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Planning to change

Improvements in planning law need matching shifts in capabilities

Before Christmas, the government released its "*Better planning for a better New Zealand*"[1] discussion document outlining proposals to replace the Resource Management Act (RMA). It describes enacting two separate bills covering land-use planning and the natural environment to improve the clarity and certainty of statutory requirements for negotiating the planning system.

The reception of the new proposals in the media and commentary has been positive, much of it echoing the government's own statements of intention rather than assessment of their likely success. The RMA was enacted in 1991 to streamline planning and address a multiplicity of other laws, but after 35 years of operation and 24 substantial amendments, it is viewed as problematic and beyond repair.

What do supporting papers issued with the document suggest will be the new legislation's effects, allowing for the strengths and limits of the analysis? And what does history suggest needs to be refined to improve the legislation's economic effects?

A long time coming

The RMA has generated a rising chorus of complaints over recent years, some clearly tied to the effects of the legislation, some reflecting a more general 'regulatory meddling aversion' more related to matters subject to the Building Act or other legislation. Even *Better planning for a better New Zealand* states on page 15 that "*the RMA requires houses to have a certain-sized storage area outside bedrooms and kitchens*", conflating the RMA with regulations derived and evolving from the Housing Improvement Act 1945.

The RMA is primarily concerned with land use and associated effects on the natural environment, such as air quality, biodiversity and water, with a focus on externalities, the economic term for side-effects of actions that impose uncompensated costs on third parties, which are not taken into account by those whose decisions cause them. While the RMA's section 31(1) and Schedule 3A on medium density residential standards contain provisions to control the effects of building design and siting on surrounding properties, the RMA does not specify details about buildings' internal storage spaces, and a simple word search of the legislation reveals zero instances of references to bedrooms or kitchens.

Complaints that can be attributed to the RMA include its fragmented, complex, and difficult-to-navigate planning structure, which adds cost, delay, and uncertainty about what is feasible, resulting in some worthwhile opportunities being forgone. Lowering planning costs and providing more central government guidance have featured in discussions about RMA reform over the past 15 years.

[1] https://environment.govt.nz/publications/better-planning-for-a-better-new-zealand/

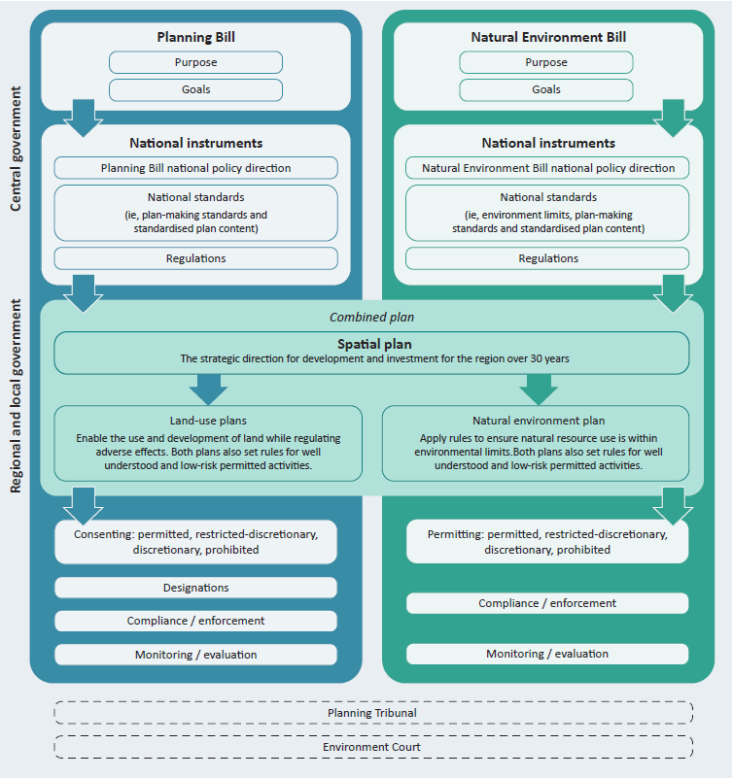
New bills tighten focus with a new direction

The current government proposals largely align with recommendations of the Expert Advisory Group (EAG) on Resource Management Reform, which drew on previous history and reports in its Blueprint for resource management reform: *A better planning and resource management system 2025*.[2] This aimed to alleviate high transaction costs in RMA processes, opportunity costs from forgoing or delaying development, and concerns in some areas about restrictions on available land for development, which increase the cost of meeting housing and infrastructure demand.

The new proposals narrow the scope of regulation, so fewer activities need planning approval and fewer people can object to consenting decisions. Landowners' enjoyment of their property rights is elevated as a guiding principle, with compensation proposed for some new regulatory restrictions imposed on property use. The central government will issue further national guidance on development and environmental management to guide regional spatial plans, which will be translated into local plans by district and city councils, with simpler rules and standardised zones and environmental limits.

