SIMPSON GRIERSON

From Red Tape to Red Carpet: Do the RMA reforms streamline urban growth as promised?

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The Planning Bill and Natural Environment Bill have been presented as a new system that will unlock development capacity for housing growth, infrastructure, and make it easier to "get things done". In the latest instalment of our resource management reform series, we delve into the opportunities and risks that this system presents for developers, with a focus on the Planning Bill, which will regulate land use zoning, urban development, housing and infrastructure.

Just getting started? For an overview of both Bills' architecture, key functions within the new system, the transition to the new regime (including what happens to existing consents), and timing for implementation, we recommend reading this earlier article.

The bottom line

For developers, the reforms promise clearer and more consistent national direction, fewer consents, and potentially faster and more cost-effective pathways to market. But the proposed legislation also shifts critical decision making stages to much earlier in the planning process, with compressed engagement timeframes and reduced appeal rights. At the regional spatial plan level there is little room for changes to be made between official reviews, which will happen every ten years.

As an overview:

- **National direction becomes king.** Standardised zones, environmental limits, and growth targets will be set at a national level by central government, with the first draft instruments expected in 2027. These will directly shape development capacity across all regions, making early and strategic industry engagement essential. The timeframes provided in the draft legislation may not allow enough time for that engagement to occur in a meaningful way.
- **Regional spatial plans become the new gatekeepers.** Each region must produce a 30 year plan identifying where growth and infrastructure will occur. These plans are hard to change and carry short submission windows. The lack of flexibility to amend regional spatial plans to adapt to new opportunities as they arise, and the limited appeal rights available to submitters, could prove problematic.
- **Land use plans will follow, implementing the spatial plans with limited rights of appeal.** Standardised provisions may provide some certainty and a more consistent planning framework, but again there is a lack of flexibility to respond to shifting trends. The Bills also do not address the future of any existing bespoke precincts in current district plans, creating further uncertainty for landowners who currently benefit from these tailored provisions.
- **Consenting is intended to be simpler,** with more permitted activities and less notification, although a new requirement to register some permitted activities could create more red tape, and the drafting of the notification provisions needs improvement.

Development and infrastructure are key priorities of the new regime

The Planning Bill has 13 "goals" that people exercising or performing functions, duties or powers under it must seek to achieve. In what will be welcome news for developers, these include:

- supporting and enabling economic growth and change by enabling the use and development of land;
- creating well-functioning urban and rural areas;
- enabling competitive urban land markets by making land available to meet current and expected demand for business and residential use and development; and
- planning and providing for infrastructure to meet current and expected demand.

The goals also carry over some of the "matters of national importance" from section 6 of the RMA, albeit with some notable tweaks such as replacing the need to preserve "natural character" with "high natural character" and emphasising the protection of "significant" historic heritage (rather than all historic heritage). The Bill does not prioritise between the goals. Instead, the (inevitable) tensions between them will be resolved and managed through a national direction package, consisting of a national policy statement and various national standards, and through regional spatial plans that will implement that national direction.

Centralised and long-term planning for growth

National instruments: the blueprint

The intent is that key objectives and policies to achieve the Bills' goals (including housing priorities and growth targets), environmental limits, and standardised zones will be set at a national level, with councils implementing these regionally and locally. The idea is to shift the bulk of community engagement to the policy and plan development stages and away from the consenting process. The standardisation of zone types and some plan rules at a national level in particular should help to reduce uncertainty and compliance costs for developers working across multiple regions, and may make the system easier to navigate for new or overseas-based investors and developers.

Because they feed through into every subsequent layer of the system, the content of these national level instruments is crucial, and their development stage is a key opportunity for industry involvement in the policy-making process. National instruments will be notified for submissions, with the first suite of national instruments to be published within 9 months of the Bills receiving royal assent (on the Government's current timeline, in early 2027) and a second suite (including the national standardised zones) expected in late 2027. See timeline here.

The Planning Bill gives the Minister discretion over the notification period, which must not be less than 20 working days. Given the significant influence they will have on how land use is regulated through regional spatial and land use plans, and the importance of striking the right balance between the legislation's various goals, a longer minimum timeframe for submissions than this may be more appropriate.

