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3 February 2020

Resource Management Review Panel

Per email: [rmreview@mfe.govt.nz](mailto:rmreview@mfe.govt.nz)

Infrastructure New Zealand is the peak industry body for the infrastructure sector and promotes best practice in national infrastructure development through research, advocacy and public and private sector collaboration. Infrastructure New Zealand members come from diverse sectors across New Zealand and include infrastructure service providers, investors and operators.

This submission represents the views of Infrastructure New Zealand as a collective whole and may not necessarily represent the views of individual member organisations.

## Infrastructure New Zealand submission to the Resource Management Review Panel on the Issues and Options Paper

Infrastructure New Zealand supports this review.

As a member of the Resource Reform New Zealand (RRNZ) partnership with the Environmental Defence Society, Employers and Manufacturers Association (Northern), Property Council of New Zealand and Business New Zealand, we have campaigned for many years to initiate a major review of the resource management system (RM system).

We are pleased that consideration has been given to the wider RM system both through the Terms of Reference and by the Panel and congratulate the Panel for producing such a comprehensive, yet accessible, summary of the key issues affecting New Zealand's RM system.

Given the scope of the challenges facing the RM system, and the need for substantive reform, we are concerned that the Review Panel has been given insufficient time to fully consider all potential options.

As much as we support rapid changes, we are also conscious that getting the settings right will take time. If the Panel considers that it has insufficient time to consider the full range of options, we encourage the panel to request further time or to recommend an additional review stage.



## Summary

We have for many years, and in partnership with other strategic policy-oriented organisations, held the view that the resource management (RM) system is undermining New Zealand’s economic, social, cultural and environmental wellbeing.

Most notably, the RM system has failed to adequately provide for growth, causing New Zealand’s housing crisis.

The flow on effects from a failure of the RM system to provide a sufficient supply of affordable development-ready land has increased inequality, reduced financial stability, consumed discretionary income and unevenly impacted different groups across New Zealand.

The negative impacts of the housing and wider infrastructure crisis which has emerged under the RMA-based RM system has not been limited to poor economic, social and cultural outcomes; the environment has also deteriorated.

As the purpose of the Resource Management Act 1991 (RMA) is, broadly, to safeguard the environment and provide for public outcomes, we conclude that the RM system has substantively failed.

It has failed for reasons well-articulated by the RM Review Panel in its discussion document.

We add one further reason for poor system performance to the 12 identified by the panel – weak price signals.

Weak and distorted price signals have misinformed individual property owners and businesses, on one hand, regarding the value of public services they receive and, on the other, under-resourced public service providers who deliver critical services which give value to land.

We find that 12 of the 13 reasons for RM system failure are the result of two main issues:

1. The permissive, effects-based orientation of the current system heavily devolves resource management decisions down to affected parties and away from strategic public outcomes.
2. Governance arrangements misallocate important and often complex planning, investment and environmental decisions to small, under-resourced and poorly incentivised councils.

To address the reasons for RM system underperformance, New Zealand needs an approach which moves away from the effects-based regime and which empowers appropriate institutions to successfully perform RM system functions.

In replacement of an effects-based regime, we support an RM system which balances “top-down” public outcomes needs against “bottom-up” desires to exercise property rights and promote local aspirations.



Regional spatial plans developed across connected economic geographies, guided by national direction and developed in coordination with central government, iwi and local communities are the most effective means we have observed to promote public outcomes through the RM system.

To develop effective and deliverable spatial plans, parties responsible for implementing those plans must be willing and able to fulfil their roles; the current allocation of roles, responsibilities, resourcing and powers across different levels of government is not suited to implementing strategic spatial plans.

Strengthened regional government with the ability to fund and deliver on plans combined with an enhanced central leadership and oversight function is needed to achieve outcomes and protect the environment.

Our proposals to reform the oversight and execution of a successful RM system which achieves shared public outcomes and protects and enhances the environment are set out in the attached report, *Building regions: A Vision for Local Government, Planning Law and Funding Reform*.

We acknowledge the complexity and breadth of the RM system, as well as the need to make progress in the medium term. Three recommendations thus comprise our three key priorities for this review process:

1. The Panel is clear that the RMA and wider RM system has failed to achieve the purpose of the RMA to promote sustainable management.
2. The Panel explores approaches to resource management which move away from the effects-based approach.
3. The Panel investigates a restructuring of responsibilities, roles and powers across governing bodies to align planning with funding and governance in order to deliver on agreed plans.

We would support the Panel in its application for more time or a second phase of the review process should the Panel consider it has had insufficient time to adequately complete this review.

## Introduction

We support this review.

We have long held the view that the RMA-based RM system is incapable of delivering shared outcomes due to the effects-based orientation of statute which “integrates” environmental protection with land use planning, but “disintegrates” land use planning with funding and governance.

It is the fundamental conflict of effects-based natural resource management with outcomes-oriented public policy which is the ultimate cause of issues and challenges accurately articulated by the Panel in the Issues and Options paper.

Explaining this conflict and proposing options to resolve it are the primary objectives of this submission.

### **Resource Management: Is it policy or is it process?**

Is resource management a process to reconcile competing demands for finite natural resources or is it the activity of allocating those resources in the public interest?

Under the current RMA-based system, resource management is a process. The RM system provides a framework for interested parties to promote and protect their interests with a high degree of independence from government policy objectives. The policy assumption has been that public outcomes could be optimised by limiting government intervention in resource management.

The alternative is to approach resource management as policy. Governments allocate natural resources to activities which support public outcomes and wellbeing.

Under a process-oriented approach, natural resources are implicitly assumed to be owned privately. Under a policy approach, the implicit assumption is that they are owned publicly.

Which is right?

## **PART 1:**

### **The resource management system has failed**

As an initial, and in our view critical, starting point for an honest and frank first principles review of the RM system, we consider it is necessary to acknowledge that the Resource Management Act 1991 (RMA) has failed.

The purpose of the RMA is to promote the sustainable management of natural and physical resources where sustainable management means managing natural and physical resources in a way which provides for social, economic and cultural wellbeing while sustaining and safeguarding the environment.

