

A 'blue skies' discussion about New Zealand's resource management system

A discussion document prepared for LGNZ by MartinJenkins

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**We are.
LGNZ.**

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Foreword

Foreword

The Resource Management Act (RMA) is now 25 years old and has, for some time, been showing its age. Previous attempts at substantive reform have stalled for a number of reasons. As a result, LGNZ has decided that it is time to undertake a serious look at our environmental management framework. What should a 'fit for purpose' resource management regime which works for communities, businesses, regional economies and New Zealand's environment look like? To answer this question we have put together a representative group of experts and practitioners and asked them to do some 'blue skies thinking' and this thinkpiece is the result.

Over its lifetime the RMA has been subject to 21 substantive amendments with the result that it is now a very large, complex and unwieldy piece of legislation. Consequently one of the questions we now face is whether the focus should be on continued evolution or whether we need a more revolutionary approach to resource management.

There has been no shortage of debate. Changes have been made to institutional design, decision-making criteria and the balance between national direction and local autonomy. Yet no substantive change to the overall system has followed.

The timing of our thinkpiece has been propitious. An RMA reform Bill which proposes some very significant changes to the statute has recently had its first reading in Parliament. This Bill goes to the heart of the issue regarding what decisions should be made centrally and what should be made locally. In addition the Government has asked the Productivity Commission to also do some blue skies thinking about the nature of New Zealand's urban planning system. A final report is expected to be published towards the end of 2016.

As our thinkpiece highlights, these persistent questions, repeated amendments and experiments, and the current public debate on the resource management system beg the question – is New Zealand's resource management system still fit-for-purpose?

This thinkpiece has not answered the question whether the right option is "evolution" or "revolution" of the resource management system. What it has done is highlight the tensions within the current system and examined what New Zealanders want from a resource management system. I believe that LGNZ's 'blue skies' discussion document about New Zealand's resource management system will make a valuable contribution to the current debate over New Zealand's resource management framework and I'm excited that we have taken this lead. Local government is, after all, the sphere of government that communities look to, to provide certainty and direction about matters concerning place.



Lawrence Yule
President
Local Government New Zealand

1

A 'blue skies' discussion

1.1 Is New Zealand's resource management system still fit for purpose?

Is it safe to swim in that stream? How far can I extend my house? What path should this motorway follow? Can I grow oysters in this estuary? How should we manage the remnant patches of forest in our district to maintain a healthy population of kiwi? How much water can I take from this river?

Thousands of questions like these are asked every day across New Zealand – we answer them through the framework created by our resource management system.

New Zealand's resource management system spans conservation on public and the protection of biodiversity on private land; management of the coastal environment and Exclusive Economic Zone; management of the effects of resource use and development on land, air, freshwater; infrastructure planning, funding and delivery; governance and decision-making. It determines who gets to make decisions and how they are made. It prescribes the factors that decision-makers need to take into account and their relative weight in decisions. It also establishes a framework for balancing local aspirations and expectations with regional and national considerations.

Elements of New Zealand's resource management framework were considered world leading at the time of their introduction. The management philosophy of the Resource Management Act 1991 (RMA) – focused on managing the negative effects of activities rather than the activities themselves and nested within a framework that prioritises the healthy functioning of natural ecosystems – gave shape to emerging concept of "sustainable development"¹ and has influenced the design of many other resource management regimes around the world. On the other hand, some elements of the resource management framework have been slow to emerge and are just now starting to function – New Zealand's framework for managing its Exclusive Economic Zone, for instance.

Recent events such as the Canterbury Earthquakes and extreme pressure for growth in Auckland, as well as emerging issues such as changing climate and the spectre of sea level rise have begun to prompt questions about the performance of New Zealand's resource management framework in the contemporary context. How effectively can the system deal with natural hazards? Should

the same system should apply in metropolitan and rural New Zealand? Is the system flexible enough to ensure processes are proportional and efficient? How can the operational performance of councils be improved?

These questions are not new – the performance of our resource management system has been a routine topic of debate since its core elements were put in place in the late 1980s and early 1990s. Since its introduction the RMA, sitting at the heart of the resource management system, has been amended substantively 21 times to address emergent issues, gaps, oversights and inefficiencies, and is now a very large and complex piece of legislation. Although these concerns are not new, the debate over the performance of the resource management system has intensified in recent years, and we are living through a period of experimentation. Core attributes of the system, including governance arrangements, institutional design, decision-making criteria and the balance between national direction and local autonomy have been modified through targeted changes to the system across the country.

These persistent questions, repeated amendments and experiments, and the current public debate on the resource management system beg the question – is New Zealand's resource management system still fit for purpose?

1.2 Focus on the planning Acts at the core of New Zealand's resource management system

Before we can answer whether the resource management system is fit for purpose, we need to define the boundaries of what can be a rather diffuse system. Although the RMA is at the heart of the system, the Local Government Act (LGA) and the Land Transport Management Act (LTMA) (the Acts) have a significant bearing on the location, nature and timing of infrastructure development. Decisions under these three Acts affect the nature of both urban and rural development patterns and influence, or sometimes even determine, the extent of property rights and actions of individual land owners.

