

Submission to the Resource Management (Freshwater and Other Matters) Amendment Bill 2024

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We are informed that these amendments are designed to reduce the 'regulatory burden'. However, a review process which looks at only one impact area while ignoring the far more significant issues of reducing biodiversity loss and tackling the climate crisis, cannot be a balanced or effective review.

There are regulatory burdens in every corner of society. These are designed to ensure the best practice and least damage to the environment by ill-conceived practices. There is no more important 'key' sector than the environment on which we all depend for our survival, health, well-being and enjoyment. Increasingly, the impacts of human actions are stressing every aspect of the environment, through pollution of our air, freshwater, soil and marine systems; through land clearing, inappropriate land use, and other development that results in loss of habitat for indigenous biodiversity and diminishes ecosystem health; through loss of soil and diminished soil health; through sedimentation of our waterways, estuaries and coastal ecosystems; through noise pollution on land and in the marine space; through a rapidly warming climate. Thus, it is imperative that constraints on poor practices are maintained, and in fact, strengthened.

PROPOSED FRESHWATER MANAGEMENT AMENDMENTS

Freshwater Key Points

We are opposed to Government changes in the Bill that exclude the hierarchy of obligations (priorities 1, 2, 3) within the National Policy Statement for Freshwater Management 2020 from resource consent applications and resource consent decision making processes.

- We are opposed because the 'hierarchy of obligations' is a holistic protective measure to ensure fresh waterways are well cared for. Given our total dependence on freshwater for life, it is simple common sense to prioritise waterway health. The hierarchy of obligations is embedded in Te Mana o te Wai, the meaning and application of which was strengthened and clarified in the most recent (2020) revision of the National Policy Statement for Freshwater Management (NPS-FM).
- The key obligation of Te Mana o te Wai is prioritising the health and well-being of rivers to ensure the health, social, economic and cultural well-being of people and communities¹.
- Although communities are lower down the hierarchy, the principle is that if the river is looked after and in good health then the surrounding people and community will also be in good health¹.
- One of our national taonga, Waikoropupū Springs, is under threat because of lack of care in the catchment upstream of it. <https://www.forestandbird.org.nz/resources/one-week-remains-support-te-waikoropupu-springs-protection>

¹ Ministry for the Environment (2020) Te Mana o te Wai factsheet, Pub No: Info 968

The strength of the current legislation is that it allows a water body to express its own form and character by moving within its bed¹.

- The Making Room for Rivers concept is a positive response to reducing impacts of flooding of catchments caused by extreme weather events; events that are already seriously impacting our nation (Wairoa again this week) and are predicted to be more common due to climate warming.

- In Aotearoa New Zealand, the extensive clearance of native forests for farming, exotic pine production and urban development has disregarded the need for waterways to evolve and move within their catchments. Artificially containing rivers has resulted in flooding during extreme weather events such as during Cyclone Gabrielle when flooded rivers in Hawkes Bay and Tairāwhiti burst stop banks and destroyed infrastructure, livelihoods, lives, buildings, crops and orchards at an estimated price tag of over \$5 billion; the estimated cost to the primary sector alone was \$1,712,500,000 (NZ Herald Hawkes Bay 2 July 2023).
- Disregarding the laws of physics that teach us that rivers are dynamic entities, and that periodic, intense heavy rainfall events will result in high energy flows moving across floodplains and catchments, has cost us dearly. It is time we respected the mana of the wai and prioritised river health. Resource consents that do not prioritise river health will continue to cost us dearly.
- The Government should continue to support the improved standards of the NPS-FM. Reversing this legislation will increase the likelihood of future flooding from extreme weather events.
- We ask the Government to heed the words of Christensen Consulting Ltd: *“Within the New Zealand context the concept of Making Room for Rivers is particularly useful for managing both flood and erosion risk and should be seen as a key strategic tool for working with iwi partners to integrate Te Mana o te Wai in flood and erosion management. This is particularly the case when developing long term management plans for responding to climate change in a way that is effective, sustainable and affordable for communities”*².

2 Christensen Consulting Ltd; Application of Room for Rivers for NZ Rivers & Streams; Prepared for NZ Rivers Managers Special Interest Group 20 June 2023

Councils are expected to provide for essential public health needs of safe drinking water, associated cultural needs and environmental protection for aquatic life.