In our view, both “pillars” of sustainable management under the RMA have not been promoted:

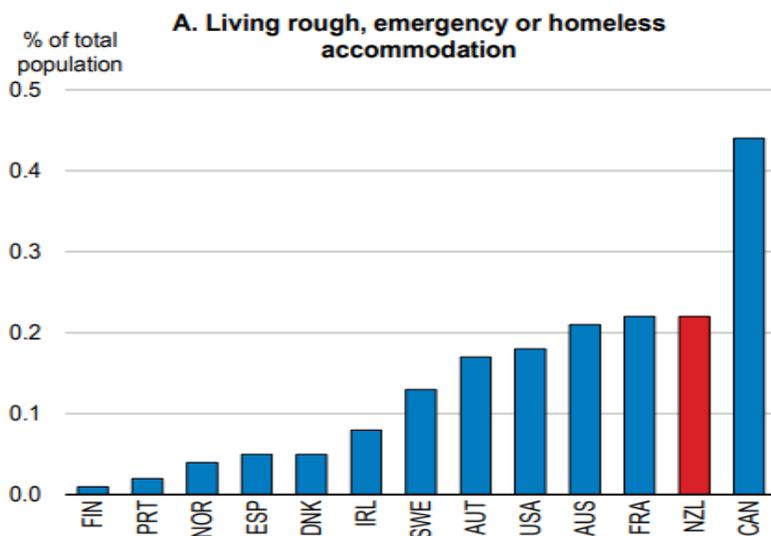
1. Social, economic and cultural wellbeing have not been adequately provided for; and
2. The environment has not been safeguarded.

### **A. Social, economic and cultural wellbeing have been poorly provided for**

Over the last three decades New Zealand has witnessed significant declines in important outcomes relating to the RM system.

Most notably, key outcomes relating to land resource management have suffered.

New Zealand now has one of the highest rates of homelessness in the OECD.<sup>1</sup>



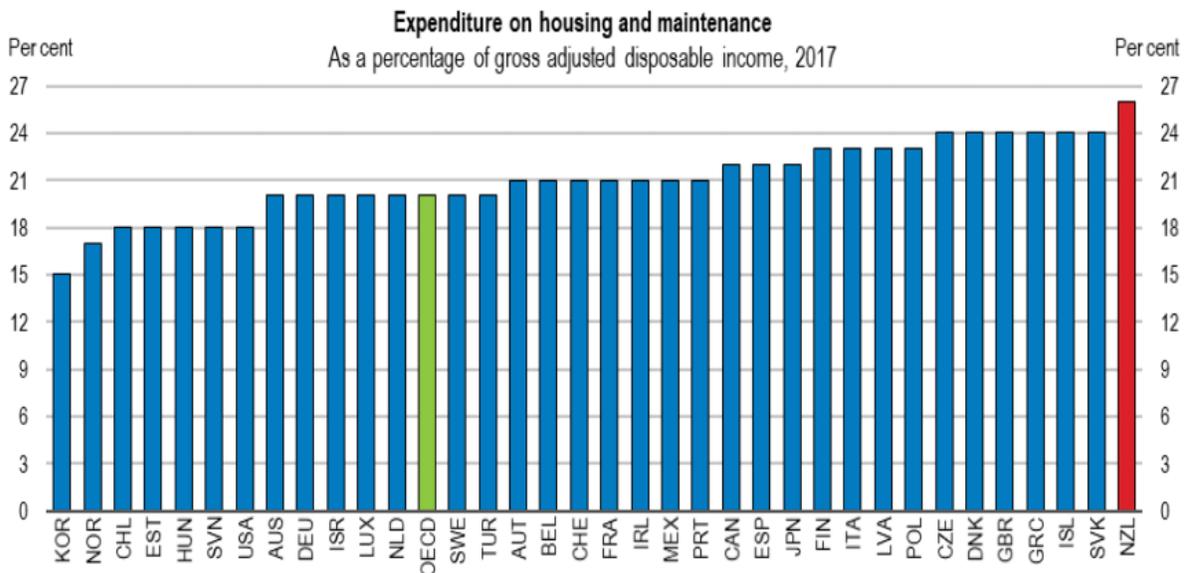
In Auckland, the region where the best quality information is available, the region has not delivered enough housing to meet population growth in any year since 2007. Between the census years of 2013 and 2018 (the years with the best regional data) the Auckland’s population grew by 125,200,<sup>2</sup> while only

<sup>1</sup> OECD, *Economic Survey of New Zealand*, 2019.

<sup>2</sup> Stats NZ, Estimated Resident Population for Regional Council Areas, at 30 June (1996+) (Annual-Jun). Last updated 22/10/2019. Available at: <http://archive.stats.govt.nz/infoshare/>

33,315 new homes were delivered over the same period,<sup>3</sup> well below the 41,700 homes needed to meet the current ratio of approximately 3 persons per dwelling (itself an unusually high ratio relative to comparable cities and the rest of New Zealand).<sup>4</sup>

New Zealanders now spend a greater percentage of their income on housing than anywhere else in the developed world.<sup>5</sup>



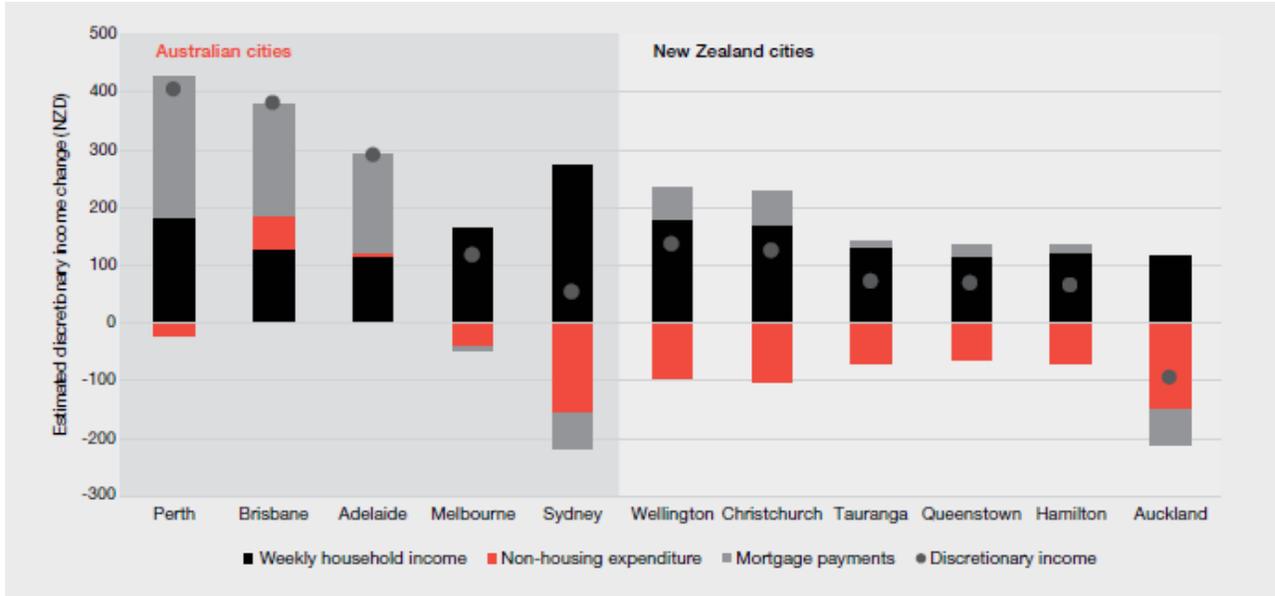
Given the priority of housing as a basic human need, high housing expenditure means less money to spend on less essential items, but items which improve lifestyle and wellbeing. A median Auckland family has 100 fewer “discretionary” dollars (income minus tax, transport and accommodation) each week than it did a decade ago and all New Zealand growth centres have performed materially worse than Australian cities over the time period.<sup>6</sup>