Regional spatial plans: the new gatekeeper of growth

Each region will have a spatial plan that implements the national instruments and sets the strategic direction for development and public investment priorities in that region for the next 30+ years. Similar to (but much more detailed and prescriptive than) a long-term plan or future development strategy under the RMA, this will identify where urban growth will happen, where infrastructure will be planned, and identify areas where there are natural hazard risks, that need to be protected from development, or where incompatible activities need to be managed. The plans will theoretically provide more certainty to developers about where infrastructure will be provided and when, allowing them to invest and make longer term plans with confidence. However, this assumes that each region also has access to the funding and resources necessary to effectively plan and deliver infrastructure in line with its plan, and ultimately councils will dictate where growth is planned to occur.

Draft spatial plans for every region must be notified within 15 months of the Bill receiving royal assent, and decisions issued 6 months after that, so we can expect a flurry of submissions and hearing processes across the country throughout 2027 and 2028. It will be crucial for developers to get involved early in the draft regional spatial plan process, because:

- This plan guides where the land use plan will allocate standardised zonings (discussed below) and landowners can only modify a land use plan consistent with the regional spatial plan.
- Any appeal against a hearing panel's recommendation on the regional spatial plan is restricted solely to points of law.
- As currently drafted, the Bill offers very limited opportunity to change a regional spatial plan once it is adopted - a review of the plan can only be initiated by the spatial plan committee, and may only occur as needed or at least every 10 years.

The public will have 20 working days to submit written feedback on a draft regional spatial plan, including any supporting evidence or information for consideration by an independent hearing panel. For the first spatial plan in each region, a 20-working-day timeframe seems short to analyse and give meaningful feedback on the plan that will shape the region's future urban development and infrastructure provision, especially as there will be multiple spatial plans open for submission at the same time.[1] As we noted in a previous article, the compressed timeframes to develop regional spatial plans across the country will put significant strain on resourcing, not only for councils but also on submitters and their consultants, who will likely be juggling involvement in multiple regional spatial plans at once. Longer timeframes are essential given the importance of these documents.

Developers will be aware that it can be difficult to know exactly where opportunities for development will occur over the next ten years, let alone 30 years. Given the system's shift in focus towards centralised planning, and the new emphasis placed on enabling use and development of land and responding to current and expected demand for growth, it is important that regional spatial plans and land use plans (discussed below) are responsive and adaptable to changing demands over time. As mentioned above, the Bill does not appear to allow the public to request or initiate changes to a regional spatial plan. Although this increases certainty, there is a risk that regional spatial plans will become overly rigid and could impede growth that is needed to adapt to changes in housing or infrastructure demands over the course of a decade (the period between council-initiated reviews). This could prove particularly problematic for smaller developers who may not be resourced to participate in the spatial planning process, or know their medium to long term development intentions. We suggest that regional spatial plans should be able to be revisited more frequently, and that it would be beneficial for there to be an option to make private requests for changes to a regional spatial plan.

[1] Under the RMA, the period for submissions on new policy statements or plans is 40 working days, with the shorter 20-working-day timeframe reserved for changes or variations to a plan.

Land use plans: the rulebook

Land use plans are similar to district plans under the RMA, but must use standardised zoning set by national instruments and implement the regional spatial plan. Councils can make bespoke provisions that deviate from the standardised zonings to reflect local circumstances but will need to prepare a justification report if they do.

The Planning Bill is silent on what will happen to areas that are currently subject to bespoke precinct provisions under existing district plans (many of which have been secured after long-fought plan change processes initiated by a landowner) or to plans that have recently adopted the Medium Density Residential Standards. This is another layer of uncertainty for landowners that, in our view, should be clarified in the primary legislation rather than left to the national direction or plan development stages.

A land use plan can also identify land that may be suitable for upzoning in the future, and apply temporary provisions to the site until certain requirements (eg performance standards for required infrastructure, or a specific agreement being reached) are met that "unlock" the future provisions. Unlike future urban zones under the RMA, a formal rezoning process is not required and instead, once the relevant requirements are met a council will simply give notice of the change, and amend its land use plan accordingly. These provisions should enable land to be released for development more efficiently once certain preconditions are met, but the wording of those preconditions will be key, and will likely attract scrutiny from developers and infrastructure providers submitting on a land use plan.

Like the regional spatial plan, the submission period for draft land use plans must be at least 20 working days, and submissions are considered by an independent hearing panel. Submitters cannot request changes to a standardised plan provision not authorised by a national instrument or relitigate the regional spatial plan. The first land use plans for each district must be notified within 9 months of decisions being made on the relevant regional spatial plan, so we can expect to see another burst of planning activity (and a corresponding demand on consultant and council resources) across the country from late 2028 to 2029.