Planning processes will be simplified by having each region adopt a single combined plan that covers spatial, natural environment, and land-use plans in one place.

Figure 1 System architecture



Source: Ministry for the Environment[3]

2 https://environment.govt.nz/publications/blueprint-for-resource-management-reform/

3 https://environment.govt.nz/publications/better-planning-for-a-better-new-zealand/

Navigating the planning system will be made easier, faster and more consistent with a proposed modernisation towards a digital system. A new Planning Tribunal will be established to adjudicate over small disputes, freeing up the Environment Court to address more substantial cases.

The Planning Bill covers natural hazards, neighbourhood nuisances such as noise, vibration, and shading, and the benefits of increased housing supply and infrastructure capacity. It will not cover matters internal to a site (such as building layout or balconies), visual amenity, private views, negative impacts on competing businesses, or subjective landscape and amenity effects, except for outstanding natural features and significant historic heritage.

The National Environmental Bill identifies both central and local government roles in preparing regulations to set clear, timely, and accurate environmental limits, and it strengthens monitoring and regulatory enforcement to reduce uncertainty and improve incentives for new investments. It also suggests replacing the current first-in-first-served practice of allocating water with market instruments or other methods yet to be determined, to make it easier for water to move to higher-value uses and raise allocative efficiency.

The reform's aims of improving the ease, speed and consistency of negotiating the planning system could form the basis of measures of success. But the discussion document provides no detail on what form such measures would take in practice.

What supporting analysis says

Supporting analyses issued with the document estimate potential benefits from the proposed changes, with the caveat that current proposals are high-level, so the analyses depend on assumptions to fill gaps in practical implementation detail. None of the supporting analyses attempt to quantify or monetise costs and benefits to the natural environment of changing regulatory restraints.

Castalia's *Economic Impact Analysis of the Proposed Reforms* (February 2025)[4] compares the EAG blueprint recommendations with a business-as-usual counterfactual. It estimates that the reforms' impacts over time generate a net benefit of $14.8 billion in present value terms over 30 years, discounted at the Treasury's recommended 2% rate for non-commercial matters. The analysis covers administrative costs of implementing the systems and compliance costs of adhering to them, but not opportunity costs (i.e. environmental benefits and resource reallocations driven by the reforms), which are precluded by data limitations.

Allen & Clarke and Infometrics (ACI) examine the effects on productive, allocative, and dynamic efficiency through computable general equilibrium (CGE) modelling of potential impacts across the economy in their *Economic Efficiency Assessment of Resource Management Reforms* (2025).[5] It characterises the proposals as strengthening landowners' rights to use their own property while addressing negative externalities and market failures, in contrast to the RMA's more pre-emptive restrictions on activities to address a broader range of societal effects.

The proposed reforms are expected to generate productive efficiency gains by simplifying rule complexity, regulating fewer activities, increasing certainty for activities still needing regulation, and reducing compliance and financing costs.

4 https://environment.govt.nz/publications/economic-impact-analysis-of-the-proposed-resource-management-reforms/

5 https://environment.govt.nz/publications/economic-efficiency-assessment-for-a-new-planning-and-environmental-management-system/

More material gains over time come from allocative and dynamic efficiency as land, capital and natural resources are allocated to higher-value uses within clear environmental limits. Although efficiency gains will be considerable in aggregate, some groups will bear disproportionate adjustment costs as resources shift towards higher-value uses.

ACI note that efficiency gains from the reforms will depend not only on the legislation but also on how effectively data, monitoring, pricing, and compliance systems work together to enable development within environmental limits. They do not highlight numerical results from their modelling, focusing more on their direction than their magnitude.

History may be past, but it can still inform the future

Like the proposed reforms, the RMA was intended to reduce the opportunity cost of land use planning by streamlining the multiplicity of previous legislation and associated regulations and permits, which were widely criticised for imposing delays on land use adjustments and distorting land allocation and land values. The RMA replaced and consolidated over 60 previous enactments covering town and country planning, river management and pollution control.

It introduced a new purpose of promoting sustainable management of natural and physical resources, and also a shift towards controlling "effects" on the environment rather than on activities themselves. Its references to "enabling" economic well-being in section 5, "efficient use and development" of physical resources in section 7(b), and the consideration of costs and benefits of alternatives when rule-setting in section 32 imply an intention to apply light-touch regulation and to improve economic outcomes.

As a prequel to the RMA, local government was reorganised in 1989, reducing over 200 city, borough and rural county councils to 73 local territorial authorities. It also created 14 regional councils to oversee regional environmental resource policies and guide local territorial authorities.

Regional councils took over the responsibilities of hundreds of local government entities in managing river catchments, drainage schemes, harbours and pest control. They replaced the Auckland Regional Authority (established 1963), the Wellington Regional Council (established 1980), and 20 other United Councils formed after 1977 to improve cross-boundary co-ordination between territorial authorities.