<sup>3</sup> Between July 2013 and June 2018 inclusive, per: Auckland Council Research and Evaluation Unit *Auckland monthly housing update. Datasheet*. Last updated 11/11/2019. Available at: <http://www.knowledgeauckland.org.nz/publication/?mid=2867>

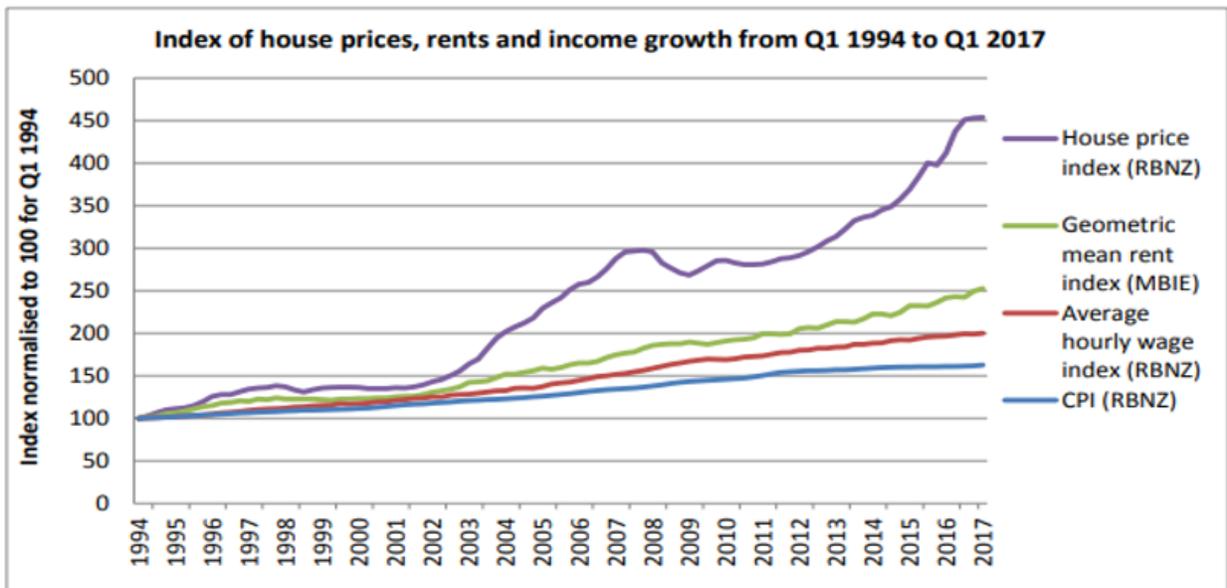
<sup>4</sup> Infometrics, *More people per household: What does it mean for construction trends?* 2017. Available at: <https://www.infometrics.co.nz/people-per-household-mean-construction-trends/>

<sup>5</sup> OECD.

<sup>6</sup> PwC, *Competitive Cities: A Decade of Shifting Fortunes*, 2018.

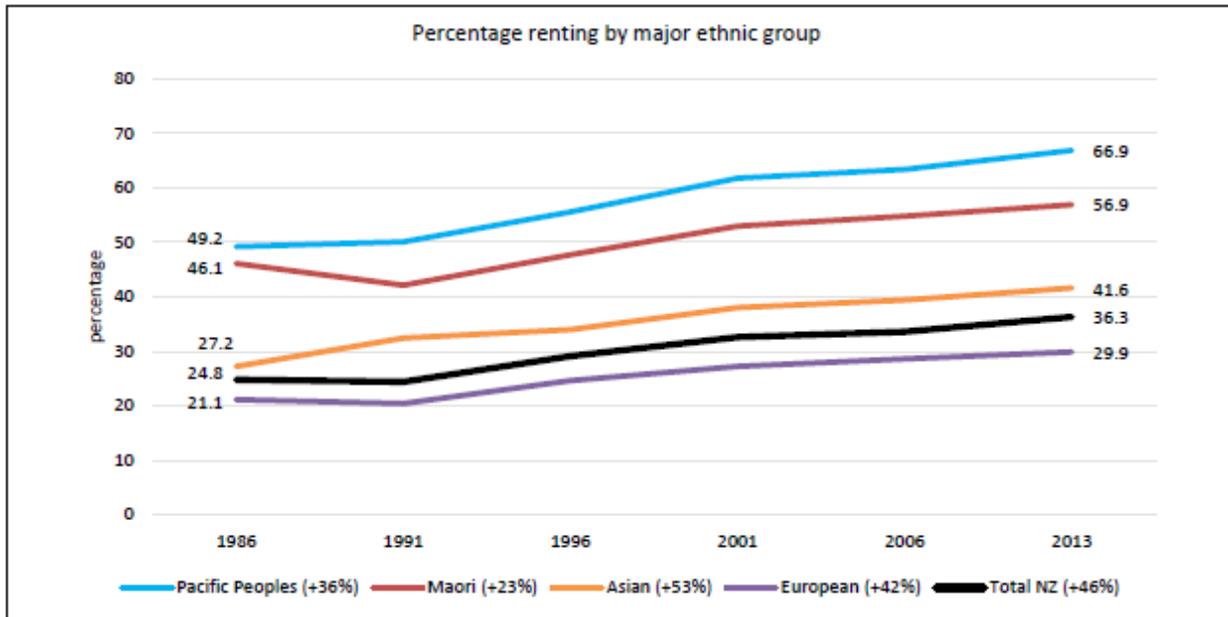


“Median” data understates the severity of the impact on social wellbeing. Many New Zealanders have become wealthier as house prices have risen and mortgages have been repaid, while others have seen rental growth exceed income growth for a protracted period.<sup>7</sup> The housing crisis has directly increased inequality.



<sup>7</sup> MBIE.

