

Submission from New Zealand Minerals Council to the Environment Committee

Planning Bill and Natural Environment Bill

February 2026

Introduction

1. New Zealand Minerals Council is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
2. We welcome the opportunity to comment on the [Planning Bill and Natural Environment Bill](#).
3. This submission covers both bills together as suggested by the committee. It canvasses high-level views on the policy intent of the reform package, as well as commenting on specific provisions in the bills.
4. We would like to appear before the Environment Committee to speak to our submission.

General comments

5. The framework the two bills provide is an improvement on the Resource Management Act 1991 (RMA) particularly in the way it streamlines the system with fewer plans, fewer zones and activity statuses, tighter criteria for public participation, and the introduction of regulatory relief.
6. However, how it will work in practice will hinge upon the yet to be established National Policy Direction, national standards, environmental limits, and other instruments.
7. It is hard to comment confidently on many parts of the bills without knowing the content of these instruments. A major flaw of the bills, and the process behind them, is that the national instruments are to be drafted after the bills are passed so submitters cannot be fully informed on many aspects of the proposed regime.
8. Design of the new system appears to be heavily influenced by New Zealand's current housing shortage and infrastructure deficit. These issues may be significant issues for New Zealand, but they are today's issues, and resource management legislation needs to be enduring. It seems the new system has been designed with urban development and infrastructure in mind and not primary industries, including mining.
9. Whether the system is an improvement on the RMA will largely hinge upon the content of the national direction, environmental limits, and regional spatial plans. Consultation on that will be critical for the extractives sector when it occurs later in the year.
10. The previous system was too risk averse in terms of approving projects. The rules and guardrails of the new system need to shift that balance to better allow projects to take calculated risks and manage those risks with science, engineering, and technology.

11. The new system seeks to reduce litigation at the consenting stage by resolving strategic questions earlier/at the higher level – through national direction, environmental limits, and regional spatial plans which means higher-level decisions have the most consequence. This could limit the flexibility of the consenting process and reinforces the importance of getting these instruments right.
12. While the bills will make consenting easier for many projects, most of the gains will be at the smaller end of the spectrum, and the improvements for large projects such as mines will not be as great.
13. It is positive that the new system does not take away the opportunity for case-by-case assessment for large complex projects. This is important for mining.
14. We do not think environmental limits are a useful tool for managing environmental impact and we do not support them the way they are proposed in the legislation.

Two separate acts

15. We are concerned about the lack of integration between the two bills and believe it would have been more sensible to combine the two into a single act. The tension between development and environmental protection is the key conflict in resource management and dealing with each under separate acts creates uncertainty for minerals extraction and development generally.
16. The duplication and crossover in the two bills also makes them difficult to interpret and raises the risk of unintended consequences, contradictions, or drafting errors being unable to be picked up.

Goals

17. Enabling mining is one of the things listed as an objective of the new system in the General Policy Statement of the Explanatory Statement of both bills. We support this but think it needs to be better reflected in the body of the bills.
18. For example, there is no mention of primary sector activities or mining in the goals in Clause 11 of the Planning Bill despite them being referred to in the explanatory note.
19. We recommend the goals be made more explicit about enabling mineral extraction.

National policy direction

Consultation on national policy direction and other instruments

20. The new system is heavily dependent on the development of the national policy direction (NPD) instruments (one under each of the new acts) and other national instruments including environmental limits.
21. The system's success or failure will largely hinge upon these instruments, and it will be essential that they work well if the new system is to be a success. The timetable to establish the new instruments is very ambitious.
22. The consultation on NPD and other instruments will be crucial yet the consultation process, and its exact timing, has not yet been set out and that is a concern.

Hierarchy of instruments

23. The hierarchy of key instruments under the new system with national policy direction at the top essentially locks decisions in at a higher level. Likewise, public participation will concentrate on the higher-level processes (e.g. plan-making and limit-setting), rather than at the individual consent level.

24. The Government's aim is for more certainty for development, but this reduces case-by-case discretion and litigation. While this provides developers and communities with certainty, it doesn't always suit more complex projects such as mining which benefit from the ability to have applications assessed on the merits of a project.
25. The lack of flexibility will be a major issue for the mining sector. A case-by-case approach would be preferable.

National environmental standards (Natural Environment Bill)

26. National standards under the Natural Environment Bill will include:

- Environmental limits for using natural resources
- Measurement and monitoring methods
- Permitted activity conditions
- Thresholds for when consents are required

