REFORM OF THE RESOURCE MANAGEMENT SYSTEM
The urban context
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Greg Severinsen
It is timely for the Environmental Defence Society to thank all those who have contributed to the Reform of the Resource Management System project over the past three years, whether as funders, part of the project’s advisory group, interviewees, contributors of material, reviewers, workshop attendees, or otherwise. Special thanks go to those who provided peer review comments on Phase 3 of the project and the content of this report.
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The enduring strength of cities reflects the profoundly social nature of humanity. Our ability to connect with one another is the defining characteristic of our species.

Edward Glaeser, 2011

The right to the city is far more than the individual liberty to access urban resources: it is a right to change ourselves by changing the city.

David Harvey, 2008

... the happy city, the low carbon city and the city that will save us are the same place, and [we] have the wherewithal to create it.

Charles Montgomery, 2015

Aotearoa New Zealand’s current resource management system is broken. It is failing to achieve its purpose and has become complex, dysfunctional and inaccessible.

Kahui Wai Māori, 2019

Repeated amendments to [New Zealand’s] planning statutes have increased their complexity and reduced their coherence... The natural and built environments require different and distinctive regulatory approaches.

New Zealand Productivity Commission, 2017

... much remains to be done to ensure that the principle of partnership inherent in the Treaty moves towards an everyday reality... The time is ripe to undertake a comprehensive review of the Resource Management Act and other significant legislation comprising the resource management system.

Hon Tony Randerson QC, 2019
FOREWORD

Over the past three years the Environmental Defence Society has taken a first principles look at how New Zealand’s resource management system could be reformed. It has produced two extensive synthesis reports – the first analysing the system and outlining different possible options for change and the second putting forward a preferred model and a timeline for reform. These have been core inputs into the government’s independent review panel, ably led by the Hon Tony Randerson QC (and whose recommendations are, as of July 2020, imminent).

The purpose of this report is to consider how our cities and other urban areas fit within the broader narrative of system reform. Cities pose unique and complex problems, challenges and opportunities, so a dedicated focus is needed. But they are also part of a much broader system, so it’s crucial that urban reform is looked at in a wider context.

It has become clear that our cities are not performing as they should be. This is across the board. Housing affordability is a massive concern. Roads are congested. Water infrastructure is ageing and failing. People are getting sick. The environment is also becoming more degraded. Urban waterways are some of the most polluted in the country. The climate is changing, putting thousands of urban dwellers and billions of dollars of assets and infrastructure at risk. Land use and infrastructure decisions are not well coordinated. The list goes on. Overall, we need a strong, effective and integrated vision for our cities heading into a future that is going to be very different to our present. Our frameworks do not currently provide that.

The system itself has become clunky, complex and hard to navigate. We have heard many calls to simplify the Resource Management Act, to split it up, or to get rid of it entirely. The Opposition has said that on its watch the RMA would be gone by lunchtime, and there is momentum for reform across the political spectrum. The report strongly agrees that there is a case for fundamental change. But we need to be seeking synergies between social, economic and environmental outcomes, not treating them as trade-offs. The environment should not be seen as an impediment to growth and change. Urban imperatives are not just about development. Cities should be environmental assets, as well as places for humans to live, work and play. And good urban planning offers us many win-win scenarios if we’re willing to pursue them. Bold action is required, not just passive and reactive management. Covid-19 has woken New Zealanders up to the possibility that we can do things very differently. It is an opportunity we need to grasp.

We conclude that the RMA needs to be replaced. There would be a new Act – an Environmental Stewardship and Planning Act – not just another round of amendments. This Act can and should draw on the good aspects of the RMA. In particular, it needs to retain an integrated approach to environmental management, and that includes having a single framework for both land use and other aspects like water, soil, air and biodiversity. We shouldn’t see separate legislation for “planning” and “environment”. And yet there would be fundamental changes from what we have now, including a new purpose and principles, a different approach to national direction, revamped processes for planning and consenting, and associated institutional changes.

What we have now is not well targeted to the dynamism of urban contexts, nor to the strict protection of environmental bottom lines in and around cities. It’s also time to rethink our approach to local government, and what functions would be better placed at the regional level. A partnership approach to the Treaty needs to be embedded more strongly. How we plan and fund infrastructure needs a rethink. So too does the Building Act. Most importantly, greater alignment and coordination is needed to manage urban growth, infrastructure and long-term environmental issues, including climate change.

A new legislative framework for spatial planning will be crucial to that.

Transformational urban change requires us to also think much more broadly – to tax and economic settings that improve environmental wellbeing as cities grow and change; to incentives for consumers and manufacturers to reduce waste, pollution and address carbon emissions; to nudges that drive small-scale but cumulatively significant behavioural change; and to the institutional arrangements that provide a strong, independent, science-based and inter-generational voice in decisions that we can no longer afford to be politicised.

As urban issues become more pronounced and as the government considers the recommendations of the Randerson Panel, we trust that this report will be a useful and constructive addition to the reform conversation. We live in rapidly changing times and sustainable and successful cities will be a vital part of our future.

Gary Taylor CNZM QSO
Chief Executive
Environmental Defence Society
1. INTRODUCTION

In its Reform of the Resource Management System project, the Environmental Defence Society (EDS) has looked, from first principles, at how Aotearoa New Zealand can manage its environment and resources better in the future. A comprehensive rethink is urgently required, not just another round of tinkering to legal frameworks.

Over the past three years we have produced two reports on this vast subject. The first (the culmination of Phase 1) analysed the resource management system as a whole and presented options for change, winning the Resource Management Law Association’s 2019 best publication award. The second report (marking the completion of Phase 2 of the project) put forward a single preferred model and a timeline for how its pieces could be put into place over a period of years. Towards the end of Phase 2, the government established a panel of experts, ably chaired by the Hon Tony Randerson QC, to investigate resource management system reform and produce independent recommendations. This process has drawn on EDS’s work, and its final report is keenly anticipated at the time of writing.

In recent weeks and months there has been even greater interest in questions of system reform. Momentum is growing. We face an election period in which the Resource Management Act (RMA), environmental stewardship and the resource base on which our wellbeing depends will be hotly debated topics. So too will the topics of urban development, renewal and change. Questions about our urban environments – how our towns and cities are planned, how they function and how they interact with people and the environment – are core to wider questions about resource management reform. In fact, issues like housing affordability, infrastructure performance and urban environmental risks are key factors driving a case for change.

This document marks the conclusion of a third phase of EDS’s system reform work. It looks more specifically at how resource management system change would play out in the urban context. There is a longer, more in-depth report pending (the “full report”) and this document summarises its key points.

Although it is a key element of it, the “resource management system” in and around urban areas is about much more than just the RMA. The system is about all the formal mechanisms by which we protect and cherish our natural heritage, provide for New Zealanders’ social, cultural and economic wellbeing, and preserve resources for future generations. How the system applies to the urban context is therefore wider than traditional notions of urban “planning”. It extends to foundational questions of ethics; what the system is there for; legal and planning principles; the need to address climate change; funding and institutional arrangements; a wide range of incentives for deeper behavioural change; and much else. Reform needs to be holistic, synergistic and transformational. It is not just about how we facilitate urban development, provide more housing, or bypass the RMA. Let’s all be more ambitious than that. We should direct our energies to common goals that can be mutually beneficial from many perspectives. The conversation is not about economy or development versus the environment. It’s about creating a system in which development supports the environment and where the environment in turn enhances people’s overall wellbeing. Only then can our cities be sustainable.

The RMA is central to all this, because it deals with how we use urban land and its connection to broader environmental wellbeing. But while many aspects of it are good and need to be retained and rejuvenated, in our view the Act as a whole is past its used by date and needs to be replaced, particularly when we look at its role in urban matters. It is groaning under its own weight and complexity and reflects the assumptions of a time very different from our own. And it is certainly inadequate for a future that will be very different from the present. What we replace it with will be of crucial importance to future generations of people and nature.

Infrastructure funding frameworks like the Local Government Act and Land Transport Management Act are also core to urban-focused reforms. This is because the health and wellbeing of urbanites depends on things like roads, gutters and pipes, and because land use change (including for housing) often cannot happen without supporting infrastructure. This is particularly problematic when cities are growing rapidly. But these frameworks, and the institutional and funding mechanisms that underpin them, have potential to enhance environmental outcomes too.

Many other current and proposed frameworks relating to cities are important, including the Building Act, Climate Change Response Act, Urban Development Act, Waste Minimisation Act and others. Above all of this, there is a pressing need for higher level strategic spatial planning that ties these more targeted statutes and plans together, and which directs them to common and coordinated aims as cities grow, contract or change over time. And – looking even deeper – there are hard conversations to have about the desirability of population growth and distribution, the sustainability of an economic model predicated on growth, and growing social and economic inequality.

The structure of the full report, and the ground covered in this summary document, can be seen in Figure 1 below. We first explore questions of scope (what do we mean by urban, built and natural?), reform objectives, problems and challenges (including the changed context provided by Covid-19), before devoting several chapters to looking at the RMA. Should it be split to address urban issues better? Are its normative foundations – its purpose, principles and underlying philosophy – adequate in cities? What is the role of national direction, and council planning and consenting, in the future? What institutional changes should support all this?
Ultimately, the question of whether we “keep” the RMA or “throw it away” is too simplistic to be a good starting point. Instead, after working through all the things that need to change (and stay), we really need to ask whether it is sufficiently transformed to be thought of as something new. While continuity should remain for many things, we now think that a new statute is needed. And a new name would send a powerful signal that its stance would be quite different.

We then look at reforms to infrastructure and construction frameworks like the Local Government Act, Land Transport Management Act and Building Act, including supporting institutional and funding arrangements. Ensuring that mechanisms for funding infrastructure and public services are both sufficient and send the right incentives for investment will be equally as important as changing regulatory and policy tools under the RMA. How we design institutions – councils, central government agencies, independent watchdogs and others – is intimately related to both.

Crucial to a new system will be how land use, infrastructure and other objectives and processes (eg for climate change) are coordinated with each other. We outline a new legislative framework for spatial planning and other measures (eg aligned processes and principles across legislation) that would be designed to achieve this. After exploring the concept of an urban development authority as an additional tool for achieving better coordination in urban planning, we conclude by touching on the more systemic aspects of reform that will be needed to support urban change.

Our key points and recommendations are found in blue boxes throughout this summary document (and are compiled into a list of recommendations in Appendix 1 of the full report). A pictorial representation of our overall vision for a future system can be seen in the Appendix to this summary report.

1. Introduction
2. Scope of the report
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Appendix 1: List of recommendations
Appendix 2: Key structural elements of a reformed system from an urban perspective

**Figure 1:** Structure of the full report

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**2. SCOPE AND OBJECTIVES**

We begin in Chapter 2 of the full report by looking at the report’s scope, concluding that it is artificial and ultimately unhelpful to draw sharp distinctions between matters that are “urban” or “non-urban”, or “built” or “natural”. There are considerable overlaps and linkages between all of these things and a holistic lens is needed when thinking about the place of cities in a future system. Cities and buildings have complex connections with people, communities, freshwater, air, land, biodiversity and climate over both space and time. It is risky to think about things like urban development, housing, indigenous flora and fauna, climate change and freshwater in policy silos.

In Chapter 3 we turn to the objectives we should have for future urban areas. Cities are not inherently bad phenomena; they provide for many social, cultural and economic benefits that come naturally from agglomerations of people (eg the efficient exchange of ideas, social connection and mobility, efficiencies in productivity, opportunities for recreation, access to employment and so on). Cities can also be good for the environment, reducing people’s overall environmental footprint. However, the system needs to support rather than undermine their benefits, while also guarding against the very real adverse impacts cities can have.

Housing needs to be affordable, safe and healthy; infrastructure and services need to be reliable, efficient and future-proofed; communities need to be resilient to economic and environmental shocks; people’s health needs to be safeguarded. Our cities should actively strive not only to reduce negative environmental impacts (waste, carbon emissions, pollution, biodiversity loss), but also to actively enhance the environment. As cities grow and change, there are significant opportunities to do that. For example, the United Kingdom’s Environment Bill looks set to require a net improvement in biodiversity from new greenfields urban development. New subdivisions can be planned to make the most of passive energy, well-designed density and connection to nature, and active or mass transport links. Houses can be built to allow the easy addition of rain harvesting or solar electricity later on. If we wait to do these things after the fact, it may be much harder to retrofit positive environmental outcomes.
Process objectives are important too; the national interest needs to be reflected, but communities and Māori need to be at the heart of how we shape urban areas. Transparency, timeliness and accountability are, of course, crucial across the board.

Above all of this looms the enormous potential for our towns and cities to achieve synergistic benefits if they are planned strategically towards common goals. For example, greening our cities offers benefits for mental health, infrastructure costs, biodiversity, freshwater and the climate. Social, environmental, economic and social outcomes can often all be improved at the same time if public policy and private incentives for investment and behaviour change are well coordinated. Perhaps the most important thing to remember is that well-planned urban areas are about more than just the provision of affordable and adequate housing and infrastructure.