Maori and Pacifica communities have been especially impacted. Home ownership rates and incomes across these two groups are comparatively low, leaving them exposed to housing cost increases above the rate of income growth.<sup>8</sup>



High and rising house prices over a protracted period have created an expectation of capital returns, attracting further investment. New Zealanders now own around \$1.2 trillion of residential property, compared to a market capitalisation of around \$260 billion for the NZX.<sup>9</sup>

New Zealand's ratio of housing/sharemarket investment is circa 7.0x, while Australia, an economy with 30-40% higher productivity and wealth, has a ratio of circa 3.6x – we have drastically overinvested in housing at the expense of productive assets.

Housing debt remains a key risk to the financial system.<sup>10</sup>

The extent to which non-productive housing investment has starved more productive activities of capital is likely to explain part of New Zealand's poor productivity performance over the past three decades.<sup>11</sup>

<sup>8</sup> Alan Johnson, Phillipa Howden-Chapman and Shamubeel Eaqub, *A Stocktake of New Zealand's Housing*, 2019.

<sup>9</sup> As of January 2020.

<sup>10</sup> Reserve Bank, *Financial Stability Report*, November 2019.

<sup>11</sup> OECD.



While it is clear that the housing “crisis” has undermined many social, cultural and economic outcomes, it is less clear that any one factor is to blame, including financial factors, building material costs and regulation, market competition, or indeed the RMA itself.

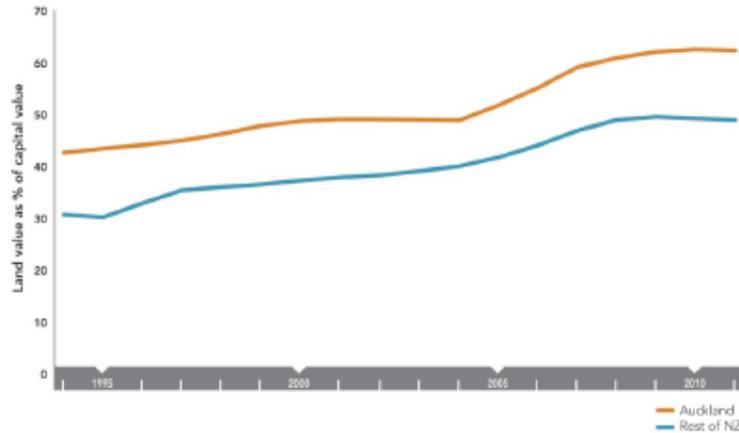
However, what is clear is that high house prices, and therefore high housing expenditure, is overwhelmingly the result of high *land* prices.

In 2012, before the recent and most extreme increase in house prices, the Productivity Commission observed that land prices in Auckland had moved from comprising 40 per cent to 60 per cent of an average home’s price.<sup>12</sup>

<sup>12</sup> Productivity Commission, Housing Affordability Inquiry, 2012.



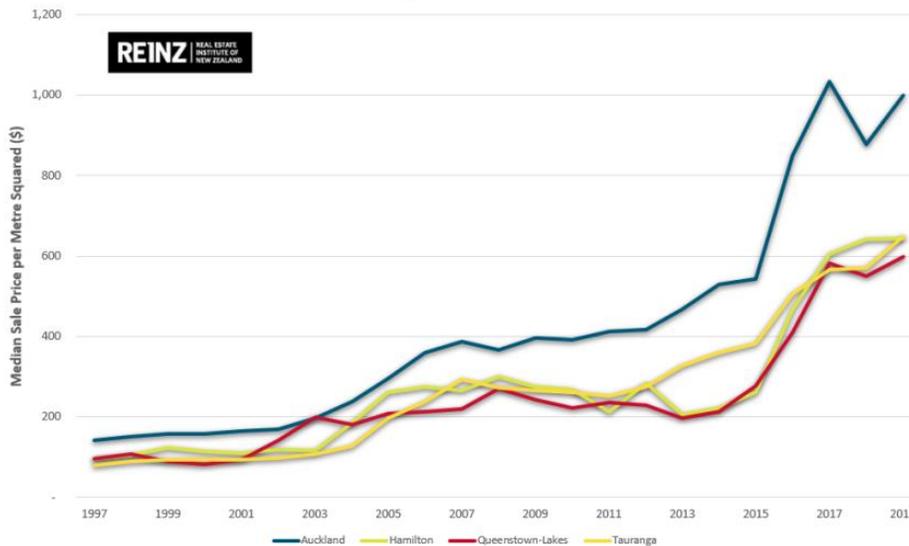
Land prices as a share of house values



Across parts of Auckland and Wellington, cities where information is most readily and publicly available, land value now frequently comprises upwards of 80 per cent of a home’s total value.<sup>13</sup>

Section prices in Auckland sit at around \$1000m2 and around \$600m2 across other main centres.<sup>14</sup>

Residential Sections - Median Sale Price per Metre Squared  
by Calendar Year



<sup>13</sup> Using Auckland and Wellington council property rates and valuation data: <https://www.aucklandcouncil.govt.nz/property-rates-valuations/Pages/find-property-rates-valuation.aspx>; and <https://wellington.govt.nz/services/rates-and-property/property/property-search>.

<sup>14</sup> REINZ.



A 500m<sup>2</sup> section, i.e. before any dwelling is constructed, in Auckland now tests the upper limit of affordability for a median income family (earning approximately \$100,000 per annum).

Analysis conducted by Infrastructure NZ in 2017 found the full cost of building a home (including land, infrastructure and dwelling, but excluding GST and sales margin) on rural land in Auckland's south to be \$375,000 – significantly less than the price of a zoned and serviced section today.

Our findings were consistent with multiple studies over an extended period which have shown rural land in Auckland to carry a value around one-tenth that of adjacent land inside Auckland's metropolitan boundary.<sup>15</sup>

By contrast, successive investigations and studies of building material costs have shown limited differences in the price of key house inputs.<sup>16</sup>

Financial factors are important but, given that different housing markets around New Zealand are all subject to the same financial environment yet vary significantly in the cost and supply of land for housing, it is also clear that financial factors are not the cause of high home prices and associated issues.

