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Ministry for the Environment
WELLINGTON



Environment Institute
of Australia and
New Zealand Inc.

To Whom It May Concern,

SUBMISSION: Natural Environment Bill

This submission sets out the Environment Institute of Australia and New Zealand (EIANZ) position on the '**Natural Environment Bill**', released December 2025.

We acknowledge the effort that the Ministry for the Environment have put into seeking consultation on the document.

About EIANZ

Founded in 1987, EIANZ is a professional association of some 2000 environmental practitioners from across Australia and New Zealand. We provide opportunities for professional and academic dialogue across all sectors of the environmental industry. The Institute membership includes specialists in a range of environmental disciplines: climate change, contaminated land, planning, engineers, law, environmental science, freshwater, marine and coastal sciences, and ecology.

A significant initiative of EIANZ is the Certified Environmental Practitioner (CEnvP) Scheme, which is Australasia's first accreditation scheme designed exclusively for environmental practitioners and recognises environmental professionals in line with their professional counterparts from engineering, accounting, planning, and architecture. These credentials are significant in the recognition of environmental practice in New Zealand.

Our approach

The feedback expressed in this submission is formed from a consensus approach amongst practitioners within EIANZ. The main thrust of the feedback was developed from a small number of members before seeking comment from the membership at large. Accordingly, it represents a whole of industry feedback rather than any regional or sector response. More importantly it represents the collective experience of environmental practitioners who work with and implement environmental legislation, regulations, policy as well as business and community aspirations. We emphasise that our submission is based on the clarity, consistency, and practicality of the proposed implementation of the Natural Environment Act. In addition, we draw attention to areas where our experience suggests that greater clarity is required from the programme of resource management reforms.

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Natural Environment Bill - Submission

Executive summary

The EIANZ welcomes the opportunity to comment on the Natural Environment Bill. EIANZ represents environmental practitioners working across ecology, planning, engineering, policy, compliance, and implementation. Our members are responsible for applying environmental legislation in practice and therefore experience first-hand where regulatory frameworks succeed, and where they create uncertainty, inefficiency, or unintended outcomes.

Overall, EIANZ supports the purpose of the Bill to establish a framework for the use, protection, and enhancement of the natural environment and improve the consistency and effectiveness of environmental management across New Zealand. However, members have identified a number of substantive implementation risks that, if not addressed, could undermine both environmental outcomes and the efficiency of the new system.

A recurring theme across EIANZ's workshops is that the Bill relies heavily on future national direction, including limits, targets, methods, and standards, that have not yet been developed. While strong national direction is supported in principle, the absence of this material at the time of legislating creates material uncertainty for practitioners, councils, applicants, and communities. Members are concerned that this approach risks repeating historic implementation challenges, where high-level legislation precedes the guidance needed to operationalise it effectively.

Closely linked to this is a sequencing and timing problem. The Bill appears to require environmental outcomes, such as giving effect to limits, before the supporting frameworks, methods, and datasets are in place. In particular, the relationship and sequencing between environmental limits, standards, and plans is unclear. Without clearer statutory sequencing, there is a risk of inconsistent regional implementation, delays to plan-making, and increased litigation.

Environmental limits are a central feature of the Bill and are broadly supported by EIANZ members. However, the function of limits is insufficiently defined. It is unclear whether limits are intended to operate as absolute bottom lines, targets, buffers, or triggers for management response. This ambiguity creates practical challenges for implementation and increases the likelihood of dispute. Members also emphasised that different environmental domains, such as human health-based limits and ecosystem-based limits, require different tools and responses, and that a one-size-fits-all approach risks poor outcomes.

The Bill's approach to effects management raised significant concern among practitioners. In particular, the weakening or absence of a clear effects management hierarchy (avoid, remedy, mitigate) risks normalising impacts that could otherwise be avoided. The treatment of less-than-minor effects, unless they result in cumulative effects, is also problematic given the acknowledged difficulty of assessing cumulative effects even in data-rich jurisdictions. Without clear national methods, datasets, and expectations, cumulative effects assessment is likely to be highly contested and difficult to apply consistently.

Members also highlighted risks associated with the permitted activity framework, noting that requirements to demonstrate or register permitted status may unintentionally recreate "permits by another name." This could place substantial administrative burden on councils and regulated parties, particularly if monitoring and enforcement expectations are not proportionate or adequately resourced.

Across all themes, implementation realism was a dominant concern. The Bill increases reliance on technical assessment, monitoring, and enforcement, yet capability and resourcing across councils and agencies are uneven. Practitioners emphasised that poor data, insufficient technical capacity, and unclear guidance will lead to poor decisions, increased appeals, and reduced confidence in the system. These risks are particularly acute in compliance and enforcement functions.

EIANZ members also expressed concern that regulatory relief and compensation provisions may create perverse incentives, discouraging protective planning by shifting financial risk onto councils and communities. Without clear safeguards and funding mechanisms, these provisions could undermine the Bill's environmental objectives.

Finally, members stressed the importance of clarity and usability. Missing definitions, circular drafting, and heavy reliance on subjective terms such as "reasonable" and "best obtainable information" increase uncertainty and litigation risk. Improving drafting clarity and consolidating key definitions would materially improve the workability of the Bill.

In summary, EIANZ supports the purpose of the Natural Environment Bill but considers that its success will depend on addressing key implementation risks.

Priority submission issues and recommendations

1. Alignment between purpose and goals of the Natural Environment Bill

Issue

EIANZ members consistently raised concern about a misalignment between the purpose of the Bill and the goals that give effect to that purpose.

The purpose of the Natural Environment Bill signals a clear intent to use, protect, and enhance the natural environment, including maintaining and improving the life-supporting capacity of ecosystems. However, practitioners noted that the goals and operative mechanisms appear to focus primarily on maintaining current state or avoiding further degradation, rather than actively driving improvement or enhancement over time.

In practice, the goals as currently framed resemble a "no net loss" or status quo approach. While this may prevent further decline, it does not clearly give effect to the enhancement component expressed in the Bill's purpose. Members expressed concern that this disconnect risks weakening the overall effectiveness of the framework and limiting its ability to deliver improved environmental outcomes.