Environmental limits

27. Environmental limits are to be set for air, freshwater, coastal water, land and soil, and indigenous biodiversity (to protect both human health and the natural environment). They will describe a minimum acceptable state, or the maximum acceptable harm or pressure on the natural environment.
28. While the use of environmental limits in a resource management system may be well-intentioned, we do not believe they are a useful tool for managing environmental impacts of mining and we do not support them the way they are proposed in the legislation.
29. It needs to be acknowledged that some essential industries/projects, such as mining, cannot always operate totally within environmental limits and exceptions need to be made with appropriate conditions and mitigations.
30. An environmental management approach which allows mitigation, offsetting, and compensation is more flexible and can achieve better outcomes for both the environment and the economy than the prescriptive approach of environmental limits.
31. Environmental limits have the potential to prevent development or use of resources without there being any opportunity to weigh up the overall costs and benefits of proposed activities. They are very blunt instruments that do not allow innovative approaches to enhancing the environment.
32. It is important that the limits are set with a strong scientific basis. But the process of setting them will still be difficult due to the potential for much disagreement between ecologists and sector groups. The process will not only take time, but there are significant risks that they will end up too stringent to be workable, thereby stifling development or making it impossible.
33. There is also the issue of regional variability. How will limits allow for the specific characteristics of different regions? There needs to be flexibility in the process to address the varying levels of pressure on a resource and the key environmental problems that exist or are likely to arise in a specific region. The existing state/values of an area of freshwater, coastal water, land, soil, and indigenous biodiversity etc, and how an activity would affect those, need to be well understood before any kind of limit could be set.
34. We acknowledge that the Government is committed to using an environmental limits approach. We strongly recommend that this does not preclude a consenting pathway for industries/projects to demonstrate responsible environmental management (remedy, mitigation, offsetting and

compensation) as a way to reduce net environmental impact. The solution is a case-by-case and effects-based approach with the exception of matters such as drinking water and human health.

35. Under the Natural Environment Bill, regional councils have the ability to set less stringent limits for ecosystem health than a specified minimum level, if they produce a justification report, otherwise there is minimal ability to breach them. We don't think this is enough and so as stated above exceptions need to be made with appropriate conditions and mitigations.

Combined plans

36. A key feature of the reform is that the multitude of plans that currently exist for each territorial local authority will be replaced by a **single combined plan for each region**. (The Government says nationally 100+ plans will be reduced to just 17.)
37. The plans will include:
- a regional spatial plan
 - district land use plans
 - a regional natural environmental plan
38. We support the concept of proposed combined plans.
39. Fewer plans will be easier for companies to navigate, and fewer resources (council and private sector) will be used in their creation relative to the status quo.
40. However, we note the council committees that will be created to form the plans are likely to face challenges and disagreements between different councils within regions and interest groups. There must be a way to manage this effectively, so it does not become a roadblock to development.

Regional spatial plan

41. Under the Planning Bill, regional spatial plans are to provide long-term, strategic direction and to identify development areas and strategic sites. They will have a 30-year horizon and be aligned with the national instruments. They must map "areas for development and land-use activities". There will be nationally standardised zones and overlays to be included in spatial plans.
42. The location-specific nature of minerals means spatial planning carries risks for mining. Minerals are locationally constrained. They can only be sourced from where they are geologically located (and where the industry is able to access them cost-effectively).
43. We support the use of mining zones to provide clarity for existing mines but there needs to be provisions so that mining is not precluded from occurring within other zones/areas where appropriate. For example, if a mineral deposit is discovered in an area which is not zoned for mining, there needs to be capacity for consent to be applied for so it can be mined.
44. Schedule 2, clause 3 of the Planning Bill sets out the mandatory contents of regional spatial plans (RSPs). Mining activity is not provided for in the schedule. Neither is primary production (which mining sits under currently in the National Planning Standard), nor industrial activities.
45. In other words, this clause reinforces the view that the bills are more focused on urban development and infrastructure rather than primary industries. It also shows that spatial plans are often better suited for urban areas than regional.
46. For spatial planning to work for the mining sector we recommend the following:

- Mining be included in Schedule 2 clause 3 of the Planning Bill so it is not overlooked in spatial plans.
 - Areas of minerals deposits throughout New Zealand are identified (as per the work of Earth Sciences New Zealand), not simply current areas where there is mineral extraction activities. Yet to be discovered mineral deposits would also need to be accommodated.
 - Mining zones and provisions should be included in the National Planning Standards. This would support the active consideration of mining in the new 'combined regional plan' process. Councils should have the option of departing from the national standard and using a bespoke approach where appropriate.
 - It will be critical for spatial planning committees in each region to collaborate and work with the extractives sector to identify and expressly provide for regional development opportunities.
 - There needs to be explicit provisions giving certainty that mining is not precluded outside a mining zone.
47. Local authorities must establish an **Independent Hearings Panel (IHP)** to hear public submissions on the draft spatial plan and make recommended changes. Local authorities must either accept IHP recommendations or decide on an alternative solution that is consistent with the requirements of the Planning Bill.
48. However, a problem we foresee is that the majority of elected local authority members lack the technical planning knowledge to make informed decisions on the IHP recommendations.

Resource consents/permits

49. The new system is intended to enable faster, cheaper, and more certain permitting while reducing the overall number of resource consents/permits required by the system. The Government expects the reforms to cut the number of required consents by 40-50%.
50. We certainly support streamlined and more efficient consenting, but we note most of the gains will be at the smaller end of the spectrum, and the improvements for large projects such as mines will not be as great. However, we would expect freeing up council resources from issuing consents for less risky activities may speed up the process for more complex mining projects.