Similarly, decisions on the location of schools, hospitals and social services, or even the impact of regulations governing the supply of drinking water and sanitation requirements, all have implications for resource management planning and decision-making.

¹ <http://www.un-documents.net/our-common-future.pdf>

While the Acts that govern the management of New Zealand’s Exclusive Economic Zone and conservation estate are undoubtedly part of the resource management system, they are largely focused on discrete issues and geographies, are less influenced by or dependent on decisions made through other Acts within the system and are somewhat self-contained.

Because of the influence they have on the exercise of private property rights, the extent to which they determine where, how and when public money is spent and the influence they have over New Zealanders’ day-to-day interaction with the natural and physical environment, we believe that discussion on the future of the resource management system should rightly focus, at least in the first instance, on the planning statutes that sit at the core of the resource management system – the RMA, LTMA and LGA.

The RMA is the key statute for managing New Zealand’s land, air, soil and water

Many regard the RMA to be New Zealand's principal legislation for environmental management. It is important to note, however, that while its purpose is to promote the sustainable management of natural and physical resources, sustainable management is defined broadly as “managing the use, development and protection of natural and physical resources in a way, or at a rate which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while-

- Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and
- Safeguarding the life-supporting capacity of air, water, soil, and ecosystem; and
- Avoiding, remedying or mitigating any adverse effects of activities on the environment.”

The RMA, therefore, enables action within bottom lines. The RMA achieves this by:

- Defining the responsibilities of local and regional councils, and requiring them to develop plans that show how they will manage the natural and physical environment.
- Creating a hierarchy of regulatory planning documents – from national policy and standards, to regional policy statements and district and regional plans.

- Establishing processes for allocating resources and managing externalities of resource use – including the role of the Court in ensuring the quality, and legality of decisions, and safeguarding natural justice in resource management decision-making.

The LTMA sets out the planning and funding framework that channels around \$3 billion of central government funding annually into roading, public transport and traffic safety

Specifically the legislation:

- Establishes the hypothecated (dedicated) National Land Transport Fund that funds the NZ Transport Agency and local government to deliver land transport projects and services.
- Sets out the central and local government transport plans that must be followed in order to allocate funds from the National Land Transport Fund to projects and services.
- Establishes the NZ Transport Agency, which is responsible for allocating the National Land Transport Fund, co-funding local road and public transport activities, and managing the state highway network.
- Sets out approval regimes for tolling new roads and for public private partnerships.
- Sets out the legislative framework for planning and managing public transport.

The LGA provides the general framework and powers under which New Zealand’s local authorities operate

The statute provides:

- The structure of local government and the mechanisms for altering that structure.
- Principles for the governance and management of local authorities and community boards.
- A governance and accountability framework for local authorities' involvement in arms-length organisations - council-controlled organisations and council organisations.
- A framework for consultation, planning, decision-making, financial management, and reporting – including requirements to produce long-term plans, annual plans, annual reports and pre-election reports.

- A range of obligations, restrictions and powers, including requiring local authorities to assess their communities' needs for water, and wastewater and sanitary services, and placing an obligation on local authorities to provide water services to ensure continued public ownership of water services.
- The powers of the Minister of Local Government in relation to local authorities.

Decisions under these three Acts at the core of the resource management system work together dynamically

Taken as a system, these Acts have a significant influence on the extent and health of the natural environment, the development of the human or physical environment, scope of private property rights, nature of resource-users' responsibilities, and the role and performance of public agencies. Political decisions under the LGA influence council strategy and direction, which are moderated through the framework provided by the RMA. Decisions under the RMA confirm the parameters within which local and central funding decisions made through the LGA and LTMA must operate. Through these Acts, therefore, decisions are made that:

- Determine the level of acceptable environmental impact associated with resource use and development;
- Shape the nature and determine the timing of urban growth;
- Allocate access to resources such as freshwater; and
- Set the conditions associated with use and development of resources.

Rightly or wrongly, these three Acts at the core of resource management system have been the source of significant criticism.

- The RMA has become a 'whipping boy' for those who see it as an inefficient handbrake on growth, and for those who feel it has failed to protect the environment from harmful use and development. Twenty-four years since its introduction the RMA has been amended 21 times² and is now nearly 700 pages in length including over 400 main clauses. The last five years alone have witnessed:

a significant overhaul of the RMA to speed plan-making processes and address anti-competitive use of the statute; the introduction of an Environmental Protection Authority and national consenting function; targeted reforms to change governance arrangements, introduce new decision-making criteria, and appeal processes in Auckland, Waikato and Canterbury; and a suite of regulations, policy statements, standards and non-statutory guidance. Over the same five-year period a series of technical advisory group reports and discussion documents have canvassed even more significant reforms to increase the competitiveness of our cities, facilitate infrastructure development and reform New Zealand's freshwater management regime.