Why this matters in practice

From a practitioner perspective, the purpose–goal relationship is critical because:

- goals guide the development of limits, standards, and plans,
- goals influence how decision-makers interpret and apply discretion, and
- goals shape the expectations placed on applicants, councils, and communities.

If enhancement is not clearly embedded within the goals, practitioners anticipate that:

- decision-making will default to minimum compliance rather than improvement,

- restoration and enhancement initiatives will be deprioritised relative to short-term effects management, and
- opportunities to address legacy degradation will be missed, particularly in already compromised environments.

Members also noted that without explicit enhancement drivers, the system risks locking in poor environmental baselines, especially where limits are set based on existing degraded conditions.

Practitioner observations

Across workshops, members observed that:

- enhancement outcomes are difficult to justify in assessments where goals do not clearly require or support them,
- applicants and regulators are more likely to focus on avoiding breach of limits than on improving outcomes, and
- over time, this creates a conservative system that manages decline rather than enabling recovery.

This issue was seen as particularly important for ecosystem-based domains such as freshwater, terrestrial biodiversity within the rural and urban environments, where improvement often requires active intervention rather than passive protection.

EIANZ position

EIANZ supports a clear and strong purpose for the Natural Environment Bill and considers that the goals should more explicitly and consistently give effect to that purpose.

The Institute considers that the Bill would be materially strengthened by ensuring that enhancement is not merely aspirational, but is clearly reflected in the goal-setting framework and associated decision-making expectations.

Recommendations

EIANZ recommends that the Bill be amended to better align goals with the stated purpose by:

1. Explicitly embedding enhancement within the goals, rather than relying on interpretation of the purpose alone. This could include a specific goal that requires progressive improvement of environmental outcomes over time, particularly where environments are already degraded.
2. Clarifying the relationship between protection, maintenance, and enhancement, so that goals clearly articulate when improvement is expected rather than merely avoiding further harm.
3. Ensuring goals support active restoration and recovery, not just compliance with limits, particularly for ecosystem-based domains.
4. Providing guidance in national direction on how enhancement is to be implemented, including how it should be considered in limit-setting, plan development, and consenting decisions.

5. Avoiding goal formulations that unintentionally lock in degraded baselines, especially where limits are derived from current environmental state rather than desired future outcomes.

2) National direction dependency and uncertainty

Issue

EIANZ members expressed strong concern about the Natural Environment Bill's heavy reliance on future national direction, encompassing environmental limits, targets, methods, standards, and supporting guidance, that has not yet been developed.

While national direction is a core feature of the proposed framework and is broadly supported in principle, practitioners noted that the absence of this material at the time of legislating makes it difficult to form a fully informed view of how the system will operate in practice. In several key areas, the Bill establishes obligations and restrictions without clearly articulating how these will be operationalised through national instruments.

Members observed that this approach creates uncertainty across the system, particularly for councils and practitioners who will be responsible for implementing the framework, and for applicants who need clarity to plan investment and development decisions.

Why this matters in practice

From a practitioner perspective, reliance on undeveloped national direction creates several practical risks:

- Implementation uncertainty: Without clarity on methods, thresholds, and expectations, councils may take divergent approaches, leading to inconsistent outcomes across regions.
- Reduced quality of decision-making: Practitioners are required to apply high-level legislative concepts without the technical tools needed to do so robustly.
- Delayed delivery of outcomes: Plan-making, limit-setting, and consenting processes may stall while awaiting national direction.
- Increased dispute and litigation: Ambiguity increases the likelihood of challenge, particularly where restrictions apply in advance of clear guidance.

Members also noted that this approach risks repeating historic implementation challenges, where enabling legislation preceded the national policy and guidance required to support consistent and effective application.

Practitioner observations

Across workshops, members highlighted that:

- the Bill places significant weight on national direction as the primary mechanism for resolving uncertainty, yet
- there is limited confidence that all required national instruments can be developed within the anticipated timeframes, and
- the technical bandwidth required across central government, local government, and the wider profession is substantial.

- practitioners drew parallels with previous national policy processes that took many years to complete, during which time uncertainty and inconsistency persisted.

EIANZ position

EIANZ supports strong, nationally consistent direction as a means of improving environmental outcomes and reducing fragmentation. However, the Institute considers that the Bill places too much reliance on future national direction without sufficient safeguards, clarity, or transitional arrangements.

Without greater certainty around the content, timing, and sequencing of national direction, there is a material risk that the framework will be difficult to implement and will not achieve its intended outcomes.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Providing clearer statutory expectations for national direction, including indicative timeframes and priorities for the development of key instruments.
2. Clarifying which national direction instruments are essential preconditions for limit-setting, standard-setting, and plan development, and which can be phased in over time.
3. Including robust transitional provisions that guide decision-making in the absence of completed national direction, to reduce inconsistency and uncertainty.
4. Ensuring early national guidance focuses on implementation-critical matters, including methods for setting limits, assessing cumulative effects, and applying effects management hierarchies.
5. Recognising and resourcing the technical effort required to develop and apply national direction, including investment in capability across central and local government and the practitioner community.

3) Sequencing and timing of limits, standards, and plans

Issue

EIANZ members raised significant concern about the sequencing and timing of key components of the Natural Environment Bill, particularly the expectation that environmental limits, standards, and plans will be developed and implemented in parallel, or in advance of complete national direction.

Practitioners described this as a “chicken and egg” problem, where councils and decision-makers are expected to give effect to limits and outcomes before the necessary methods, guidance, and evidential baselines are available. This creates uncertainty around how limits are to be set, how standards are to be applied, and how plans are to be prepared in a consistent and defensible manner.

Why this matters in practice

From an implementation perspective, the order in which limits, standards, and plans are developed is critical. Members highlighted that:

- Limits require clear methods and data to be set appropriately and consistently.

- Standards rely on limits to ensure they are effective and proportionate.
- Plans depend on both limits and standards to translate national direction into locally workable rules and policies.

Where sequencing is unclear or misaligned, practitioners anticipate:

- increased risk of setting inappropriate or overly conservative limits,
- delays to plan development while foundational components are clarified,
- uncertainty for applicants and communities, and
- heightened exposure to legal challenge.