The Wellington and Auckland regional councils were also involved in delivering bulk water services, public transport and regional parks. Gisborne was initially the only unitary authority, combining territorial and regional authority functions, until Marlborough, Nelson and Tasman were formed in place of the proposed Nelson-Marlborough Regional Council.

Before the effects-based RMA, the previous Town and Country Planning Act (TPCA) prescribed permitted activities through controls and zoning aimed at achieving "wise" resource use. Disputes arose about what was "wise" use: pastoral farmers objected to encroachments by forestry onto pastureland, and horticulturalists objected to rural-residential subdivisions, leading to widespread prohibition of subdivisions below the 10-acre supposed minimum size for economically viable production units.

The RMA's novelty took years to bed in: in the mid-1990s media reported a senior Environment Court Judge calling it an ''untried welter of words". The information necessary for effects-based regulation did not materialise with the legislation. The land use planners who had to implement the RMA largely adapted their existing land use zoning and rules to the new legislative requirements. Planning law, tested in courts, gradually emerged.

There were two fundamental weaknesses with the introduction of the RMA. One was that local planning and environmental protection responsibilities were devolved to local councils that differed greatly in their rating capacity and capabilities. The other was that national direction on how to implement it, such as National Policy Statements and National Environmental Standards, was not developed until more than a decade after its enactment. The result was a proliferation of responses to issues around the country.

Since its enactment, the RMA has been amended 24 times to iron out problems and make processes under the Act faster, cheaper and less complex. Such refinements have increased the legislation's page length.

Speed bumps on the road to reform

The supporting analyses suggest that the proposed law changes should have positive economic effects by reducing transaction costs in the planning system, easing land-use constraints, and enabling resource reallocation to higher-value uses. The proposed spatial plans address a specific weakness in the RMA regarding what other countries call strategic or structural planning, enabling broad direction for expected land-use change, meeting infrastructure needs, and protecting land corridors and other resources (such as accessible aggregates).

However, the history of the RMA has shown that changing legislation without strengthening the institutions charged with implementing it may not achieve the intended outcome. There is also potential for other planned government changes to constrain realisable benefits.

The Fast Track Approvals Act (FTAA) 2024 was a prelude to RMA reform, setting up a process for selected large projects likely to meet the Act's purpose of rapid delivery of "*significant regional or national benefits*" to be assessed by a panel of experts and approved by a process that bypasses the risks of multiple hearings and appeals. However, the FTAA is mostly procedural and does not define what is required to meet the criterion of significant benefit, leaving the expert panels to their own devices. That, combined with the one-shot application without room for appeal, creates uncertainty about outcomes, so applicants may add more front-end costs to applications to try to cover all eventualities, or defer projects until conditions are clarified. ACI suggests that fast-tracking projects by making exceptions to normal processes can detract from efficiency by introducing uncertainty into the content of spatial plans, the observance of environmental limits, and cost-recovery mechanisms.

Further uncertainty over resource management reform stems from the government's stated intention to reform local government, disband the current elected regional councils, and allow locally-led council reorganisation towards an expected wider spread of unitary authorities. Except for Auckland, New Zealand's current unitary authorities consist of an urban centre and a lightly populated rural hinterland, a model that will be more challenging to apply in large catchments encompassing multiple communities and diverse interests, such as the Waikato, Manawatu, Waitaki or Clutha. The proposed resource management reforms require a regional body with accountable governance to prepare environmental plans and overarching spatial plans, raising questions of consistency with the local government reform.

Another cause of uncertainty is the government's move to cap property rates, which are councils' principal revenue source. Councils and their constituents face substantial liabilities for both basic services at a time of high supply costs and for addressing a legacy of deferred maintenance and upgrades to water infrastructure. The proposed reforms will add further costs to realigning local plans with the new national direction and to assessing and restructuring all current planning instruments to be consistent

with the new system. The rate capping proposals are not yet finalised, but to date, there is little indication of how these three major reforms affecting local government responsibilities will be reconciled.

A long overdue refresh

Taken together, the resource management proposals include many changes likely to reduce transaction and opportunity costs in allocating and using natural resources, thereby advancing economic development and protecting the environment. But they currently lack detail on how improved ease, speed and consistency of the planning system is to be measured, how the balance is struck in setting environmental limits between national standards and allowing localised variation in impacts, and how the reform's success would be measured.

The proposals' strengthened attention to property rights, light-touch regulation, and externalities are reminiscent of the RMA's original intentions. However, experience with the RMA has shown that good intentions are not sufficient to secure good outcomes, and uncertainty over implementation can undermine the expected benefits of reform. Local government needs the right tools, information, and incentives to implement legislative changes.

Planning law has evolved to settle or pre-empt disputes arising from neighbourhood nuisances or broader externalities, to minimise the long-term disruption and harm they cause. To assess the likely practicality and efficiency of the proposed reforms, more clarity is needed on the options for implementation, the content of the legislation, the transition timeframe, and the metrics for assessing success, to see how they will work alongside other proposed reforms.

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