- There is persistent tension over the performance of councils in terms of their environmental responsibilities and the efficiency of their operations – frustration persists despite efforts to improve processes over a number of years. Partly due to these frustrations, the purpose of the LGA has been narrowed to focus on service provision – encouraging councils to limit the scope of their aspirations. This tension is perhaps a symptom of underlying conflict in New Zealand between different views of the proper role of public agencies. Some believe councils should be custodians of a process for resolving disputes between different parties and managing externalities. Others believe they should be more active and take responsibility for 'place-making' and setting and achieving outcomes or visions desired by the community (recognising that resolving disputes between parties and a role in place-making are not mutually exclusive).
- The LTMA can find itself caught uncomfortably between the RMA and LGA, and its effectiveness hampered by lack of connection between the planning, funding and delivery elements of the resource management system – leading to time consuming and costly processes which we can scant afford.

² Not including indirect amendments to the RMA such as the introduction of the Housing Accords and Special Housing Areas Act 2013, the now repealed Foreshore and Seabed Act 2004 and its replacement, the Marine and Coastal Area (Takutai Moana) Act 2011, and the Resource Management (Temporary Commissioner and Improved Water Management) Act 2010.

Debate on whether the resource management system is fit for purpose appears to be driving towards change – the option of ‘no change’ or persisting with the almost annual cycle of tinkering does not appear to have much support. Rather, than “is change required” the question seems to be “how much change is required?” So what do we stand to gain from change, and what do we risk?

1.3 What do we stand to gain (or lose) from resource management reform?

New Zealand is blessed with easily the largest endowment of renewable natural capital of any country in the OECD, a relatively unspoilt environment and a developed economy.³

- New Zealand’s farming, forestry, fishing and horticultural industries are the backbone of the economy – 40 per cent of New Zealand’s foreign exchange earnings are from primary products, predominantly dairy, red meat and logs. The Government’s Business Growth Agenda aims to increase New Zealand’s ratio of exports to GDP to 40 per cent by 2025.
- New Zealand is a desirable destination for tourists and skilled migrants alike due in some part to the perceived purity of the natural environment, the ease of access to relatively unspoilt natural environments and the healthiness of our lifestyles. From being a relatively minor sector two decades ago, tourism now directly and indirectly contributes just over 7 per cent of New Zealand’s GDP and accounts for nearly 8.3 per cent of total employment. Despite having a lower GDP per capita than many countries we compare ourselves to (eg UK, Australia and Denmark) New Zealand performs very well on international comparisons of quality of life and general wellbeing⁴.
- New Zealanders themselves place a great deal of importance on the quality of the natural environment either for intrinsic or recreational reasons – in the 2005 Massey University Values Survey⁵ the environment was given priority over economic growth by most respondents and the majority of respondents considered that economic

growth should not occur at the cost of environmental damage, and prioritised preservation of the environment over economic growth.

The core elements of our resource management system have been in place for some time now – while there are frustrations with the system, people have a basic understanding of how it operates

We have collectively invested significantly in the system and our capacity and capability to operate within it. Entire areas of professional practice have grown around helping us understand and navigate it and it has many tools that we’re only just beginning to see the benefit of. In tandem with a process of continual refinement, procedural improvement and targeted interventions on acute issues, continuing to work with the devil we know has considerable appeal to many.

Regardless of perception, the country faces significant challenges in the form of rising income inequality, declining water quality where land is used intensively, localised strong population growth, extreme rates of biodiversity loss and steadily rising carbon emissions.⁶ The critical question is whether yesterday’s tools – despite their flexibility and the period of refinement they have been through – will be suitable to deal with tomorrow’s issues or allow us to seize the opportunities that tomorrow holds.

With the right framework for managing natural and physical resources New Zealanders could position themselves to enjoy extremely high levels of wellbeing and prosperity well into the future

If designed and delivered well, New Zealand’s resource management governance and decision-making framework could be a key to unlocking the country’s potential. Many of New Zealand’s most profitable enterprises are the most efficient in terms of resource use or environmental impact, and there is continuing growth in market demand or market appreciation for products that have been produced sustainably.

On the other hand the cost of a poorly designed and implemented resource management system can be extremely high. It may undermine quality of life, separate us further from nature, undermine our national brand and defer the ever-increasing cost of short-sighted decisions to future generations.

³ The World Bank "The changing Wealth of Nations" 2010

⁴ OECD (2015), Better life index, Website: <http://www.oecdbetterlifeindex.org/>

⁵ Rose, E. Huakau, J. Casswell, S. (2005), Economic Values: A Report from the New Zealand Values Study 2005, Massey University.

⁶ <http://www.mfe.govt.nz/publications/environmental-reporting/environment-aotearoa-2015>

These are costs we cannot afford and that many of us are no longer willing to tolerate.

There is a wide appreciation that we live in and are fundamentally dependent on the environment. There is also an appreciation that as well as providing intrinsic values the environment gives us ecosystem services that we can't or can't affordably replicate. From this stems unambiguous support for retaining an ethic of environmental stewardship in our resource management system with the ongoing health of the natural environment the central objective.

But in spite of consensus at this level, our current resource management system is the vehicle to reach compromise between the different social, cultural and economic values held by parties. A resource management system that is able to effectively defuse conflict, encourage and support sustainable production, facilitate growth in economic performance and increase social wellbeing would be an asset for New Zealand and would provide New Zealanders with a competitive advantage in an increasingly resource-constrained and resource-hungry world.

