Reform Worth Having, Built on the Wrong Premise: RMA Reform and Resource Consenting

The case for reforming the Resource Management Act 1991 (RMA) is real, even if the politics around it has run hot. The Act has been cast as the source of New Zealand's housing and infrastructure failures, a framing that says more about political appetite than about diagnosis (Paetz, 2026). Underneath the rhetoric, though, the diagnosis holds: consenting under the RMA is slow, locally inconsistent, and risk-averse. The Planning Bill answers that real problem. The difficulty is the answer it gives. Cabinet directed the Expert Advisory Group to design a system with "the enjoyment of property rights as the guiding principle" (Campbell et al., 2025, p. 26), and the Bill's purpose now frames planning around the use, development and enjoyment of land rather than the RMA's substantive purpose of sustainable management (Planning Bill 2025, cl 4; RMA 1991, s 5). NZPI calls this a functional purpose, one that says what the legislation does without saying why we regulate at all (New Zealand Planning Institute [NZPI], 2026). This essay argues that the reform's useful machinery is undermined by an ideological over-commitment to private property rights that hollows out consenting's core function: mediating effects between parties. It develops that claim across what the reform gets right, the raised notification threshold, the narrowing of regulated effects, and the compensation proposal, before reaching a keep, change, and remove verdict.

What the reform gets right

Plenty in the reform is sound, and saying so is not a concession that weakens the critique. It is what locates it. The clearest gains are structural. The Bill collapses the RMA's activity classes into four, permitted, restricted discretionary, discretionary, and prohibited, removing the controlled and non-complying categories (Campbell et al., 2025). Controlled activities could never be declined, so folding them into permitted or restricted discretionary status is honest about what they were already doing, and the wider shift toward restricted discretionary consenting formalises a direction second-generation RMA plans had taken anyway, because it is clearer (Paetz, 2026). Nationally standardised zones address a genuine pathology, the proliferation of bespoke local rules, while keeping flexibility for local variation within set parameters (Campbell et al., 2025). NZPI, which is not an anti-reform voice, supports the standardisation, the instrument hierarchy, and the move to a digital-first system, finding "much to support in these bills" (NZPI, 2026, p. 8). Excluding effects that are less than minor from the system is also defensible, and NZPI agrees it is neither efficient nor effective to process effects at that level (NZPI, 2026). Some of the narrowed scope is similarly rational: removing views from private property and the social or economic status of residents as consentable matters strips out real misuse. What should be resisted is the gloss layered on top, the claim that reform will cut consent numbers by around 45% (Paetz, 2026). That is a political projection, not a finding, and there is good reason to doubt processing volumes will fall that far. The structural improvements stand on their own. They do not need the headline.

The raised notification threshold transfers the cost rather than removing it

The reform's first substantive cost is easy to misread, so the mechanism has to be exact. Under the RMA, a person must be treated as an affected person, and given limited notification, where the adverse effect of an activity on them is minor or more; only effects that are less than minor are disregarded (RMA 1991, ss 95B, 95E). The Bill lifts that threshold so a person counts as affected only where the effect on them is more than minor (Campbell et al., 2025). This is a change to limited notification, the affected-person test, not to public notification under s 95A, whose threshold is essentially unchanged (Campbell et al., 2025). Conflating the two misses where the lever actually sits. The EAG's rationale is that the minor threshold has produced risk-averse councils and lets people with no real stake participate, so notification should reach "only those materially affected" (Campbell et al., 2025, p. 82).