The Government should continue to address the causes of unacceptable levels of nitrogen and other contaminants entering waterways as a result of intensified farming practices³.

*Our Freshwater 2023 Report*³ produced by the Ministry of the Environment (MfE) and Statistics NZ shows while there have been minor improvements, on most measures the country’s freshwater sources are becoming increasingly polluted. This pollution is from excessive synthetic fertilisers (nitrogen) applied to land supporting an intensification of farming practices in NZ, as well as increased deposition of livestock urine, and increased sedimentation which can transport phosphorus into waterways. These pollutants are also associated with increased pathogen loads entering waterways.

- Stats NZ and MfE measure and report on topics related to the five environmental domains: air, atmosphere and climate, fresh water, land and marine. These topics identify key issues within each domain³. Nitrogen is a direct measure of the ‘Freshwater quality, quantity, and flows’ topic, while *E. coli* and other pathogens washed into waterways from livestock farms are a threat to human health.
- Councils need to continue to apply the hierarchy of obligations to prioritise waterway health and the provision of fresh drinking water. It should be incumbent on landowners to ensure stock levels do not exceed land carrying capacity with respect to animal waste management, and fertiliser and sediment run-off, and that land use is sustainable.

Key points on the level of nitrogen and other nutrients in rivers^{3,4}

- From 2016-2020, 69% of New Zealand’s river length had modelled nitrogen concentrations indicating risk of environmental impairment, based on comparison with reference conditions. It is

well known that high nitrogen levels and high *E. coli* levels in waterways render the water unsuitable for use by people and animals. High nitrate levels, in particular, have been linked to increased rates of several types of cancer and with pregnancy issues such as blue baby syndrome.

- Excessive nitrogen found in waterways was reported as being caused by more livestock in smaller spaces, greater use of synthetic fertilisers, poor land use controls on earthworks for urban subdivision and poor stormwater management, alongside thousands of urban wastewater discharges⁴.
- Excessive nitrogen and phosphorus cause toxic algae and deterioration of aquatic life³.
- 45 per cent of New Zealand's total river length is unswimmable, due to the risk of *E. coli*.
- National groundwater monitoring reported 68% and 19% of sites would fail the drinking water standards for bacterial and nitrate contamination, respectively, with the highly significant outbreak of campylobacteriosis in Havelock North in 2016 showing the potential impacts of water-borne pathogens contained in groundwater.

³ <https://environment.govt.nz/publications/our-freshwater-2023/>

⁴ <https://environment.govt.nz/publications/our-freshwater-2023/#state-of-our-freshwater-environment>

We submit that the 'Hierarchy of Obligations NPS-FM' be maintained as a safeguard for good Freshwater Management to restore and maintain healthy waterways.

PROPOSED INTENSIVE WINTER GRAZING AMENDMENTS

Intensive Winter Grazing Key Points

- Obligations come with every societal activity, and this includes farming practices. The permitted and restricted discretionary activity regulations and associated conditions for intensive winter grazing ended a practice which degraded areas of farmland to the extent that soils became anoxic.
- It should not be a 'burden' to treat cattle in such a way that they always have access to good feed and well-drained land, and to remove them from cruel and degrading conditions, standing in deep mud and excrement, and on occasion, giving birth there.
- Removing the National Standard before a farm has a Certified Freshwater Farm Plan would be irresponsible. Such a Plan would have to be approved by qualified soil and freshwater ecologists. Adherence to the Plan would need monitoring, an additional burden for regional councils. The NES-F is more efficient, providing an overall standard instead of local ad hoc decisions, which could be easily influenced by local custom.
- Who would issue the Restricted Discretionary Resource Consent required in order to undertake intensive winter grazing in the absence of a Farm Plan? It is possible that the local consent process could be tainted by a lack of impartiality.
- We oppose the removal of the requirement for farms to have a Certified Freshwater Farm Plan because we oppose poor practices in farm and stock management.

We oppose the repeal of the permitted and restricted discretionary activity regulations and associated conditions for intensive winter grazing from the NES-F.