1.4 A roadmap for discussion

In many respects New Zealand's economy depends on natural resources – our productive and tourism sectors trade directly off the natural environment and what it provides, and our ability to attract and retain skilled workers in a global market is influenced by the way we manage our natural and physical resources. We make far-reaching decisions on the nature of private and public rights and responsibilities through the resource management system, and it is critical that we have the settings of this system tuned correctly.

It is time for a 'blue skies' discussion about the future of the resource management system

Against a backdrop of consistent change and with the promise of both more and more fundamental change on the horizon, Local Government New Zealand (LGNZ) believes it is timely to step back and consider the big picture and the long game.

Before we rush to a particular conclusion or push a particular solution to perceived problems, we should transparently and collaboratively explore what New Zealanders want to achieve

with their natural and physical environments, evaluate whether the resource management system is able to support this objective, investigate what a fit-for-purpose resource management system could look like, and carefully work through options for reform.

This thinkpiece reflects LGNZ's desire to stimulate a robust discussion about a fit-for-purpose resource management system in New Zealand.

This thinkpiece is intended to both prompt and assist a high quality national level discussion on what is required to deliver a fit-for-purpose resource management system. We begin by briefly discussing the context – both current and emerging – within which the resource management system needs to function. We then ask what kind of future New Zealanders want, and propose some common goals based on our day-to-day grassroots experience with New Zealand communities. This provides the contextual backdrop against which we discuss some issues with the RMA and the resource management system, and highlight some of the ways the New Zealand resource management system has been evolving to deal with these issues, along with trends in other jurisdictions.

Finally we discuss the case for change, propose some options for consideration and feedback and present a series of questions to stimulate feedback.

The concepts in this thinkpiece will be developed further through a process of public consultation and expert input – your feedback on the questions and options we raise will help us refine our position, which we will shape in the first half of 2016. We hope this position will complement the work of others active in this discussion and be debated alongside the views of other leading stakeholders in New Zealand's resource management system.

Noting that the government's legislative reform programme is continuing and that the Resource Legislation Amendment Bill (2015) will be working its way through Select Committee in the early part of 2016, we look forward to sharing the perspectives expressed in this thinkpiece with other stakeholders. We also look forward to working with the New Zealand Productivity Commission and Ministry for the Environment as they proceed with their own reviews of the urban planning and resource management systems respectively.

2

The current and emerging context

One’s perspective on the performance of the resource management system – and whether and what changes may be required – is affected by one’s personal objectives, values and world view, as well as those of the general society. Objectives, values and world views can change with time and context, and New Zealand in 2015 is a different place to New Zealand in the late 1980s and 1990s when the core elements of the resource management system were designed.

2.1 Increasing resource scarcity and competition for access

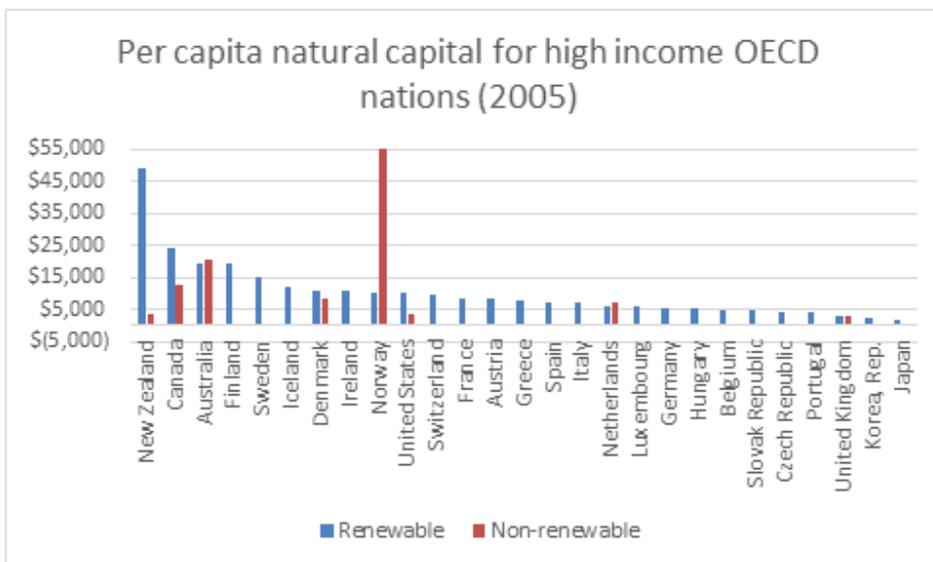
The United Nations projects that the global population could reach 10 billion soon after 2100. With new markets and a growing middle class in developing nations, many expect demand for commodities such as timber, meat and dairy to continue to rise.⁷

While New Zealand’s climate and high levels of natural capital (see Figure 2.1 below) are a potential source of competitive advantage, domestically there is already significant competition for access to these resources between commercial, community and environmental interests.