Overall, we think that the cities of our future should be good for our health and make us happy. They should embrace carbon neutrality and zero waste. One can imagine urban networks of electric vehicle infrastructure for the easy mobility of freight and people; energy neutral and water sensitive buildings and infrastructure; a resurgence of greenery and indigenous biodiversity. Nature should be brought into the city, as should community food production and hydroponic farming. The principles of the Treaty would be respected, with our cities referencing Māori design and their pre-European roots.

We can picture a place where warm and healthy housing is within the reach of all, and where people and buildings are prepared for the impacts of a changing climate. A place where positive social connection is encouraged through a compact urban form with green space, safe streets, rapid mass transit or public transport, walkable neighbourhoods and active transport. Beyond the city we would preserve open space, productive land with easy and affordable access to urban food markets and indigenous forest readily accessible to urbanites.

### 3. PROBLEMS AND CHALLENGES

In Chapter 4 of the full report we look at the problems and challenges being faced by our cities. We conclude that while they are not fundamentally broken, there is a pressing need for better outcomes on many fronts. Urban housing, especially in larger and faster growing centres, is becoming increasingly unaffordable. The performance of our network infrastructure – notably roads and drinking/waste water – leaves much to be desired from health, environmental and service delivery perspectives. And many environmental indicators are going downhill at an alarming rate (both in cities and more widely partly because of urban activities).

There is a strong feeling among many that both substantive and process outcomes sought by Māori are not being recognised or achieved adequately. Looming over all of this is the prospect of a future that is likely to be very different from the past or the present. Climate change will cause ripples of unpredictable change across the board, which will not just be limited to rising sea levels. Technology, population and demographics will change, too, and we may see growing resource scarcity (eg for water and productive land) and pressure on infrastructure and services. We also looked at future changes and challenges in more depth in the Phase 2 report, and all of those will reverberate in our cities.

Of course, a lot of uncertainty and change has been caused by Covid-19 and the ensuing period of lockdown. At the time of writing it is still by no means clear how this will impact on urban reforms even in the short-term. It is dangerous to rely on forecasts to suggest that new problems will emerge or old ones will disappear. However, the new context is important. In Chapter 4 we therefore outline some ways in which the old normal may not be the new normal over the coming months or years.

In particular, Covid-19 may have an effect on housing markets (some drop in prices), population growth (less migration during a period of border restrictions), preferences for house size (eg an extra bedroom to work from home) and location (flexible working arrangements may see some movement away from places like Auckland or Wellington). Falling incomes and unemployment will see a period where councils may struggle to fund or finance services and where housing affordability issues remain strong.

Although a pandemic does not itself affect environmental outcomes, our responses to it present both an opportunity and a threat. Debt financed spending by the government and fast tracking projects to boost employment have the potential to drive a green recovery in our cities, or alternatively to lock in old ways of thinking and sacrifice environmental wellbeing on the altar of economic recovery. People have also experienced improved environmental indicators over lockdown (largely due to less urban traffic) and there may be a window in which people are more receptive to systemic changes. This may be a catalyst for a conversation about changing the way we live. Alternatively, our successes to date keeping the virus contained may be a catalyst for continued complacency.

Ultimately, despite the importance of preparing for alternate futures, the same issues that have plagued our cities prior to Covid-19 (housing unaffordability, congestion, environmental decline) seem likely to recur once a period of disruption is over. Furthermore, some
issues will not be mitigated at all (e.g., ageing infrastructure will continue to age) and new issues may emerge.

With all this as context, we look in Chapter 4 to diagnose problems with the system. Just because we have undesirable outcomes does not mean that the resource management system itself is responsible or that it is fundamentally broken. However, some things can be said with a reasonable degree of confidence, including that:

- The existing system has categorically failed to prevent the decline of many aspects of the natural environment in and around cities.
- The existing system does not address climate change mitigation and adaptation strongly enough.
- The system has not done enough to ensure that adequate urban infrastructure is funded and delivered to accommodate growth in a timely way, to provide reliable and safe essential services, or to address congestion in a timely way.
- The system has also failed to provide a strong legal or conceptual basis for the strategic outcomes sought by urban planners.

Housing issues are complex and multifaceted. The blame for housing unaffordability is often laid at the door of restrictive planning provisions produced under the RMA (including urban limits, minimum dwelling sizes and nimby – “not in my backyard” – restrictions on density). That is certainly a part of the picture that requires change, especially restrictions on density. But improving housing affordability relies on many other measures beyond the scope of resource management reforms, and the RMA (especially the environmental limits it contains) should not be made a scapegoat for what is a range of fundamental drivers.

The system also has what can be called “procedural” problems. Māori voices emphasise that they are excluded or marginalised from decision-making processes and that the system does not reflect Treaty principles. Other voices are marginalised too. Disproportionate influence in local politics and council decision-making is wielded by existing landowners who often have vested interests in retaining the status quo. The planning process under the RMA is too slow to produce timely outcomes and respond to change in an adaptive way. And the system has become increasingly complex, fragmented and inaccessible to users, especially in recent times as particular issues are addressed in a piecemeal way by seeking legislative solutions or workarounds. Many moving parts – multiple statutes, plans, processes and institutions – are not well coordinated or universally focused on the future.
4. THE FUTURE OF THE RMA

In light of its performance and complexity, there have been calls to “get rid” of the RMA. What this means in practice can vary, but one option is for it to be split up into two separate pieces of legislation. There could be one statute focused on environmental protection – an Environment Act – and another one focusing on the concept of “planning” – a Planning Act. It is not always clear when people talk about this distinction what exactly is being meant. However, the intention often seems to be that a Planning Act would be focused on land use and infrastructure, whereas an Environment Act would be focused on protecting other domains like air, water and flora and fauna. In Chapter 5 we look at whether this kind of split is a good idea.

The rationale for splitting up the RMA is that a framework for urban planning would include a wider set of principles, not just those that apply to the “natural” environment (eg it would not treat changes to amenity as an adverse environmental effect and it would actively embrace the benefits of urban development and housing). It could also be better placed to integrate decision making on land use and associated infrastructure so that rapid urban growth could occur in a more coordinated way. That is a legitimate concern. In the current system, land use planning under the RMA happens in a separate framework to the planning and funding of infrastructure often needed to make land use change actually happen, especially in and around cities. These things – land use controls and infrastructure planning – could therefore be integrated together into a Planning Act. The outcome might be the more integrated and therefore timely provision of housing. Alongside that, an Environment Act would be focused on imposing strict environmental limits to development.

However, we see considerable downsides to splitting the RMA. There is a close connection between land and other aspects of the environment, and they need to be managed holistically. The distinction between land use planning and the “environment” is not a sharp enough one to make a legislative split desirable. The frequent use of individually small-scale examples of urban planning restrictions (eg fence heights, minor shading effects, an extension of a suburban home) obscures the fact that bigger picture or cumulative land use decisions about urban form can and do have significant ramifications for environmental wellbeing. For example, dispersed development can have considerable impact on climate change, energy efficiency and the viability of public transport; the location of industrial activities and transport routes has implications for urban water quality that are not easy to mitigate later on; and the absence of urban trees and permeable space can impact on a city’s micro-climates and flooding. Urban land use decisions also have systemic implications over the long term for biodiversity (many of New Zealand’s most threatened terrestrial environments are found within or close to urban centres), soil and food production.

Furthermore, how we manage land is crucial to a precautionary and preventative approach to environmental effects more broadly, because permitted uses of the land generate cumulative (and usually poorly monitored) impacts. These decisions have significant long term “environmental” consequences and cannot be divorced from big picture thinking about most environmental issues. It is particularly difficult to reverse urban sprawl once it occurs – we are giving up many alternative land use choices (eg food production, nature conservation) when we concrete over soils and locking in transport modes (eg cars) in our choice of urban form. Of course, equally robust or even identical environmental principles could be built into a Planning Act dealing only with land use. But then, what would be the point of splitting up the RMA in the first place?

There are also important cross-cutting planning and environmental concepts like landscape, energy efficiency, ecosystem-based management and catchment scale management that require a tightly integrated regime. How would these concepts be meaningfully provided for if land use planning were to be located under a different regime with different decision-makers and processes? It is by no means obvious what kinds of things should be in one statute or another, and how they should relate. That extends to impacts on people and communities, which are part of the holistic “environment” under the RMA. If we had a Planning Act and an Environment Act, where would such impacts be considered? In both?

And how would fragmenting consideration of urban land use fit with te Ao Māori? We leave that question to Māori, but note that the Te Aranga principles stress that the notion of a cultural landscape connects “whānau and whenua, flora and fauna, through whakapapa. It does not disconnect urban from rural. It transcends the boundaries of ‘landscape’ into other ‘scapes’: rivers, lakes, oceans and sky.”

While a Planning Act could be made expressly “subject to” an Environment Act, this tends to assume that there are always hard and fast rules in the latter with which the former could simply “comply” (eg preventing further harm through discharge standards, protected areas etc). For some things, involving clearly defined spatial or performance-based limits, that will be the case (eg acceptable attributes for a waterway). But what is also needed is an integrated approach where development and land use decisions actively pursue environmental goals alongside other aspects of human wellbeing, not just comply with bottom lines (eg how urban form and design can be energy efficient, enhance people’s connection with nature, improve biodiversity, reduce greenhouse gas emissions and improve water quality).

Splitting the RMA could also cause considerable confusion, overlap and inefficiency. There would likely be a need to either duplicate or cross-reference provisions concerning public participation, timeframes for decisions
and other procedural matters. Endless questions would arise concerning relationships between different instruments. It would risk extensive litigation to define boundaries. We might end up trading one enormous statute for two statutes that, when combined, would be even larger and more confusing. Rather than making urban development faster, it may simply introduce another layer of planning and consenting and add to the bureaucratic churn.

Overall, we conclude that the integrative scope of the RMA – combining the management of land, water, air, biodiversity etc – is basically sound. We should not return to the days where we managed inter-connected environmental domains under separate legislative silos; in particular, it would be unwise to think that how we use land is not intimately connected to many other aspects of environmental wellbeing. We see other mechanisms for achieving the coordination of urban land use change with infrastructure provision, notably a layer of strategic spatial planning and the closer alignment of norms and processes (discussed in Chapter 10). And while it would be possible to split the RMA from a purely technical point of view, it would certainly pose challenges, potential overlap and the risk of uncertainty and extensive litigation.

Keeping an integrated approach to the management of land and other environmental domains in one statute does not, however, mean the RMA should remain unchanged. Far from it. In previous work on system reform we have proposed deep changes to the RMA – on which this report builds – but have described this as keeping the existing framework basically intact. However, as our thinking has evolved, the degree of change required to our flagship resource management legislation (described in subsequent chapters) has convinced us that this really needs to be characterised as something different. It will be imperative to draw upon many good aspects of the current Act – including the concept of integrated management and biophysical bottom lines – rather than throw it all in the bin, but the end result we are envisaging would not be just another suite of amendment acts or legislative tinkering. It would be a new Act, reconstructed from the ground up on quite a different foundation. And it would have a new name: the Environmental Stewardship and Planning Act.

1. An integrated single statute – combining decision-making on land use and other aspects of the environment like water, soil and air – should remain at the heart of a future system managing our cities. Land use and the built environment are too intimately connected to other environmental domains to be considered separately. However, the RMA would be rebuilt in fundamentally different ways, including to address concerns that have led to calls to split the Act. Changes would be significant enough to create something entirely new, not just another RMA amendment: an Environmental Stewardship and Planning Act.
5. PURPOSE AND PRINCIPLES

In Chapter 6 we look at the purpose and principles for an Environmental Stewardship and Planning Act and the appropriateness of what we already have (Part 2 of the RMA) when looked at through an urban lens. This question leads us deeper into assumptions about why we have a resource management system in the first place and the often unspoken philosophical underpinnings of the RMA.

Most fundamentally, we conclude that it should be clarified that the rationale for having a resource management system, especially in cities, is more than (1) the internalisation of negative externalities, (2) the provision of public goods and services (eg infrastructure), and (3) coordinating public and private activities. That is too narrow a perspective. The system needs to encompass many other imperatives that are about achieving the public interest, giving effect to the principles of the Treaty of Waitangi and securing the interests of future generations. While economics is a crucial discipline to draw on in urban resource management alongside many others (such as physical sciences, social sciences and planning) and restrictions need to be justified and proportionate, the system as a whole and legitimate reasons for intervention need to be founded on a broader set of values (including local deliberative democracy). There should not be an assumption that the free market is right or that intervention is only justifiable where markets have demonstratively failed.

