To:

Committee Secretariat
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Environment Committee
Parliament Buildings
Wellington

Submission on the Planning Bill & the Natural Environment Bill

From:

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Executive Summary

Te Tira Whakamātaki welcomes the opportunity to submit on the Planning Bill and the Natural Environment Bill.

Reform of Aotearoa New Zealand's resource management system is necessary. The existing framework has struggled to deliver timely infrastructure and housing while also failing to halt biodiversity loss, freshwater degradation, and cumulative environmental decline. A durable, coherent planning system is required. Reform is justified.

However, in its current form, we **oppose** the Planning Bill and Natural Environment Bill.

While the Bills aim to simplify and accelerate planning and development, they fundamentally restructure environmental governance in ways that:

- Risk weakening the durability of environmental limits if those limits are subject to broad discretion, amendment, or override.
- Downgrade the structural recognition of Māori relationships with taonga compared with the Resource Management Act 1991.
- Concentrate significant power at the Ministerial level, reducing transparency and long-term system stability.
- Create uncertainty regarding the continuity and strength of Treaty settlement mechanisms and co-governance arrangements.
- Narrow the scope of environmental effects considered in decision-making.
- Reduce opportunities for public participation and limit relitigation of higher-level decisions.
- Introduce regulatory relief mechanisms that risk diluting protections for wāhi tapu and outstanding landscapes.

This is not simply administrative reform. It represents a structural shift and a constitutional rebalancing of environmental authority and Treaty integration.

Te Tira Whakamātaki submits that:

- The Bills structurally weaken environmental safeguards.
- The Treaty framework is downgraded from operative recognition to environmental governance.
- Ministerial override powers introduce instability and politicisation into environmental governance.
- Public participation and community challenge mechanisms are reduced.
- Protections for taonga and culturally significant landscapes are exposed to erosion through regulatory redesign.

The Bills require substantial amendment to ensure that environmental limits are binding and durable, Treaty obligations are embedded within decision-making architecture rather than

consultation processes, and settlement redress and co-governance arrangements are not diluted through structural change.

Planning reform must be environmentally durable, constitutionally sound, and capable of commanding cross-community trust. As currently drafted, these Bills do not meet that standard.

1. About Te Tira Whakamātaki

Te Tira Whakamātaki is an independent Māori environmental organisation committed to protecting taonga, strengthening Indigenous governance, and supporting whānau, hapū, and iwi to exercise rangatiratanga and kaitiakitanga.

Our work spans environmental protection, policy advocacy, and Māori-led approaches to complex system challenges, including biodiversity loss, freshwater degradation, climate change, disaster risk, and community resilience.

We approach planning reform from a kaupapa Māori and systems perspective. For us, environmental governance must be:

- ecologically durable,
- constitutionally grounded in Te Tiriti o Waitangi,
- capable of protecting taonga across generations, and
- stable and principled rather than politically adjustable.

Planning legislation is not merely technical machinery. It determines how land, water, biodiversity, and community wellbeing are protected or degraded. It must therefore be structurally sound.

2. Context and Purpose of the Reform

The Planning Bill and Natural Environment Bill replace the Resource Management Act 1991 and follow the repeal of the Natural and Built Environment Act 2023 and the Spatial Planning Act 2023.

Reform of the resource management system is justified. The existing framework has struggled to deliver timely infrastructure and housing, while also failing to halt biodiversity loss, freshwater degradation, and cumulative environmental decline. Reform must address both inefficiency and ecological failure.

The stated objectives of the new Bills include simplification, greater certainty, enabling housing and infrastructure delivery, and improving environmental outcomes.

These objectives are legitimate.

However, the effectiveness of reform depends on the structural design of the system. In particular:

- Whether environmental protection operates as a binding constraint on development rather than a competing policy preference.
- Whether Treaty obligations are embedded within governance architecture rather than reduced to procedural consultation.
- Whether ecological limits are durable and insulated from political override.

