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To the Environment Committee,
New Zealand House of Representatives

Submission on:
Planning Bill and Natural Environment Bill

About Groundswell NZ

Groundswell NZ was founded in 2020 by two southern farmers who were frustrated with unworkable regulations. Now supported by a volunteer group of farmers and rural professionals, they have brought the issue of unworkable regulations into the mainstream and represent an authentic rural voice.

We are committed to standing up against unworkable regulations, seeking effective solutions to environmental issues, and providing a strong advocacy voice for rural communities across New Zealand.

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(1) Introduction

"Why restoring nature can work so much more effectively when led by local people" is the headline that perfectly sums up the key message Groundswell NZ wishes to convey in our submission on the Governments environmental legislative reforms. We invite you to read this excellent article where international research out of the UK revealed a '*staggering*' world-wide trend that is rapidly spreading throughout New Zealand.

https://theconversation.com/why-restoring-nature-can-work-so-much-more-effectively-when-led-by-local-people-272289

This research reinforces why people across all aspects of NZ society – rural, urban, farmers, environmental advocates – have lost faith in the Government's (all sides) ability to provide environmental leadership and workable legislation. Over time the system behind environmental planning has become increasingly disconnected from the real world to the point it is unable deliver workable environmental legislation. Faced with this loss of faith in both central and local government, communities and people at a local level are mobilising to take the lead in addressing our environmental challenges. Catchment groups, weed buster groups, biodiversity trusts, trapping groups, urban waterway groups, community native plant nurseries, landscape scale pest operations – thousands of initiatives springing up around the country at an exponential rate.

Before explaining why this world-wide trend is so important for the government to pause and reassess where it is heading with the reform of NZ's environmental legislation, we highlight some key points emanating from this research:

1. Restoration is the new phenomena sweeping the world, replacing the now outdated term conservation. Conservation is preventing harm to existing nature (classic RMA terminology), while restoration is the repair of degraded ecosystems. In designing environmental legislation for the future, it is crucial policy makers understand the fundamental difference between restoration and conservation.
2. Restoration projects run by Governments, or their agents, are more prone to failure than local community led actions.
3. Crucial to the success of restoration programmes is recognising that nearly all degraded lands and seas are occupied, most often by farming communities. As Groundswell NZ have consistently advocated, environmental legislation will fail if it does not have the buy in of those people living on the land. This was a key finding of the UK research which went further in advocating local communities must have a role in shaping and leading restoration of our degraded environment.

This research and the change sweeping New Zealand has some lessons that we urge the government consider before progressing any further with the environmental legislation reforms.

1. That the Government undertake a comprehensive stock take of the current state in terms of local community and industry led environmental actions across NZ. How can you develop successful workable legislation if you don't have a clear idea of what is happening at grassroots level?
2. That following receipt of this stock take, the Government apply a robust RMA section 32 type analysis to its environmental legislation reforms asking key questions such as.

a. What evidence is there that local led solutions will not address identified environmental issues?
b. Is Government intervention justified?
c. Will Government intervention be more, or less successful than local led solutions?
d. Does the proposed legislation help or hinder local led actions?
e. Does the proposed legislation motivate and empower local led actions, and does it provide sufficient autonomy and flexibility for these local led initiatives to flourish?

The last word we leave to the concluding sentence in this article. ***"Restoring the ability of local communities to be the custodians of nature is a promising approach to both ecological and social recovery - and ultimately environmental justice."***

(2) SPECIFIC SUBMISSION POINTS

To put our introduction into context. There are many environmental issues where regulation is required and the most effective mechanism. This includes water takes, dairy farm effluent ponds, noise, subdivision, signage etc. But for environmental and cultural values on private land, and dealing with environmental issues generally a different approach is required, and this is where local led restoration fits in. With that in mind the following are some specific submission points on the Natural Environment Bill and Planning Bill.

(3) GENERAL COMMENT

Groundswell has limited resources to cover all aspects of these bills. However, it is clear our concerns are shared across the rural advocacy organisations with both Federated Farmers and Beef+LambNZ expressing major reservations about the new legislation. We invite select committee members to listen to the following webinar by Beef+LambNZ. Resource Management Act (RMA) reform webinar – What it means for farmers. | Beef + Lamb New Zealand

In this webinar, Beef+LambNZ policy staff suggest the new legislation is as bad and could be worse than the current RMA. We also concur with rural sector concerns that it is difficult to properly assess the proposals when the full detail is not yet available (stage 2).

There appears to be a significant disconnect between what Government Ministers have promised and the written proposals as drafted.

Our view is shared by many people across New Zealand. That the bureaucracy behind drafting environmental legislation and regulations at both central and local government level has become increasingly disconnected from the real world to the point that delivering workable legislation is cost prohibitive and impossible. Part of the reason why local led action is galvanising across the country.

(4) SECTION 6 of the RMA

Section 6, including Significant Natural Areas (SNAs), Landscapes, Cultural sites (SASMs), wetlands etc, has spectacularly failed as a policy. This policy has wasted millions of ratepayers and taxpayers' money, turned natural & cultural values into a liability, penalised landowners proactive in

environmental endeavour, undermined property rights, and caused community turmoil throughout the country over its 35-year history. Section 6 is inherently bad law.