The need to embrace a broad rationale for the system extends to the need to revisit the ethos of our core legislation. In the late 1980s, the RMA was forged in the dual crucibles of free market economics and the concerns of a budding environmental movement. It has been described as being effects based rather than outcomes based, reactive and market-led, and focused on preventing harm rather than pursuing benefits. And while in practice it has not prevented a lot of good urban planning from happening over the years, it does not provide an ideal foundation. It is overwhelmingly focused on biophysical protections (which are, of course, crucial) but, aside from fleeting reference to enabling people to provide for their own wellbeing, it shies away from recognising that a much wider range of outcomes vital...
to urban success can and should actively be planned for. The Act fails to give express recognition of the fact that there are considerable synergies that should be pursued between social, economic, cultural and environmental wellbeing (for example, those provided by a compact/efficient urban form). It needs to be more strongly about anticipating change and planning for a future we want, not a framework for assessing the negative effects of what market forces make attractive.

The place where this shift needs to be most strongly recognised is in the purpose and principles of a new Environmental Stewardship and Planning Act. In our view, two key things need to change. First, the Act should explicitly embrace a much wider range of principles for good urban planning, including the pursuit of positive outcomes rather than a focus on assessing adverse effects. Why, for example, is Part 2 of the RMA silent as to such crucial urban objectives as liveability, mobility and connection? Or resilience, food and water security, good urban design and cultural landscape? Perhaps most significantly, where is the recognition of the need to drive change (eg towards a zero carbon or zero waste future, or one in which we actively seek to “green” urban areas), not just manage resources or mitigate future harm? By contrast, we can look to more recent strategic instruments that talk about the need for a resilient, low-carbon and healthy food system, the need for decentralised renewable energy, a circular economy, fairness and the need to enhance, connect and work with natural systems. The RMA looks decidedly dated compared to such things.

Secondly, a comprehensive and coherent range of biophysical environmental limits need to be much more clearly defined, required and defended in a new Act’s purpose and principles. Those are just as important in and around cities as they are in rural areas, and all other principles need to be expressly subject to them. Climate change mitigation and a specific link to the targets and budgets of the Climate Change Response Act need to be strongly recognised.

Furthermore, the new Act’s purpose and principles need to be strongly oriented to pursuing solutions that achieve synergies between social, environmental, cultural and economic wellbeing. For example, increasing indigenous planting in and around urban areas can have a wide range of benefits, yet it is often seen as a grudging concession to environmental “protection” rather than a win-win situation. Similarly, compact/efficient urban form and density done well presents many synergistic outcomes but is often derided in favour of market freedom and residential sprawl. This mindset needs to change and should be reflected by an Environmental and Stewardship and Planning Act that presents a green vision for urban development and economic prosperity that better provides for urbanites’ health and wellbeing, not just a list of things we don’t want to happen.

This is reflected in the statute’s name, in several senses: (1) decision-makers will not be dealing with a series of resources but rather a holistic concept of the “environment”; (2) we are not managing the environment, but rather looking after it as stewards, no matter what the spatial context (urban or otherwise); and (3) we are actively planning for change, not just in the traditional sense of managing human activities on land but also driving towards a vision for a future we want and need. A stronger recognition of true biophysical limits should be accompanied by a more nuanced treatment of protections that are not “limits” in the same sense. In particular, the concept of urban amenity should give way to a more nuanced engagement with urban planning principles founded on liveability, connection, dynamism and the importance of both existing and future residents’ interests.

Across both of these shifts – towards stronger environmental limits and recognition of urban planning principles – there needs to be recognition of the principles of the Treaty of Waitangi. As is commonplace now, a standalone clause highlighting the importance of these principles will have its place. But this also needs to be accompanied by a real effort to weave Māori concepts into the fabric of the legislation. One option would be for a concept like Te Mana o Te Taiao to be a framing principle for all others (a replacement of the concept of “matters of national importance”), in a similar way that Te Mana o Te Wai is used under the National Policy Statement (NPS) for Freshwater Management.

2. The resource management system in cities should be based on a broad rationale (pursuit of the public interest) rather than a narrow one (the internalisation of externalities).

3. The reactive, market-led ethos of the RMA should be replaced by one that is focused on the proactive pursuit of positive outcomes, including environmental enhancement.

4. A new purpose and principles for an Environmental Stewardship and Planning Act should specifically embrace a range of principles for good urban planning and design that are not just about addressing the adverse effects of proposals.

5. New principles should more clearly encourage solutions that have synergies for social, cultural, economic and environmental wellbeing (including compact urban form).

6. A comprehensive and coherent range of biophysical environmental limits needs to be much more clearly defined, required and defended in a new Act’s purpose and principles. All other principles need to be expressly subject to the achievement of those.

7. Climate change mitigation and a link to the targets and budgets of the Climate Change Response Act need to be strongly recognised within the purpose and principles of an Environmental Stewardship and Planning Act.
6. NATIONAL DIRECTION

The purpose and principles of legislation are important, but they are fairly high level. They guide decisions but they do not contemplate specific situations or provide detailed answers to urban questions. They therefore need to be complemented by more detailed instruments. Central to that is national direction – NPSs and national environmental standards (NESs). We see a need for a revamped approach to national direction under a new Environmental Stewardship and Planning Act, which we outline in Chapter 7 of the full report. It is another feature of the Act that would be quite different to the RMA.

Over most of the RMA’s history there has been very little national direction. The Act generally does not compel central government to plan or even intervene, other than in the context of the coastal environment (the New Zealand Coastal Policy Statement is the only mandatory instrument). The RMA does, however, enable government involvement in urban areas in a wide variety of ways. Recently, there has been much more appetite to intervene, including to ensure that cities are allowed to grow (and therefore alleviate upward pressure on house prices). But measures have been reactive and ad hoc, and not well connected to each other.

This standoffish approach for central government should not be allowed to continue. If national level issues are in play, the system should expect a strong, coherent and pre-emptive national level response. We are therefore suggesting a requirement, not just a power, for central government to promulgate national direction that gives effect to a revised purpose and principles of a new Act. This would mean that matters identified as being of national importance then have an expectation of at least some national response (which might take the form of policy, regulation or both). Action should not rely on foreseeable problems becoming manifest or on the political appetite of the government of the day. To complement that, there should be a clearer definition of subsidiarity in the Act, outlining the reasons for which central and local governments are expected or required to act.

This expansion of role should not see a flurry of new pieces of national direction targeting individual problems. Over recent years, there has been an avalanche of new and proposed NPSs and NESs. Most of these are highly relevant to urban areas, even if they don’t have “urban” in their name. Yet they have been created through quite different lenses. Some are spatially focused, such as an NPS on Urban Development Capacity or proposed NPS on Highly Productive Land; some are sector-specific, concerning electricity transmission or telecommunications; and others are domain-based, such as a proposed NPS for Indigenous Biodiversity and a constantly changing landscape of freshwater instruments. It is becoming less and less clear how all these are intended to work together as a package and how tensions and synergies between them are to be resolved or pursued. A lot is left to local government to figure out on the ground, at which point legal challenges become almost inevitable.

A single piece of integrated national direction – what we are calling a National Environment Plan – would much better address potential conflicts and uncertainty. It would link together a comprehensive range of national level objectives, policies and regulations, and would be expected to specifically identify the environmental limits required under a new purpose and principles. That would include the imposition of strong environmental bottom lines in urban areas, which may look different to other areas. It would outline ways in which improvements would be achieved where bottom lines are not currently being met. While it would still be a single instrument, a National Environment Plan could include targeted provisions or expectations for particular geographical areas (eg Auckland) that would express how more general provisions were expected to apply.
We also see a strong case for a strengthened Environmental Protection Authority (EPA) (or other independent agency) to have a role in translating ministerially determined policy provisions for environmental limits (ie NPS provisions) to the regulatory rules and standards that bite on the ground (ie NES provisions). The rationale for this is that once the value-based policy has been established by accountable ministers (as long as it complies with the Act’s strengthened purpose and principles), the rules implementing it can more appropriately be left to independent and objective decision-making. This role for the EPA (or similar agency) would include, but would not be limited to, provisions regulating drinking water, wastewater and stormwater that are so vital for both human and environmental health in cities across the country.

There also needs to be a strong link between climate change mitigation and adaptation imperatives in the Climate Change Response Act and a National Environment Plan. National level regulatory and policy provisions concerning land use and greenhouse gas emissions will be crucial to ensuring that the lofty ambitions of our flagship climate change legislation are actually realised in practice. At present, there is no clear link and no clear plan for how the RMA will contribute to greenhouse gas targets and budgets. That will need to change under a new Environmental Stewardship and Planning Act.

8. Central government should be required to promulgate a comprehensive range of national direction that gives effect to the purpose and principles of a new Environmental Stewardship and Planning Act, including in cities. This would mean that matters identified as being of national importance then have an expectation of at least some national response (which might take the form of policy, regulation or both).

9. There should be a clearer definition of subsidiarity in a new Act, outlining the reasons for which central and local government are expected (or required) to act.

10. A coherent suite of national direction should be contained within a single instrument: a National Environment Plan. Links and hierarchies between policies should be made clear, including those for environmental protection and enhancement (eg biodiversity targets) and urban development/urban development capacity.

Reflecting the ethos of a new Act, a National Environment Plan would be much more future focused and recognise the need for change, not just management. It would be an action plan – a way for getting from A to B. Thus, mandatory targets – and not just for development capacity – should be embedded in it. That trend is starting to happen already – we can see it in targets for freshwater and proposed for biodiversity in cities through national direction6 – and it should continue across all areas in need of environmental and social improvement. As discussed in Chapter 12 of the full report, there would be a robust accountability framework measuring progress towards these targets.

Furthermore, and also reflecting the scope and orientation of a revised purpose and principles, national direction should provide for a much wider range of good urban planning and design principles as well as explicit policy support for synergies between social, economic and environmental wellbeing. But these would all be strictly subject to the achievement of environmental limits for things like water, air, soil and biodiversity, and those provisions would be specifically flagged.

11. A National Environment Plan should specifically identify the environmental limits required under a revised legislative purpose and principles, including how they are to apply in urban areas. Provisions setting out environmental limits should have different (dominant) status to others.

12. Mandatory targets – and not just for development capacity – should be embedded into national direction to form a consistent and coherent package.

13. Reflecting the scope and orientation of a revised purpose and principles, national direction should provide for a much wider range of good urban planning principles and synergies between social, economic and environmental wellbeing.

14. There needs to be a strong link between national direction and the aspirations for climate change mitigation and adaptation embedded in the Climate Change Response Act.

In Chapter 7 we outline a proposed process for developing (or changing) a National Environment Plan. This looks different to the current process for developing national direction. A collaborative approach between central government, local government and Māori would be its foundation. There would be a crucial review role for a new independent “Futures Commission” and an associated “Tikanga Commission” (or commissioners). This would be analogous to (and could even eventually subsume) the Climate Change Commission, in that it would be robustly independent and provide future-focused advice on instruments made under the RMA.

But the formal role of central government would not end with the creation of a National Environment Plan. It would also have a mandatory role to support its implementation. This should include funding, advice and operational assistance to councils where necessary. The Plan should flag where the funds for implementation are expected to come from, to ensure its aspirations and methods are effective.
New purpose and principles

All matters of national importance clearly identified (including geographically specific ones)

Prepared by Ministers in collaboration with Māori and close consultation with councils

Domain-based bottom lines fleshed out

Domain-based targets set

Objectives and policies

Regulations

Trigger points identified to prompt review

Objectives, policies and regulations for trade-offs above bottom lines

Public notification, submissions received

Proposed plan and submissions considered by Futures Commission and Tikanga Commission/commissioners for consistency with purpose and principles of the Act

Recommendations considered by Ministers on advice of officials

Plan promulgated, deemed to give effect to purpose and principles

Periodic/triggered review

Existing national direction deemed to be a National Environmental Plan

Incorporated and reviewed over time

Resourcing for Māori involvement

National planning standards (consistent format and structure)

EPA

Environmental monitoring and reporting

Figure 2: A proposed process for creating and changing a National Environment Plan
15. The process for developing and changing a National Environment Plan should involve a collaborative approach between central government, local government and Māori.

16. A new institution(s) – a Futures Commission and Tikanga Commission/commissioners – should be created to act as a standing, independent system-steward and have a structured review role in the creation of national and local level instruments under the RMA. It should contain urban planning/design expertise or have an "urban" commissioner within it. It would replace the current board of inquiry model used for reviewing national direction.

17. A strengthened EPA (or other independent agency) should have a role in translating policy provisions for environmental limits to regulatory rules and standards in a National Environment Plan.

18. Central government will need to have a mandatory role to support the implementation of a National Environment Plan. This should include funding, advice and operational assistance to councils where necessary. The Plan should flag where the funds for implementation are expected to come from.