Recognising the value of what we have

This competition for resources has emerged during a time of transition in New Zealand, where the country has moved from a pioneering mindset – where our economy, jobs and infrastructure were geared around primary production, resource extraction and export – to a more balanced modern economy with an increasingly important service sector. During this shift, the focus of our primary sector has, to a greater or lesser extent, embraced business models founded in environmental stewardship and long term profitability rather than the continued drive to increase the volume of production. We have also begun to measure the impact of our actions and decisions and this has only reinforced how valuable our resources are both nationally and globally.

Figure 2.1: Per capita natural capital for high income OECD nations



Source: World Bank

⁷ The World Bank "The Changing Wealth of Nations" 2010

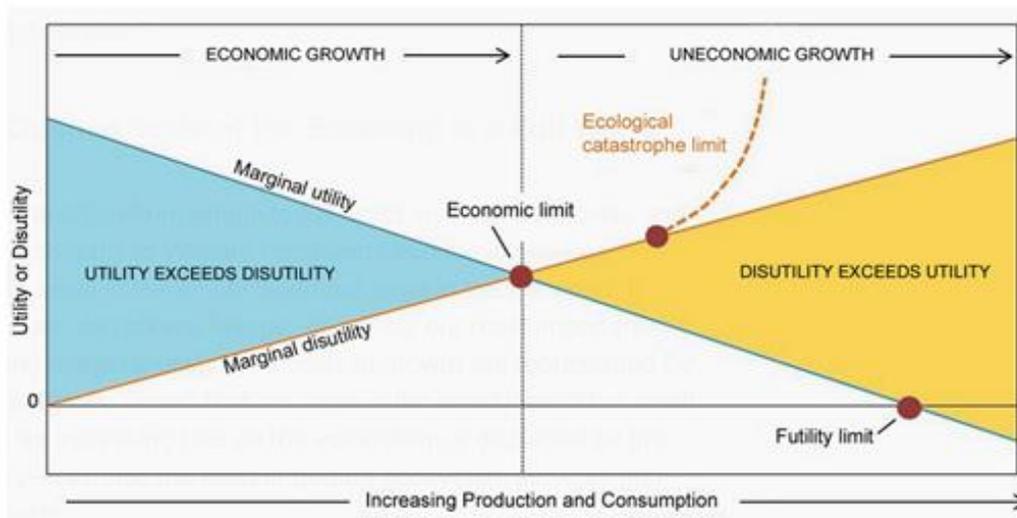
Since the 2007–2008 global food price crisis there appears to have been a worldwide increase in international acquisitions or long-term leases of arable land by companies or governments seeking to secure supply chains and insulate themselves from future price-shocks. The past few years have seen significant debate in New Zealand about the desirability of and ability to limit such acquisitions.

The dairy, fisheries, forestry and oil sectors all depend on resources provided by the natural environment, whether these be water, biodiversity, soil or fossil fuels. The environment also provides other important services such as carbon sequestration, water purification, flood management, and nutrient cycling. In addition to the direct contribution of primary products to New Zealand’s economy, a large proportion of New Zealand’s manufacturing sector relies on primary products as inputs, and large parts of the service economy exist to service primary and related processing industries. This provides a strong incentive to facilitate the production and export of primary products. At the same time, however, the role of tourism in New Zealand’s economy is increasing, and our international attractiveness as a destination is largely based on natural attractions and a perception of environmental purity – potentially pitting these two strong aspects of our economy and society against each other.

Some commentators suggest that we have reached, or are close to reaching the global limit of growth in a “full world”

Our historical perception of a boundless and limitless world has been overtaken by human population growth and resource demands, and the drive for continuing increases in material wealth has in fact begun to undermine wellbeing.⁸ In a “full world” the limiting factor to growth is no longer access to technology and labour; rather it is the carrying capacity of the environment itself. In general terms, the benefits and costs of growth have converged (see Figure 2.2 below). While others suggest that we can ‘grow the pie’ through tactical investment that will make existing resources go further, such as through water storage, at some point we risk overreaching the carrying capacity of the environment.

Figure 2.2: Limits to growth



Source: Daly 2005, *Economics in a full world*

⁸ Beddoe et al (2009) *Overcoming system roadblocks to sustainability: The evolutionary redesign of worldviews, institutions, and technologies*. PNAS. Vol 106., No. 8, pp 2483-2489

A particularly pressing and concerning example of this risk is the loss of productive soils. Estimates of soil loss vary depending on which classification of productive soil is used and what cause of productivity loss is a particular focus, but the trends are consistent – globally, we are losing staggering amounts of productive soil to desertification, salinisation, erosion and urban development. One estimate suggests the globe lost 150 million hectares of productive soil to urban development alone in the period 1985-2000.⁹ Other studies have shown crop yield reductions of between 30 and 90 per cent in Africa due to erosion, reductions of 25 to 50 per cent in Europe due to soil compaction, and an estimated 950 million hectares of the globe’s potentially arable land is affected by salinization.¹⁰