It is the price of build ready land which is responsible for high and increasing house prices.<sup>17</sup>

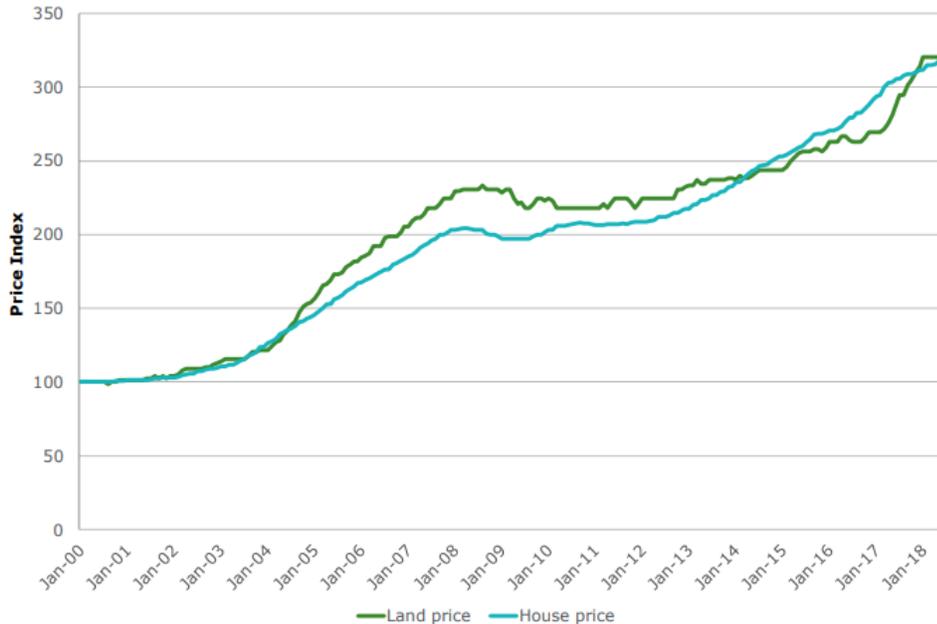
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<sup>15</sup> See for example Motu, Spatial Determinants of Land Prices in Auckland: Does the Metropolitan Urban Limit have an Effect?, 2007 and Productivity Commission, Housing Affordability Inquiry, 2012.

<sup>16</sup> Productivity Commission, Housing Affordability Inquiry, 2012; Deloitte, Cost of Residential Housing Development: A Focus on Building Materials, 2018.

<sup>17</sup> Deloitte.

**Land prices and house prices across New Zealand, 2000 to 2018 (January 2000=100)**



Build-ready land is land with necessary planning approvals and infrastructure.

Thus, while there remains a lack of conclusive evidence that the RMA is responsible for New Zealand’s housing crisis, there is overwhelming evidence to show that the RM system is.

Some combination of inadequate land management under the RMA and insufficient infrastructure investment to unlock that land under the wider RM system has failed to provide enough housing for social, economic and cultural wellbeing.

We would make much the same observation of the transport sector, where the resource management system has underprovided for movement, leading to congestion, inequitable access and high travel costs, and across numerous other sectors.

**B. The environment has not been sustained and safeguarded and effects have not been avoided, mitigated or remedied**

It is not just that the wellbeing of people and communities has not been satisfactorily enabled through the RMA, it is also that the costs on future generations and the environment from these poor levels of service have been unacceptably high.

The potential of natural and physical resources to meet the reasonably foreseeable needs of future generations has not been protected.

The previous section highlighted deficiencies in land resource management which have now pushed the price of land for housing beyond the reach of most household incomes.

A particularly damaging aspect of this rise in house prices is that families which have benefitted from recent land price increases are in a position to support subsequent housing investment. For families which have not previously owned a home, or have otherwise not benefitted from rapid home price inflation, the ability to support, for example, their children's first home purchase, is affected.

The current high price of land does not necessarily make it more difficult to buy a first home, it makes it more difficult for particular groups to buy a first home, helping to institutionalise intergenerational inequality.

Land resources necessary to sustain the reasonably foreseeable needs of future generations have not been provided for.

Freshwater resources have been equally impacted. In most catchments across New Zealand, freshwater is now overallocated. Absence of a clear and fair system for trading water rights makes it difficult or impossible for those without existing water rights to access freshwater.

Water resources necessary to sustain the reasonably foreseeable needs of future generation have not been provided for.

The RMA has failed to achieve purpose 5.2(a).

The Environmental Defence Society describes New Zealand as enduring a "biodiversity crisis".<sup>18</sup>

In its latest assessment of New Zealand's environment, the Ministry for the Environment finds that biodiversity has "declined significantly".<sup>19</sup> While extinction risk has improved for 26 species monitored by the Ministry over the past decade, it has worsened for 86 species in the past 15 years.

Waterways in rural areas are polluted. Over 70 per cent of river length in pastoral farming areas have modelled nitrogen levels that can affect aquatic species and 82 per cent of river length in pastoral farming areas is not suitable for swimming. Almost all (94 per cent) river length in urban areas is unsafe for swimming and contains nitrogen levels that can affect aquatic species.

Of concern, the true extent of increasing and decreasing risks to New Zealand's environment is unknown with significant gaps across some areas.<sup>20</sup> This in itself highlights a failing of the current monitoring system which has not kept pace with changes to the life supporting capacity of the environment.

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<sup>18</sup> Marie A. Brown, R. T. Theo Stephens, Raewyn Peart and Bevis Fedder, *Vanishing Nature: Facing New Zealand's Biodiversity Crisis*, 2015.

<sup>19</sup> Ministry for the Environment, *Environment Aotearoa 2019: Summary Report*, 2019.

<sup>20</sup> Ministry for the Environment, *Environment Aotearoa 2019*, 2019.

The life-supporting capacity of air, water, soil, and ecosystems has not been safeguarded.

The RMA has failed to achieve purpose 5.2(b).

While many effects, including those likely unforeseen by the architects of the RMA, have been avoided, remedied and mitigated, cumulative effects have not.

The RMA has not been able to avoid, remedy or mitigate gradual degradation of waterways from land use change.

The RMA has not been able to avoid, remedy or mitigate gradual depletion of ecosystems and biodiversity.

The RMA is not well suited to avoid, remedy or mitigate gradual increases in carbon emissions.

The RMA has failed to adequately achieve purpose 5.2(c).

### **C. The RMA-based system has failed to achieve its purpose**

Thus, while we agree that technological and environmental changes since 1991 warrant a review of the RM system, we think it is important to note that the overriding necessity for this review is that the RMA-based system we have had in place for 30 years has failed.

To be clear, the RM system has not failed at all times, in all places and for all people. We note and agree that the RM system has had some successes, including reduction of point source contamination of waterways. It is also true that the RM system has resulted in major benefits for some New Zealanders, particularly those with existing land and water rights which have been insulated to change and in a position to capitalise on demand.

The system has, rather, failed to substantively achieve its purpose set out in its leading Act, the RMA, to promote the sustainable management of natural and physical resources, where sustainable management means providing for social, economic and cultural wellbeing while sustaining, safeguarding and generally protecting the environment.

Acknowledging substantive failure and not just that it is time for a review is a first necessary step to providing a recommendation which does substantively deliver wellbeing while protecting the environment.

- **Recommendation 1:**

The Panel is clear that the RMA and wider RM system has failed to achieve the purpose of the RMA to promote sustainable management.