PROPOSED AMENDMENTS TO STOCK EXCLUSION ON SLOPED LAND

Sloped Land Key Points

- Care of the land comes with costs and this should be expected. Costs are no excuse for allowing contaminated seepage into waterways.
- The main pollution problems with water quality come from small streams whose catchments contain intensively developed land, included grazing.
- All low slope land leads eventually to a water body and protection of these must be improved. Historically, too little care has been shown for the health of fresh water by many landowners. Healthy waterways are required by native fish and diverse aquatic biota, with this diversity, in turn, promoting health in water bodies.
- It is too easy to accept a declining baseline where degraded water quality becomes the norm. We must ensure that all water bodies are maintained to the highest standard.

We submit that the current stock exclusion regulations must be retained.

PROPOSED COAL MINING

Coal Mining Key Points

Proposal: Aligning the consenting pathway for **coal mining** with other extractive activities across national direction.

- The NPS-FM 2020, NES-F, and NPS-IB 2023 contain strong protections for wetlands and SNAs, but also provide specific consent pathways for mineral extraction activities that have adverse effects on wetlands or SNAs.
- Coal is the only mined mineral in Aotearoa New Zealand that is subsequently burnt, therefore it has the two-fold effect of land disturbance with its concomitant destruction of habitat, biodiversity and ecosystems, and carbon release which leads to accelerating heating of the planet.
- Coal mining should not align with the resource consent pathway of other mineral extraction activities. **We strongly oppose the proposed extension of the consenting pathway to new coal mines and removal of the sunset clause on consent pathways for thermal coal.**
- Coal mining needs additional controls compared with other mineral extraction activities as this fossil fuel is directly responsible for the release of millions of tons of carbon into the atmosphere, resulting in climate warming and extreme climatic events. Continuing coal use will exacerbate these events.
- Because of the climate risks resulting from the use of coal, and other fossil fuels, the world is rapidly transitioning away from coal. The electrification of industrial coal-fired burners and the expansion of the renewable energy sector means there is a limited and rapidly declining market for coal. The development of new mines in NZ risks these mines becoming stranded assets with little likelihood of appropriate post-mining rehabilitation being carried out.
- Investment in coal mining does not take the country or the economy forward into the sustainable, low carbon future we need to embrace. Any jobs created and economic gains made will be very short-lived. Indeed, the economic gains will be wiped out by the financial penalties of the additional carbon emitted by mining and burning of the coal, as the emissions will be over and above our NDC limits, meaning they will have to be offset with off-shore mitigation.

We submit that the consent pathway, including the operation and expansion of existing coal mines and thermal coal extraction, should cease by 31 Dec 2025 instead of 2030, and that no new mines be consented.

PROPOSED AMENDMENTS TO THE NPS-IB AND SNA PROCESS

SNA Amendment Key Points

The Bill proposes that the requirements NPS-IB for councils to identify Significant Natural Areas (SNAs) and include them in district plans be suspended for 3 years. The Bill also extends some SNA implementation timeframes to 31 December 2030.

The current National Policy Statement for Indigenous Biodiversity (NPS-IB) is an essential part of our response to the precipitous decline of biodiversity in Aotearoa. The current SNA process provides direction to councils to protect, maintain and restore indigenous biodiversity, requiring at least no further reduction nationally.

Our Response to the Proposed SNA Amendments

We submit that while a review of the current SNA process may well be useful, current requirements for councils to implement SNAs must be retained until that review is complete for the following reasons:

- Given the enormous ongoing loss of indigenous biodiversity in New Zealand, it is vital that there is no pause or cessation in local authorities continuing to identify and protect indigenous biodiversity.
- The proposed 3-year minimum hiatus in identifying further significant natural areas will result in further significant loss of Aotearoa's biodiversity that we can ill afford to lose.
- The proposed removal of the requirement for councils to identify further SNAs in their district plans for the next 3 years means that those areas not currently designated as SNAs will either be ripe for exploitation or insufficiently protected.
- We have already seen the disastrous unintended consequences of the slash from pine forestry exacerbating flooding and erosion, and the risk of forest fire from pine plantations. We therefore need more, not less, quality control over decisions which impact our natural environment.
- There is no clarity in the Bill as to the purpose of this review of the SNA process. If a review of the SNA process is to be conducted, then the Bill must state clear guidelines for the review, and its parameters must include ensuring the ongoing protection of indigenous biodiversity. It is likely helpful that the process of implementing and identification of SNAs be simpler, clearer and more welcoming for all landowners.
- Because we still know very little about the interconnections between local waterways, aquifers, geological structures and local flora and fauna, the opportunities for developers to exploit a non-SNA designated area in the next 3 years may have completely unknown and disastrous impacts on such issues as local water quality, rainfall, soil quality, flooding, erosion, not just in the short term, but for decades.
- It is vital that the ongoing and developing local knowledge and expertise of local authorities and the knowledge of their local communities about environmental issues and concerns, continues to be acknowledged and responded to via the current SNA process.