Members also noted that in several environmental domains, particularly freshwater and biodiversity, robust limit-setting requires long-term datasets that may not yet exist at the scale or resolution required.

Practitioner observations

Workshop discussions highlighted that:

- environmental limits are currently an underdeveloped concept in both law and practice,
- the Bill provides limited clarity on how limits should be derived in data-poor environments,
- standards may be required to be developed before limits are fully understood, and
- councils may be forced into interim or default approaches that are difficult to unwind later.

Practitioners also expressed concern that inconsistent sequencing across regions could undermine the objective of national consistency.

EIANZ position

EIANZ supports the use of environmental limits and standards as tools to improve environmental outcomes. However, the Institute considers that successful implementation depends on clear sequencing, with national methods and guidance developed first, followed by limits, then standards and plans.

Without this clarity, there is a risk that limits and plans will be developed in a fragmented or precautionary manner that prioritises risk avoidance over effective environmental management.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Explicitly clarifying the sequencing of national direction, including the order in which methods, limits, standards, and plans are to be developed.
2. Requiring national methods and guidance to precede limit-setting, particularly where limits will have significant regulatory or economic consequences.
3. Providing for staged or interim approaches where data gaps exist, including mechanisms to refine limits over time as information improves.

4. Aligning statutory timeframes with data availability and technical capacity, rather than fixed deadlines that may drive poor-quality outcomes.
5. Reducing exposure to legal challenge by ensuring limits and standards are set using transparent, nationally consistent processes supported by adequate guidance.

4) Environmental limits: clarity of function and management response

Issue

EIANZ members raised substantial and recurring concern about the role, function, and practical application of environmental limits within the Natural Environment Bill. While limits are positioned as a central mechanism for protecting the life-supporting capacity of the natural environment, the Bill provides limited clarity on what environmental limits are intended to achieve and how they should operate within the wider management framework.

In particular, practitioners noted that the Bill does not clearly articulate whether environmental limits are intended to function as:

- absolute bottom lines that must not be breached,
- thresholds that trigger management intervention,
- targets that guide progressive improvement, or
- a combination of these roles depending on context.

The absence of this clarity creates uncertainty for those responsible for setting limits, applying them in decision-making, and responding when limits are approached or exceeded.

Why this matters in practice

From a practitioner and implementation perspective, environmental limits are not neutral tools. How they are framed and applied has direct implications for environmental outcomes, regulatory behaviour, and system credibility.

Members identified several practical risks arising from unclear limit function:

- **Locking in degraded baselines**
Where limits are derived from existing environmental conditions, particularly in already degraded environments, there is a risk that limits legitimise poor states rather than drive recovery.
- **Binary compliance focus**
If limits are treated as absolute thresholds, regulatory effort may focus on avoiding breach rather than improving outcomes, discouraging proactive restoration and enhancement.
- **Defensive decision-making**
In the absence of clear national guidance, councils may adopt conservative or precautionary limits to manage legal risk, potentially constraining activities without proportionate environmental benefit.
- **Inconsistent application across regions**
Without a clear national framework for how limits are to function, practitioners expect divergent regional approaches, undermining consistency and predictability.

- **Scale of implementation**

The proposed framework will need to distinguish the landscape scale that limits are designed to be implemented. For example, management units for biodiversity may span large areas (or entire regions) when at risk species or specific ecosystem services may occur in specific, and possibly isolated locations.

- **Inequity**

Environmental limits may lead to inequity for local communities across a region if some areas remain degraded over others being improved.

Members also noted that limits alone do not address the legacy effects of past activities, which are a defining feature of many New Zealand environments.

Different environmental domains require different approaches

A strong theme across workshops was that not all environmental limits are the same, and the Bill does not sufficiently recognise this.

Practitioners distinguished between:

- Human health-based limits, such as those for air quality or contaminated land, which often operate as clear bottom lines; and
- Ecosystem-based limits, such as those for freshwater and biodiversity, where system health depends on multiple interacting factors and active management.

Members cautioned that applying a uniform limit framework across these domains risks inappropriate management responses and poor outcomes, particularly where ecosystems require restoration, connectivity, and resilience-building rather than simple compliance.

Relationship between limits and management response

A key concern raised by members was the weak articulation of management responses associated with limits.

While the Bill provides for action plans and remedial measures where limits are exceeded, practitioners noted that:

- the triggers for these responses are not clearly defined,
- the relationship between limits and improvement pathways is unclear, and
- there is limited guidance on how councils should prioritise actions where multiple limits are under pressure.

Members emphasised that limits should not operate in isolation, but as part of an integrated framework that includes:

- action plans,
- restoration and enhancement programmes,
- adaptive management, and
- monitoring and feedback loops.

Without this integration, limits risk becoming static regulatory thresholds rather than dynamic tools for environmental improvement.

Data limitations and uncertainty

Practitioners repeatedly highlighted that robust limit-setting requires **high-quality, long-term data**, which is not consistently available across New Zealand. This is particularly acute for cumulative effects, ecosystem health, and biodiversity.

Members expressed concern that:

- the Bill does not adequately address how limits should be set in data-poor environments,
- uncertainty may be resolved through conservative assumptions that constrain activity without clear benefit, and
- limits set under uncertainty may be difficult to refine or adjust once embedded in plans.

This raises the risk of limits becoming legally entrenched despite evolving scientific understanding.

EIANZ position

EIANZ supports the use of environmental limits as an important component of environmental protection. However, the Institute considers that limits must be clearly defined, context-sensitive, and embedded within a broader management framework if they are to be effective.

Environmental limits should:

- protect against unacceptable degradation,
- signal when management intervention is required, and
- support long-term improvement of environmental outcomes.

Limits should not be treated as blunt instruments or as substitutes for proactive environmental management.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Clearly articulating the intended role of environmental limits, including whether they function as bottom lines, triggers, targets, or a combination of these. The NPS – FM NOF provide a good example framework for limits as reference point in recent legislation,
2. Differentiating limit frameworks by environmental domain, recognising the distinct characteristics of human health-based and ecosystem-based limits.
3. Explicitly linking limits to defined management responses, including action plans, restoration measures, and adaptive management pathways.
4. Ensuring limits support improvement over time, particularly in degraded environments, rather than locking in existing conditions.
5. Providing national guidance on setting and refining limits under uncertainty, including the use of interim limits, review mechanisms, and adaptive adjustment as knowledge improves.