While many aspects of national direction are relevant to urban areas, in Chapter 7 we consider specifically those that provide for urban development and growth. Among other things, we conclude that it is important that the release of new land for development is not based solely on economic trigger points (eg the price differential between urban and rural land). Development capacity is important and market indicators are useful information to have, but the planning process is the appropriate means by which such decisions should be made. There should also be triggers set for immediate corrective action in the event of declining environmental indicators, including urban biodiversity. Clear thresholds for corrective measures should not be limited to situations where land is needed for new development; there are equally pressing imperatives for environmental enhancement in and around cities where targets need to be supported by compulsory actions to achieve them.

19. Aspects of national direction providing for urban development and growth should not be based solely on economic trigger points like the price differential between urban and rural land. There should also be triggers set for immediate corrective action in the event of declining environmental indicators, including urban biodiversity.

20. There is an opportunity to transform cities by removing car parking requirements in appropriate places and replacing these with requirements for indigenous planting.

21. Reforms should not go too far in constraining the ability of councils to implement good urban planning, particularly in relation to things like balconies or minimum apartment sizes.
7. COUNCIL PLANNING

While central government should have a more active role in urban resource management in a future system, most functions would remain with local government. In Chapter 8, we look at the role of councils under a new Environmental Stewardship and Planning Act.

This is not just about the planning process; there are also deeper questions to consider about local government itself. In particular, we see a case for local government functions around land use and infrastructure to be shifted to a regional level. While local structures (eg boards with statutory functions and secure budgets) would remain important – in that there are many benefits of localism – we think this should see a shift over time to regional unitary authorities for most resource management functions. An integrated approach to cities, especially where functional urban areas (eg labour markets) span multiple districts, would be well served by regionalising local government. Exactly what the boundaries of those entities would look like should be subject to ongoing consultation and debate.

The planning process under the RMA also requires revision. A more agile process is needed across the board (and our proposals are not limited to cities), but this is particularly important in the urban context where things can change rapidly. Cities are highly dynamic places in both social and biophysical terms. That said, there need to be robust checks and balances when preparing and making decisions on plans, opportunities for public participation, and a strong independent voice to speak for future generations. In Chapter 8 we put forward two different models for planning. The first would be to “reset” existing regional and district plans at a regional level (to create regional combined plans), in order to give effect to a new purpose and principles and a more comprehensive and coherent National Environment Plan. The second would be to allow for ongoing plan changes.

A variant of the Auckland Unitary Plan model could usefully be adopted to reset existing plans and create regional combined plans. We see a case for more direct central government input (including resourcing assistance) and active collaboration with Māori, in the plan development phase. This should mean that a plan addresses Māori concerns and reflects Māori urban aspirations, and that it is designed from the outset to give effect to national direction. At present, neither of those things is really assured until or unless a plan is appealed. As under a National Environment Plan, the EPA could also have a role in translating policies concerning environmental limits to actual regulatory restrictions (eg for freshwater quality), including where those are needed to give effect to national direction on environmental bottom lines. But plans should not be things that are just imposed from above. Councils should work with communities and neighbourhoods in creative ways to ensure they have ownership of plans and contribute local information and preferences, and mechanisms like citizens’ assemblies could help.

As in the Auckland model, merit appeals to the Environment Court would be constrained by whether councils accepted or rejected independent recommendations on the notified plan (ie to the extent recommendations were rejected, appeals would be allowed). But independent recommendations would be provided not by a bespoke independent hearings process.
panel, but rather by the standing, robustly independent Futures Commission and Tikanga Commission (or tikanga commissioners). Among other things (including expertise in environmental matters), a Futures Commission would need to have urban design expertise and play the role of an independent urban design panel. At present, such panels are non-statutory. Formalising this would complement an expansion of the urban objectives explicitly sought by a new Act.

Alongside this, a “Friend of the Commission” could usefully be established to assist lay submitters through what could still be a complex process. There should also be a new, publicly funded, Environmental Defender’s Office established to pursue public interest litigation.

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**Figure 3:** A process for “resetting” existing plans at a regional level
We envisage a different process for plan changes (following regional level “resets” of RMA plans). Decisions on plan changes would generally (unless “called in” by the responsible Minister or the Futures Commission) involve a hybrid decision-making panel chaired by an Environment Court judge and comprised of independent commissioners, representatives from the relevant council(s) and mana whenua. There would be a preponderance of independent members, while central government could have observer status. The Environment Court would therefore remain central in a future planning system – it has a crucial place as a robustly independent, judicial body tasked with providing oversight of council (and others’) plans. The EPA would also be tasked with actively initiating plan changes required to give effect to environmental limits in national direction.

In both of the processes outlined above, there are difficult questions to work through in determining the role of Māori in urban planning. A partnership approach is needed to give effect to the principles of the Treaty of Waitangi. As signalled, this should involve close collaboration in the production of plans alongside councils, the provision of independent advice through tikanga commissioners and the provision of resourcing by the Crown to enable those roles to be effective. There could also be greater clarity around who has authority to speak for Māori, which is particularly important in urban areas where many Māori have interests yet do not have mana whenua status.
23. Local government planning processes under the RMA need to be more agile and subject to a largely single stage decision-making process.

24. There should be a separate process for “resetting” existing plans to integrate them at the regional level, to reflect the purpose and principles of an Environmental Stewardship and Planning Act, and to give effect to a new National Environment Plan (including environmental limits). This process should also be used where a plan change is “called in” by the government or an independent Futures Commission/Tikanga Commission. It would roughly resemble, in many respects, the process for creating the Auckland Unitary Plan.

25. Ongoing plan changes should be subject to a different process, in which a single “hybrid” institution makes decisions. This institution would be chaired by an Environment Court judge and be comprised of independent commissioners (from a standing national pool), alongside council and mana whenua nominees. There would be a majority of independent members. Central government should have observer status.

26. In all processes, bottom up plan co-creation would be important. There should be greater use of citizens’ assemblies and other creative mechanisms for community involvement.

27. The EPA should have a role in translating policies concerning environmental limits to actual regulatory restrictions in council plans, including where needed to give effect to national direction on environmental limits. The EPA should be tasked with initiating plan changes.

28. A publicly funded Environmental Defender’s Office should be established to pursue public interest litigation and reduce resourcing disparities between developers and community/environmental groups.

29. A partnership approach with Māori is needed to give effect to the principles of the Treaty of Waitangi. This should involve close collaboration in the production of plans alongside councils; the provision of independent advice through a Tikanga Commission/commissioners; and the provision of resourcing by the Crown to enable those roles to be effective.

30. There could usefully be greater clarity around who has legal authority to speak for Māori, particularly in urban areas where many Māori have interests yet do not have mana whenua status. This is a matter for Māori to determine.

In Chapter 8, we also shine a spotlight on more specific issues associated with local planning, including the concept of urban limits. An urban limit/boundary allows urban development on one side of a line but not the other, preventing (or limiting) a city from expanding past that point. Some have called for such limits to be abolished, given the contribution that it has historically made (particularly in Auckland) to the price of housing by strangling new land supply. We agree that urban limits must be responsive by changing over time – for example, to implement a coherent and continually reviewed growth strategy in a spatial plan (see Chapter 10) – and they should not unduly contribute to housing unaffordability. One should not impose a limit and see it as fixed.

However, in our view urban limits remain a valuable tool if used in the service of a strategic spatial plan to direct growth into desirable areas or corridors. They provide a number of public benefits and some effect on land price may be worth it when an inter-generational public interest perspective is taken. Such impacts can also be mitigated in other ways (eg allowing/incentivising greater height or density within an urban footprint). In particular, urban limits are useful in supporting an efficient or compact urban form (when combined with an effective plan for urban intensification), which has many synergistic benefits in terms of the efficient use of land and infrastructure, social connection and mobility, and environmental protection (see Chapter 6). To guard against urban sprawl and its adverse environmental and social consequences, we should resist blanket calls to get rid of urban limits entirely, or leave it to markets to determine where and how growth occurs.

31. Urban limits will be a valuable tool in a future system to implement a wider, more strategic spatial planning framework, which would enable and manage urban growth over time and achieve long-term compact/efficient urban form. Limits should not have undue impact on land prices and need to be responsive, but if issues arise that might signal a need to take other measures (such as making density more attractive).
8. CONSENTING

While a revised planning framework will be crucial in a future urban resource management system, consenting will also be important. After all, plans cannot account for every single scenario. We consider consenting in Chapter 8.

Consenting delays for urban development have been the subject of many complaints and the regime has been seen as too complex, uncertain and costly. In our view, it should be more obvious in a plan what development is allowed and not allowed and in which places, providing greater predictability of outcome for developers as well as firm and transparent environmental limits. Over-reliance on a series of site-specific or activity-specific consenting decisions, within a planning landscape defined by general (and sometimes conflicting) policies, has contributed to unacceptable cumulative impacts over many years, as well as extensive complaints from applicants who do not know whether a consent will be granted or not.

There are different ways in which we could move our emphasis away from consenting and towards planning under a new Act. Environmental bottom lines, specifically identified up front in the Act and National Environment Plan, would need to be translated into regulatory limits, associated more strongly with prohibited activity status. In other words, there should be greater clarity about the kinds of things that should not be consented for the life of the plan. We do not see a strong justification for retaining non-complying activity status, as it adds complexity, uncertainty and process.

On the other hand, some urban activities with negligible effects may warrant permitted status (no consent is needed) or controlled status (consent must be granted if applied for) if close attention is paid to prescriptive permitted activity standards and mandatory consent conditions. It may also be helpful to treat what are essentially private disputes under the RMA – common in urban settings – differently from matters that have a public interest. The Environment Court has become adept at directing disputes to private resolution and could potentially act as a kind of sorting house to determine which track consenting disputes go down – private mediation and arbitration or a decision by public authorities.

However, we do not think reforms should travel down the permitted activity or private resolution pathways wholesale. The consenting process, even if non-notified, provides a valuable check and balance, and allows targeted conditions to be imposed. It also allows for monitoring to occur or at least for authorities to be aware of the activity, ensuring a better knowledge base. Cumulative effects of what seem like minor private disputes when viewed in isolation can still be significant for the public interest when magnified across a city and across time.

It would be preferable to focus on making urban policies in regional combined plans more specific, clarifying the relationships and hierarchies between policies and tailoring them towards requirements for particular activities and sectors. Consent would still be required, but it would be more obvious whether it would or would not be granted. Close consideration should also be given to smoothing the consenting pathway for projects that have significant environmental benefits or where there are synergies between social, economic and environmental outcomes (e.g., green infrastructure or eco-homes).

32. A future system should provide greater predictability of outcome in advance through environmental standards and clear policies in plans, rather than relying on the discretionary weighing of general and potentially conflicting policies through a string of consenting decisions.

33. Environmental limits defined in a revised Act would need to be translated into regulatory limits, associated more strongly with prohibited activity status, moratoria or common mandatory consent conditions.

Some complaints about the consenting process have focused on the existence of appeal rights to the Environment Court. While that step can add delays, we remain unconvinced that the benefits of constraining appeal rights for consent decisions outweigh the risks of doing so. The Environment Court performs a robust, independent oversight function. Instead, first instance consenting functions could usefully be removed from elected councillors and, alongside council staff, be placed with one or more independent commissioners deployed from a nationally accredited pool, or potentially with the EPA for matters relating to nationally significant environmental limits. Appeal rights would remain as a further quality control mechanism. Call in and direct referral to the Environment Court would remain but the board of inquiry avenue would be removed.

In Chapter 8 we explore a number of other aspects of consenting. We suggest that a new, independent, publicly funded Environmental Defender’s Office (a statutory litigator and advocate for the public interest) should have standing to appeal councils’ notification decisions to the Environment Court. Notification tests should also be made simpler and it should be made clearer in plans as to whether applications are to be notified or not. A new notification status could even be introduced whereby applications are publicly notified and submissions are invited, but where hearing and appeal rights do not follow automatically. This should ensure that decision-makers and the public are well informed even where a hearing is not necessary and reduce applicant pressure not to notify proposals.

Furthermore, an integrated permitting process could usefully be implemented (a “project consent”) for complex...
or nationally significant projects, which would align permitting process under multiple statutes. However, it would not change the substantive criteria by which decisions were made; it would simply align processes. Consent authorities should also be compelled to make decisions that are, at minimum, “consistent” with national direction, not simply “have regard” to it.

It is positive that restrictions on councils considering impacts on climate change will be removed from the RMA by virtue of recent amendments to the RMA. That will be particularly important in the urban context, where decisions about urban form and design can leave substantial positive and negative legacy effects for the emission of greenhouse gases. Finally, while some improvements to the designations regime may be possible, issues around coordinating land use planning and multiple infrastructure projects should be resolved through a new framework for spatial planning (see Chapter 10) rather than radically overhauling the current arrangements.

34. Appeal rights to the Environment Court in the consenting context provide valuable independent oversight of first instance decision-making. In our view, the risks of removing appeal rights outweigh the benefits.

