SIMPSON GRIERSON

Orange light for development: What the Select Committee report on the Planning Bill signals for developers

July 2026

Introduction

Earlier this year, we examined the opportunities and risks the Planning Bill presents for developers in From Red Tape to Red Carpet: Do the RMA reforms streamline urban growth as promised? That article identified several concerns and called for improvements to the Bill as at its first reading.

The Environment Committee has now reported the Planning and Natural Environment Bills back to the House, recommending that both be passed with amendments. We provided a high-level overview of the Committee's recommendations and an updated timeline for the transition to the new planning system in this article.

This sector-focused article explores the gains for the development sector secured through the Committee process, highlights the significant issues that remain unresolved, and identifies the practical questions developers need to consider as the Bill continues to progress towards becoming law.

The bottom line: The Committee has delivered some real gains for developers, including a more enabling statutory purpose and goals, pre-notification consultation rights on regional spatial plans, and a wider initial gateway for private plan changes. But in the short-medium term, a blanket freeze on private plan changes for roughly 3 years from January 2028 is a significant handbrake. Developers with application-ready plan changes in the pipeline should move quickly to avoid getting frozen out.

The key issues at a glance

The Committee has responded constructively to some of the sector's concerns. However, several significant issues remain unresolved.

Topic	Wins for Developers	Risks and Uncertainties
Transition period	Overall transition timeframes extended by nine months, giving councils and submitters more breathing room.	Private plan changes frozen from 1 January 2028, until the end of the transition period (2031 or later).
Policy and national direction	A clear purpose, pro-development goals, and a new procedural principle that requires conditions to be no more onerous than necessary.	No independent oversight of the Minister's power to set national policy; and no additional participation or appeal rights.
Regional spatial plans	Developers must be consulted before draft plans are notified; potential for longer submission periods; a new definition of 'infrastructure' which could capture private infrastructure systems; first plans must consider existing RMA documents.	No ability to request private plan changes.
Land use plans	Harder for councils to refuse to accept private plan change requests.	No express provision for current bespoke plan rules to carry over to the new system.
Consenting	Greater clarity around permitted activity registration.	What must be registered will depend on national standards still being written.
Effects	Effects exclusions refined and clarified.	Effects on outstanding landscapes and some external layout effects can still be challenged.
Appeals	-	Appeals are still mostly limited to legal errors.

Development friendly recommendations

Clear statutory purpose, more enabling goals, and a proportional approach to condition-setting

The Bill has a new purpose: "to provide for the enjoyment of land by establishing a framework for planning and regulating the use and development of land". The Committee also proposed more explicitly development-enabling goals, including strengthening the urban land market goal to refer to "abundant development opportunities" and giving the infrastructure-related goal a forward-looking tone.

A new procedural principle will require conditions in all plans, consents, or designations to be no more onerous than necessary. This provides a statutory benchmark for plan and consent requirements, and a basis on which they can be challenged.

Regional spatial plans: pre-notification consultation and potentially longer submission periods

Our earlier article, and many submissions on the Bill, flagged the 20-working-day submission window for draft regional spatial plans as inadequate. The Committee has responded by:

- converting the 20-working-day submission period into a minimum rather than a fixed period; and
- requiring spatial plan committees to consult with infrastructure providers and representatives of the development sector before a draft RSP is publicly notified.

The pre-notification consultation obligation is a helpful addition, and will allow key stakeholders including developers and infrastructure providers to have early input into these key documents. Appropriate "representatives of the development sector" will be identified in "process agreements" between the local authorities of a region at the beginning of the regional spatial planning process.

Developers wanting to have an early say should proactively engage with the relevant councils and seek to be identified as a sector representative in these process agreements.

Land use plans: initial hurdle for private plan changes lowered

The grounds on which a council can refuse to process a private plan change request have been significantly narrowed. Under the Committee's recommended amendments, councils can now only decline a request if it is made within 12 months of a similar request or within 12 months of the plan being made operative (reduced from two years as introduced). This is positive and means most private plan changes will be evaluated on their merits.

