

Submission on the Natural Environment Bill 2025 (and related Planning Bill 2025)

Submitted by:

Soil & Health Association of New Zealand Inc

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1. Introduction

The Soil & Health Association of New Zealand Inc (Soil & Health) is a national membership organisation advocating for the protection and regeneration of soil, freshwater, biodiversity, and ecological systems for the benefit of current and future generations.

Our mandate is ecological integrity and environmental health. We are not aligned with commercial extractive interests. We consider that soil and freshwater are foundational life-support systems, not merely economic inputs.

We appreciate the opportunity to submit on the Natural Environment Bill 2025 (NE Bill) and the related Planning Bill 2025.

2. Executive Summary

Soil & Health considers that the Bills contain several structural risks that may weaken environmental protection in practice.

In particular:

The statutory framing that decision-makers must seek to achieve goals including enabling the use and development of natural resources creates an embedded pro-development bias.

The hierarchical system requiring regional councils to implement national instruments without meaningful capacity to challenge them creates a risk of centralised overreach or regulatory capture.

The restriction that offsetting and compensation may only be addressed in the context of a permit where no national instrument exists undermines plan-based clarity.

The instruction that decision-makers must not consider “less than minor” adverse effects (except cumulatively) risks ignoring incremental ecological harm.

Charging and levy mechanisms risk unintentionally burdening non-commercial and restorative environmental activities.

We support strong environmental limits and mechanisms to prevent commercial over-extraction. However, the system must be precautionary, transparent, locally responsive, and democratically accountable.

3. Key Recommendations

We recommend that the Committee:

Amend Goal 11(a) so that ecological protection is primary, and enabling resource use is expressly subordinate to maintaining and restoring environmental integrity.

Insert provisions allowing regional councils to seek review or depart from national instruments where evidence demonstrates risk to environmental limits or irreversible harm.

Amend clause 15(3) to require plan-based management approaches before consent stage decision-making.

Delete clause 15(1)(b) (the reverse “less than minor” exclusion), or add explicit ecological exceptions.

Provide statutory protection for non-commercial, low-impact, and restorative activities from administrative charges and resource levies.

Ensure that natural resource levies target commercial extraction and fund ecological restoration.

4. Detailed Clause Commentary

4.1 Goals — “Enable the use and development of natural resources”

Clause 11 – Goals

The Bill provides that persons exercising functions under the Act must seek to achieve listed goals, including:

“to enable the use and development of natural resources within environmental limits.”

Concern

Framing “enabling use and development” as a goal that must be pursued embeds a development-first orientation into the statutory architecture.

Even with reference to “environmental limits,” this structure risks:

- prioritising economic enablement in interpretation disputes;
- weakening precaution where limits are contested or under-defined;
- incentivising maximal utilisation within limits rather than ecological restoration.

Environmental governance should begin with protection of ecological integrity and human health. Resource use should only be enabled where it demonstrably supports those outcomes.

Recommendation

Reframe the clause to state:

“to provide for the use and development of natural resources only where consistent with maintaining and restoring ecological integrity and environmental limits.”

Ecological health must be primary, not co-equal.

4.2 Particular consideration of “positive effect of enabling activities”

The Bill requires decision-makers to have particular regard to:

“the positive effect of enabling activities under this Act.”

Concern

This elevates enabling activity as a statutory positive. It is not neutral drafting. It may skew interpretation toward approval rather than restraint.

Recommendation

Remove this provision or balance it with an equivalent requirement to give particular regard to:

- ecological restoration,
- biodiversity enhancement,
- soil regeneration,
- water quality improvement.

4.3 Hierarchical implementation — limited ability to challenge national instruments

The Bill requires regional councils to comply with and implement national instruments. Disputes may result in mandatory orders to amend plans to align with national direction.

Similarly, operative plans are largely insulated from challenge except via narrow mechanisms.

Concern

This creates a one-directional compliance funnel:

National instrument → regional plan → implementation.