That rationale treats minor effects as noise. They are not. The minor threshold is precautionary by design: bring a neighbour in when there is some adverse effect on them, surface it early, resolve it at the front end before it hardens (Paetz, 2026). Limited notification is where a great deal of low-level inter-party conflict actually gets mediated, a boundary shading effect, a privacy intrusion, the kind of thing that rarely justifies refusal but does justify a conversation and a condition. Raising the bar to more than minor does not make those effects disappear. It removes the venue in which they were handled. Even a supporter of the change concedes the risk that it may "just push up the problem without solving it" (Paetz, 2026). The cost does not vanish, then; it transfers, from the consent process onto the neighbour who no longer has standing, and onto the council that absorbs the dispute through other channels. Papa Pounamu makes the same point using the government's own evidence, noting that the commissioned economic analysis found some projected savings to be costs shifting between groups rather than absolute efficiency gains (Papa Pounamu, 2026). NZPI, which supports more proportional participation in principle, still warns the practical effect will be increased administrative and litigation risk for councils, not the clean saving the Bill assumes (NZPI, 2026). The property-rights logic here is that a developing owner should not have to involve a neighbour over a minor effect. But a minor adverse effect is precisely what impinges on the neighbour's enjoyment of their own land. The threshold does not protect property rights in the round. It protects one owner's at the expense of another's.

Out-of-scope effects: a mixed list and an incoherent transition

Narrowing what counts as a regulated effect follows the same premise, and here the result is genuinely mixed. The Bill bases regulation on externalities, costs that fall beyond the boundary on third parties, and excludes effects borne solely by the party acting (Campbell et al., 2025). For interior layout or private open space that is sensible; there is no third party to protect. The exclusion of landscape and visual amenity (Planning Bill 2025, cl 14) is another matter. NZPI's assessment is blunt: unless effects such as the external layout of buildings and effects on landscape can be managed, the goal of creating well-functioning urban and rural areas cannot be met, and on this point the legislation is "set up to fail from the start" (NZPI, 2026, p. 26). Shading, privacy, and visual dominance are themselves neighbour-friction effects that cross the boundary, so excluding them as effects the system should manage severs externalities the Bill elsewhere claims to regulate (NZPI, 2026).

The sharpest issue the reform poses, though, is transitional. Schedule 11 of the Planning Bill amends s 104 of the RMA so that out-of-scope effects are disregarded at the decision stage, but it leaves the notification provisions unamended (NZPI, 2026; Paetz, 2026). The result is incoherent: a council could notify an application on a landscape effect, then be barred from considering that same effect when it makes the decision. NZPI identifies the consequence precisely, that two pieces of legislation would apply to one consent, the unmodified RMA at notification and the modified RMA at decision (NZPI, 2026); a planner reportedly well connected to Wellington considers it an error (Paetz, 2026). The Glenfield site from Assignment 1 shows the scope question concretely. Of its infringements, the height-in-relation-to-boundary breaches concern shading and dominance on neighbouring sites, the kind of externality that survives under the Bill's own neighbour-friction logic, even where, as at Glenfield, the shadow on these facts falls back onto the applicant's own land. The outdoor living space shortfall on Lot 1 is a self-contained effect on the owner and falls out of scope entirely. The landscaping shortfall sits in the uncertain middle the visual-amenity exclusion creates. Kaipara District Council, whose rural subdivision controls lean on landscape character, anticipates a surge of landscape-insensitive applications once those effects become unassessable (Paetz, 2026).

Compensation for regulatory takings: the provision to remove

If one provision should go, it is the proposal to compensate landowners for the effect of restrictive regulation. The EAG recommends that where regulation, particularly overlays such as significant natural areas, outstanding natural landscapes, sites of significance to Māori, and heritage, significantly impairs land value, compensation may be payable, lowering the current s 85 RMA test of land rendered incapable of reasonable use (Campbell et al., 2025; RMA 1991, s 85). The objection is not only that protection grounded in intrinsic, cultural, or heritage value should not carry a price tag, though it should not. It is a consenting consequence. The threat of compensation liability gives councils a fiscal reason to under-regulate, to default activities into permitted or restricted discretionary classifications and to avoid the overlays that would trigger a claim, especially under rates capping (NZPI, 2026). NZPI warns the likely end result is the loss of the very values that matter, because their protection becomes too costly to impose (NZPI, 2026). Japan is the cautionary case: it compensates for heritage designation and, partly as a result, protects little outside places like Kyoto, because the financial cost sets a high bar for what gets protected at all (Paetz, 2026).