35. An independent, publicly funded Environmental Defender’s Office should have standing to appeal councils’ notification decisions to the Environment Court.

36. A new notification status should be introduced whereby applications are notified and submissions invited, but where hearing and appeal rights do not follow automatically.

37. Consenting functions could usefully be removed from elected councillors and placed instead, alongside council staff, with commissioners selected from a nationally accredited pool.

38. There should be a strengthened role for the EPA in consenting where there is a national interest.

39. A future system could usefully provide for an integrated permitting process (a “project consent”) for complex or nationally significant projects, which would align permitting process under multiple statutes.

40. Reforms should be made to compliance monitoring and enforcement settings (as outlined in the EDS Phase 2 report),\(^8\)

41. Consent authorities should be compelled to make decisions that are, at minimum, “consistent” with national direction.

42. While some improvements to the regime for designations may be possible (such as removing default lapse periods) we see most merit in pursuing a regional spatial planning framework to address complaints about poor coordination of land use and infrastructure decision-making.
The RMA is central to resource management in urban areas, in terms of planning land use as well as protecting and enhancing elements of the natural environment like water, air and soil. Its successor – an Environmental Stewardship and Planning Act – would make much needed improvements. But separate legislation – notably the Local Government Act and the Land Transport Management Act – provides the framework through which much essential public urban infrastructure and services, like transport and water, are planned and funded. The timely provision of good quality infrastructure is vital to enable land (e.g., newly zoned residential land) to actually be used for its intended purpose; a house is not much use if a person cannot access transport links or have water connections. Well-functioning infrastructure is also essential to the broader economic and social wellbeing of urban dwellers and in some cases to address environmental impacts (e.g., wastewater).

In Chapter 9 we look at the legal frameworks for planning, funding and delivering public infrastructure for transport and three waters (drinking water, wastewater and stormwater). A future system needs to have the ability to raise sufficient money, as well as the incentive to spend it in a timely way. At present, infrastructure outcomes are not ideal on a variety of fronts.

- New infrastructure supporting urban growth is extremely expensive, and there can be funding and financing constraints for councils in some places. There can also be difficulties with the incentives facing councils to make adequate investment in a timely way. A lack of infrastructure is contributing to delays in the supply of new residential land, contributing to higher housing prices.

- There are also problems with the adequacy of existing infrastructure. A lot of it is growing old – notably three waters infrastructure – and in some cases is at risk of failure. This causes risks to both people’s health and to the environment (e.g., wastewater overflows). A pattern of underinvestment has emerged over the years and there is now a considerable deficit.

- Urban communities face substantial costs to move, replace or create/modify infrastructure to adapt to or protect communities from the effects of climate change (e.g., rising sea levels, storm events, droughts).

- The construction and ongoing use of infrastructure, and its design characteristics, can have significant impacts on the environment and climate.
Infrastructure choices made today can lock in risks for decades to come.

- Transport infrastructure (notably roads) is under significant pressure from congestion in some urban centres, particularly Auckland. This impacts on social wellbeing, environmental and human health, and economic productivity.

There are a number of reform measures that can and should be taken to improve our infrastructure frameworks. In terms of legislative design, it would be desirable for development-oriented legislation to remain separate from an Environmental Stewardship and Planning Act, to better ringfence environmental bottom lines in a focused regime. However, alongside that Act we see merit in a simpler, more integrated statute dealing with both local government and infrastructure, which would subsume the Local Government Act, the Land Transport Management Act and potentially other statutes (eg for three waters services). This would form a new Local Government and Infrastructure Act.

The purpose and principles of this legislation should retain the four wellbeings that are at the heart of the existing Local Government Act (social, environmental, cultural and economic). However, they should also more clearly embrace the need to meet clearly defined environmental and climate change targets, the need to make choices that achieve synergistic outcomes (providing services and enhancing environmental wellbeing), and a vision that aligns with the revamped purpose and principles of the RMA’s successor (including principles of good urban design).

In particular, we can no longer afford to view infrastructure as just concrete and steel. Cities and their built components need to be designed to work with the natural world and improve our resilience, particularly to climate change. Clear environmental criteria should drive our future urban infrastructure funding choices. This point has been thrust into the spotlight by the massive, debt-fuelled government spending planned for infrastructure. We shine a spotlight on the importance of a green economic recovery from Covid-19 and the synergistic benefits that investment in things like electric vehicle infrastructure can have.

43. The Local Government Act, Land Transport Management Act and other infrastructure-focused legislation should be merged into a single Local Government and Infrastructure Act.

44. The purpose and principles of a new Local Government and Infrastructure Act should retain the four wellbeings that are at the heart of the existing Local Government Act. However, they should also more clearly embrace the need to meet environmental and climate change targets, the need to make choices that achieve synergistic outcomes and a vision that aligns with a revamped purpose and principles of a new Environmental Stewardship and Planning Act (including principles of good urban design).

Alongside legislative integration and revised decision-making principles for infrastructure, we see merit in substantial institutional change that builds upon models we already have. As well as the local government structural reform mentioned earlier (a move to regional unitary authorities to provide economies of scale and other benefits), we envisage a stronger and more formal partnership between different levels of government in the planning and delivery of core infrastructure. We already have this to some extent for land transport (through regional transport committees and the National Land Transport Fund), but a more proactive role for central government in the provision and funding of three water services would also be desirable.

We therefore propose the use of jointly owned CCOs at a regional level for the planning, funding and delivery of drinking water and wastewater infrastructure and services. A “regional” CCO would not necessarily have to mirror the catchment-based boundaries of regional councils or new regional unitary authorities (although that would be simplest); boundaries should instead reflect what makes most sense for the operation of water services. This CCO model should be adjusted by allowing for or requiring the Crown to be a partner in these organisations alongside local government. At the time of writing, the government has signalled that significant central funding of water infrastructure projects will, essentially, be conditional on councils accepting the need for substantial institutional reform to water providers (a shift to publicly-owned, regional or cross-regional entities).

At the same time, we recommend the establishment of a powerful economic regulator (or conferring new powers on an existing entity like the Commerce Commission). An economic regulator would have responsibility for ensuring that investment levels and pricing for three waters are both adequate (for the level of service required) and fair, and that a long-term and public-interest perspective on water services is being taken. An independent environmental and health regulator for water services would be important, too. This is being progressed through the House at the time of writing, although we note that to simplify the institutional landscape this could equally occur under the auspices of a strengthened EPA.

A future system should also see the continuation of a partnership approach to land transport between central government (particularly the NZTA) and councils (as new regional unitary authorities). The arm’s length decision-making of the NZTA, already well established at the national level, could usefully be mirrored by a move towards arm’s length CCOs for transport at the regional level (as is the case for Auckland Transport already). It would be worth further investigating whether a greater proportion of funding levers should be channelled towards direct regional control, rather than filling the coffers of the Land Transport Fund for distribution by the NZTA.
Aside from institutional change, it is worth revisiting how water infrastructure and services are funded. Funding and institutional design settings are closely linked. The economies of scale and ability to socialise costs across larger populations and geographical areas produced by regionalising councils and infrastructure providers (through regional CCOs) should help address some funding challenges at the margins. But more needs to be done.

In particular, we see a compelling case for further enabling and encouraging the use of user-charging (including volumetric charging for drinking water and wastewater, and proxy measures for stormwater); targeted rates (where those in places that benefit from investment pay for it through rates); and value uplift capture (where infrastructure can be paid for by levying a portion of the increased value of properties benefiting from that investment). That said, it is essential that such mechanisms carefully consider how impacts on the poor or vulnerable are to be addressed, including through the use of separate distributional policies and subsidies, and user charging should not be absolute.

There is also a need for predictable, need-based central government funding contributions where required. This is particularly to overcome the significant investment deficits in water infrastructure that have built up over the years, but also to contribute on an ongoing basis to services that have strong national interest implications (eg no New Zealander should get sick from drinking water simply by virtue of the region in which they live). The need for central government to open its purse has also been reinforced by the Covid-19 crisis, due to the additional funding constraints it has caused for local government (especially smaller councils) and the unique ability of central government to borrow for large-scale spending that has intergenerational effect.

That said, because councils would remain primarily or partly responsible for the operation of CCOs (alongside the Crown) and may be required to fund them, there is also a need to revisit how new regional unitary authorities would be funded. We need to target the underlying problems with the existing local government funding and financing system, not just fill the gaps through ad hoc handouts from the Crown.

First and foremost, councils need to be able to raise sufficient money to meet the needs of communities. We agree with the Productivity Commission that more needs to be done to expand the funding and financing tools available to local government, particularly to support its functions relating to urban infrastructure. Again, this could involve greater user-charging, value uplift capture, targeted rates, enabling the use of special purpose vehicles to lift debt off council balance sheets, and relaxing borrowing constraints.

The right incentives also need to be in place to both raise and spend core revenue appropriately. An alarming history of underinvestment in three waters infrastructure should, following a large capital injection from central government to address the historical deficit, be addressed primarily through the institutional reforms described above. That would see the use of regionalised CCOs as water providers, predictable need-based contributions from the Crown, and an independent economic regulator, which would ensure costs can be met, socialised across large areas, and spent appropriately. Revenue raised by CCOs through user-charging (eg volumetric or infrastructure connection charges) should be strictly ringfenced and reinvested in water services (as in the Watercare model).

Further contributions may also be needed from time to time through more general council or government sources where charging users would be unfair or prohibitive, or where significant one-off capital costs (eg remedying a failing treatment plant) needed to be socialised across
all ratepayers or all New Zealanders. Debt would be an important tool to spread the costs of water infrastructure upgrades across the generations of residents who would benefit, and the need for arm’s length decision-making suggests that regional CCOs themselves should have the ability to borrow against water assets (and therefore should own them).

53. Incentives to underinvest in three waters infrastructure should, following a large capital injection from central government, be addressed through institutional reforms (regionalised CCOs and an economic regulator).

54. The economies of scale generated by regionalising infrastructure providers through CCOs should help address some funding challenges faced by councils for transport and three waters infrastructure. However, that will not be enough.

55. For three waters infrastructure, there should be predictable, ongoing and need-based central government contributions where required to meet adequate levels of service delivery and environmental and health standards. That would likely come with a corresponding level of control through representation in regional CCOs.

56. Funding and financing constraints on local government and residents in the wake of Covid-19 reinforces the need for a greater central government role in financing intergenerational urban infrastructure.

57. Councils would remain primarily or partly responsible for the operation of regional level CCOs (alongside the Crown) so may be required to fund them in part (alongside cost recovery measures by a CCO itself). Thus there is a need to revisit how local government itself is funded.

58. More needs to be done to expand the funding and financing tools available to local government, particularly to support its functions relating to urban infrastructure.

In the more specific context where cities are growing rapidly, infrastructure funding incentives require more systemic correction. There are significant practical constraints on raising and spending money for growth. In the current system, there can be strong political pressures on councils not to increase rates (their core funding tool), especially if rates are being used to service new development and the benefits are not apparent to existing residents who are paying for it (and who are the ones voting in local elections). In fact, where that growth is accommodated through increased density, residents may actually feel they are paying for a form of growth that, for them, has undesirable impacts on amenity values. There can also be resistance among residents to increasing debt levels to finance rapid growth, and there are practical and legal constraints on councils in raising debt finance despite the fact it is a fair way to spread costs over long periods of time (and across existing and new residents).

Furthermore, councils bear the potential risks of overestimating future growth and therefore oversupplying infrastructure that must still be paid for by existing ratepayers. All of this can lead to an institutional bias in councils against rapid growth and therefore resistance to the timely and proactive provision of serviced land for new residential development. Pipes, roads and the like can thus be provided on a “just in time” basis (or, indeed, a “too late” basis), holding up appropriate development (and housing supply) even where land has been rezoned under the RMA. Where demand to live in an urban area is high, that can send land prices spiralling up, exacerbating problems with housing affordability.

According to Infrastructure New Zealand, the same basic problem underpins all of these phenomena: there is misalignment as to where the benefits and costs of investment in growth infrastructure fall. In other words, it is understandable that councils are reluctant to pay for rapid urban growth, because its presumed benefits (in the form of increased economic activity) accrue mainly to central government via income tax and GST, whereas its costs and risks (supplying infrastructure) fall to existing local communities. The other side of this coin is that the costs of constraining growth (eg the significant social impacts of housing unaffordability) fall on central government to remedy through the welfare system and other means, whereas its benefits accrue to councils that are politically accountable to existing residents (eg lower rates for communities, lower debt levels).

Some targeted measures should help to ensure that adequate infrastructure investments to service growth are made in a timely way. These measures would shift the costs of infrastructure onto those who benefit (including
actual users), making for a fairer system and dampening down political opposition to growth from ratepayers. As described above, these could include authorising the use of value uplift capture, encouraging the use of targeted rates and providing for greater user-charging for water and transport infrastructure (e.g. allowing for volumetric charges for wastewater and congestion charging for roads, the latter of which would have the added advantage of reducing demand and therefore pressure on transport infrastructure). Because central government benefits from growth through its tax take and other means, this is another reason that it would be appropriate for some of the corresponding costs of growth infrastructure to be borne by the Crown through predictable performance or demand-based grants.

