



Employers And Manufacturers Association (EMA)

Submission to the

Environment Select Committee

On the

Planning Bill

and

Natural Environment Bill

February 2026

Introduction

The EMA has worked with several other peak bodies as part of the Resource Reform Group to bring about change and reform to the much-maligned 1991 Resource Management Act.

Over a period of about eight years and through three successive governments the EMA and, at various times, Property Council New Zealand, Infrastructure NZ, Business New Zealand and the Environmental Defence Society have worked together to first help make the case for and convince government that the Act needed to be changed and then work with governments on those changes.

As a group and separately we have been closely involved in the various iterations of proposed changes and have worked with Ministry for the Environment team and ministers in making those changes.

As a result of that long involvement we are strongly supportive of the two bills, the Planning Bill (PB) and Natural Environment Bill (NEB) that have emerged as replacements for the RMA.

Summary

As noted above the EMA is supportive of both bills with the ongoing arguments over one or two bills to replace the old RMA largely pointless as long as the pair work together to bring the desired outcome - a simpler, faster, more efficient, more certain and less costly consenting system.

Our view is that they do provide that outcome.

A more permissive regime to enable development, especially of critical infrastructure, including housing and social infrastructure, is welcomed as is a greater focus on existing property rights.

Firm national direction, constraints on the ability of councils to add layers of regulation and more permissive consenting regimes will reduce costs and complexity. A stated reduction in total consents of 46% may be optimistic but any significant reduction is a boon for business and development.

Reducing plans from over 1,000 to just 17 regional spatial plans and reducing complex use of zones to just double figures support an easier process for applicants.

That reduction in complexity of plans and the introduction of National Policy Directions and greater use of National Policy Statements will be welcome by our EMA members who for years have had to navigate multiple interpretations and different rules from multiple jurisdictions all claiming to be enforcing the RMA while adding their own layers of limits, rules, regulation and interpretation.

The effectiveness of the old RMA was grossly undermined by its inconsistent application across 78 jurisdictions and multiple plans. The two new bills reduce that complexity and give national guidance with limited pathways for localised variation or special circumstances for exemption.

We support the shift in the PB to clearly defining areas the permit designated activities and protect significant natural features, waterways coastal environments and cultural sites of significance. That process of identifying and protection in advance supports the changes that reduce the multiple opportunities for objections that exist in the current legislation.

However, as with any new legislation, there are areas we believe could be improved. The EMA has concerns with the way goals in the Acts have the potential to be contradictory and the lack of hierarchy or framework to help resolve those conflicts.

The guidelines and guardrails around Ministerial decision-making powers aren't strong enough and open the new legislation to a process that could lead to significant change with each change of Government and government direction, a problem that plagued the previous RMA with constant change and tinkering causing loss of confidence in the system and inhibiting investment.

Who has a say and how Spatial Plans will come together is another area where we believe there are some gaps while the regulatory takings regime also needs further clarification.

The makeup and resourcing of the new Planning Tribunals will be critical to their success while the monitoring and enforcement tasks, plus gathering of best-practice information (likely to sit with a beefed-up Environmental Protection type agency) is another area critical to the success and outcomes of the NEB.

Our major concern is the mind shift required in the current consenting agencies to switch from risk averse to enabling behaviour for development, economic and business growth. The implementation of the new bills and the monitoring of the speed and success of that implementation is also critical to the new system.

We make the following observations and recommendations:

Purpose and Goals

While both bills carry their own purpose statement it reads like a goal to establish a process. The two bills are designed to work together for the purpose of enabling development while protecting the environment so perhaps a single purpose statement to guide the two bills could be appropriate.

Again with the two Acts functioning together there are some contradictions between the two with no hierarchy set out to give precedence to one or other of the sets of goals.

For example, the PB goal a) “to support and enable economic growth” is potentially stymied by the NEB’s goal d) of “no net loss in indigenous of biodiversity.” Using a piece of land to build something means you are going to lose something.

That seems an unattainable goal.

And how do you define “net loss?”

If you choose to build a wind farm in Southland that may harm some native bats, and there is a thriving, growing colony somewhere else in the province, or elsewhere in the country, will that effectively replace the population for “no net loss?” Similarly a small stand of native bush, can you replant more elsewhere?