In New Zealand between 1990 and 2008, an average of 29 per cent of urbanisation occurred on productive soils (35 per cent in Auckland, 49 per cent in the Hawkes Bay, 34 per cent in Canterbury, 36 per cent in the Waikato and 27 per cent in the Bay of Plenty.) In addition to urbanisation, the expansion of lifestyle blocks or ‘hobby farms’ has impacted the potential utility of New Zealand’s most productive soils – they now occupy 873,000 hectares of New Zealand’s non-reserve land and 10 per cent of New Zealand’s productive soils.¹¹

A rough calculation of current rates of soil degradation suggests around 40 per cent of the globe’s agricultural soils are either degraded or seriously degraded. Under a business as usual scenario, degraded soil will mean that globally, 30 per cent less food will be produced over the next 20-50 years. This is against a background of projected demand requiring us to grow 50 per cent more food, as the population grows and wealthier people in countries like China and India eat more.¹²

2.2 A changing society

People and their wealth are concentrating in urban centres around the world – attracted by access to amenities, the prospect of jobs and proximity to markets

Reflecting this global trend the growth of New Zealand’s population, which is expected to reach 5 million by 2025, will be concentrated in the urban centres of the upper North Island, particularly Auckland (see Figure 2.3). Our expectations regarding the health of our natural environment also appear to be increasing.

While urbanisation increases the ability to pay for amenities and generates productivity benefits through agglomeration, the rate of population growth in Auckland in particular is putting pressure on the supply of housing, infrastructure and social cohesion. Perhaps most topical is concern about the unaffordability of the typical three-bedroom-with-land ‘kiwi home’, its wider social and cultural implications and the difficulty that urban planning regimes are having in providing for higher density housing typologies.

Efforts to increase supply through intensification of existing urban areas is variously challenged by highly fragmented land holdings, infrastructure capacity constraints or community opposition to new urban forms. Meanwhile, providing new land for development on the urban fringes can subject rural activities and extractive industries to reverse sensitivity pressures, and can prejudice future access to natural resource and be costly to service. There are also constraints on the supply of skilled labour to service this demand such as in the construction and transport sectors.

⁹http://www.nrcs.usda.gov/wps/portal/nrcs/detail/soils/use?cid=nrcs142p2_054028

¹⁰ Eswaran, H., R. Lal and P.F. Reich. (2001). Land degradation: an overview. In: Bridges, E.M., I.D. Hannam, L.R. Oldeman, F.W.T. Pening de Vries, S.J. Scherr, and S. Sompatpanit (eds.). *Responses to Land Degradation*. Proc. 2nd. International Conference on Land Degradation and Desertification, Khon Kaen, Thailand. Oxford Press, New Delhi, India.

¹¹ Andrew, R. and Dymond, J.R. (2012) *Journal of the Royal Society of New Zealand*. <http://dx.doi.org/10.1080/03036758.2012.736392>

¹² <http://world.time.com/2012/12/14/what-if-the-worlds-soil-runs-out/>

These pressures, coupled with broader infrastructure constraints, are giving rise to an acknowledgement of the need for innovative approaches to resource management. Bespoke funding and regulatory regimes are emerging, such as housing accords and potentially, transport accords between tiers of government. Public-private partnerships are being used to deliver infrastructure, schools and housing. Urban development agencies are emerging in Auckland and Christchurch hoping to stimulate large-scale brownfields redevelopment and the Government has received advice from the New Zealand Productivity Commission on how to change the way councils manage urban residential growth.

The challenges and opportunities of significant urban growth contrast starkly with the challenges facing rural local authorities with largely declining and aging populations

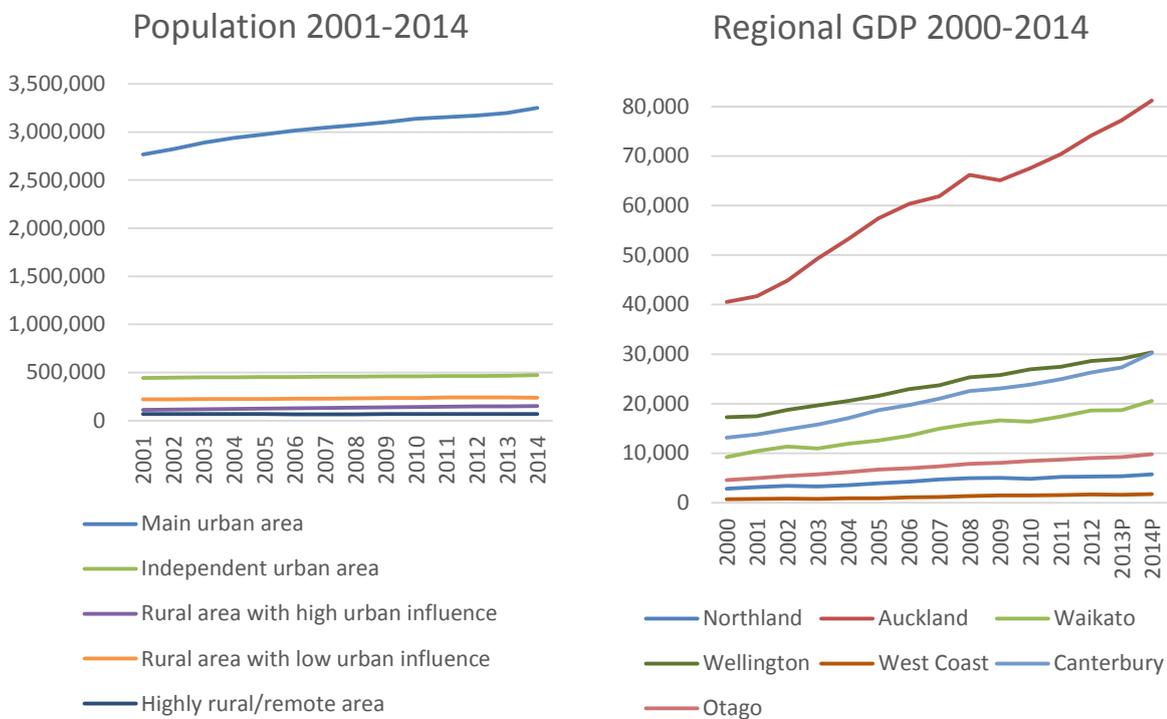
Some rural centres in New Zealand are thriving, with many benefiting from the trade in dairy products over the past two decades. But many of New Zealand’s rural communities are struggling to define a new value proposition