That said, we also see merit in allowing councils themselves to levy a local form of GST. This would provide councils with positive economic incentives to fund infrastructure (which would at least be perceived to result in greater economic activity and therefore tax take). In contrast to just relying on central government grants, this would give local communities more control over their own destiny and reflect that councils are closer to the communities that elect them; it would shift some of the benefits of growth to councils rather than just shifting the costs of growth to central government.

The ability to levy a regional GST may also encourage the funding of broader social and economic development measures that more narrow grants from the government may not. Some have pointed out, for example, that “without a revenue stream linked to value creation, councils are ... disincentivised from investing in [economically] productive activities” more generally.10

We emphasise that a regional GST could not be a complete replacement for council rates. This is because rates provide predictability of revenue based on community need, and core services like water and transport need to be provided irrespective of any fluctuations in economic activity that would impact on GST revenue. That is especially important where a region may be declining in economic terms (e.g. falling median incomes), since that should not be allowed to imperil the basic services required for the health and wellbeing of such communities. However, it would be a useful addition to the toolbox to use where cities are growing rapidly.

More bespoke cooperative funding arrangements between local and central government May also be required for particular “one off” projects over time. A framework could even be established whereby formal agreements are made between central government and councils through bespoke “city deals”, as has occurred in the United Kingdom. However, what these projects look like should emerge through a regional strategic spatial planning process to ensure that they are well integrated into a broader vision for urban change (see Chapter 10 of the full report on spatial planning), rather than being ad hoc grants for pet projects.

59. Some degree of cost recovery from those who use, or benefit from, urban growth infrastructure would be appropriate. In particular, a future system should facilitate value uplift capture to help fund large projects.

60. The incentives provided by the current system of funding infrastructure in the context of urban growth and renewal require correction. Targeted measures should be taken to shift the costs of infrastructure onto those who benefit. In particular, the Crown should be responsible for a much larger burden of the costs (and control) of drinking water and wastewater infrastructure.

61. We also see merit in allowing councils to levy a local form of GST, which would provide added incentives to proactively fund growth while allowing communities more control than Crown contributions. That cannot be a complete replacement for rates, but would be a useful addition to the toolbox.

62. More bespoke cooperative funding arrangements between local and central government may be required for particular “one off” projects over time, but this should be guided by a vision in a regional spatial plan (see Chapter 10).

63. User-charging should be deployed more in a future system both to provide a fair way to fund related services and to incentivise the efficient use of resources. This should include volumetric charging for drinking water and wastewater (and a proxy measure for stormwater) and congestion charging for land transport.

64. User charging and other forms of demand-based tools cannot be absolute and must carefully consider how impacts on the poor or vulnerable are to be addressed.

The cost of adapting to climate change in and around urban areas poses an even larger long-term challenge from a funding perspective than urban growth. Growth can ebb and flow, but climate change will have an ever-increasing impact over time. Above all, we should not be investing in new infrastructure in vulnerable places, and there needs to be a clear link between a national climate change adaptation plan, land use controls under a new Environmental Stewardship and Planning Act, and infrastructure funding frameworks.

Even more difficult will be questions about how to fund the movement or upgrade of existing infrastructure and people in and around cities where they are vulnerable to climate change. In our view, we need a completely new funding mechanism in the form of a national adaptation fund, to be deployed according to clear and transparent principles and through collaboration between central and local government. There are different models for how that could operate and be capitalised.
65. The system should not allow substantial new investment in urban infrastructure in locations or contexts vulnerable to failure in light of climate change.

66. There needs to be a clear link between a national adaptation plan, urban land use controls and infrastructure funding frameworks.

67. To facilitate urban adaptation to climate change we need a new funding mechanism in the form of a national adaptation fund, to be deployed according to clear and transparent principles and through collaboration between central and local government. There are different options for how that could operate and be capitalised.

Alongside land and infrastructure, buildings themselves form a core part of the urban environment. We conclude Chapter 9 by looking at the Building Act and how it could better complement and link to the urban sustainability objectives of a revamped Environmental Stewardship and Planning Act and Local Government and Infrastructure Act. While it should remain a standalone piece of legislation, construction standards and legislative principles under the Building Act should be strengthened to recognise the essential contribution that “green” construction will make to environmental outcomes in a future system. There are different ways in which this could be achieved, and we are pleased that the government has recently announced that the framework will be reviewed for such reasons.

68. An Environmental Stewardship and Planning Act and the Building Act should not be merged. However, the statutes should be more closely aligned to coordinate permitting processes, achieve common urban objectives and pursue synergies in the built environment.

69. Construction and infrastructure standards should be strengthened to recognise the essential contribution that “green” construction will make to environmental outcomes in a future system. There are different ways in which this could be achieved, including through performance-based subsidies, stronger certification programmes, charging, and incentives.
10. COORDINATING LAND USE, INFRASTRUCTURE AND OTHER ASPECTS OF THE SYSTEM

Chapters 5 to 9 of the full report are concerned primarily with how the RMA and infrastructure/building legislation should be reformed to improve urban outcomes. In Chapter 10 we look at how these could be better aligned with each other. This is particularly important in areas of high urban growth, where the pressing need to deliver more housing cannot happen without both land use change (e.g., rezoning) and the services required for people to live there (e.g., roads and taps). Those things must occur together, or at least in a reasonably timely way; there should be a reasonable degree of certainty that land use change will be facilitated through the funding of supporting infrastructure and that infrastructure expenditure will not be wasted or under/overestimated by failing to provide for complementary land use change. For example, a dense urban neighbourhood with few carparks may function well only with a light rail connection, whereas a light rail connection may only be worth it if it services the many users provided by a dense community. Improving separate statutory frameworks in isolation will not be enough to achieve outcomes that rely on them working well together.

Alignment between statutes is important for other reasons too, including to ensure that possible synergies between development and environmental objectives are not overlooked and that our frameworks work towards common aims. We conclude that the current system is not well aligned in the urban context and needs reform. Timeframes for planning under the RMA, Local Government Act and Land Transport Management Act vary wildly.

Alignment between these statutes (and successors) does not require all processes to be merged into one. In fact, funding and regulatory processes will always look quite different, due to the fundamentally different nature of the decisions being made. But improvements could be made by having different statutory processes that proceed along similar timeframes, and which speak to each other or cross-reference more clearly than at present. A more agile process for land use planning (e.g., rezoning a neighbourhood through a regional combined plan) should assist, as this is often where delays are most noticeable. Institutional change – a move towards regional unitary authorities responsible for both land use and local infrastructure – should help too.

Alignment can be further supported by having similar or compatible legislative principles for decision-making across statutes – such as criteria that support green infrastructure, which can provide services while furthering the climate and environmental objectives of an Environmental Stewardship and Planning Act. At present, there are some normative disconnects between frameworks dealing with land use, infrastructure and other aspects of the environment. They should be oriented towards the same kinds of big picture strategic goals. For example, land transport funding decisions should be explicitly oriented towards furthering the climate and environmental aims of other legislation by promoting electrification, mass transit and public transport.

70. A future system should see greater alignment between processes under an Environmental Stewardship and Planning Act (especially for land use change) and infrastructure legislation, although they will need to remain distinct. Related decisions should be reached within a reasonable time of each other.

71. There should be closer alignment between the principles underpinning an Environmental Stewardship and Planning Act and infrastructure legislation.
11. SPATIAL PLANNING

Most important to achieve alignment in a future system, however, would be the introduction of a completely new legal framework for spatial planning. Aligning different statutory processes at a project by project level will not be enough without a strategic vision for what we want our urban areas to look like in the long-term. This would see the collaborative development of regional or cross-regional strategic instruments – spatial plans – that would outline a vision for the growth or change of urban (and other) areas over time. Spatial plans would outline where and when things like housing, infrastructure, public services, protected ecosystems and productive land would be envisaged to go (and not go), and why: a clear spatial skeleton in light of which other more specific decisions are made. Managing rapid urban growth would be a big part of that, but it would not just be about ensuring cities provided sufficient development capacity. A spatial plan would be equally concerned with things like the protection and enhancement of ecologically valuable areas, versatile soils, climate change and community wellbeing.

72. A new legislative framework should be established to provide for mandatory regional and cross-regional spatial plans to be created. These plans would outline a vision for how urban areas would grow, contract or change over time.

Spatial plans would have real (although not absolute) legal influence over decision-making under other frameworks, including combined regional plans under an Environmental Stewardship and Planning Act and funding plans under infrastructure legislation. For this reason, the process for creating them would need to be inclusive and robust. An independent Futures Commission/Tikanga Commission would need to have a strong review role, and mana whenua and central government (and its agencies) would need to be intimately involved in its co-creation and sign off. That is partly because strategic plans are unlikely to be achieved in practice if there is no associated funding commitment (especially where outcomes rely on expensive and timely investment in supporting infrastructure), so it would be important for them to be accompanied by indicative sources of funding and for both local and central government to be obliged – at least to some degree – to follow through. And while spatial plans may be regional in focus, many branches of central government would control crucial funding levers and are therefore vital to success. A strong partnership approach is needed, and in Chapter 10 we shine spotlights on the context of special housing legislation where a top down approach has undermined this. In short, a spatial plan would be a mechanism to ensure all decision-makers and funders (and private sector actors) are working towards a common vision for an urban area.

73. Regional spatial plans would not be directly binding in a regulatory sense. However, they should have real legal influence on decision-making under more targeted frameworks (e.g., for land use and infrastructure). It would not be feasible for them to be given effect to in these other statutes but a reasonably strong legal direction should be put in place to ensure strategic planning is worth doing.

A number of different planning instruments in the current system can be described as “spatial” and “strategic”. District plans under the RMA are inherently spatial. Infrastructure strategies under the Local Government Act and future development strategies required under RMA national direction, are forward looking. And there are many instruments specifically described as “spatial plans” that have been created by local government and others with the express intention of coordinating the decisions needed to ensure effective urban growth over decades (and the Auckland Plan is even mandated by statute).

However, there are a number of ways in which these efforts fall short of what is needed in the future. In particular, there are currently no mandatory triggers for spatial planning to occur; where spatial plans do exist they do not have the legal influence to ensure decisions under multiple other statutory frameworks follow through with them; and there is no formal place in which multiple tiers of government, Māori and others come together early on to make strategic decisions in partnership. Future development strategies required in some places under the RMA, and voluntary spatial planning done under the Local Government Act, lack legal weight and the ability to coordinate decision-making under other laws.

Generally speaking, the current system has also lacked strong, overarching urban strategy. It is not firmly focused on the future or the need for change to pre-empt or prevent issues. Some have characterised this as a system that is reactive or (adverse) effects based, rather than one that is geared towards positive change and is outcomes focused. We require a formal framework for spatial planning that addresses these shortcomings.

A future system could also be simplified, by integrating the various fragmented strategic instruments we have now (such as infrastructure strategies and future development strategies) within a regional spatial plan. The place of regional policy statements will need to be thought through carefully. Conceivably they could form part of a spatial plan, but they could equally remain part of an RMA style regional combined plan. In the event of the latter, which we would lean towards, their development should be closely aligned with spatial plans to prevent duplication, inconsistency or overlap.
74. On balance, we think that regional policy statements should be included within regional combined plans under an Environmental Stewardship and Planning Act. They should be reviewed alongside regional spatial plans.

75. Other existing instruments could be subsumed within regional spatial plans (eg council infrastructure strategies) or removed entirely (eg future development strategies required under the NPS on Urban Development Capacity).

76. There would need to be a robust process for the creation of spatial plans. Central government and Māori involvement in co-creation, alongside councils, infrastructure providers and communities, would be important.

77. Spatial plans would contain considerable value-based judgements and should not be subject to appeal. However, independent review by a Futures Commission and Tikanga Commission/commissioners would be important to ensure an inter-generational view is taken.

78. Final sign off should be by councils and mana whenua, and it would be important for an ongoing Crown commitment to implementation to be reflected in formal ministerial sign off as well.

79. Spatial plans should be accompanied by a description of anticipated costs, and should signal where funding is envisaged to come from.
12. AN URBAN DEVELOPMENT AUTHORITY MODEL

In Chapter 11 we explore the concept of an urban development authority. The basic idea is that a publicly owned entity can come in and master plan, fund and deliver a large-scale urban development or renewal project – a whole suburb or neighbourhood – using special powers, after which the area reverts to “normal” settings. At the time of writing, a bespoke piece of legislation – the Urban Development Act – has just been enacted. It endows an existing government entity (Kāinga Ora, established in 2019) with such powers, including powers to alter the operation of the RMA (and instruments made under it) when planning and delivering new development areas.

