Submission of Civic Trust Auckland

Planning Bill and Natural Environment Bill

We would welcome the opportunity to speak in support of our submission at a public hearing.

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1. Civic Trust Auckland

(a) Civic Trust Auckland (CTA) is a non-profit public interest group, formed in 1968, with activities and interests throughout the greater Auckland region.

(b) The aims of the Trust include:

- Protection of natural landforms
- Preservation of heritage, in all its aspects
- Encouragement of good planning for the city and region.

(c) CTA regularly submits on Auckland Council plans and on various government bills, including the following: Resource Management Reform Bill (28.2.13), Improving our resource management system: A discussion document (2.4.13), National Policy Statement on Urban Development Capacity (15.7.16), COVID-19 Recovery (Fast-track Consenting) Bill (21.6.20), Government Policy Statement on Housing and Urban Development (30.7.21), Consultation Draft of the Natural and Built Environment Bill (4.8.21), The Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (16.11.21), Natural and Built Environment Bill (5.2.23), Fast-track Approvals Bill (19.4.24), Resource Management (Consenting and Other System Changes) Amendment Bill (10.2.25), and Fast-track Approvals Amendment Bill (17.11.25).

2. General comments on both Bills

(a) CTA considers that it is important to safeguard New Zealand's natural environment with the highest possible protection, particularly our indigenous biodiversity, as well as the health of people who live here. We are also of the view that it is important to safeguard aspects of the built environment, and therefore CTA particularly supports the goal 11(1)(g) to protect identified historic heritage sites from inappropriate development.

(b) CTA supports the government's intention to modernise the resource management system, to improve regulatory quality and environmental outcomes, and provide greater certainty for councils, landowners, and developers. We recognise that, as technology improves, faster and more consistent planning decisions will be possible, and it will be easier to monitor performance and outcomes.

(c) However, in our view, the legislative framework for the Planning Bill and Natural Environment Bill is complex and confusing, which will slow progress and increase costs.

(d) Uncertainties in both Bills, such as undefined key terms (e.g., "reasonable use" and "severe impairment") could result in inconsistent application and how the Bills relate to each other, which may lead to time-consuming litigation.

(e) There could be difficulties in how these Bills will intercept with the yet to be established Ministry of Cities, Environment, Regions and Transport, and the possible disestablishment of regional councils.

(f) The two Bills contain much duplication, and together total more than 760 pages. As the expert advisory group's February 2025 report on the legislative design principles to the Minister Responsible for RMA Reform stated, "Two separate acts would increase inefficiency and duplication." CTA is of the view that one Act would serve to streamline the legislation.

(g) CTA is strongly opposed to excessive ministerial powers of intervention to override environmental safeguards, so as to avoid any possibility of misuse.

(h) While the guiding principle for this new legislation may be "the enjoyment of [private] property rights (Regulatory Impact Statement, pg 5)," we note the concern expressed throughout the RIS (e.g., pg 2) that "the environment has continued to degrade." Because society as a whole "enjoys" things of collective value, like the natural environment and built heritage, CTA submits therefore that the guiding principle should include protection of the environment, being mindful always of the precautionary approach.

3. Goals

(a) Environmental law should aim to protect and restore nature. It should prioritise people's right to a healthy environment, a liveable climate and clean water. Economic and development goals should not be able to override environmental protection goals.

(b) The Planning Bill is limited in its ability to address environmental considerations because it is constrained by its goals. Protection of Outstanding Natural Features and Landscapes, significant historic heritage and high natural character under the Planning Bill is also more difficult than under the RMA, because the goals address protection of their identified values and characteristics. It is the case in Auckland that much of the region's heritage has not yet been assessed, notwithstanding many places with historic heritage values were identified in the 2016 IHP hearings for further investigation, which has not occurred. We note the use of the term "significant historic heritage" and consider this to mean historic heritage that meets the criteria for scheduling under the Auckland Unitary Plan or by inclusion on Heritage New Zealand's List.