A planning system must reconcile development and protection through clear statutory architecture. If environmental limits are adjustable and Treaty integration is procedural rather than operative, reform risks repeating historic patterns of cumulative degradation, constitutional tension, and institutional instability.

Reform should strengthen environmental and Treaty foundations. It must not weaken them.

3. Structural Design of the Two-Bill Model

The reform separates environmental protection and planning into two primary statutes: the Natural Environment Bill and the Planning Bill.

Structural separation can provide clarity if integration mechanisms are strong, binding, and legally enforceable. However, separation without enforceable hierarchy creates systemic risk.

Natural systems and urban development are not discrete domains. Urban growth, infrastructure corridors, transport networks, renewable energy expansion, and housing intensification are embedded within ecosystems. They directly affect freshwater quality, indigenous biodiversity, coastal systems, soil health, and climate resilience.

Under the new architecture, planning instruments must implement national instruments, and goals cannot be relitigated at lower levels. This "funnel" structure centralises direction and narrows the scope of reconsideration as decisions move down the system.

If environmental limits established under the Natural Environment Bill are not structurally binding constraints on spatial and land use planning decisions under the Planning Bill, then separation risks fragmentation. Environmental protection becomes one input into planning rather than a boundary condition.

This is not a minor drafting issue. It is a design question.

The Committee must ensure that:

- Environmental limits operate as non-negotiable ecological bottom lines within all planning instruments.
- Spatial and land use planning cannot dilute, defer, or reinterpret ecological thresholds.
- Integration mechanisms between the two Acts are explicit, mandatory, and legally enforceable.
- The hierarchy of instruments prevents development priorities from functionally overriding environmental constraints.

Without this clarity, the structural divide between the two Acts may weaken cumulative environmental management, embed development bias within national instruments, and reduce the system's ability to prevent incremental ecological decline.

4. Environmental Limits and Durability

The Natural Environment Bill proposes environmental outcomes and a framework for limit-setting across air, water, land, soils, and indigenous biodiversity.

The credibility of the entire reform rests on whether those limits function as true ecological bottom lines.

For limits to operate as durable safeguards, they must:

- Be science-informed and precautionary.
- Be set transparently and with meaningful mana whenua involvement.
- Apply consistently across all levels of decision-making.
- Bind planning instruments under the Planning Bill.
- Be insulated from broad ministerial discretion or policy-driven override.

If environmental limits can be amended, reinterpreted, or effectively subordinated through national policy direction, regulatory changes, or ministerial intervention, they risk becoming adjustable policy settings rather than enforceable constraints.

Environmental degradation in Aotearoa has occurred through incremental decisions that individually appeared acceptable but cumulatively exceeded ecological thresholds. A durable planning system must prevent this pattern from continuing.

A system that allows ecological limits to be politically reshaped or indirectly diluted through development-oriented national instruments does not provide environmental certainty.

The Committee should ensure that:

- Environmental limits are expressed clearly as binding bottom lines.
- Override mechanisms are tightly constrained and subject to high thresholds.
- Any power to amend or adjust limits is transparent, evidence-based, and subject to robust scrutiny.
- Planning instruments must give effect to environmental limits rather than merely have regard to them.

Without these safeguards, the proposed framework risks replicating the very cumulative degradation that reform is intended to address.

5. Treaty and Māori Governance

Under the Resource Management Act 1991, Part 2 required decision makers to recognise and provide for the relationship of Māori with ancestral lands, water, sites, wāhi tapu, and other taonga, to have particular regard to kaitiakitanga, and to take Treaty principles into account.

Over time, the adequacy of these provisions has been repeatedly examined, including through Waitangi Tribunal findings and litigation. While the RMA framework provided an important statutory foundation, it did not consistently deliver meaningful shared governance, nor did it fully resolve longstanding questions regarding Māori rights and interests in natural resources.

The equivalent provisions in the Planning Bill and Natural Environment Bill must therefore be assessed not only against the RMA standard, but against the opportunity that reform presents.