Also in the PB it’s goal b) “land use does not unreasonably affect others,” how do you define unreasonable? That seems like one of those ill-defined terms that plagued the previous RMA. Amenity value anyone? One person’s unreasonable is another’s perfectly acceptable. Use of this and other terms that are not well-defined will simply lead us back to the courts to define and set jurisprudence.

What is the point of the PB’s goal d? The very point of a spatial plan is to tell you where you can develop, reside and do business over the next 30 years. The competitive market for land use will look after itself in those circumstances without needing to be a goal.

Recommendation: Create an overarching purpose that unites the two bills. Give a hierarchy or priority structure for how the goals relate to each other and clearly define or give clear constraints to terms such as *unreasonable, significant risk, more than minor and proportionality*. Scrap goal d from the PB.

Ministerial Decision Making

The power given to Ministers to make final decisions in both Acts is both a concern and a possibly useful tool.

Recalcitrant, resistant or simply slow decision-making by councils at a local level in plan making or seeking exemptions or variations is an area where the EMA can see the value of Ministerial decision to break an impasse or clear the pathway. That does place the minister in the position of referee.

But given that the EMA believes one of the major impediments to the proposed new system will be the shift required with councils to switch mindsets to being more permissive to development with less council intervention and risk aversion, then a ministerial big stick may be helpful.

The proposed new tribunal will also fill that decision-making role.

However, without wishing to add a layer of bureaucracy and slowing decision-making down, it may be useful for the Minister to be able to call on an independent panel of advisors to assist in assessing these decisions – similar to the panel used to help design the reforms.

The EMA believes this type of panel would also be very useful if the Minister is considering review and amendments to National Standards, a power granted in the legislation that doesn't require the full process that other limits need before change.

This Ministerial power has gone badly wrong in the past with Ministerial decisions challenged all the way to the High Court and unintended consequences for some sectors.

The most recent example was the impact on quarrying from changes to freshwater standards designed and announced from within a minister's office using internal resources that effectively prevented any expansion to quarrying development over an extended period.

The mistake was quickly realised but took nearly two years to rectify with quarry operators losing one or two seasons of development. We have also since seen a change in attitude to quarrying with its recognition as critical to infrastructure and housing development.

The ability for Ministers to make this type of change also leaves the legislation open to political influence and change as Government's and direction change at a time when all stakeholders in the consenting and planning process agree stability is needed once these changes are made to give them time for implementation and to gauge their efficacy.

Recommendation: Stronger guardrails on Ministerial ability to make these decisions and a requirement to take expert independent advice or peer review reports being given consideration when making these decisions.

Spatial Plan Input

Over the course of the various RMA reform proposals the EMA (and Business New Zealand) have consistently asked for specific business and development representation on the group responsible for developing the region's Spatial Plan.

While some groups are specifically referred in the proposed legislation as having a role in Spatial plan development, the business and development sectors are noticeably absent.

The impacts of not having business/development input become apparent when you look at Auckland's Unitary Plan.

For a number of years the business community struggled with finding available land for expansion in areas where their workforces were likely based. The North Shore and West Auckland have no room for expansion and there are large residential or dormitory suburbs all over the greater city that force commuters onto currently limited or unreliable public transport or onto the city's congested roads for a tortuous daily commute.

By the time the Unitary Plan was developed – basically a spatial plan for Auckland – the only areas left for business growth were at extreme edges of the city in the north at Warkworth and the south around Papakura/Franklin. The only other significant area available for growth is Auckland Airport's privately-owned precinct that is slightly larger than the central city.

For years, the needs of business were overlooked to the detriment of business expansion – many businesses have looked south towards Hamilton for affordable expansion, taking rates and revenue out of the city – and to the detriment of transport links around the city and region.

A second issue with Spatial Plans that will need to be addressed is the relationship with the new Combined Territorial Boards (CTBs) recommended in the Department of Internal Affairs consultation on the draft Simplifying Local Government.

The PB legislation is draft, and the DIA proposal is out for consultation but at some point, the interaction, relationship and hierarchy between the two will need clarification in one or both pieces of legislation.

A role has been considered for the CTB's, but they appear more operational despite the obvious commonality between the two. It's not clear if the CTB is included in the likely make-up of the groups creating the Spatial Plan, is the decision-making body for the Spatial Plan or is the body that co-opts expertise to then drive, develop and implement the Spatial Plan.