## **PART 2:**

### **Why the RM system has failed to achieve its purpose**

The Panel identifies 12 reasons why the RM system has not responded effectively or, in our assessment, has failed to achieve the RMA's purpose.

We agree with each reason and commend the Panel on its clear and comprehensive analysis.

We would add one further reason, which is an absence of price signals to reflect public investment in physical resources which enable the use of scarce natural resources.

#### **A. Reason 13 for RM system failure: Weak price signals**

Under the current system, owners of natural resources do not generally pay a charge or "rent" to authorities for usage rights: no one "owns" water itself, with water rights attached instead to property ownership and water charges, where applied, reflecting infrastructural needs; property charges are imposed as a "rate" to reflect local public services provided to the land, rather than a "tax" or charge on land and water ownership itself.

There are exceptions, including in the marine and mineral sectors, where central government does impose usage fees.

But for the great majority of resource management activities which impact people and communities, natural resource rights are incorporated into property values and traded between owners. Home, farm and other property sales values rise and fall in regard to real and perceived scarcity, with owners of property capturing (or, in some cases, losing) value.

The issue with this approach is that natural resources in themselves often have little or no value independent of publicly provided services which enable these resources to be utilised.

If the road in front of a house were to suddenly close, it (by which we really mean the land upon which the house sits) would have greatly reduced value.

Likewise, when planning approval for a new development is confirmed, land value increases. When public infrastructure to unlock that land is committed, its value rises further, irrespective of an affected landowner's actions, intentions or desires.

In general, when publicly subsidised services like transport, parks, water and schools are provided to a location, land values rise in response to improved amenity. This rise in land value represents a transfer of wealth from taxpayers to affected property owners.



But if public funding is limited, which it is, then public investment decisions must be made on the basis of where most value can be provided. Public service providers must anticipate where demand will be highest and make investment decisions based on these assumptions.

If wider service providers and local landowners do not respond in the way anticipated, for example, by delivering new infrastructure and homes, then the value of that public investment will diminish.

Price signals to landowners and other rights holders of limited natural resources are needed to ensure private decisions regarding natural resources do not undermine public decisions regarding infrastructure and other services.

It is the weak level of price signals on land (through cost-based property rates), on water (which is legally free and not easily tradeable) and, increasingly, on air emissions which contribute to private decisions being made which conflict with public outcomes.

Stronger price signals on air, land and water access to reflect levels of relevant public investment and incentivise natural resource owners to act in alignment with community wellbeing would have assisted the effectiveness of the RM system.<sup>21</sup>

Price signals are important because they not only impact the beneficiaries of investment, but the providers of public investment.

Whether by user-pays or by taxes which increase in proportion to the value of services received (i.e. a land tax, but also corporate tax, GST and income tax where business productivity improves in response to public investment), efficient price signals provide a revenue stream with which to fund investment which activates natural resources.

Weak price signals have undermined revenue for infrastructure providers leading to misuse of the planning system; councils have limited the supply of natural resources, particularly land, to manage down costs, something we commend the Panel for highlighting.

Stronger price signals relating to land value, as a proxy for the value received from public services, or full application of user pays for infrastructure services would have helped public agencies respond to demand and incentivised them to manage natural resources more equitably and efficiently.

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<sup>21</sup> Alternately, much greater use of user pays to limit private capture of public investment or public “overbuilding” to guarantee enough private decisions align with public outcomes could have improved RM system performance.

## **B. Addressing the key reasons for RM system failure**

We note the issues highlighted by the Panel in the Issues and Options Paper.

We agree that the issues raised by the Panel are important. However, we also note the orientation of these issues leans towards the existing RM system, which we consider to have substantively failed.

Our preferred approach is to retain focus on the reasons for the current system's disappointing performance and propose a framework which addresses these reasons from a "first principles" perspective. Addressing the reasons will, in our view, also resolve the main body of issues identified by the Panel.

Our analysis of the Panel's 12 reasons plus our additional reason points to just two key issues underlying RM system failure.

First and most notably, the permissive, effects-based orientation of the current system which heavily devolves resource management decisions down to affected parties and away from strategic public outcomes is the key contributor to most of the reasons for suboptimal resource management.

The permissive effects-based approach has led to:

- i. **Lack of clear environmental protections** – clear environmental protections are less easily reconcilable with devolved effects-based resource management. The essence of devolution is recognition that local issues and appropriate responses are different, whereas clear environmental protections reduce the scope for individual local approaches.
- ii. **Lack of recognition of the benefits of urban development** – the tangible and specific negative effects of development will always be prioritised above general public benefits under an effects-based regime because negative effects are definable and immediate, but positive future outcomes are hard to define and realised in the future.
- iii. **A focus on managing the effects of resource use rather than planning to achieve outcomes** – planning to achieve outcomes is the opposite of managing effects.
- iv. **A bias towards the status quo** – incumbent parties perceived to be adversely affected engage in the process while those standing to benefit from change perceive few impacts and are underrepresented.
- v. **Lack of effective integration across the resource management system** – the focus on effects and the ability of those affected to object has undermined wider long term planning and strategy.
- vi. **Excessive complexity, uncertainty and cost across the resource management system** – the interface between the effects-based RMA and outcomes-based LTMA and LGA impede plan making and increase the need for legislative workarounds.
- vii. **Lack of adequate national direction** – the devolved approach to managing effects increases the complexity and appropriateness of meaningful national leadership.

- viii. **Weak and slow policy and planning** – affected parties can relitigate decisions and the complexity of interpreting various planning documents lengthens document development.

Second, governance arrangements which devolve important and often complex planning and environmental decisions to small, under-resourced and poorly incentivised councils account for most of the remaining reasons, including:

- ix. **Weak compliance, monitoring and enforcement** – many local authorities lack the scale to properly resource compliance, monitoring and enforcement and invest in innovative new tools.
- x. **Capability and capacity challenges in central and local government** – devolution has left central government unable to adequately represent the national interest in planning decisions and local government’s limited activities in social and economic development have left plans underinformed on the wider impacts of planning decisions.
- xi. **Weak accountability for outcomes and lack of effective monitoring and oversight** – central government has devolved responsibility for planning and the environment down leaving no one to oversee the whole system.
- xii. **Weak price signals** – councils have limited exposure to the social and economic costs and benefits of planning decisions and use the planning system to reduce council costs even where decisions increase net costs to residents, businesses and central government.

Our analysis of the reasons for RM system failure identifies **Insufficient recognition of the Treaty and lack of support for Māori participation** as the only issue outside of two key problems relating to the effects-based planning approach and misallocated governance responsibilities.

If New Zealand can reorient the planning system towards outcomes and realign governance responsibilities then 12 of the 13 leading reasons for system failure will be been addressed.