Follow the chain to where it lands and the contradiction surfaces. Conservative zoning means more permitted and restricted discretionary activities, which means less scrutiny at consent, which, together with the higher notification bar discussed above, means fewer points at which a neighbour's exposure is ever assessed. Meanwhile the natural environment keeps a statutory floor, with bottom-line standards preserved through national direction (Natural Environment Bill 2025). The neighbour gets no equivalent. Plan rules loosen and notification narrows, with no minimum standard protecting the adjacent owner. This is where the reform fails by its own logic. Its purpose is grounded in the enjoyment of land (Planning Bill 2025, cl 4), yet enjoying one's own property includes not having a neighbour's poorly sited structure imposed on it. A reform that elevates the developing owner's right to build while removing the adjacent owner's protection from that externality is not consistently pro-property-rights. It is selectively pro-development. Papa Pounamu puts the legal point sharply: absolute property rights are a myth the Western legal tradition has never recognised, and a relief regime that has ratepayers absorbing the cost of one owner's externalities inverts the proper allocation, under which the party creating an adverse effect should bear the cost of managing it (Papa Pounamu, 2026). As at submission the provision remains in the Bill; the select committee does not report until 26 June 2026, so it may yet be reconsidered, as the lecturer expected it might (Paetz, 2026). It should be.

Conclusion

The reform is not wrong to reform. Its structural fixes, the standardised zones, the sharper restricted discretionary focus, the digital system, the exclusion of effects that are genuinely less than minor, are improvements consenting should keep. What undermines them is the premise underneath: that consenting is an interference with property rather than the mechanism through which neighbours' competing property interests are reconciled. Read through that premise, three of the Bill's moves go wrong in the same direction. The raised affected-person threshold removes the venue where minor inter-party effects were mediated and transfers the cost to the neighbour, so it should be recalibrated or staged rather than simply lifted. The landscape and visual-amenity exclusions strip out externalities the system needs to manage, and the unamended notification provisions leave a transitional window in which an effect can trigger notification yet cannot be assessed, so the exclusions should be narrowed and Schedule 11 aligned across s 95 and s 104. The compensation regime is the premise at its most unworkable and should be removed. Across all three the pattern repeats. The system keeps a floor for the natural environment but removes both the plan-rule floor and the participation floor for the neighbour, and in doing so protects the developing owner while exposing the adjacent one. That is not a pro-property-rights reform. It is a pro-development one wearing the language of rights. For planners entering practice under the new system, the task will be to hold the line on the neighbour effects the legislation no longer requires us to see.

References

Campbell, J., Chrisp, M., Counsell, K., Crowcroft, G., Jones, C., Melville, P., & Schaafhausen, R. (2025). *Blueprint for resource management reform: A better planning and resource management system 2025*. Ministry for the Environment. https://environment.govt.nz/assets/publications/Final-EAG-Report.pdf

New Zealand Planning Institute. (2026). *Submission: Planning Bill and Natural Environment Bill*. https://planning.org.nz/resources/Attachment?Action=Download&Attachment_id=1001085

Paetz, M. (2026). *Urban Planning Applications and Methods UrbPlan 735 – 2026 RMA reform and resource consents* [Slide show]. URBPLAN735 lecture, Auckland, New Zealand. https://canvas.auckland.ac.nz/courses/141534/files/folder/Lectures?preview=17593967

Papa Pounamu. (2026). *Submission on the Planning Bill and Natural Environment Bill*. https://planning.org.nz/resources/Attachment?Action=Download&Attachment_id=1001095

Legislation

Natural Environment Bill 2025 (NZ).

Planning Bill 2025 (NZ).

Resource Management Act 1991 (NZ).