Reform should not narrow Treaty integration. It should strengthen and modernise it.

Treaty partnership in environmental governance requires:

- operative recognition of Māori relationships with taonga.
- meaningful participation in limit setting and plan making.
- protection of rangatiratanga and kaitiakitanga.
- durable institutional mechanisms rather than consultation alone.

If Treaty clauses are framed at a high level but lack structural effect in decision-making, they risk becoming procedural rather than substantive.

5.1 Strengthening Treaty Integration Beyond the RMA

Reform provides an opportunity to address acknowledged shortcomings in the RMA framework. Simply replicating earlier wording, or adopting weaker formulations, would not meet contemporary expectations of Treaty partnership or the evolving jurisprudence surrounding Te Tiriti o Waitangi.

A modern planning system should:

- Embed mana whenua participation in environmental limit-setting processes, not merely in plan consultation.
- Require planning instruments to give effect to Treaty obligations, rather than merely have regard to them.
- Provide continuity and structural clarity for iwi and hapū agreements with local authorities.
- Preserve and strengthen co-governance arrangements arising from Treaty settlements.

- Support resolution of longstanding questions regarding Māori rights and interests in freshwater and geothermal resources.

Durability in Treaty integration is essential for system legitimacy.

Environmental governance cannot be stable if foundational constitutional relationships are treated as secondary or adjustable within policy architecture.

Te Tira Whakamātaki submits that the Bills should, at minimum, maintain equivalent substantive protection to the RMA framework and, where possible, strengthen operational Treaty partnership mechanisms so that environmental management reflects both ecological integrity and rangatiratanga in practice.

Absent these amendments, the reform risks embedding a structurally weaker Treaty position than that which existed under the RMA.

6. Treaty Settlements and Redress Mechanisms

More than eighty Treaty settlements interact directly with the Resource Management Act framework. Many include:

- Statutory acknowledgements.
- Joint management arrangements.
- Co-governance bodies.
- Planning participation and notification rights.
- Catchment-based and place-based governance structures.

These arrangements were negotiated in reliance on the RMA's statutory architecture, particularly its recognition provisions and the ability for Māori to influence decision-making at local and regional levels.

The new Bills materially alter that architecture.

While the Planning Bill states that Treaty settlements will be upheld and given the "same or equivalent effect to the greatest extent possible", functional continuity depends on how the new planning hierarchy operates in practice.

Under the new system:

- National instruments tightly constrain regional and district planning.
- Goals cannot be relitigated at lower levels.
- Ministerial intervention powers are broadened.
- Environmental limits and planning rules may be reshaped through national direction.

If decision-making authority shifts upward and becomes more centralised, the practical influence of co-governance bodies and settlement-based participation mechanisms may be reduced, even if formally preserved.

Structural redesign can dilute redress without expressly repealing it.

A provision that preserves statutory acknowledgements in form does not necessarily preserve their weight within decision-making architecture.

The Committee must ensure:

- Explicit continuity of settlement mechanisms within the new statutory hierarchy.
- Preservation of co-governance and joint management arrangements in both environmental limit-setting and planning decisions.
- Clarity that settlement-derived participation rights cannot be diminished by national instruments or ministerial direction.
- Transitional provisions that are detailed and enforceable, not aspirational.

Failure to provide this clarity risks litigation, uncertainty, and erosion of settlement confidence.

Treaty settlements are constitutional instruments. They must not be weakened indirectly through structural reform.

7. Ministerial Powers and Institutional Stability

The Bills provide Ministers with significant authority to:

- Issue and amend national policy direction.
- Set and amend national standards.
- Direct local authorities.
- Appoint members to spatial planning committees.
- Intervene in council performance.
- Shape the regulatory framework that governs environmental limits.

Central coordination can improve consistency. However, broad discretionary powers create structural risk.

In particular:

- Environmental limits may be reshaped through national instruments without equivalent parliamentary scrutiny.
- Treaty safeguards may become politically adjustable.
- Spatial planning direction may reflect short-term development priorities.
- Long-term ecological certainty may be compromised.