We applaud the Government for acknowledging this and taking steps to address the failings of Section 6. However, while the compensation provisions may give some property owners some relief from this appalling law, they do not go anywhere near far enough. Everyone knows section 6 is bad law and it falls into the failed conservation do no harm approach of the past. We urge the Government to ditch this policy altogether and replace it with legislation that empowers local led solutions focused on restoration and significantly increased funding for initiatives like the highly successful QEII Trust.

(5) FRESHWATER FARM PLANS

In an email to levypayers, Beef+Lamb stated that the Freshwater Farm Plan policy *"would see many sheep & beef farmers being worse off than under the current (RMA) system as they will be forced into a regulatory farm plan regime facing significantly higher administrative and regulatory burden."*

The government has provided no rational justification for state directed mandatory freshwater farm plans being required by all farmers, particularly given the widespread adoption of farm environment plans through existing industry and community initiatives. This ill-conceived legislation flies in the face of the coalition parties election promises of reduced government interference, less red tape and less bureaucracy. It is also contrary to the RMA principle of regulation *only* where regulation can be justified.

It does not matter if certain catchments have no freshwater issues, or cumulatively less than minor effects, or that existing initiatives such as Catchment Groups are successfully addressing the issues. All farmers over 50 ha will be required to have a Freshwater Farm Plan under this legislation. That is unprecedented and unjustified state intervention.

The reason provided for this legislation is that for intensive farmers operating under consents to have less consents, a simpler consent system and an alternative farm plan pathway, all other farmers must face increased compliance in the form of Freshwater Farm Plans. It appears the coalition government believe this is necessary to placate the public and the environmental lobby.

The government has deliberately misled the public and farmers by presenting a one-sided sales pitch that farmers will face less consents. Nowhere have they acknowledged or explained what Beef+Lamb have outlined above – that many other farmers (those currently not requiring consents) will face an increase in bureaucratic interference and compliance. The government are saying to all these farmers you can longer operate as a permitted activity, and you all now need to operate under a system of government oversight. It seems incomprehensible that this is a policy coming from centre right parties who tout they are looking after the interests and concerns of the rural sector through less government interference, support for local led initiatives like catchment groups, and greater respect for private property rights.

A significant flaw in the government's approach to farm plans is the silo focus on freshwater. This approach runs counter to the fact that all aspects of the environment are interconnected. Integrated environmental farm plans are becoming increasingly popular because they allow farmers to understand all aspects of their environment and where resources should be prioritised. For some freshwater is the priority, for others it is weeds and pests or protecting biodiversity. At times these priorities fall down the list as farmers must focus on recovering from major storm events or natural

disasters. With the silo focus on freshwater, many farmers will be compelled to undertake freshwater actions to meet audit requirements when there will undoubtedly be greater priorities elsewhere.

What is the net effect of this legislation in terms of bureaucracy and compliance? The current RMA model has a percentage (we are not sure of the figure but it will be a minority of farmers) requiring consents and most of those also require a farm plan. All other farmers (the majority) operate as permitted activity. The new legislation still has farmers requiring consents, however these are purported to be less and simpler, with the audited farm plan provided as an alternative pathway for some yet undetermined activities. But on top of this, the Freshwater Farm Plan legislation requires extensive bureaucracy in the form of farm consultants to write farm plans, certifiers, auditors, administrators to collate and store farm plan data, staff to monitor the performance of auditors, and MfE and/or MPI staff assisting with farm plan rollout. This is across **all** farmers over 50 ha, across **all** of New Zealand. A substantial increase in bureaucracy and significant drain on taxpayers and farmers money that means lot less money for environmental spend on the ground.

Farmers have proven through the Catchment Board era and more recently multiple industry initiatives that they will embrace farm plans if used in the right context. The Beef+Lamb survey found that 83% of farmers opposed the governments mandatory freshwater farm plans and 92% opposed certification and auditing. This opposition was consistent with the original submission process where MfE recorded a large number of farmers opposed to mandatory farm plans. The Government does not have the buy in of grassroots farmers and thus this legislation is destined to fail. So why are the government persisting with this ill-fated policy?

Our key submission point here is to urge the select committee to recommend the government reject the state directed farm plans and instead provide a legislative framework that allows the rural sector to continue to roll out farm plans as an industry and community led initiative rather than state directed mandate. Farm plans as an alternative pathway for farmers operating under consents has merit, but the devil will be in the detail.

(6) SECTION 32

It is fair to say that the RMA became a whipping boy for everything wrong with the legislation. But there were some good aspects to the RMA and one of those was the Section 32 cost benefit analysis requirements. The problem with this policy was that most councils showed scant regard to the honourable intentions of the section 32 requirements. It is not clear from the Natural Environment and Planning Bills how much these requirements have been carried over into the new legislation, particularly with the justification reports.

Either way, we submit the good parts of Section 32 be enshrined in the new legislation to assist in delivering planning mechanisms that result in successful outcomes on the ground. The fundamental premise of Section 32 was delivering plans that work.

Key components we recommend in section 32/justification reports include requirements on policy and plan makers to undertake a current state stock take of:

1. What and where are the issues?
2. What existing mechanisms are addressing the issues and is there any evidence these mechanisms will not address the issues?

3. Is government/council intervention justified and what evidence is there that this will be more successful than local led action?
4. A cost/benefit, efficiency/effectiveness analysis to prove a robust case as to what is the most appropriate mechanism.

We wish to be heard.