Recommendation: Representation or consultation with the business/development communities is a specified requirement for the group creating regional spatial plans. As legislation develops the relationship between CTBs and Spatial Plan development and implementation will require clarification.

Regulatory Takings

The framework for this is new and relatively light and seems aimed primarily at ensuring councils are more circumspect when considering taking land or reducing/restricting activities already being undertaken by the proper owner.

This respect for property rights can only be a good thing for property owners especially those who have bought property, only to later find part of that land has since been designated as a SNA or the property becomes subject to heritage listing.

Having to consider impacts on individual properties from wider-ranging planning changes should result in more certainty for landowners, a more judicious approach to land-use changes by councils and provide a pathway for losses to be compensated either through regulatory relief or cash compensation.

That the burden of payment would fall on councils should be the case. Presumably if they are taking this land, it is for wider public good, in this case their ratepayers, and the cost should be carried by the party that benefits.

Similarly, it has become noticeable, if not commonplace, that some owners of heritage listed or earthquake regulation affected buildings have chosen to simply allow the building to fall into disrepair rather than pay the cost of the upkeep/repairs. A heritage listing costs those that make the decision nothing and places the full burden of costs on the owners. It is therefore no surprise that some owners have let those buildings decay into a state of disrepair that leads to the eventual demolition of the building.

When the framework is fully developed it will need to be tightly defined and should be subject to nationally consistent application.

Monitoring

The EMA believes that a key to the success of these reforms and a key to reducing the concerns of the opponents of the reforms will be a strong monitoring and enforcement regime around the consents and the conditions under which they are granted.

We also agree with Property Council NZ that the performance of Councils in approving consents will also need close monitoring, particularly in the early stages of implementation of the new legislation.

Whether that requires a new monitoring organisation is debatable but changing the mindset of Councils to more readily agree to consents and reduce their constant demands for more, sometimes unnecessary information, will be critical to the success of the reforms.

Therefore, a performance monitoring regime and the ability to insist on and enforce better performance and faster consenting times needs to be addressed, particularly if some Councils lag or are noticeably reluctant to adjust to the new reforms.

The EMA is also strongly supportive of a national agency to monitor, enforce and collate information on compliance to consents and their conditions.

This is visibly lacking in the current system where enforcement and monitoring of consents can be sporadic depending on the resources and capability of the councils involved.

It also appears that businesses working in rural settings, where impacts on land, biodiversity and waterways tend to be far more visible, are more stringently and regularly monitored than their counterparts in urban settings. In urban areas monitoring can be more sporadic as limited resources are applied to many more businesses and residences, while enforcement of conditions often comes after the fact.

There are a number of instances of conditions being widely ignored in urban settings and breaches only coming to light when noticed by members of the public.

Collation of best practice mitigation and compliance would also be a useful reference tool for business and developers when they need to seek consents. Establishing a best practice reference tool will lift all outcomes and compliance.

A national agency, which resembles something like a beefed-up Environmental protection Agency and applies consistent national monitoring and enforcement of standards across the country, should be established.

Fast Track

While not necessarily in scope of these two bills that EMA believes the relationship between the two and the current Fast Track System should be reviewed after the implementation of the new legislation.

That is currently between two to five years.

Our contention is that a functioning, efficient and well-developed consenting should obviate the need for a fast-track system or at least reduce the scope of the current system.

The fast-track system is supposed to turbo charge the current need to get a number of nationally significant energy, infrastructure, port, housing and other projects underway for the overall benefit of the economy.

There is no doubt too many of those projects have been bogged down in lengthy, costly and uncertain current consenting processes.

But once that bulge of projects has passed through the current fast track system and the new consenting is functioning as it should, does the need remain for the fast-track system in its current form? That is what we'd recommend a review and two years after implementation of the new RMA.



Thanks you for the opportunity to submit on the two new bills, the Planning Bill and the Natural Environment Bill.

The EMA would like to appear before the Select Committee in person when the hearings begin. Any inquiries or clarifications should be directed to:

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About The EMA: The EMA celebrates its 140th year representing the business community in 2026. We are the country's largest business organisation with our members across the country employing around 15% of the national workforce. Our goal is to improve the regulatory environment for the business community and light the pathway for business through that often complex regulation. We are also part of the BusinessNZ network of business-focused organisations.