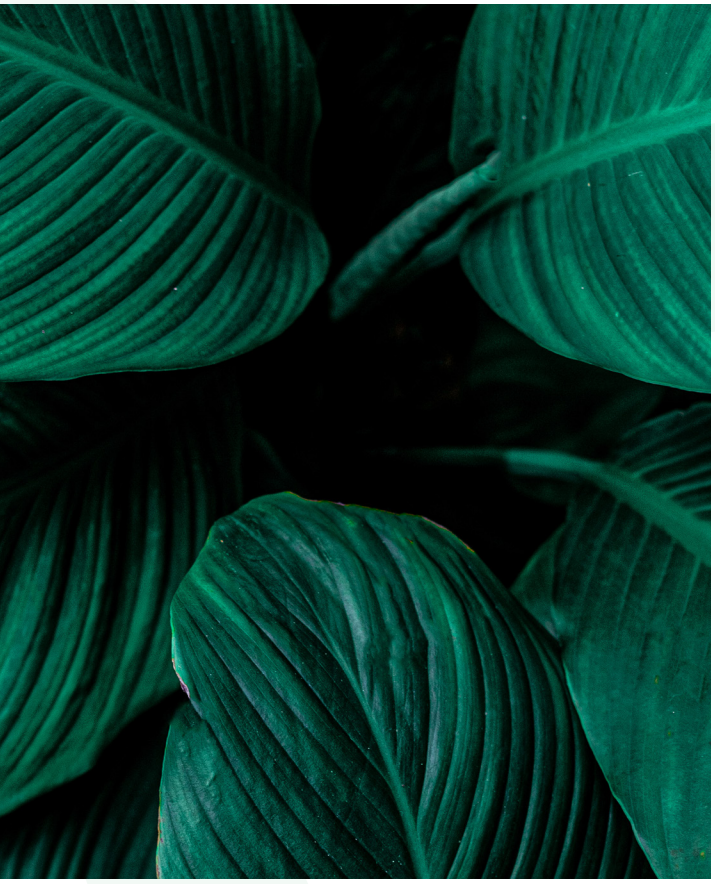
Appeal rights are limited. Submitters can only appeal councils' decisions to include a standardised plan provision or exclude a matter from the proposed plan on a question of law and if they referred to the specific plan provision in their submission. An appeal on a bespoke provision also seems to be limited to a council's decision to include it (ie if a landowner requests bespoke provisions and the council decides not to do so, there does not appear to be any avenue to challenge this decision). While this may make for a faster and more decisive plan making process, it means that submitters will need to put their best foot forward with robust evidence to support any requested changes to a draft land use plan at the outset, as they are less likely to get a second bite of the cherry on appeal. Given the wide-reaching implication of the land use plan provisions, allowing for full appeal rights (including in relation to any bespoke provisions) would better ensure that the plans are genuinely responsive to the needs of each district.

Land use plans can later be changed by members of the public via:

- a planning consent that authorises a rezoning or change to a standardised plan provision; or
- a plan change request, which a local authority can either adopt as its own plan change or process as a private plan change (similar to the RMA).

A planning consent to change a land use plan is a novel concept. Rather than applying solely for a permit or land use consent that allows an activity, the permit would authorise a change in the underlying land use plan that applies to a site or area to allow the activity, but using the process for considering a consent (ie notification, effects, conditions). There is overlap between a planning consent and a private plan change, with the notable difference between these being the procedural requirements.

In theory, a private plan change applying alternative standardised provisions should move through the process more quickly and predictably than in the current system. However, if the request is for a more bespoke change or conflicts with national instruments or the regional spatial plan, the pathway is likely to be more complex and demanding than under the RMA. The Planning Bill allows a local authority to reject a change request if the plan has been operative for less than two years, so landowners who do not get involved in the land use plan development process may face a two-year period where the plan cannot be changed (except through a planning consent) and the use of their land is restricted to what the plan allows.



[2] The Bills do not define "desired level of use and development".