6. Avoiding over-reliance on limits alone, and ensuring they operate as part of an integrated system of tools, incentives, and interventions.
7. The scale at which limits are designed to operate.

6) Effects management hierarchy and cumulative effects

Issue

EIANZ members raised strong concern about the Bill's treatment of effects management, particularly the absence of a clear and enforceable effects management hierarchy and the way cumulative effects are addressed.

Practitioners noted that while the Bill references avoiding, minimising, remedying, mitigating, offsetting, and compensating for effects, it explicitly removes any hierarchy or order of preference between these responses. Members consistently expressed concern that this weakens one of the most important practical tools used to manage environmental effects and achieve better outcomes. New Zealand Environment Court decisions have consistently accepted the mitigation hierarchy as international good practice, recognising offsets as appropriate only for residual effects after avoidance, remediation, and mitigation steps have been exhausted (e.g. *Day v Manawatu-Wanganui Regional Council*, evidence discussing BBOP-aligned hierarchy). While in the international biodiversity offset research, it likewise identifies adherence to the mitigation hierarchy as a core design feature associated with more robust environmental outcomes and accountability in offset programmes, particularly where avoidance is prioritised over compensation.

At the same time, the Bill places increased emphasis on cumulative effects, while providing limited guidance on how cumulative effects are to be identified, assessed, or managed in practice.

Why this matters in practice

From a practitioner perspective, the effects management hierarchy is not theoretical, it is a decision-making discipline that shapes project design, site selection, and environmental outcomes.

Members highlighted that without a clear hierarchy:

- Avoidance is less likely to occur, as applicants may default to mitigation or compensation as more convenient options.
- Remedy and mitigation may be deprioritised, particularly where offsetting or financial compensation is perceived as simpler.
- Early design improvements are discouraged, reducing opportunities to prevent effects at source.

Practitioners emphasised that once avoidance is removed as a primary expectation, downstream management responses become more complex, uncertain, and contested.

Members acknowledge that flexibility within the hierarchy can, in certain circumstances, result in appropriate or even improved overall outcomes. However, such cases are highly context-specific, require a strong evidential foundation and technical scrutiny, and have occurred

within, rather than outside of, the established effects management hierarchy framework under the RMA.

Risk of an “effects management smorgasbord”

Workshop discussions repeatedly described the Bill’s current approach as creating an “effects management smorgasbord”, where decision-makers and applicants may select whichever response appears most expedient, rather than what delivers the best environmental outcome.

Members cautioned that this risks:

- inconsistent decision-making,
- weakened environmental protection, and
- increased dispute where different parties have differing views on what response is appropriate.

Without a hierarchy, practitioners expect increased reliance on expert judgement and legal argument, rather than clear policy direction.

Cumulative effects: ambition without sufficient tools

EIANZ members broadly supported greater recognition of cumulative effects, acknowledging that many of New Zealand’s environmental challenges arise from the accumulation of small or incremental impacts over time.

However, practitioners raised significant concern that:

- the Bill places increased weight on cumulative effects, while
- providing limited methodological guidance, data support, or practical tools to assess them.

Members noted that cumulative effects assessment remains challenging even in jurisdictions with richer datasets and longer histories of integrated monitoring. In New Zealand, where data gaps are common, cumulative effects assessment is particularly difficult to implement consistently and defensibly.

Practical challenges for cumulative effects assessment

Practitioners identified several practical constraints:

- lack of baseline data at appropriate spatial and temporal scales,
- difficulty attributing effects to individual activities,
- challenges in defining appropriate thresholds or tipping points, and
- uncertainty around how cumulative effects interact with environmental limits.

Members also expressed concern that cumulative effects may be used inconsistently — either underweighted due to uncertainty, or over-weighted in a precautionary manner that constrains activity without clear benefit.

EIANZ position

EIANZ supports a strong and consistent approach to managing environmental effects, including recognition of cumulative effects. However, the Institute considers that this requires clear structure, guidance, and proportionality.

The effects management hierarchy remains a critical tool for:

- encouraging avoidance at the earliest stages,
- driving better design outcomes, and
- providing clarity and consistency in decision-making.

Cumulative effects must be addressed in a way that is methodologically robust and realistically implementable.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Reinstating a clear effects management hierarchy, with avoidance as the primary and preferred response where practicable.
2. Clarifying the circumstances in which offsetting or compensation may be appropriate, and ensuring these are not treated as substitutes for avoidance or remedy.
3. Providing national guidance on cumulative effects assessment, including methods, scales of assessment, and expectations for data use.
4. Aligning cumulative effects assessment with environmental limits, so that cumulative impacts are assessed against clearly defined outcomes and thresholds.
5. Recognising data limitations explicitly, and providing mechanisms for staged, adaptive approaches to cumulative effects management.
6. Ensuring effects management tools are proportionate, so that requirements reflect the scale and significance of effects without creating unnecessary regulatory burden.

6) Permitted activities: administrative burden and uncertainty

Issue

EIANZ members raised significant concern about the Bill's approach to permitted activities, particularly the administrative and compliance obligations associated with demonstrating that an activity is permitted.

While the shift toward greater use of permitted activities is intended to streamline processes and reduce consenting burden, practitioners noted that the Bill appears to replace formal consent processes with new administrative and compliance requirements that may be equally, if not more, resource intensive for councils, applicants, and practitioners.

Members expressed concern that this risks creating a system that is "permitted in name only", while introducing new forms of uncertainty and regulatory burden.

Why this matters in practice

From an implementation perspective, the effectiveness of a permitted activity framework depends on simplicity, clarity, and proportionality.

Practitioners highlighted that under the Bill:

- permitted activities may require formal demonstration or registration to confirm compliance,
- councils may be required to assess and record permitted activity compliance,
- monitoring and enforcement obligations may increase substantially, and
- disputes may arise where there is disagreement about whether an activity is permitted.

Members noted that this fundamentally alters the nature of permitted activities, which have traditionally operated as activities that can be undertaken “as of right” where standards are met.