The planning system has already experienced repeated structural reform in recent years. Institutional instability undermines public confidence, investment certainty, and environmental protection.

A durable framework requires:

- Predictable and transparent decision-making processes.
- Clear statutory constraints on override powers.
- Independent oversight mechanisms.
- Safeguards against politicisation of ecological thresholds.

If environmental limits and Treaty protections are subject to broad ministerial discretion, the system risks embedding volatility into environmental governance.

Durability requires insulation from short-term political pressure.

The Committee should consider strengthening checks and balances around national direction and limit-setting powers to enhance legitimacy, transparency, and constitutional stability.

8. Implementation and Transition

The transition from the RMA to the new framework raises significant structural and practical questions, including:

- The legal status and continuity of existing plans.
- The operational continuity of settlement-based governance bodies.
- The alignment of existing co-governance and joint management arrangements within the new hierarchy of national instruments.
- The sequencing of environmental limit-setting relative to spatial and land use planning.
- The capacity of local authorities and mana whenua to implement reform within compressed timeframes.

Transition is not neutral. It determines whether redress mechanisms retain practical influence, whether environmental limits are established before development acceleration, and whether institutional capability exists to deliver intended outcomes.

If spatial planning and land use planning proceed before environmental limits are fully established and embedded as binding bottom lines, development pressures may outpace ecological constraint.

Similarly, if settlement-based governance mechanisms are not explicitly preserved within the new statutory hierarchy, their functional influence may be diminished during transition.

Reform should prioritise:

- Clear sequencing that establishes environmental limits before development intensification.
- Explicit continuity for co-governance and joint management arrangements.

- Capability building for local authorities and mana whenua.
- Detailed transitional provisions that avoid reliance on discretionary interpretation.

Without careful transition design, implementation risks becoming compliance-driven and politically reactive rather than outcome-driven and environmentally durable.

9. Recommendations

Te Tira Whakamātaki opposes the Bills in their current form.

If the Committee determines that reform will proceed, we recommend substantial amendment to address structural weaknesses.

Specifically, the Committee should:

1. Require environmental limits under the Natural Environment Bill to operate as binding ecological bottom lines that planning instruments must give effect to.
2. Constrain override and amendment mechanisms so that ecological thresholds cannot be readily diluted through national instruments or ministerial direction.
3. Strengthen Treaty clauses to require operative recognition of Māori relationships with taonga and active partnership in environmental limit-setting, spatial planning, and land use decision-making.
4. Explicitly protect Treaty settlement mechanisms, including co-governance and joint management arrangements, from erosion through structural redesign or centralisation.
5. Clarify transitional provisions to safeguard continuity of existing plans, redress arrangements, and participation rights.
6. Introduce stronger checks and balances on ministerial powers relating to national direction, spatial planning intervention, and limit-setting.
7. Review notification thresholds and participation limits to ensure that cumulative environmental effects and community concerns can be meaningfully addressed.

Reform must correct the deficiencies of the previous system without introducing new structural vulnerabilities.

10. Conclusion

Reform of Aotearoa New Zealand’s resource management system is necessary.

However, reform must strengthen environmental durability and Treaty partnership, not weaken them.

As currently drafted, the Planning Bill and Natural Environment Bill:

- Centralise authority,

- Narrow environmental consideration,
- Risk diluting Treaty integration,
- Expose settlement mechanisms to structural erosion,
- Allow ecological limits to become politically adjustable.

This is not simply administrative change. It is a constitutional and structural rebalancing of environmental governance.

Te Tira Whakamātaki therefore opposes the Bills in their present form.

We urge the Committee to either substantially amend the legislation to embed binding environmental limits, durable Treaty partnership, and institutional stability, or reconsider its progression.

Environmental governance must be environmentally durable, constitutionally grounded, and capable of commanding cross-community trust across generations.

Ngā mihi nui,

Anaru Shadbolt

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