(c) Goals in the Planning Bill are focused almost exclusively on development outcomes, without a hierarchy between these goals, which could enable trade-offs between limits and goals. CTA does not support a regime where development proceeds regardless of the environmental cost,
and considers there should therefore be the ability to prioritise amongst the goals.

(d) Section 6 of the RMA requires decision makers to "recognise and provide" for the matters of national importance specified in the Act. The Natural Environment Bill (NEB) only requires decision-makers to "seek to achieve" the Bill's goals.

(e) Unlike national standards, there is no requirement that national policy direction adheres to limits or even that it is consistent with the purpose of limits. This means that development goals in the Planning Bill can be prioritised by the Minister provided only that the impacts on the natural environment are considered, even where they directly conflict with goals relating to environmental limits. National policy direction needs to be more clearly subject to the goals of the NEB relating to environmental limits. Along with the recently completed National Policy Statement on Urban Development, it would be timely to progress work on an NPS for historic heritage undertaken by the Ministry of Culture and Heritage in 2018.

(f) Policy direction on environmental matters should not be determined under or even influenced by the Planning Bill, given that it contains inadequate goals about environmental protection. That is particularly so when it comes to balancing the economy against the goals of the Natural Environment Bill relating to environmental limits, since these are meant to be shielded from development imperatives.

(g) Landscape protections should be able to go beyond just the protection of landscapes or features that are "outstanding," which is a very high threshold.

(h) The following matters should be matters should be incorporated into the goals of the NEB:

- the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna
- stewardship and kaitiakitanga
- the efficiency of resource use and the finite characteristics of resources
- the intrinsic value of ecosystems
- the maintenance and enhancement of the quality of the environment.

4. Environmental limits

(a) It is essential that environmentally protective limits are set and defended that allow environmental health to be self-sustaining.

(b) As the NEB's objectives are to safeguard environmental and life-supporting systems, and since limits are minimum acceptable outcomes, it is inappropriate for the legislation to direct decision-makers to "enable use and development" within environmental limits but not within other environmental constraints. There are actual biophysical limits to how much damage the environment can sustain. These so-named limits should not be adjusted for economic reasons. We oppose the ability for councils to set lower limits.

(c) Environmental law should have clear, direct rules that restrict the negative effects of activities (i.e., resource caps). We oppose all barriers in the NEB that make it difficult for Councils to use direct rules and such scrutiny as feasibility tests.

Additionally, Councils should be able to revoke or amend permits or consents to avoid or remedy a breach in an environmental limit.

(d) Significant Natural Areas are not defined in the Bills, but such areas are crucial for protecting habitat of threatened and at-risk species and for implementing any kind of meaningful "limit" on indigenous biodiversity loss.

(e) Further, the NEB has limited ability to protect, maintain or enhance the natural environment above those limits.

(f) Decision-makers balancing the desirability of limits against their potentially negative impacts on the economy is inappropriate. A limit needs to be set using only biophysical criteria.

(g) National standards (clause 86 of the NEB) should not enable authorising a breach of environmental limits for significant infrastructure.

(h) The Planning Bill should specify that spatial plans cannot come into effect until limits have been established under natural environment plans.

(i) Land use plans should be required to be "consistent with" limits set in a natural environment plan.

(j) The relationship between environmental limits and natural resource permits needs additional safeguards. There needs to be a clear statement that an activity cannot be provided for as a permitted activity if there is a risk of an environmental limit being breached.

5. Regulatory relief

(a) A relief framework is required only if a specified rule is "reasonably likely" to have a "significant impact" on an owner's "reasonable use." Interpretation of these undefined terms (Part 4 of Schedule 3 of the Planning Bill) will largely determine the potential effect of the relief framework on both the natural environment as well as elements of the built environment (e.g., formally protected historic heritage), and the framework will be under significant risk due to ministerial and council discretion as to the meaning of these key terms.