We oppose the amendment to suspend SNA identification and their inclusion in district plans, and to extend implementation timetables to 31 December 2030. We urge the government to increase protections for indigenous biodiversity on private land, and to provide resources and mechanisms to facilitate this protection on-ground.

CONCLUSION

The PURENZ marketing campaigns depicting NZ as clean and green is already being questioned by our overseas customers who are likely to vote with their wallets if this government does not maintain high environmental standards. Indeed, market access guaranteed through the recent free trade agreements with the UK and EU is dependent on maintaining and strengthening environmental practices, not watering down legislative and regulatory environmental protections. The amendments proposed in this Bill potentially jeopardise these markets, with significant detrimental flow-on effects for our primary producers.

It makes no sense to allow primary producers to intensively graze in winter to the detriment of animal welfare and agricultural landscapes, to allow native biodiversity on productive land to be further degraded through weakening protections, or to allow the continued degradation of waterways due to agricultural practices, if the products produced by these activities cannot be sold into export markets.

It is not only detrimental to our “clean, green” image, but also undermines any attempt for Aotearoa New Zealand to demonstrate leadership in the global climate change space if new coal mines are consented and developed. When there is consensus amongst climate scientists that no new fossil fuels can be extracted if the planet is to remain a livable planet, opening new coal mines sends completely the wrong message to the global community, and gives license to other countries to keep their coal mines open and/or to develop new mines. This would be disastrous for the climate.

The government also needs to acknowledge the international commitments we have made, and must continue to honour these conventions and commitments, such as the Kunming-Montreal Global Biodiversity Framework. These commit us to increasing protections for indigenous biodiversity, not decreasing protections. To increasing protections for waterways, wetlands, ecosystems, not decreasing them. These commitments limit the extent to which the government can amend existing legislation.

It is unclear why the SNA process should be suspended while a review occurs. Best practice normally requires a current process to be permitted to continue functioning to ensure it can be comprehensively reviewed in action.

It is very concerning that the Bill gives the Minister for the Environment the sole power to make or change national policy, removing any role for an independent ‘Board of Inquiry’ over this 3-year period.

Decisions to exploit a local environment via a national central authority with no recourse to expert advice and with no knowledge of local conditions, is a recipe for disaster. In addition, as with the Fast-track Approvals Bill, where decisions on ‘development’ are solely made by government Ministers based on limited information except for the potential fiscal profits, there is a high likelihood of Ministers being subsequently accused in the Courts of corruption.

Short-term profits via environmental exploitation may create a few temporary local jobs with most profits exported overseas, but the long-term detrimental costs to local productivity and quality of life are likely to be considerable.

The certainty of increased extreme and traumatic weather events in New Zealand as a result of climate change means that carefully planned development becomes essential to avoid losing essential environmental services.

Reviews of national and regional policy statements and plans should lead to continuous improvement in the use of resources. Resulting legislative amendments to resource management should never be at the expense of the health of the natural environment.

By incorporating significant changes to legislation relating to coal mine consenting, protection of indigenous biodiversity on private land, and destructive and unsustainable grazing practices under the heading of “Other” is disingenuous. The attempt to downplay the significance of these potential changes to environmental management across Aotearoa New Zealand is dishonest and indicates that this government is attempting to make radical and far-reaching changes that it hopes will simply go under the radar of its constituency. The use of the term “Other” indicates these changes are relatively minor. They are not minor; they have the potential to wreak havoc on our already stressed biodiversity, ecosystems, waterways, moana, Te Taiao. This government appears to be treating the environment and its constituency with contempt. This is not good enough. We demand better of our elected representatives, who represent not only the economy but also society and the environment. They are responsible for the development of strong, effective legislation that enhances the economy, society and the environment in the short, medium and long terms. This Amendment does none of this.

This Amendment Bill appears to be a fast-track mechanism for economic gain. It substantially risks degrading waterways, wetlands and both nationally and locally important places of biodiversity, and will result in a failure by councils to meet the needs of environmental and human health and wellbeing.