in a changing world (eg their ports or rail networks no longer operate as they did, their factories have closed, or they experience seasonal swings in population due to tourism). These rural centres may struggle to provide services, maintain ageing infrastructure, and retain and attract investment and people.

What it means to be a ‘New Zealander’ is changing

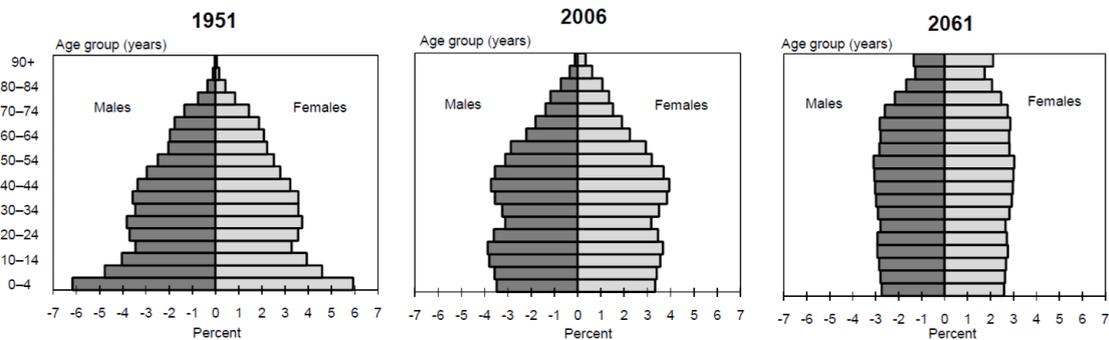
New Zealanders are living longer and having fewer children (see Figure 2.4). As the population ages, demands on many aspects of the resource management system will change. Retirees are more likely to move for recreational amenities or the natural environment, demands on urban transport infrastructure and housing needs are likely to change, and pressure on coastal areas and areas known for their natural beauty is likely to grow.

Figure 2.3: New Zealand regional population and GDP trends



Source: Statistics NZ

Figure 2.4: Estimated and Projected Age-Sex Distribution



Source: Statistics New Zealand

Māori are playing an increasingly important role in New Zealand's economy

In 2013, 5.6 per cent (\$11 billion) of overall GDP from New Zealand was attributable to the Māori economy. This arose from an asset base of \$42.6 billion, which was an increase of \$5.7 billion (or 15.4 per cent in nominal terms) from 2010¹³. The Treaty claim settlement process, and the financial and cultural redress that comes with it, will continue to shift the political and economic landscape in New Zealand with iwi taking a more significant role in both spheres as capacity grows. This will place pressure on the resource management system to be able to apply a Māori world view and develop new structures of governance and planning to manage resources.

While Te Tiriti o Waitangi and its principles are embedded in New Zealand's existing resource management system, the transfer of resources, rights and responsibilities and new governance arrangements are creating a new canvas of rights and interests on which the resource management system needs to be able to operate. The Ngāi Tahu settlement in 1998, the 2010 Waikato-Tainui Raupatu Claims Act and the recent agreement with Tūhoe are examples of local changes to resource management decision-making and governance frameworks to reflect the needs, rights and interests of local iwi. The progressive recognition of indigenous rights and interests represents a significant step in the evolution of New Zealand's resource management framework, an evolution that has some way to go still. As we begin to come to terms with tangata whenua rights and interests, and experiment with how they can be reflected in resource management decision-making and

governance arrangements, New Zealand's unique resource management system will continue to evolve to reflect the values of a changing population.

New Zealand's attractiveness as a destination for migrants is changing the cultural landscape and the values that influence resource management decision-making

Societal values in New Zealand have become increasingly diverse since the second half of the 20th Century and, as migration continues to change the demographics of New Zealand, so to do the values of the average New Zealander.