If a national instrument:

- sets excessive allocation levels,
- weakens environmental standards,
- reflects political or industry influence,

regional councils have no meaningful pathway to resist implementation even where local ecological evidence indicates harm.

This is particularly concerning for:

- freshwater allocation,
- nutrient discharge caps,
- soil erosion limits,
- mining and extraction zones.

Recommendation

Insert a statutory right for regional councils to:

- apply to the Environment Court for declaratory review of a national instrument where environmental harm is reasonably foreseeable;
- adopt more protective standards locally where supported by evidence;
- refuse implementation pending review in cases of potential breach of environmental limits.

Environmental governance must include upward accountability.

4.4 Clause 15 — Offsetting only at permit stage

Clause 15(3) provides that where no national instrument exists:

management of adverse effects must not be undertaken except in the context of determining an application for a permit.

Concern

This prevents proactive plan-level rule setting. It defers environmental methodology to individual consent processes.

This leads to:

- reactive decision-making,
- inconsistent standards,
- power imbalances favouring well-resourced applicants,
- uncertainty for communities.

Environmental limits should be clear before applications are made.

Recommendation

Replace with:

A regional council must establish plan-based provisions addressing avoidance, minimisation, remediation, and offsetting before determining applications.

Planning must precede consenting.

4.5 Clause 15(1)(b) — “Less than minor” adverse effects

The Bill states that decision-makers:

must not consider a less than minor adverse effect unless cumulative effects exceed that threshold.

Concern

This appears to be a drafting error, where a “less than minor adverse effect” (i.e. a major effect) must NOT be considered unless there is more than one. One major effect should not be permitted.

In addition, although “less than minor” is defined as slight or barely noticeable, ecological degradation often occurs through repeated slight impacts.

Sensitive environments — such as:

- headwater streams,
- remnant wetlands,
- erosion-prone soils,
- threatened species habitat,

can be significantly harmed by incremental “small” changes.

Statutory instruction to ignore such effects undermines precaution.

Primary Recommendation

Delete clause 15(1)(b).

Secondary Recommendation (if retained)

Add explicit exceptions requiring consideration where:

- indigenous biodiversity is affected,
- threatened species habitat is involved,
- drinking water sources are at risk,
- soil integrity may be compromised,
- irreversible harm is plausible.

4.6 Charges and levies

The Bill enables:

- administrative charges for applications and plan processes;
- natural resource levies for taking or using natural resources;
- withholding of action until charges are paid.

Support

We support levies aimed at:

- discouraging over-allocation,
- pricing commercial extraction appropriately,
- funding environmental restoration.

This is consistent with preventing the tragedy of the commons.

Concern

Charges must not deter:

- community restoration projects,
- riparian planting,
- ecological enhancement activities,
- non-commercial customary or low-impact uses.

Recommendation

Include explicit statutory exemptions or mandatory fee waivers for:

- recognised environmental restoration activities,
- non-commercial and low-impact domestic use,
- public interest participation in plan and review processes.

5. Planning Bill — Growth-enabling bias

The Planning Bill includes goals to:

support and enable economic growth by enabling the use and development of land.

Combined with the NE Bill's enabling provisions, this risks reinforcing growth as a statutory objective even where ecological systems are stressed.

Economic growth must operate within ecological boundaries. The statutory language should reflect that hierarchy.

6. Overall Conclusion

Soil & Health urges the Committee to ensure that:

- ecological integrity is the primary statutory principle;
- regional authorities retain meaningful capacity to protect local environments;
- precaution is embedded in law;
- cumulative harm is not normalised;
- commercial over-extraction is priced and constrained;
- community stewardship is supported, not burdened.

Soil, bush and freshwater systems are already under strain. Legislative architecture must strengthen protection, not subtly reweight the system toward accelerated exploitation.

We respectfully request the opportunity to appear before the Committee to speak to this submission.

Signed:

Soil & Health Association of New Zealand Inc