- **Recommendation 2** – the Panel explores approaches to resource management which move away from the effects-based approach.
- **Recommendation 3** – the Panel investigates a restructuring of responsibilities, roles and powers across governing bodies to align planning with funding and governance.

## **PART 3:**

### **Fixing New Zealand’s resource management system**

#### **A. Recommendation 2 - Moving away from effects-based planning**

Infrastructure New Zealand has examined a number of different resource management, planning and governance systems internationally which seek to achieve the same broad objectives of the RMA and wider RM system, specifically, to provide for social, economic and cultural outcomes while sustaining the environment.

Each country and system is different, reflecting respective geographies, cultures, political systems, stages of development and other factors.

However, each approach consists of a blend of two different means of sustainably reconciling demands for finite air, soil, water and ecosystem resources while enabling outcomes which benefit all of society:

- “Bottom-up” resource management – where rights to develop, use water and consume other natural resources are settled independent of government policy and through some form of negotiation or settlement between affected parties.
- “Top-down” resource management – where decisions to utilise natural resources are determined politically and aligned with wider strategic objectives.

#### **Bottom-up resource management**

Under the bottom-up approach, demands for natural resources are reconciled between interested parties themselves, rather than allocated by governing authorities.

Property rights under this model more strongly rest with existing owners and rights holders of natural resources.

Government generally receives little or no revenue from natural resources, as this implies ownership. In a country like New Zealand, for example, no one “owns” water itself, with water rights attached instead to property ownership. Property charges are imposed as a “rate” to reflect public services provided to the land, rather than a “tax” or charge on land and water ownership itself.

The advantage of bottom-up resource management systems is the protection of private property rights and the according empowerment and certainty brought to individuals and communities. Land and other rights owners possess tangible value which can then be used as collateral to invest and support economic development.

The key challenge for bottom-up resource management systems is the promotion of society wide economic, social, cultural and environmental wellbeing. Private ownership of critical resources can impede authorities from allocating natural resources across all levels of society, increasing inequality.

Examples of bottom-up resource management systems include those in many states in the USA, such as Texas.

#### **Resource management in Houston, Texas**

Houston, Texas is an example of a resource management system which relies much more heavily on bottom-up allocation of natural resources than top-down.

With no comprehensive system of zoning, the metro-region of Houston relies heavily on markets to reconcile demands for natural (land) and physical resources. Individual property rights are strongly respected and there are comparatively few limitations on what a landowner can do with their land (outside of areas with covenants). Physical resources which carry value for land (e.g., roads, pipes, sewers, etc.) are either funded through user pays systems or through property taxes.

Resource management outcomes are by and large the product of individuals making decisions about how to use their air, land and water, within the law. Long term strategic planning is used to minimise impact on private property rights and comparatively high property taxes (averaging 2 per cent across the state compared to around 0.25 per cent in Auckland) provide a price signal to landowners of the value of their land.

The combination of price signals with planning flexibility has resulted in a very responsive system to rapid urban growth. Development closely follows demand, enabling property prices to remain affordable and stable at between 3 and 3.5 times median income. As a result, discretionary income in the city is high and the city is very attractive to migration.

At the same time, environmental pressures have grown as limitations on private property rights are difficult to enforce. Areas are sinking as the water table has reduced. Carbon emissions are high as flexible development combined with low fuel prices enable urban expansion and the dynamic nature of land use change has led many to criticise the city's urban form.

#### **Top-down resource management**

At the opposite end of the spectrum is top-down resource management. Under this approach, authorities play a stronger role in determining how natural resources are allocated and shared across society.

Ownership of natural resources under this model is weighted more heavily in favour of the state, rather than individuals, groups or businesses.

Through increased control of natural resources, governing bodies can allocate land, water and other resources to activities like housing and agriculture in accordance with government policy.



Public outcomes are prioritised above private property rights, with greater degrees of land acquisition and stronger guidance as to the optimal use of land and other natural resources.

The advantage of top-down resource management systems is the promotion of public outcomes. Economic, social and environmental wellbeing can be actively provided for through the allocation of soil, air, water and ecosystem resources in alignment with policy. Authorities can influence and even set the price of natural resources, enabling infrastructure, housing and other services to be delivered quickly and affordably.

The disadvantage of top-down resource management systems is the potential for infringement on perceived property rights and according impact on wider economic confidence. Since the value of resources is ultimately determined by government policy, there is a risk of misallocation and suboptimal utilisation of limited resources.

Examples of top-down resource management systems include those in Singapore and China, as well as pre-1984 New Zealand.

#### **Resource management in Singapore**

Singapore is an example of a resource management system which relies heavily on top-down management of natural resources.

The state owns roughly 80 per cent of land in the county, including a similar proportion of land under housing, having acquired most land following independence. The country's limited water resources are controlled by a public utility and the state's strong integrated management of the water cycle has overcome barriers to enable wastewater recycling.

A comprehensive outcomes-based planning system integrates strategic and land use planning. Demands for housing, transport and other land uses are forecast and the state ensures sufficient land and water is available to meet growth. The masterplan identifies where and when housing is required to be revitalised or intensified to meet growth. Implementation is comprehensive. There are limited opportunities for affected communities to oppose planned improvements.

House prices are very affordable for such a land constrained country, at under 5 times median income, but housing choice is determined by the Government. For those unable to afford their own home, and who meet social thresholds relating to age and marital status, heavily subsidised housing is available. Access to quality housing and water (as well as healthcare, education and other public services) is equitable and close to universal for Singaporeans.

The environment is increasingly well protected. Carbon emissions are quite high, due principally to lack of renewable electricity options. Vehicle emissions are low and the Government controls ownership and manages demand to achieve economic, social and environmental outcomes.

Historic environmental impacts have resulted from major land reclamation to support development, but decisions to reclaim are balanced against alternatives including land acquisition and reduced land supply.

### **There is no perfect system**

No resource management system which we have examined is universally supported and each comprises elements of both top-down leadership and bottom-up individual and community resolution.

In Texas, authorities still retain and enforce acquisition powers. Long term planning which involves the forward application of resource management is used to try to lessen the impact on private property rights, so affected parties are informed.

In Singapore, public consultative procedures do exist and help shape national and community priorities.

In other systems, including across the UK and in Australia and Canada, hybrid approaches are preferred. These can and do work where individuals, communities and authorities share ownership of natural resources, each effectively giving up rights and control in the interests of balancing private wellbeing with public.

### **But New Zealand's effects-based system is different**

New Zealand's RMA-based system of resource management is fundamentally different from approaches we have examined elsewhere.

It is neither top down nor bottom up.

Neither individuals nor the public in general appear to truly "own" natural resources; all those who claim to be affected by changes in those resources do.