Administrative and resourcing implications

Workshop discussions emphasised that the proposed approach may significantly increase administrative workload, particularly for local authorities.

Practitioners identified risks including:

- councils needing to assess large volumes of permitted activity information,
- increased monitoring and reporting obligations without commensurate resourcing,
- pressure on compliance teams already operating with limited technical capacity, and
- diversion of resources away from higher-risk or higher-impact activities.

Members were concerned that this could undermine the stated objective of simplifying the system and improving efficiency.

Uncertainty for applicants and practitioners

Practitioners also raised concern that the permitted activity framework introduces new uncertainty for applicants, particularly where:

- there is no clear mechanism to confirm permitted status,
- councils disagree with an applicant's interpretation of permitted activity criteria, or
- an activity initially considered permitted is later deemed non-compliant.

Members noted that this uncertainty may:

- discourage use of the permitted activity pathway,
- lead to precautionary applications for permits “just in case”, and
- increase disputes and delays.

This risks recreating many of the challenges currently associated with consenting, but through less transparent mechanisms.

EIANZ position

EIANZ supports the principle of using permitted activities to reduce unnecessary consenting and focus regulatory effort where it is most needed. However, the Institute considers that the Bill's current approach risks undermining this objective by shifting burden rather than reducing it.

Permitted activity frameworks should:

- be clear and self-executing where possible,
- minimise administrative intervention, and
- provide certainty to both applicants and regulators.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Clarifying the intended operation of permitted activities, including whether activities are genuinely permitted as of right or subject to formal confirmation processes.
2. Limiting administrative and registration requirements for permitted activities to those necessary for high-risk or sensitive activities.
3. Ensuring monitoring and compliance obligations are proportionate, and aligned with available resourcing and technical capacity.
4. Providing clear mechanisms to confirm permitted status, to reduce uncertainty and avoid precautionary consenting.
5. Avoiding the creation of parallel approval systems, where permitted activities function as de facto consents without the transparency of a consent process.

7) Participation, adaptability, and unanticipated activities

Issue

EIANZ members raised concern that the Bill's emphasis on front-loaded planning and national direction, while intended to improve certainty and efficiency, may unintentionally reduce the system's ability to respond to unanticipated activities, emerging technologies, and novel land uses.

Members also noted that the Bill significantly shifts public and stakeholder participation toward plan-making and away from activity-level decision-making. While this has benefits, practitioners cautioned that no planning framework can anticipate all future activities or environmental interactions.

Why this matters in practice

From a practitioner perspective, environmental management systems must be adaptive as well as certain.

Members highlighted that:

- new technologies and land uses frequently emerge outside existing planning assumptions,

- environmental responses to activities are not always predictable, and
- rigid frameworks can struggle to accommodate innovation or respond to unforeseen effects.

Where participation and discretion are overly constrained, practitioners anticipate:

- increased reliance on plan variations and amendments,
- delays in responding to emerging risks or opportunities, and
- pressure to fit novel activities into ill-suited categories.

This can reduce both environmental protection and development efficiency.

Participation at the plan level versus activity level

EIANZ members generally supported increased emphasis on participation during plan development, noting that this can provide greater certainty and reduce repeated debate.

However, practitioners cautioned that:

- plan-making processes are lengthy and resource-intensive,
- many stakeholders engage only when specific activities arise, and
- removing or limiting participation at the activity level may reduce public confidence in the system.

Members noted that local environmental effects and community values are often most visible at the activity scale, particularly in urban and peri-urban environments.

Managing unanticipated activities

A recurring theme was concern about how the system will handle activities that:

- were not anticipated during plan development,
- involve emerging technologies or practices, or
- present novel combinations of effects.

Practitioners observed that without clear adaptive pathways, such activities may:

- be delayed unnecessarily,
- be assessed under inappropriate rules, or
- require frequent plan changes that undermine efficiency.

Members emphasised that flexibility does not mean lower environmental standards, but rather the ability to respond proportionately and intelligently to new information.

EIANZ position

EIANZ supports a planning-led system that provides clarity and certainty. However, the Institute considers that adaptive capacity and participation remain essential to achieving effective and trusted environmental management.

A system that cannot respond to change risks becoming outdated, overly rigid, and disconnected from both environmental realities and community expectations.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Ensuring mechanisms exist to accommodate unanticipated activities, without requiring frequent plan amendments.
2. Retaining appropriate opportunities for participation at the activity level, particularly where localised or unforeseen effects may arise.
3. Providing clear adaptive pathways for emerging technologies and novel land uses, supported by guidance rather than rigid categorisation.
4. Balancing certainty with flexibility, so that plans provide direction while allowing proportionate responses to new information.
5. Maintaining public confidence in the system, by ensuring participation remains meaningful and transparent where environmental effects are uncertain or contested.

7) Technical competence, resourcing, and implementation realism

Issue

EIANZ members consistently raised concern about whether the system proposed by the Natural Environment Bill can be implemented effectively with current levels of technical capability, resourcing, and institutional capacity.

The Bill introduces a more technically demanding framework, with greater reliance on environmental limits, cumulative effects assessment, permitted activity compliance, and adaptive management. Practitioners noted that successful delivery of this framework depends on access to suitably qualified expertise, robust data, and sufficient resourcing across central and local government, as well as the wider professional community.

Members expressed concern that these enabling conditions are not currently in place at the scale required.

Why this matters in practice

From a practitioner perspective, the quality of environmental outcomes is directly linked to the capability and capacity of those implementing the system.

Workshop discussions highlighted that:

- councils increasingly rely on a small number of technical specialists to cover broad and complex portfolios,
- compliance and monitoring teams are often generalist rather than technically specialised, and
- institutional knowledge has been eroded over time through restructuring, outsourcing, and staff turnover.

Members noted that without sufficient technical competence:

- limits may be set conservatively or inconsistently,
- effects assessments may be applied unevenly,
- compliance decisions may lack scientific rigour, and
- trust in the system may be undermined.

Increasing technical demands under the Bill

Practitioners emphasised that the Bill materially increases the technical complexity of environmental management by:

- requiring more sophisticated limit-setting approaches,
- elevating the importance of cumulative effects,
- expanding monitoring and compliance expectations for permitted activities, and
- relying on adaptive management under uncertainty.

