigger disputes regardless of decision made. Risks incentivising applicants to avoid hearings and rely on appeals, undermining collaborative resolution.	Retain council discretion over hearing requirements.
Considering adverse effects	NEB	cl 15	Limits consideration of less-than-minor effects	Creates uncertainty in assessing cumulative effects; may incentivise applicants to lodge early, disadvantaging later applicants. Could lead to inconsistent and inequitable outcomes.	Clarify cumulative effects treatment and avoid unfair incentives.

Topic	Bill	Clause	Proposal	Observations	Recommendations
Effects management hierarchy	NEB	cl 156	No hierarchy provided	Without a hierarchy, applicants may prioritise offsets or compensation prematurely. Avoiding, minimising, or remedying effects is more certain and environmentally reliable.	Include default hierarchy (avoid–minimise–remedy–offset–compensate).
Environmental limits	NEB	cl 164	Consents cannot be granted if limits breached	In already over-allocated environments, strict application could prevent renewal of existing activities and create a “race to be last.” Transitional fairness and environmental progression need balancing.	Provide a transition mechanism to enable staged progress toward limits.
Scope of consent conditions	NEB	cls 168–169	Restricts conditions; applicant may refuse conditions	Constraints on conditions may prevent effective mitigation, increase declines, and drive overly broad policy writing. Single-matter condition interpretation does not reflect real-world practice.	Remove or relax restrictions on imposing conditions. ensure conditions can address multiple matters.
Transition & Implementation					
Transition timeframes					Recommend extending the timeframes by 9 months in line with the sector’s collective view.