Activity statuses

51. We support the reconfiguration of the activity status classifications – the reduction to four categories and the removal of the controlled and non-complying activity statuses.
52. The anticipated increase in the number of permitted activities is very positive, but again, because of the complicated nature of large mining projects relatively few mining activities are likely to be permitted, and consents/permits will continue to be needed for most mining activities.
53. The need for fewer consents is very positive overall, of course, and freeing council resources from issuing consents for less risky activities may speed up the process for more complex mining projects.

Consent applications

54. It is positive that the new system does not take away the opportunity for case-by-case assessment of consent applications for large complex projects such as mining. The new system is not making it any easier, but it is not making it any harder either.
55. See the section below in the box – Mining and the resource management system – for more on this.

56. As mentioned above, whether the system works for mining projects will largely hinge upon the national direction, environmental limits, and regional spatial plans. Consultation on that will be critical for the sector when it occurs later in the year. This consultation will continue after the General Election and could be under a new Government.

Public participation/standing

57. The new system will be more selective/discerning in determining who can participate in the permitting (consenting) process by raising the adverse effects threshold for identifying someone as an affected person to “more than minor”.
58. Public notification will occur when the adverse effects are more than minor, not all affected parties are able to be identified, or the applicant requests it.
59. We fully recognise the importance of giving affected parties the right to have a say, however, it is important to strike the right balance as too often under the existing resource management system opponents with no direct stake in a project are able to achieve years of delay without consequences to them.
60. It remains to be seen as to how this issue will be dealt with in practice given the potential for non-affected activist groups to work with neighbouring parties etc. Or an organisation with a local branch will have rights that organisations without do not have. This could mean that parties that do not meet the intent of the direction around public participation will still be able to oppose and block projects.
61. We note that it is in the interests of mining companies (and other large developers) to have the community on side for large projects and in general mining companies put a lot of resources into this. Where there is opposition in communities, it is sometimes from groups from outside the area with no direct impacts on them personally. However, there are equally affected parties within the area who will have full rights to raise objections. We are not sure how the law will separate the two.

Effects outside the scope

62. The Planning Bill (clause 14) explicitly sets out a list of effects that a decision-maker must disregard when considering the effects of an activity. Most (but not all) of these seem more likely to apply to smaller developments or the building sector rather than major mining projects.
63. The Natural Environment Bill (clause 15) states that effects (including any cumulative effect) that are “less than minor” are out of scope and cannot be considered when determining consent applications. We support this, but again it is more likely to benefit small developments rather than major mining projects.
64. We support the references in these clauses that offsetting and compensation to address adverse events must be considered.

Summary of recommendations

- We support the reference to enabling mining as an objective of the new planning and environmental management system, as included in the General Policy Statement of both bills, but think this objective needs to be better reflected in the body of the bills.
- Environmental limits are not a useful tool for managing the environmental impacts of mining. An environmental management approach which allows mitigation, offsetting and compensation is more flexible and can achieve better outcomes for both the environment and the economy than the prescriptive approach of environmental limits.

- Case-by-case assessment of consent applications for large complex projects such as mining must be retained. Case-by-case assessment of projects on their individual merits, their effects on competing values in the land, and proposals for managing those effects is essential.
- For spatial planning to work for the mining sector, mining needs to be included in Schedule 2 clause 3 of the Planning Bill, and there needs to be provision that mining is not precluded outside a mining zone.
- We support streamlined and more efficient consenting, but we note most of the gains will be at the smaller end of the spectrum, and the improvements for large projects such as mines will not be as great.
- We support the reconfiguration of the activity status classifications – the reduction to four categories and the removal of the controlled and non-complying activity statuses.
- We support the provisions making the new system more discerning in who can participate in the permitting process. Affected parties should have a say but the right balance needs to be struck.
- We support the concept of a combined plan for each region replacing the multitude of plans that currently exist.

Appendix

Mining and the resource management system

For the resource sector generally, the RMA's effects-based, case-by-case approach for development proposals mostly works well. It is fundamental to attracting investment, to public acceptance of that investment, and to delivering good outcomes for the environment.

Case-by-case means the assessment of projects on their individual merits, their effects on competing values in the land, and proposals for managing those effects. There is benefit in a robust consenting process that is well understood by all parties.

Such a system can outlast political whims that may change resource management direction. The sector needs the ability to make its case when applying to develop mines and not be captive to the political views of the Government of the day.

Minerals are essential for modern society and their extraction is important. The nature of mineral deposits means that they are limited in quantity, location, and availability. They can only be sourced from where they are physically located and where the industry is able to access them cost-effectively.

This means access to such deposits must not be allowed to be shut off through regulatory bans. The ability for flexible case-by-case assessment, as provided by the RMA, must be retained through any law changes. We argue the adversarial assessment of the social, environmental, and economic impacts of resource proposals is a strength of the RMA which must be retained.

A lot of what was wrong with the RMA lay in how it was implemented rather than in the Act itself. For example, inadequate monitoring and compliance which has scope for improvement without major disruption. The relatively recent provision of national direction through national policy statements is an improvement which hasn't had a chance to prove itself yet.

We are concerned that the new bills risk throwing away the baby with the bathwater, including 30 years of case law and accepted terminology and principles.