While not made explicit in the Committee's report, the changes seem to respond to a recent Environment Court decision where a private plan change in Auckland failed to clear the threshold tests in Schedule 1 clause 25 of the Resource Management Act 1991 (RMA) because it was "not in accordance with sound resource management practice" and "would make the [district plan] inconsistent with Part 5 [of the RMA]": *Arvida Ltd v Auckland Council* [2026] NZEnvC 049.

Permitted activity registration clarified

Our earlier article identified that a new requirement to register permitted activities appeared to apply broadly and added unnecessary red tape. Similar concerns were raised by many submitters on the Bill.

The Committee has responded by clarifying that not all permitted activities will need to be registered, and that registration can only be required when allowed by national standards. This is a meaningful improvement, though some registration requirements could remain and their scope will depend on the content of the national standards, which are yet to be developed.

Effects exclusions refined

The Committee made several refinements to the effects exclusions under clause 14 of the Planning Bill:

- **Visual amenity:** The exclusion has been rephrased from "visual amenity... in relation to its character, appearance, aesthetic qualities, or other physical feature" to simply "the character, appearance, aesthetic qualities of a use, development, or building". The intention is to make the exclusion less subjective, which may reduce litigation risk.
- **Landscape:** The broad exclusion of "the effect on landscape" has been narrowed to clarify that landscape and natural character effects must only be disregarded where the landscape is not outstanding and the area is not of high natural character.
- **Building layouts:** Internal layout effects remain fully excluded, but the Committee clarified that external building layout should only be disregarded where there is no effect beyond the boundaries of a site.
- **Future residents:** The Committee has clarified that "the type of residents to be housed in a new development" are excluded from consideration, but the housing typology and the type of development itself remain in scope.
- **Financial viability:** Decision-makers must disregard any lack of demand for a project and must not consider whether a project is financially viable.

The potential roadblocks

Transition period: private plan change freeze from 1 January 2028

Critically, developers who are considering requesting a plan change to an existing district plan now need to lodge them **before 1 January 2028**. The Committee has recommended a new clause prohibiting new private plan changes from that date until the Planning Bill is fully in force (expected in early 2031), unless the Minister grants an exemption.

This is a significant restriction that could last 3 or more years. We anticipate the plan change freeze will push more applications into the Fast-track Approvals Act 2024 pathway (if these applications can meet the 'nationally or regionally significant' test) and could create bottlenecks for that process as well.

For a detailed transition timeline, including the sequencing of key instruments and the local government reform programme occurring alongside, see our previous article here.

National direction: Ministerial discretion remains unchecked

As we flagged in our original article, the absence of independent oversight over the setting of national-level policy direction is a systemic risk for all users. The Committee acknowledged the extensive feedback, including from the Parliamentary Commissioner for the Environment (PCE), its independent legal adviser, and numerous submitters, that the current level of Ministerial discretion in setting and changing national instruments creates the potential for instability with each political cycle.

Ultimately, the Committee declined to mandate a structural check on that Ministerial discretion. The Committee did recommend changes to clarify the role and purpose of each national instrument, specify the process the Minister must follow, and the matters they must consider when setting national direction. The Minister may also consult with "any group or sector that the Minister considers appropriate" before notifying a proposed national instrument.

While all of these are improvements on the previous iteration of the Bill, they stop short of providing genuine independent oversight of the Ministerial decision-making process. The PCE has since reinforced his concerns in an open letter to Parliament, where he warns that the breadth of unchecked Ministerial power means "everything is tradable" and that regulatory settings that can be readily changed by a single Minister "will flip-flop as political tides ebb and flow". We agree, and believe this remains a key area of concern for the development sector which (like most sectors) needs regulatory certainty to make long-term investment decisions.

Regional spatial plans: still no private plan change rights, and plan sequencing poses a further risk

The Committee has made no change to allow private requests to change regional spatial plans. Regional spatial plans will retain their 30-year planning horizon, with a review only possible every ten years or if initiated by a spatial plan committee. Developers who are not resourced to engage in the regional spatial plan process, or who do not know their medium-to-long-term development intentions at the time the plan is prepared, still face a real risk of being locked out with no recourse until the next review.