We see a place for an urban development authority model in a future system, and the legislation has a number of positive aspects. In particular, it is good that central government, through Kāinga Ora, will have an active role in actual development activities – shovels in the ground – to provide housing and catalyse urban renewal in places that need it most and where the private sector might not have capacity or interest. It could also provide for more integrated development, at least in the sense that the same entity would be responsible for planning and funding land use, development activities and associated infrastructure within a particular project area. That could address some of the issues about timing and coordination of decisions and enable urban growth and housing supply to be achieved in a more timely way. And while robust safeguards are needed to protect people’s property interests, there is a case for providing land aggregation powers to regenerate complex and fragmented existing urban areas at scale.

80. We see a place for an urban development authority model in a future system. In particular, central government should have an active role in development activities to provide housing and act as a catalyst for urban renewal.

81. Powers to compulsorily acquire land will be intensely controversial (especially without offer back rights) and will require robust safeguards. But some powers will be useful for the regeneration of complex brownfields sites at scale.

However, in Chapter 11 we note a number of concerning aspects of the legislation, mainly around its potential to weaken environmental protections in and around cities. In its drive for development and housing outcomes it is not strong enough on biophysical protections. Central to this is how the RMA’s environmentally focused purpose and principles apply, notably the bottom lines contemplated by sections 5 and 6. In short, although it appears that the legislation is intended to apply Part 2 of the RMA largely unchanged, that is not well reflected in a number of its provisions. This has the potential not only to undermine environmental safeguards, but also to create considerable complexity and uncertainty through a complicated web of cross-references, confusing drafting and novel terminology that is likely to require extensive litigation to resolve.

We therefore conclude that all other principles in the legislation – including its purpose – should be made expressly subject to the purpose and principles of the RMA (with the exception of a more relaxed approach to urban amenity and strengthened Treaty provisions). In the longer-term, it would need to be firmly subject to the purpose and principles of the new Environmental Stewardship and Planning Act proposed in this report, which would itself be much better than the RMA at recognising the value of housing, urban renewal and urban design. The rationale to override such an Act would be much weaker.

The pre-eminence of environmental legislation – the RMA and its more fit for purpose successor – would also need to flow through to decision-making on development plans and consents provided for under the Urban Development Act, not just a general statement in its purpose. It is particularly concerning that Part 2 has been explicitly demoted in the context of consenting. In our view, it has not been adequately established that the purpose and principles of the RMA as a whole – and the wide range of crucial environmental protections they embody – are barriers to good urban outcomes that somehow need to be overcome.

There is a real risk that the new legislation will be interpreted as allowing an approach that “balances” the development objectives of the legislation with the environmental bottom lines established under the RMA, in an alarming revival of the “overall broad judgement” that was put to bed so deftly by the Supreme Court in the King Salmon jurisprudence years ago. While we wait for more systemic changes by replacing the RMA with a new Environmental Stewardship and Planning Act, special powers under the Urban Development Act should be targeted at core problems like overcoming nimby objections to urban change and density. Its scope should not extend to undermining, demoting or otherwise causing confusion about the wider environmental principles of the RMA.

82. The RMA’s (and, in the longer-term, Environmental Stewardship and Planning Act’s) purpose and principles will need to remain pre-eminent in all types of decision-making under the Urban Development Act, aside from targeted changes to aspects like urban amenity. The relationship between the statutes needs to be made clearer and less complex.
Furthermore, we do not see any compelling rationale for downgrading the RMA’s existing direction to “give effect” to national instruments like NPSs and NESSs, including the New Zealand Coastal Policy Statement and NPSs specifically concerned with managing population growth and good urban planning. The Urban Development Act includes a weaker instruction that development plans produced under it need to be “consistent” with national direction. This is despite the potential for a development plan to effectively function as a replacement for an RMA plan, which would otherwise actively have to give effect to national direction.

At the same time, there is a much stronger obligation in the Act to “give effect” to the government policy statement on housing and urban development which, as the name suggests, is development rather than environmentally oriented. At the very least, one can imagine the uncertainty and arguments that would arise as to whether a development plan would be able to override the provisions in a regional plan that have been specifically designed to give effect to something quite directive, like the NPS for Freshwater Management.

Moreover, while we see a strong case for being able to override aspects of existing district plans, the same cannot be said for regional plans. These contain crucial urban environmental protections relating to air, water and soil. The real point of including powers to override the RMA should in our view be much more targeted – to address nimby barriers to densification, amenity and changes to land use patterns in district plans in order to regenerate brownfields sites and provide housing, not to undermine biophysical environmental bottom lines in regional instruments or ride roughshod over established environmental objectives and policies. Such concerns are exacerbated by the fact that regional council involvement in establishing a project and making decisions on development plans is, under the Act, marginalised compared to territorial authorities. This is despite the inclusion of sweeping powers to override the regional instruments for which those councils are responsible.

All of the above is made even more concerning by the prospect that projects, and the powers to override the RMA that come with them, are proposed to be allowed almost anywhere and for a wide range of purposes. The Urban Development Act is not just about housing; it is equally about commercial, industrial and other development. The need for a project to be “urban” is a constraint without clear boundaries. The legislation is also not just about regenerating run down areas of cities or de-risking development of former industrial sites; it could also conceivably be used to master plan an entirely new urban settlement that goes against a carefully planned growth strategy or spatial plan years in the making, including strategies mandated by the government’s own national direction on urban development capacity.

Ultimately, the urban development authority model is not a proper alternative to the more holistic, strategic framework for regional level spatial planning outlined in Chapter 10. The Urban Development Act should be seen as a tool for government to actively implement a spatial plan, not an opportunity to override it. Much stronger constraints are needed regarding where and why projects can be established in the first place if the Act is not to become a subtler reincarnation of the much maligned National Development Act (which was part of the landscape that led to the creation of the RMA in the first place).

There is even a considerable risk that the entire system for large scale, locally-led strategic urban planning could be effectively replaced by allowing the liberal use of a centralised, fast-tracked process for ad hoc development. It is not fanciful to imagine that large chunks of a city like Auckland would simply be re-developed under the new legislation by circumventing RMA processes completely. In light of the long-term system reform work being progressed by the government’s independent panel – and the recommendations in this report – this is putting the cart well before the horse.

In short, the Urban Development Act should categorically not be seen not as a way to weaken environmental protections or “get around” other parts of the system. Instead, it should be seen as a way for government-led housing and urban renewal projects to be done faster and in a more integrated fashion, but in ways that safeguard and actively improve environmental outcomes. One would hope that the powers it confers would not actually be needed very often if more fundamental issues with the existing system were resolved.
13. WIDER SYSTEMIC CHANGE

At the core of our proposed future system for urban resource management would be a new Environmental Stewardship and Planning Act, which would be closely linked to legislative frameworks for local government, infrastructure, climate change and urban development. All of this would be presided over by an integrated framework for spatial planning at a regional and cross-regional scale. Such reforms should see marked improvements in social and environmental outcomes. While it is beyond the scope of this report, which is about framework level reforms, we would also expect officials to look closely at all provisions in the existing frameworks and take opportunities to simplify and improve the accessibility of our legislation. The RMA in particular has grown too long, unwieldy and legalistic, and its replacement should be more streamlined.

Yet overhauling these particular legal frameworks will still not be enough. We also need to consider a wider context of reform that spans different spaces, domains, sectors and aspects of human activity. In many respects, here it does not make sense to speak of “urban” reforms at all; most resource management issues are systemic and require a holistic view of our society and environment. In Chapter 12, we touch upon a number of ways in which the fabric of our governance, social and economic models need to be rethought more fundamentally over the coming years.

A new statute – a Future Generations Act – should be enacted in a future system. This would be the legislation under which strategic spatial planning occurred (discussed in Chapter 10), but it would also have a much wider role. It would be a sort of resource management constitution. At its heart would be a legislated recognition that all human activity and policy, including in the urban setting, must occur within strict biophysical boundaries and that the natural world has “the right to exist, persist, maintain and regenerate its vital cycles, structure, functions and its processes”. It would redraw fundamental aspects of our governance arrangements, including by creating the Futures Commission mentioned earlier, which would inject strong independence across a wide spectrum of public decision-making. This could reflect a similar “Future Generations Commissioner” as established in Wales. The Act would also:

- Provide a set of high-level inter-generational objectives that would be mandatory considerations for all public decision-making (including proposals for legislative change and discretionary funding decisions), not just decisions taken under specific statutory frameworks like an Environmental Stewardship and Planning Act or infrastructure legislation. Carbon neutrality, resilience to harmful change, environmental security and zero waste should be prominent. We can look overseas for inspiration on this front, including to countries like Sweden, Canada and Wales. The Public Finance Act (governing the government’s budget process)
should be strengthened through reference to such principles. The enormous amount of inter-generational debt being amassed in the response to Covid-19, particularly in and around cities, makes this even more important.

- Outline, at a high level, the nature of the Treaty relationship in relation to the use and protection of natural resources and the environment, including in cities. Some have suggested that national direction under the RMA or its successor (an NPS on the Treaty relationship) could fulfil this function, but we consider that it should be embedded into a higher level, constitutionally significant framework that guides all others.

- Provide for the creation of an integrated national resource management strategy (a “Futures Strategy”), outlining a vision for our country’s future and methods for creating synergies and addressing risks using multiple statutory and non-statutory levers. Climate change should be front and centre. For example, the Productivity Commission has called for a low emissions strategy that specifically outlines what the government will do to meet emissions budgets and targets, and which could be embedded in a wider Futures Strategy.

- Require a Futures Commission to produce and table in Parliament periodic “futures scanning” reports that look across New Zealand and the world to proactively identify emerging issues, threats and opportunities (environmental, social, health and economic) and recommend measures to pre-empt them. The government would be required to respond to the reports. Looking ahead is particularly important in cities, where markets, demographics, technology and societal expectations can change rapidly.

- Provide for the Futures Commission to issue periodic report cards to the government (or specific public authorities, like local government) assessing its performance against clear statutory principles and targets (eg for environmental enhancement, housing etc). This would align with electoral cycles to ensure that New Zealanders went to the polls with the assessment in mind. Strong independent oversight of strategic and inter-generational urban and environmental matters is an emerging theme in many countries.

- Provide for the establishment of a single “Futures Group” within government, comprised of senior officials from all departments relevant to the resource management system (chaired by the Department of the Prime Minister and Cabinet) and advising a special Cabinet committee (rather than a specific minister). This would be a meaningful whole of system steward. A Futures Group would respond to complaints that there is a lack of clear leadership across the system (particularly in cities) and that institutional fragmentation affects the ability to deliver cross-cutting outcomes. It could be a formally established as an example of an “interdepartmental executive board” already contemplated under proposals for a new Public Service Act.

- Provide for a more integrated and comprehensive system of environmental monitoring and reporting, including on how land is being used in and around urban areas and the state of housing and infrastructure. The Act could incorporate, strengthen and expand on the existing Environmental Reporting Act.

It would be possible to put the content of a Future Generations Act, including spatial planning, within a new Environmental Stewardship and Planning Act (ie a considerably expanded RMA-style piece of legislation). However, on balance we think that it would be more appropriate as a standalone statute. It would need to set up an institutional and normative architecture that is high level, of constitutional significance and would span many other pieces of legislation. In that sense it would be more conceptually akin to the cross-cutting Climate Change Response Act.

87. A new statute – a Future Generations Act – should be enacted in a future system. This would be the legislation under which strategic spatial planning occurred but it would also have a much wider role.

88. This Act should provide a set of high level objectives to guide the exercise of all public powers; including outlining a consistent approach to Treaty issues relevant to resource management.

89. The Act should provide for the creation of an integrated national level resource management strategy.

90. An independent Futures Commission should be established under this Act. It would be charged with creating futures scanning reports to which government would need to respond.

91. A Futures Commission should be required to issue a report card for public authorities based on their progress towards achieving inter-generational targets established under this Act or others like a new Environmental Stewardship and Planning Act.

92. The Act should establish a whole of system steward (a Futures Group) within government, being a forum where different agencies and departments came together to speak with one voice.

93. The Act should provide for a more comprehensive system of monitoring, reporting and evaluation, building on the Environmental Reporting Act.

Cross-cutting principles and strengthened institutional arrangements will be crucial. But they need to be complemented by strengthened tools to actually transform
people’s behaviour on the ground. Regulatory and funding tools have their limits here; urban objectives – particularly environmental ones – can often be realised more effectively by engaging with people’s incentives. This is particularly the case where the imperative is to improve things rather than just prevent further harm (it is harder to make people do things than to stop them doing things).