These demands extend beyond ecology to include freshwater science, air quality, contaminated land, climate science, and systems-based environmental assessment.

Members cautioned that without deliberate investment in capability, these requirements may exceed what many organisations can realistically deliver.

Resourcing constraints and implementation risk

A recurring theme was concern that the Bill assumes a level of resourcing that does not reflect current realities.

Practitioners highlighted that:

- local authorities face ongoing funding constraints and rate caps,
- central government agencies are simultaneously undergoing structural change, and
- the professional workforce required to deliver reform is finite.

Members expressed concern that ambitious statutory timeframes may drive:

- rushed or defensive decision-making,
- reliance on incomplete information, and
- increased legal challenge.

This risks undermining both environmental outcomes and confidence in the reform process.

Practitioner competence and consistency

Members also discussed the absence of nationally recognised mechanisms to demonstrate or assure practitioner competence under the new framework.

Given the increased reliance on expert assessment and judgement, practitioners raised concern about:

- inconsistent quality of assessments across jurisdictions,

- limited mechanisms to build shared understanding of best practice, and
- pressure on regulators to assess complex technical material without specialist support.

This was seen as a risk to consistency, fairness, and decision-making confidence.

EIANZ position

EIANZ supports reform that improves environmental outcomes and decision-making quality. However, the Institute considers that technical competence and resourcing are prerequisites for success, not secondary considerations.

A framework that exceeds the system's delivery capacity risks producing inconsistent outcomes, regulatory delay, and increased litigation, regardless of legislative intent.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Explicitly recognising the technical capability required to implement the framework effectively across all environmental domains.
2. Aligning statutory timeframes with delivery capacity, including data availability, workforce capability, and institutional readiness.
3. Providing sustained investment in technical expertise, particularly within local authorities and compliance functions.
4. Supporting nationally consistent guidance and training, to build shared understanding of methods, expectations, and best practice.
5. Acknowledging implementation realism, including the need for staged delivery, transitional arrangements, and adaptive refinement over time.

8) Best obtainable information and scientific uncertainty

Issue

EIANZ members raised significant concern about the Bill's treatment of best obtainable information and scientific uncertainty, particularly the apparent shift away from a precautionary approach toward decision-making based on information that is "reasonably obtainable at the time".

While practitioners recognise the need for timely decisions and proportional information requirements, members noted that the Bill provides limited clarity on how uncertainty is to be managed, especially where environmental effects may be significant, irreversible, or poorly understood.

Why this matters in practice

From a practitioner perspective, environmental decision-making frequently occurs under conditions of uncertainty. This is particularly true for:

- ecological effects on threatened or rare species,
- cumulative and indirect effects,

- emerging contaminants or technologies, and
- long-term ecosystem responses.

Members emphasised that the way uncertainty is treated has a direct influence on:

- survey effort and timing,
- scope of assessments,
- confidence in decision-making, and
- risk allocation between applicants, regulators, and the environment.

Without clear expectations, uncertainty risks being resolved inconsistently or in ways that undermine environmental protection.

Best obtainable information: clarity and risk

Practitioners expressed concern that the concept of “best obtainable information” may be interpreted narrowly, particularly where project timelines or commercial pressures limit data collection.

Members noted that:

- “reasonably obtainable” is inherently subjective and open to interpretation,
- short timeframes may preclude seasonal or longitudinal surveys, and
- reliance on incomplete information may disproportionately affect sensitive environments or species.

There was concern that this approach could unintentionally incentivise rapid progression of applications before adequate information can be obtained, rather than encouraging robust understanding of effects.

Scientific uncertainty and precaution

Members observed that the Bill appears to move away from an explicit precautionary principle, replacing it with a requirement to proceed with decisions despite uncertainty.

While practitioners acknowledged that decision-making cannot be indefinitely delayed, there was concern that:

- the absence of clear precautionary safeguards may expose vulnerable environments to irreversible harm,
- uncertainty may be discounted rather than managed, and
- decision-makers may lack guidance on when caution is warranted.

Members emphasised that precaution does not require inaction, but rather proportionate and risk-aware decision-making.

Differential treatment of uncertainty

Workshop discussions highlighted that not all uncertainty carries the same risk.

Practitioners noted that greater caution is warranted where:

- effects may be irreversible,
- impacts relate to threatened or endemic species,
- uncertainty affects cumulative or system-wide outcomes, or
- recovery is slow or uncertain.

Conversely, members recognised that lower-risk activities may justify more streamlined information requirements.

EIANZ position

EIANZ supports decision-making that is timely, transparent, and proportionate. However, the Institute considers that uncertainty must be actively managed, not merely acknowledged.

Best obtainable information should be understood as:

- information that is appropriate to the scale and risk of effects, and
- information that reflects ecological and environmental realities, including seasonality and system dynamics.

Scientific uncertainty should trigger careful consideration of risk, rather than defaulting to permissive outcomes.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Clarifying how best obtainable information is to be interpreted, including expectations around survey timing, scope, and proportionality.
2. Providing guidance on managing scientific uncertainty, particularly where effects may be significant, cumulative, or irreversible.
3. Reintroducing a proportionate precautionary approach, especially for threatened species, sensitive environments, and high-risk activities.
4. Avoiding incentives to progress applications prematurely, where additional information could materially improve understanding of effects.
5. Supporting adaptive management pathways, where uncertainty exists but decisions must proceed, including monitoring, review, and corrective mechanisms.

9) Regulatory relief/compensation: perverse incentives and cost shifting

Issue

EIANZ members raised significant concern about the Bill's provisions relating to regulatory relief and compensation, particularly the risk that these mechanisms may create perverse incentives and shift costs in ways that undermine environmental protection.

While members recognise the importance of fairness and transparency in regulatory decision-making, practitioners expressed concern that compensation-based relief for regulatory controls may discourage the use of strong environmental protections and distort plan-making behaviour.

Why this matters in practice

From an implementation perspective, regulatory systems inevitably shape behaviour. Members highlighted that where environmental regulation carries a direct financial liability, decision-makers may become reluctant to apply or strengthen protections, regardless of environmental need.