The Bills require regional spatial plans to be completed before the natural environment plan in each region. The PCE argues that this is backwards, as growth areas identified in a regional spatial plan could later be effectively sterilized by constraints on development imposed through a natural environment plan. The PCE recommends that regional spatial plans and natural environment plans be developed in parallel to ensure growth decisions are informed by environmental constraints from the outset. If the PCE's recommendations are not adopted, developers relying on regional spatial plans growth designations will need to factor in the possibility that natural environment plan rules may require those plans to be revised, potentially after significant submitter and regulator investment in the plan-making process.

The Committee has not recommended changes to the Bills to explicitly acknowledge that private infrastructure should be viewed on an equal footing with public infrastructure when it comes to determining where development could be enabled in the regional spatial plans. This approach could result in regional spatial plans locking down land as unsuitable for development as it cannot be served by public infrastructure without proper consideration of whether it could be serviced privately.

Land use plans: future of existing bespoke provisions still unclear

There has been no substantive change to the bespoke plan provision framework. The legislation still does not address the future of existing bespoke and precinct provisions under current district plans, including those secured by developers after lengthy plan change processes.

The transitional provisions do enable the first regional spatial plan to incorporate information from existing RMA documents "about the state or characteristics of the built environment or natural environment, including information about infrastructure" or "that reflects decisions about whether areas or features of the built environment or natural environment have particular characteristics, should be classified in a particular way, or meet criteria of a similar nature". However, that requirement to consider the existing plan framework does not apply to the preparation of land use plans, leaving landowners who rely on tailored provisions in current district plans facing ongoing uncertainty about whether they will carry through.

Appeal rights remain limited

The Committee has recommended no expansion of appeal rights for either regional spatial plans or land use plans. Appeals remain mostly limited to points of law. This means plan submitters need to put their best case forward with robust evidence at the outset, as there is unlikely to be a meaningful second opportunity.

An uncertain future for fast-track?

The PCE has questioned the ongoing justification for the fast-track regime given the Bills are intended to incorporate its streamlining lessons. However, at this stage we have not seen any signals from the Government that it intends to repeal or refine the scope of activities that can be consented under, the Fast-track Approvals Act 2024, and for now it remains a viable alternative to traditional consent processes (and, after 1 January 2028 it may be the only option for some projects that would otherwise require a plan change).

Without the ability to make private requests to change the regional spatial plan, the Fast-track Approvals Act becomes the only circuit breaker at the regional level, although this avenue would only be available to nationally or regionally significant developments, leaving smaller developments potentially locked out of being able to be developed for up to 30 years.

The road ahead: what the sector should be watching

The Select Committee's recommendations are a meaningful but incomplete improvement to the Planning Bill from a development perspective.

A new and time-critical issue is the private plan change freeze from 1 January 2028: developers considering a plan change under the current system have a narrow opportunity to lodge their plan change requests.

Beyond that, the key outstanding issues include: the vulnerability of national level direction to political whims; the lack of flexibility in regional spatial plans; limited appeal rights; and the uncertain future of any existing bespoke plan provisions. These concerns go to the heart of whether the new planning system will deliver the flexibility and stability that long-term development investment requires.

The Government plans to pass this legislation before Parliament rises on 24 September. We anticipate further changes to the Bill through Amendment Papers (Cabinet has already signalled several) but the window for amendments to be made before the election is narrow and rapidly closing.

Please get in touch if you would like to discuss any of these issues and what they mean for your projects.

Special thanks to Samantha Hiew and Payge Swanson for their assistance with this article.

Get in touch

Bill Loutit
Partner
bill.loutit@simpsongrierson.com
DD +64 9 977 5092 | M +64 21 839 422

Sarah Scott
Partner
sarah.scott@simpsongrierson.com
DD +64 3 968 4018 | M +64 27 307 4318

Hamish Harwood
Senior Associate
hamish.harwood@simpsongrierson.com
DD +64 4 924 3508 | M +64 21 916 779

Sarah Mitchell
Partner
sarah.mitchell@simpsongrierson.com
DD +64 9 977 5256 | M +64 21 420 015

Jade Magrath
Senior Associate
jade.magrath@simpsongrierson.com
DD +64 9 977 5019 | M +64 21 4118 4043

Rachel Abraham
Senior Associate
rachel.abraham@simpsongrierson.com
DD +64 9 977 5021 | M +64 27 424 4617