The result is legal property owners who are impeded from responding to market and price signals which reflect demand for resources, particularly land, and authorities who struggle to optimise shared natural and physical resources for the public good.

### **It is difficult to see how effects-based management can work**

As long as those who are affected by changes in natural and physical resources are deemed to have rights to those resources but bear no cost of their acquisition and maintenance, the effects-based approach will produce the reasons for poor performance set out above and by the Panel.

Strategic planning, particularly, effective and efficient long term spatial planning will be undermined once the effects of long term plans become realised.

It may be possible to price entitlements to natural and physical resources, including through imposition of a material land tax (as distinct from a “rate”).<sup>22</sup>

With a land tax as well as water and air emissions charges and trading systems in place, effects would materialise as changes in land values and, in turn, taxes paid.

Rather, then, those affected by resource management decisions contesting through planning and legal processes rights to natural and physical resources, the financial system would operate as a proxy for the value of those effects.

We have, however, highlighted the economic efficiency, equity and opportunity of land tax many times in the past, and there has so far been very little public or political support for such an approach.

Support for effects-based management appears rooted much more strongly in the ability for existing rights holders to minimise change and impacts on perceived rights than pay for those changes, impacts or the benefit they get from existing rights.

We cannot see how effective long term strategic development planning (“spatial” planning) can be performed under an effects-based model.

### **We support an end to the effects-based approach**

The priority for a revised RM system should be to facilitate a movement away from effects-based management of natural and physical resources.

The Panel may wish to move in the direction of a bottom-up system where legal owners of natural and physical resources are permitted broad scope to utilise their resources. Under this approach, representing general public ownership rights to air, land and water resources, in particular, is more challenging. Carefully balanced taxes, charges and other price signals, together with clear and effective long term planning, are necessary to promote private decisions which achieve public outcomes.

Alternatively, the Panel may wish to move more in the direction of top-down resource management. Under this approach, the common ownership of natural and physical resources would be given precedence over private ownership and authorities would work to allocate and reallocate finite resources to maximise public outcomes. Private property rights as currently understood would need to evolve.

### **We support a hybrid top-down/bottom up approach**

Our preferred approach for managing natural and physical resources would comprise elements of both top-down and bottom-up models.

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<sup>22</sup> A land tax would reflect in all land ownership the total amenity of associated air, land and water rights at a given point in time, rising and falling as the value of amenity is impacted by changes in nearby natural and physical resources.



Central government would set national direction, including priorities for economic, social and cultural development.

Authorities would set clear rules and bottom lines for the usage of air, land, water and physical resources to ensure the environment is, broadly speaking, protected and enhanced.

Regional strategic spatial plans would identify areas for development and non-development, corridors for infrastructure and environmental zones for improvement, as well as other regionally and nationally significant spatial elements.

Spatial plans would be consulted on publicly and agreed.

They would be audited to ensure it could respond to foreseeable demands for housing, employment, recreation, environmental achievement and other key performance indicators.

They would be reviewed regularly and provision would be made for new growth areas and activities, depending on community and market demands and opportunities.

Funding and delivery of public services, including land use planning and infrastructure operation, would be linked to the spatial plan; delivery of those services in alignment with the agreed spatial plan would be required.

The spatial plan may, for example, identify a transport corridor. By virtue of being in the spatial plan, that corridor would be “consented” and funding would be agreed. When the time arose to add to or change that corridor, public discussion would consider, for example, the mode or the alignment within that corridor. It would not, however, relitigate whether the corridor was the right one or whether it was best used for transport or housing.

Similarly with private land resource decisions, the spatial plan would identify areas for private housing and development. The spatial plan could zone that land or a separate land use planning process to implement the spatial plan could provide zoning. Regardless, once zoned, activities within that zone and which do not breach the conditions of land use, would be consented. If the zone allowed for up to three level apartments, this activity would not require resource consent and would not be subject to relitigation.

Individuals, businesses and public service providers would be given some scope to operate flexibly within the terms of their consents to ensure public outcomes are promoted “from the top-down.”

Once the terms of those permissions are agreed, individuals, businesses and public service providers would be given full rights to operate within the terms of those permissions, shaping outcomes “from the bottom-up.”

In our view, such a structure, set out in greater detail in our attached *Building Regions: A vision for local government, planning law and funding reform*<sup>23</sup> report would help reconcile the need for public outcomes to be promoted at the same time as property and community interests are represented.

Whether the Panel agrees with each of these proposals is for us less important than the key point that New Zealand must move away from an approach which emphasises reaction to individual effects over the promotion of strategic public outcomes and national wellbeing.

The RM system architecture needs a design which overcomes the effects-based tendency of the current framework. It is for this reason that we have advocated for a splitting of the environmental protection components of the RMA from the broader planning components.

Again, whether the Panel agrees that legislation should be combined or separate is less important than a framework which ensures strategic priorities are identified and promoted, not relitigated based on predominantly environmental effects.

## **B. Recommendation 3: Realigning governance roles, responsibilities and powers**

Much more important, in our view, than integration of environmental protection with planning is the integration of plans with the ability to deliver those plans.

Delivery of plans relating to the RM system means that strategic plans (including vision of where communities, cities, regions and the nations want to go) are integrated with land use plans (providing legal RM powers) and investment plans (which not only identify, but commit, public funding) and governance arrangements.

For spatial planning to be effective, spatial plans must be delivered. To be delivered, spatial plans need to be funded. To be funded, bodies overseeing investments need to benefit from investments made and have the ability to raise resources.

If entities responsible for delivering plans and elements of plans are not incentivised or capable of performing their role then implementation will fail and so will plans.

We strongly encourage the Panel to consider whether, in their preferred model, public institutions have both the willingness and the ability to ensure plans, and therefore public outcomes, can and will be delivered.

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<sup>23</sup> Available at <https://www.infrastructure.org.nz/reports>



Following on our work with Resource Reform New Zealand, Infrastructure New Zealand has extensively considered the structure that an effective resource management system ought to have. The structure of the necessary reforms is outlined in our attached 2019 *Building Regions* report.

## Conclusion

The current RM system has failed. It has failed because of poor strategic planning, a focus on managing effects rather than striving for outcomes, and lack of funding.

We believe an outcomes-based spatial planning process, supported by an overhaul of governing resources and responsibilities in New Zealand is required to see proactive action taken to safeguard the environment, build healthy communities, and create prosperity for future generations.

We support this review and encourage the Panel to take an ambitious and whole-of-system approach to their proposed reforms.

If the Panel finds that there is inadequate time to complete its review, we support the Panel's request for additional time and/or a secondary phase.

We thank the Panel for the opportunity to comment.

Paul Blair,

CEO, Infrastructure New Zealand