Practitioners identified several practical risks:

- **Disincentives to protect**
Councils may be less willing to introduce or strengthen environmental controls if doing so exposes them to compensation claims.
- **Risk-averse plan drafting**
Environmental protections may be diluted or avoided entirely to manage fiscal exposure, particularly under constrained funding environments.
- **Cost shifting to the public**
Compensation liabilities may ultimately be borne by ratepayers or taxpayers, rather than by those generating environmental effects.

Members noted that these dynamics are particularly problematic where environmental controls reflect long-established public interest objectives, such as protecting wetlands, waterways, biodiversity, and natural hazards.

Implications for environmental outcomes

Practitioners expressed concern that compensation mechanisms could:

- prioritise economic certainty over environmental outcomes,
- reduce councils' willingness to address legacy degradation,
- entrench existing land use patterns, even where environmental harm is well understood, and
- undermine public confidence in the integrity of environmental decision-making.

Members emphasised that environmental regulation necessarily involves balancing private use with public interest, and that shifting this balance too far toward compensation risks weakening the system as a whole.

Interaction with limits and planning instruments

Members also raised concern about how regulatory relief provisions interact with environmental limits and planning instruments.

Where limits or standards are required to protect environmental values, the prospect of compensation may:

- constrain the ability to set limits at appropriate levels,
- discourage proactive planning responses, and
- undermine the effectiveness of national direction.

This creates a tension between the Bill's stated environmental objectives and the financial consequences of achieving them.

EIANZ position

EIANZ supports transparency and fairness in regulation. However, the Institute considers that environmental protection should not be disincentivised through compensation mechanisms that transfer private costs to the public.

Regulatory relief frameworks must be carefully designed to avoid undermining the ability of decision-makers to act in the public interest and protect environmental values.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Clearly limiting the scope of regulatory relief and compensation, particularly where controls are necessary to protect significant environmental values.
2. Ensuring compensation mechanisms do not discourage robust environmental planning, especially in relation to limits, standards, and protective overlays.
3. Avoiding cost-shifting to local communities, where environmental regulation reflects long-standing public interest expectations.
4. Providing clear guidance on when relief is appropriate, to reduce uncertainty and prevent defensive decision-making.
5. Aligning regulatory relief provisions with environmental objectives, so that protection and enhancement of the natural environment remain central to decision-making.

9) Tradable markets and “right to apply” risks

Issue

EIANZ members raised concern about the Bill's provisions that enable the establishment of tradable markets for environmental capacity, and in particular the potential implications of linking participation in these markets to a “right to apply” for consents or approvals.

While members recognise that market-based tools can, in some contexts, support efficient allocation of resources, practitioners cautioned that the Bill does not sufficiently address the risks associated with restricting access to decision-making processes based on prior allocation or ownership of tradable capacity.

Why this matters in practice

From a practitioner perspective, access to a right to apply is fundamental to a fair and adaptable environmental management system.

Members expressed concern that where tradable markets determine who can apply:

- activities with potential environmental or societal benefit may be excluded entirely,
- innovation and improved environmental performance may be constrained, and
- early or historically established activities may be privileged over better-performing alternatives.

Practitioners noted that this represents a significant departure from current frameworks, where access to apply is generally open, even if approval is not guaranteed.

Risk of lock-in and path dependency

Workshop discussions highlighted the risk that tradable markets could entrench existing land uses or practices, particularly where capacity is allocated based on historical use.

Members cautioned that:

- early allocation decisions may have long-lasting consequences,
- capacity may be held by activities with poorer environmental performance, and
- more environmentally beneficial or efficient activities may be locked out.

This risks undermining the Bill's objectives by constraining the system's ability to adapt and improve over time.

Equity and competition concerns

Practitioners also raised concern about equity and competition implications, including:

- barriers to entry for new or smaller operators,
- concentration of capacity among well-resourced entities, and
- reduced flexibility for communities, councils, and infrastructure providers.

Members noted that environmental markets, if poorly designed, can shift decision-making power away from transparent public processes toward private transactions, reducing accountability.

Interaction with environmental limits and outcomes

Members emphasised that tradable markets must operate in a way that supports, rather than undermines, environmental outcomes.

Concerns were raised that:

- market mechanisms may prioritise economic efficiency over ecological function,
- cumulative effects may be difficult to manage where capacity is fragmented, and
- limits may be met in aggregate while localised impacts worsen.

Practitioners stressed that markets are tools, not outcomes, and must be carefully constrained within a robust environmental framework.

EIANZ position

EIANZ does not oppose the use of market-based instruments in principle. However, the Institute considers that access to apply for environmental approvals should not be unduly constrained by ownership or control of tradable capacity.

Market mechanisms must be designed to:

- support adaptive management,
- enable innovation and improvement, and

- maintain transparent, accountable decision-making.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Ensuring that participation in tradable markets does not determine access to a right to apply, particularly where activities may deliver environmental or public benefit.
2. Safeguarding against lock-in effects, including mechanisms to periodically review allocations and encourage improvement over time.
3. Maintaining transparency and accountability, so that market transactions do not replace robust environmental assessment.
4. Ensuring equity and accessibility, particularly for new entrants, community infrastructure, and innovative activities.
5. Clearly aligning market tools with environmental objectives, including limits, cumulative effects management, and enhancement goals.

10) Wildlife Act interface and system integration risks

Issue

EIANZ members raised concerns about how the Natural Environment Bill will interact with the Wildlife Act framework, particularly in relation to approvals, effects management, and regulatory overlap.

While members generally welcomed efforts to improve system integration and reduce duplication, practitioners cautioned that the Bill introduces uncertainty about how wildlife protection functions will operate alongside the new environmental management framework, and how responsibilities will be shared between agencies.

Why this matters in practice

From a practitioner perspective, wildlife effects are already one of the most complex and sensitive aspects of environmental assessment and consenting.

Members noted that:

- wildlife approvals often operate on parallel tracks to resource management processes,
- roles and responsibilities between agencies can be unclear, and
- inconsistent decision-making creates risk for applicants, regulators, and wildlife outcomes.

Any reform that alters these interfaces must be clear, carefully sequenced, and well-resourced to avoid unintended consequences.