We need to think hard about changing underlying economic and social pressures, not just strengthening the regulatory system that needs to respond to them. The ultimate aim must be to transform our cultural practices and social expectations so that people naturally defend and enhance the environment and improve wellbeing, not constantly push up against regulatory barriers. We do not, for example, care for our children or our neighbours because there is a threat of regulatory action; our approach to the environment should be the same. That is an ongoing project, but in the meantime more tangible measures to encourage changes in behaviour should include:

- Greater use of “green” taxes to influence people’s behaviours (eg feebate schemes, congestion charging, pollution taxes). Green taxes can be used to raise revenue too, supporting the imperative to fund complementary measures to improve environmental wellbeing in cities, or addressing the shortfall in funding for environmentally sustainable urban infrastructure. The Tax Working Group shared this sentiment, calling for a “profound change to existing patterns of economic activity” through the tax system.

- A strengthening of the regulatory, funding and other tools under the Waste Minimisation Act to accelerate progress towards a circular economy. This is particularly important in the urban context, where a lot of industrial, commercial and household waste is generated.

- More positive financial incentives, such as making urban environmental restoration activities tax deductible, providing tax exemptions for public transport, and tax/rates rebates for the inclusion or retrofitting of green building measures. Government subsidies could also be deployed in a more systemic fashion for activities that enhance the urban environment (eg for ecosystem services), including through independently managed funds that are capitalised through green tax revenue and through competitive processes where funding is provided to those who cause most improvement per dollar.

- A gradual shift in our underlying tax base towards an environmental footprint tax, which would tax people according to their impacts on the environment. This would incentivise urban residents to actively enhance environmental outcomes on their own property to minimise their tax burden, through (for example) indigenous planting, roof, rain or vertical gardens, and green building design features. At present, tax settings encourage the depletion of natural capital, so regulatory responses are forced to fight a rearguard action against overwhelming private incentives or are simply left to mitigate the fallout. And while many details of an environmental footprint tax are difficult and would need to be worked through carefully, to some extent this could shift tax away from productive activities (through reductions in income tax).
• Making it easier for people to do positive things that they may wish to do already, but where they lack capacity, information, resources or coordination. For example, some local authorities have provided native plants at no cost for people to plant in urban road reserves. The development of a coherent network of community conservation hubs shows real promise in marrying up volunteer effort and passion with public coordination, resourcing and expertise. There is no reason why that would be of less value in cities, where there are many more people and resources available to coordinate. And people may change their spending and investment preferences if they have more information about companies’ environmental/ climate performance or risk exposure, which can be achieved through including these things in mandatory financial disclosures.

• Nudging people’s behaviours towards positive urban outcomes (eg providing visual cues that influence people subconsciously, like painting footprints leading to recycling bins; making positive activities more enjoyable, like less congested lanes for electric vehicles or wider cycle paths; appealing to people’s morality and desire not to be worse than others in their community or peer group; and giving real time feedback so that the negative consequences of one’s actions are readily apparent).

• Strengthening directors’ duties under the Companies Act so that they extend to public interest matters like environmental wellbeing, not just the financial interests of shareholders.

• Strengthening government involvement in the certification of green products, services and businesses to prevent greenwashing.

• Reforms to the education system, to inject sustainability and climate concerns (“eco-literacy”) into the heart of the school curriculum, as well as reviewing the core content of vocational training courses vital to future sustainability (eg planning and engineering). There is considerable potential to align environmental education with an understanding of mātauranga Māori. Education is not just formal, either. Urbanites of all ages need to see it and feel it in their neighbourhoods, in which case they will learn to value what it provides.

• Strengthening public messaging around environmental enhancement. For example, a citizen’s assembly in France has proposed a public advertising campaign against excessive consumption, as well as measures to restrict private advertising for polluting or carbon intensive products. The Covid-19 response has shown that an active public messaging service can be effective in transmitting important information, causing people to rally around a common cause and changing people’s behaviours.

Aside from specific reforms that will take us where we want to go, as a country we also need to have a robust conversation about what our future should look like – both urban and otherwise. For example, it is far from ideal that the desirability of urban population growth is a topic that is often brushed under the carpet. How big do we really want Auckland to get? Would we have to choose between productive land and housing if we stopped growing so fast? Do we want to see the continued decline of rural communities? Would we want a New Zealand of 10 or 20 million people, most of them in ever-expanding cities?

There is often an underlying assumption that as a nation we have little ability to control or direct demand through the resource management system and that we simply have to somehow accommodate population pressures. Any suggestions to the contrary can easily descend into heated arguments around migration, xenophobia and the almost heretical idea that we can live prosperous and happy lives without endless economic growth (often seen to be fuelled by population growth). Is it time to have an open conversation about such things?

We cannot, obviously, tell people where to live or how many children to have. We are, and will continue to be, a liberal democracy. Yet over half of Auckland’s projected population growth over the next few decades is anticipated to come from internal migration and birth rate, and this will cause significant costs and risks. Discussions about demography and density, and our ability as a nation to be self-sustaining in terms of food supply and other essentials, are now much more at the forefront of policy questions in light of Covid-19. How can we expect to make sensible decisions about protecting elite soils when we have no real plan for the population that it may be required to support, especially in light of the uncertainties created by climate change and the potential for pandemics that may render ourselves more isolated from the rest of the world? Such conversations could be carefully framed within the development of a population policy by an independent Futures Commission.

Conversations about consumerism and perpetual economic growth may prove even harder to have. Cities
– especially large and growing ones – use vast amounts of resources. But we live in a society that constantly tells us to want more. We often remain sceptical of environmental warnings until it is too late to prevent them (at which point we tend to search for technological solutions). The desirability of growth is instilled into our daily lives, as if endless increases in resource exploitation and consumption are both possible and necessary if we are to avoid collapse. The reality is that more people, and constant expectations for higher standards of living, is putting increasing strain both on the resources we need and the environment that must receive our waste. We need a different way of thinking: to reject the notion that endless growth in GDP terms, population, or urban expansion is possible or desirable, or that anything else is considered to be failure.

There is also the much broader, but even more significant, question of how we become a fairer society by shrinking the difference between the haves and the have nots. Recognising that there are ecological limits to economic growth forces us to confront this question. Nowhere is this more obvious than in large cities, where those with fewer means will be increasingly forced out of gentrifying areas, out of home ownership, or even out of housing altogether. We can tinker endlessly with interest rates, subsidies for first home buyers, loosening land use restrictions, construction costs and so on, but for many this will still not be enough. There is an underlying gulf developing between those who are growing richer and those who are growing poorer.

97. Reforms to particular legislative frameworks will not be enough for the transformation we require in or beyond cities. As a society we face difficult questions – including around future population, the sustainability of an economic model that is fixated with endless growth and the growing divide between poor and rich. These issues must be confronted with honesty, ethics and open minds. We recommend an ongoing conversation on these difficult matters alongside more targeted reforms.
14. CONCLUDING COMMENTS

The conversations described above are ongoing, longer-term projects, and will not be addressed overnight. Yet there are many measures that we can take in the shorter-term to improve how our resource management system operates in urban areas. In this report we have outlined what we see as core reforms at the framework level.

We can transform the RMA to make our legislation better at defending environmental limits and promoting urban outcomes. We can integrate and revamp infrastructure and local government legislation alongside institutional and funding reforms. We can create a level of regional spatial planning and align norms and processes across legislation to ensure that we achieve timely development of housing, as well as promoting synergies with environmental wellbeing. We can ensure that construction standards and bespoke urban development legislation reinforces rather than undermines broader urban objectives. And we can pursue a range of measures encouraging wider societal change.

Of course, we should not hope for utopia. We need to accept that visions change with the times, as will the context in which they are implemented and the society that creates them. All our urban areas are different, with their own unique identities and histories to be reflected. They are, in many ways, inherently messy places, and that is part of their attraction. But we are of the view that our future cities will need to look quite different to the cities we have today, and will need to be designed to serve the needs of generations of people and nature well into the future.
APPENDIX: KEY STRUCTURAL ELEMENTS OF A REFORMED SYSTEM

- **Futures scanning reports**
- **Report card** system for public authorities
- **Statutory principles** applicable
- **Regional/cross-regional spatial**

Establish an independent **Futures Commission** and **Tikanga Commission/commissioners** for review and oversight

**Integrate the Local Government Act, Land Transport Management Act, and other legislation into a single**

**LOCAL GOVERNMENT AND INFRASTRUCTURE ACT**

- **New purpose and principles** focused on wellbeing and aligned with the aims of the Environmental Stewardship and Planning Act
- **Process alignment**
  - **Regional CCOs** for drinking water, waste water and transport
  - **Economic regulator**
  - **Independent water regulator**

**Replace the RMA**

**ENVIRONMENTAL STEWARDSHIP**

- **New purpose and a future focused of urban planning**
- **A more coherent and National**
  - Mandatory targets
- **Regional**
  - Revised settings
  - **Notices of requirement**
  - **Other**

- **Development plans** are firmly subject to the purpose and Planning Act and national direction, and used to

**Retain but make considerable changes to the**

**BUILDING ACT**

- to strengthen green construction

**Establish an inter-departmental Futures Group within government**

as a whole of system steward

**Strengthened monitoring, reporting and evaluation**

**National futures strategy**

**Enact a new FUTURE GENERATIONS ACT**

**Undertake wider systemic changes**

Integrate the Local Government Act, Land Transport Management Act, and other legislation into a single **LOCAL GOVERNMENT AND INFRASTRUCTURE ACT**

- **New purpose and principles** focused on wellbeing and aligned with the aims of the Environmental Stewardship and Planning Act
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  - Mandatory targets
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  - **Notices of requirement**
  - **Other**

- **Development plans** are firmly subject to the purpose and Planning Act and national direction, and used to
FROM AN URBAN PERSPECTIVE

- New purpose and principles focused on wellbeing and aligned with the aims of the Environmental Stewardship and Planning Act
- Revised and expanded funding and financing mechanisms, altered incentives
- Process alignment
- Regional CCOs for drinking water, waste water and transport
- Economic regulator
- Independent water regulator
- Relocate most council functions to the regional level, resulting in REGIONAL UNITARY COUNCILS
- Partnership role for mana whenua
- Strengthen the link between the CLIMATE CHANGE RESPONSE ACT and other legal frameworks
- Establish a Climate Change Adaptation Fund
- Move to a circular economy by strengthening the WASTE MINIMISATION ACT
- Deployment of green taxes and economic instruments
- Move towards an Environmental Footprint Tax
- Strengthen directors’ duties under the COMPANIES ACT
- Engage with people’s behavioural incentives
- Reform the EDUCATION ACT
- Strengthen the PUBLIC FINANCE ACT
- Undertake wider systemic changes

**APPENDIX: KEY STRUCTURAL ELEMENTS OF A REFORMED SYSTEM FROM AN URBAN PERSPECTIVE**

- **with a new AND PLANNING ACT**
- **principles**, including clearer environmental limits, orientation and stronger recognition and design principles.
- **comprehensive set of national direction in a single Environment Plan**
- Dominant status for bottom lines
- **combined plans**
- for **consenting**
- for **designation, heritage orders**
- **tools**
- **changes to the ACT**
- **principles of the Environmental Stewardship** implement regional spatial plans
- Retain but make considerable changes to the **BUILDING ACT** to strengthen green construction

- **Strengthened monitoring, reporting and evaluation**
- Establish an inter-departmental **Futures Group** within government as a whole of system steward
- **National futures strategy**
- **Statutory principles** applicable to all public decision-making
- **Regional/cross-regional spatial plans** with real legal influence
- **Futures scanning reports** Report card system for public authorities
- Establish an independent **Futures Commission** and **Tikanga Commission/commissioners** for review and oversight

**SUMMARY DOCUMENT**
ENDNOTES

1. This has not really been felt yet at the time of writing, although it is still predicted by some.

2. Again, this has not yet been felt strongly due to countervailing forces of more New Zealanders returning home from overseas.


4. Including, for example, a clearer distinction between matters that require strict limits (e.g., freshwater quality) and those where balance and trade-offs are appropriate (e.g., urban amenity); principles that embrace the value of good urban design and affordable housing, not just the prevention of adverse effects; more agile planning processes; and a potential distinction in the consenting context between private disputes and public interest questions.

5. The terms “stewardship” and “planning” are not, therefore, intended to reflect distinctions between “environment” and “land use”, or “natural” and “built”, but rather to reflect the importance of both tending what we have and having a proactive plan to improve it.

6. Under the NPS for Freshwater Management and the proposed NPS for Indigenous Biodiversity.

7. In which case the “reset” process would apply.

8. See <www.eds.org.nz>. We note that it is positive that the EPA has taken on a stronger compliance and enforcement role under the RMA by virtue of the Resource Management Amendment Act 2020.

9. Again, at the time of writing, there is a proposal for central government funding of water infrastructure to essentially be conditional on councils accepting the need for institutional reform in water providers.


EDS is leading a project which is taking a first principles look at the resource management system in Aotearoa New Zealand. This Summary Document outlines the key points of the project’s third phase, which is about how system reform would look from an urban perspective.