(b) Instead, the threshold for relief should be as per section 85 of the RMA, where land is rendered incapable of reasonable use. In such cases, councils could respond proportionally, for example, by a payout to a landowner or providing rates relief or transferable development rights, rather than purchasing the land. Government at both central and local level have investigated relief packages as incentives, but virtually none have been implemented.

(c) As natural environment plans are new instruments, landowners will be able to challenge every rule, even if they have been in place under the RMA for years.

(d) The framework of regulatory relief within the Bills threatens the survival of native bush and urban forest across New Zealand, the services and benefits they provide, and the ecological biodiversity they represent.

(e) In determining any regulatory relief, it is essential to consider all salient information, and that includes the price at which a piece of land (being considered for

relief) was originally purchased. Financial relief has often been provided, in effect, to owners of historic heritage buildings upfront at the time of purchase by way of prices that discount such factors as planning constraints and specialised maintenance needs. CTA therefore does not support regulatory relief beyond that available under Section 85 that affords owners a “reasonable” return. While s.85 may provide for a reasonable return, given the bleak outlook for heritage buildings, effective financial incentives for these assets of communal value are most certainly needed at this point in time.

6. Amenity

(a) Compared to the RMA, the scope of the Bills to control environmental effects has been narrowed. We object in particular to the exclusion of the consideration in Clause 14(1)(e) of the Planning Bill of “The visual amenity of a use, development, or building in relation to its character, appearance, aesthetic qualities, or other physical feature.”

(b) Auckland’s character areas are of international significance. The city’s Special Character Areas have been protected for generations, due to the value that they hold for residents. Design guidelines are important to guide how large-scale developments function in the urban context.

(c) Amenity is important to protect privacy, reduce crime, and make places pleasant for people to live in. This includes the presence of trees and other nature, which provide benefits such as temperature regulation, stormwater and air pollution treatment, providing oxygen, and sequestering carbon.

(d) Physical features of buildings can impact glare and heating. The orientation and placement of structures on a site can also have significant effects with regard to privacy and energy efficiency.

(e) There is a need for careful planning that balances urban growth both “out” and “up,” as well as long-term planning based on demographic projections.

7. Trees

(a) CTA is concerned about the proposed transfer of Notable Tree management to Heritage New Zealand Pouhere Taonga, which does not have specialist arboricultural expertise. Because the values of these trees extend well beyond heritage, to include amenity, landscape, ecological and community values, Notable Trees should remain within the scope of the Natural Environment Bill, so that councils retain the ability to recognise, schedule, and protect them.

(b) The Waitākere Ranges Heritage Area, an area of national significance, is threatened by the Bills as proposed. This area requires strong rules to prevent tree removal and subdivision.

(c) Long-term spatial strategies need to provide appropriate mechanisms for establishing urban tree canopy coverage targets, for identifying areas where mature tree retention is essential for climate resilience, and coordinating infrastructure development with tree growth and protection.

(d) CTA supports a nationally consistent framework for identifying and managing Notable Trees.

(e) We also support legislation to formally recognise and protect significant trees on private land.

8. Consultation

(a) Both Bills restrict the ability of the public and environmental groups to be involved in decision-making on plans and consents. The lack of consultation with groups with subject matter expertise (of particular interest to CTA, for example, expertise in heritage matters), is noted and needs to be addressed at the various levels of consultation.

(b) Under the NEB, public notification of consents will be allowed only where an activity would generate "significant" adverse effects on natural resources or people. The threshold for this notification should be lowered to where there are more than minor impacts.

(c) Further, requiring eligibility to submit on a consent only for those who reside in the relevant region excludes many groups that have a legitimate public interest in environmental protection across the country. Appropriate public and expert engagement in plan-making and consenting processes improves transparency, outcomes and compliance. Full submission and merits-based appeal rights should be maintained for environmental watchdogs and interested parties.

(d) CTA opposes the replacement in the Bills of the strong RMA Treaty clause with weaker provisions and reducing iwi and hapū involvement in consenting.

Date of submission: 13 February 2026

Signature:

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