Integration opportunities and risks

Practitioners acknowledged that improved alignment between environmental approvals and wildlife authorisations could offer benefits, including:

- reduced duplication of assessment,

- improved transparency, and
- more coherent decision-making.

However, members cautioned that without clear boundaries and safeguards, integration could also:

- blurred accountability between agencies,
- reduce specialist wildlife expertise in decision-making,
- create confusion about statutory responsibilities, and
- lead to significant dilution in species-specific protection, resulting in accelerated population losses, especially in threatened and at risk species.

There was particular concern about ensuring that wildlife protection objectives are not subordinated or diluted through integration with broader environmental processes.

Specialist expertise and decision quality

Workshop discussions highlighted the importance of **specialist ecological expertise** in wildlife-related decisions.

Members expressed concern that:

- New Zealand has an exceptionally high proportion of its endemic wildlife threatened or at risk, with 82% of terrestrial bird species, 80% of bats, 96% of lizards, and 76% of freshwater fish facing extinction or decline,
- wildlife effects require species-specific and context-specific assessment,
- these assessments often involve high uncertainty and irreversible risk, and
- decision-makers without specialist support may struggle to apply consistent standards.

Practitioners stressed that any integrated system must retain strong specialist input and clear accountability for wildlife outcomes.

Effects management and wildlife protection

Members also raised concern about how wildlife effects will be addressed under the Bill's effects management framework.

In particular, practitioners noted risks where:

- offsetting or compensation is applied to wildlife impacts without clear limits,
- cumulative effects on species are difficult to track or attribute, and
- management responses are inconsistent across jurisdictions.

There was strong support for ensuring that wildlife protection retains a precautionary and avoidance-focused approach, particularly for threatened and endemic species.

EIANZ position

EIANZ supports efforts to improve coherence and efficiency across environmental legislation. However, the Institute considers that wildlife protection requires clear statutory recognition, specialist expertise, and strong safeguards.

Integration should enhance, not weaken, wildlife outcomes and should avoid creating uncertainty about roles, responsibilities, or standards.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Clearly defining the interface between the Natural Environment Bill and the Wildlife Act, including roles, responsibilities, and decision-making authority.
2. Ensuring wildlife protection objectives are not diluted through integration with broader environmental processes.
3. Retaining specialist wildlife expertise within decision-making and assessment processes.
4. Clarifying how wildlife effects are managed, particularly in relation to avoidance, cumulative effects, and limits on offsetting or compensation.
5. Providing guidance and resourcing to support integration, to avoid increased uncertainty or delay during implementation.

11) Definitions, clarity, and drafting usability

Issue

EIANZ members consistently raised concerns about the clarity, completeness, and usability of definitions and drafting within the Natural Environment Bill.

Practitioners noted that the Bill introduces a large number of new concepts and terms, many of which are central to how the framework will operate, yet are either:

- undefined,
- defined circularly,
- reliant on cross-referencing multiple provisions, or
- left to be clarified through future national direction. i.e. wetlands.

Members expressed concern that this level of ambiguity increases interpretive risk and undermines consistent implementation.

Why this matters in practice

From a practitioner perspective, clarity of drafting is not a stylistic preference, it directly affects:

- how consistently the Bill is interpreted,
- the confidence of decision-makers,
- the quality of environmental outcomes, and

- the likelihood of dispute or litigation.

Members noted that unclear drafting:

- shifts interpretation from technical assessment to legal argument,
- increases reliance on case law to resolve basic concepts, and
- disadvantages smaller councils, applicants, and communities with limited access to specialist advice.

Key areas of concern

Workshop discussions identified several recurring definition and drafting issues, including:

- **Undefined or weakly defined core terms**
Key concepts such as environmental limits, enhancement, cumulative effects, reasonable use, and positive effects lack clear definition or operational framing.
- **Circular and layered definitions**
Some defined terms rely on cross-references to other sections that themselves rely on additional definitions, creating interpretive loops that are difficult to apply in practice.
- **Inconsistent terminology across the Bill**
Similar concepts are described using different terms in different sections, creating uncertainty about whether distinctions are intentional or inadvertent.
- **Reliance on future instruments for meaning**
Practitioners expressed concern that core concepts are deferred to national direction, making it difficult to understand the Bill's operation at enactment.

Members also noted the absence of clear definitions for certain environments or features referenced throughout the Bill, which risks inconsistent treatment across jurisdictions.

Drafting usability for practitioners

Practitioners emphasised that the Bill will be used daily by planners, scientists, engineers, compliance officers, and decision-makers — many of whom are not legal specialists.

Members raised concern that:

- heavy cross-referencing reduces readability and accessibility,
- complex sentence structures obscure intent, and
- limited use of examples or explanatory material increases uncertainty.

This risks creating a system that is technically correct but practically difficult to use.

EIANZ position

EIANZ supports legislation that is clear, accessible, and capable of consistent application across disciplines and regions.

The Institute considers that improving definitional clarity and drafting usability would:

- reduce dispute and delay,
- support better environmental outcomes, and

- improve confidence in the reformed system.

Recommendations

EIANZ recommends that the Bill be strengthened by:

1. Providing clear definitions for core concepts, particularly those central to decision-making and limit-setting.
2. Avoiding circular or overly layered definitions, and simplifying cross-referencing where possible.
3. Ensuring consistent terminology throughout the Bill, with clear explanations where distinctions are intended.
4. Reducing reliance on future instruments for core meaning, so that the Bill is workable at commencement.
5. Improving drafting usability, including clearer structure, plain language where appropriate, and supporting guidance or examples.

Closing statement

EIANZ supports the intent of the Natural Environment Bill to improve environmental outcomes, provide clearer direction, and move toward a more integrated and effective management system.

The Institute's submission reflects the collective experience of practitioners working across planning, science, engineering, policy, and regulation. While members broadly support the direction of reform, they have identified a number of areas where clarity, sequencing, and implementation realism will be critical to success.

EIANZ encourages refinement of the Bill to ensure it is clear, workable, and capable of consistent application in practice. Addressing the issues raised in this submission will help reduce uncertainty, improve decision-making confidence, and support better long-term outcomes for the natural environment.

The Institute welcomes ongoing engagement and is willing to contribute practitioner expertise to support the development of national direction and implementation guidance.

Best regards,



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