Fewer consents required, and less notification (but more red tape for permitted activities)

"Controlled" and "non-complying" activities will become a thing of the past. The other categories of activity remain (permitted, restricted discretionary, discretionary and prohibited) with guidance provided around how activities should be classified based on whether:

- they are acceptable or anticipated;
- they achieve the "desired level of use and development";[2] or
- their effects require assessment and management through conditions.

It is intended that more activities will be permitted, reducing the number of consents required, and that subdivision will generally be allowed unless a national standard or local rule restricts it. Further central government direction on what activities should be permitted, and where, will likely come through the national instruments.

While the Government has signalled that more activities will be permitted, permitted activity rules may now require people to notify and register a proposed permitted activity with the consent authority before carrying it out. If a permitted activity needs to be registered, the person carrying out the activity may need to obtain written approval from any directly affected persons, obtain a certificate from a qualified person that the activity complies, or would comply, with any specified requirement, pay a fee, and/or meet other relevant requirements.

It is unclear what purpose will be served by requiring permitted activities to be registered, and this appears to be an unnecessary and unduly onerous addition to the framework. There is no need to register permitted activities under the RMA, and requiring people to inform the council or obtain written approval to carry out a permitted activity adds more red tape rather than reduces it. Notably also, any written approval provided for a permitted activity is only valid for 3 years, and may be withdrawn by the person who gave it before then.

For activities that do require consent, the bar for notification has been lifted and the scope of affected persons narrowed, which could help reduce application processing timeframes and uncertainty for applicants. Limited notification is replaced by targeted notification, which is only required if a proposal will have more than minor effects on identifiable persons. Public notification will only be given where the proposal has more than minor effects on "the built environment" and all affected parties cannot be identified, and there are qualifications on who can make submissions on a publicly notified application. There is no longer the option to notify an application because of "special circumstances". However, as we identified in this earlier article there are several issues with the workability of the draft notification provisions that create uncertainty and could lead to litigation risk.

The Bill also removes the need to consider effects like the internal and external layout of buildings, visual amenity, views, landscape, and precedent effects, and decision-makers also cannot consider any less than minor adverse effects (with limited exceptions).

The changes to the types of effects that can be considered, and to the notification triggers, represent a significant shift from the status quo. Overall, developers should expect reduced consenting costs and greater certainty for smaller-scale or routine works, potentially improving project viability, although they will also have less say in what their neighbours can build. And, questions remain about the new framework for permitted activities and whether it will genuinely reduce the administrative burden on councils, or the cost and uncertainty borne by applicants. As always, the devil is in the detail and the provisions in the Bill could be improved.

Faster resolution of minor disputes

A new Planning Tribunal will deal with more processing-focused and administrative decisions, such as local authorities' decisions on notification, the return of an application as incomplete, and whether a consent condition is in scope (ie regulates one or more of the relevant effects that can be considered under the new legislation). The presumption is that the Planning Tribunal will generally deal with matters on the papers, unless a hearing is considered necessary. Appeal rights from Tribunal decisions will be limited to points of law.

Conceptually, this should be a positive change for applicants, affected parties, and consent authorities alike, as it should provide for the faster and more cost-effective resolution of minor disputes and keep projects moving. It should also help to reduce the Environment Court's (significant) case load.

Regulatory relief

Local authorities will be required to offer relief (in the form of financial or other compensation or benefits) to landowners if plan rules relating to heritage, sites of significance to Māori, outstanding natural landscapes or features, high natural character, significant natural areas or indigenous biodiversity significantly impact the reasonable use of their land. Councils will need to identify any impacted land and consider the extent to which a rule:

- restricts or removes development potential; imposes obligations for the protection, restoration, or non-use of land;
- creates compliance costs or regulatory constraints that affects the reasonable use or enjoyment of land; and
- affects land value.

This could make the analysis of provisions that restrict the development of land more rigorous and foster a deeper understanding of the costs of planning restrictions to landowners and developers. However, councils will need to navigate the tension between these considerations and any national direction that requires protection of historic and cultural heritage and natural resources to achieve the "goals" of the legislation. The regulatory relief regime is novel and has already proven to be one of the more polarising elements of the Bills, so is it expected to attract significant focus from submitters.

Have your say

Submissions on the Bills (available online here), are due by **13 February 2026.**

These reforms will have significant consequences for almost every sector of New Zealand. If you would like to discuss the implications for your business, or need assistance with preparing a submission, please contact one of our experts listed below.

Get in touch

Please get in touch if you would like to know more about what this may mean for you.

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