October 2015 saw a record net gain of 6,200 migrants. Net migration has been regularly breaking records since August 2014, when it surpassed the previous highest monthly net gain of 4,700 in February 2003. The year from October 2014 to 2015 showed a record net gain of 62,500 migrants, and was the first time New Zealand received a net gain in migrants from Australia since November 1991. During the year from October 2014 to 2015, New Zealand received 13,100 migrants from India, 8,600 from China, 4,900 from the Philippines and 3,700 from the United Kingdom. All regions across New Zealand had a net gain of international migrants in the October 2015 year, led by Auckland (29,000), and Canterbury (6,800). The next biggest net gains of migrants were in Waikato, Wellington, Bay of Plenty, and Otago. Just over half of all migrants who stated an address on their arrival card were moving to the Auckland region.

¹³ Nana, G., Khan, M. and Schulze, H. (2015) To Ōhanga Māori 2013 (Māori Economy Report 2013), Te Puni Kōkiri, Wellington, New Zealand.

Despite New Zealand's changing ethnic make-up, the values that brought the largest ethnic group to New Zealand – European immigrants or Pākehā – appear to be reasonably embedded in the national psyche. Attempts to increase density of housing in Auckland have, for instance, met with opposition, while declining rates of home ownership have been interpreted as a challenge to the “Kiwi dream.”¹⁴ That said, while “suburban ideals have been deeply ingrained in New Zealand since colonisation”¹⁵ and apartments in Auckland account for a significantly lower proportion of new housing stock compared to the major Australian cities of Brisbane, Melbourne and Sydney,¹⁶ higher-density living clearly appeals to some Aucklanders, while others are prepared to trade-off a preference for stand-alone houses in order to be situated close to desirable urban amenities and facilities.¹⁷

The increasing Asian (and particularly Chinese) population in Auckland has seen the demand for housing stock evolve in recent times. The media has presented a prevailing, if stereotypical view, that apartments and all that go with it – denser, urban living – are more desirable than houses for Chinese buyers.^{18 19} This almost complements the other prevailing view in New Zealand – that apartments aren't for Kiwis. The lingering colonial views are reflected in New Zealand having some of the largest houses, on a square meter basis, in the developed world²⁰ – having grown in size since the mid-20th Century, despite the number of individuals per household falling over the same period. As globalisation changes trading patterns, so to has labour movement, with two notable “circulatory” migration patterns having emerged in relation to New Zealand – trans-Tasman migration and migration between New Zealand and the Chinese “homelands” (Hong

Kong, Taiwan, and the People's Republic of China).^{21 22}

Recent migrants may have different views to those born and raised in New Zealand. However, many migrants appear to be attracted to New Zealanders' relationships with the environment and attempt to adopt these values themselves – for example, the Chinese Conservation Education Trust was founded in 2002 in cooperation with the then-Auckland City Council to educate the Chinese community on environmental issues.²³ One study, however, found that Chinese migrants were reluctant to change and expected society to change for them, compared to New Zealanders of Chinese descent, who had often largely adopted “Kiwi” culture.²⁴

2.3 An increasingly dynamic context

2015 is set to be the year where parties to the United Nations Framework Convention on Climate Change, including New Zealand, reach agreement on a “fresh universal, legal agreement to deal with climate change beyond 2020” replacing the Kyoto Protocol. This is likely to result in targets to reduce emissions below 1990 levels. However, New Zealand has been trending in the other direction. While our gross emissions have remained fairly stable since 2005, 2014 gross emissions were up 25 per cent on 1990 levels.

¹⁴ Guy Marriage (2010) Minimum vs Maximum: Size and the New Zealand House, Conference Paper (2010 Australasian Housing Researchers' Conference)

¹⁵ Ibid.

¹⁶ Milford Asset Management (2015) Auckland lacking apartments, Website: <http://milfordasset.com/auckland-lacking-apartments/>

¹⁷ Widdish, B. (2015). Housing choices and preference: a review of the literature. Auckland Council Technical Report, 2015/019

¹⁸ *New Zealand Herald* (2015) Why Chinese buyers are good, Website: http://www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11487191

¹⁹ Guy Olivier Faure (2002) China: New Values in a Changing Society, Website: <http://www.ceibs.edu/ase/Documents/EuroChinaForum/faure.htm>

²⁰ Jacob Greber (2009) Australia Builds World's Largest Homes as U.S. Dwellings Shrink, Website: <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=aYPwMBbY5InU>

²¹ Cruickshank, Prue (2014) Communicating Social Change; Politics and immigrants, Website: http://www.unitec.ac.nz/epress/wp-content/uploads/2014/12/Communicating-Social-Change_Politics-and-Immigrants-by-P.-Cruickshank.pdf

²² Ip, Manying (2012) Here, There, and Back Again: A New Zealand Case Study of Chinese Circulatory Transmigration, Website: <http://www.migrationpolicy.org/article/here-there-and-back-again-new-zealand-case-study-chinese-circulatory-transmigration>

²³ Durr, Eveline (2010) Urban Pollution: Cultural Meanings, Social Practices, Berghahn Books, New York.

²⁴ Kam Ho Chan, André (2009) The Differences between New Zealand-Born Chinese and Recent Chinese Immigrants in Hawke's Bay, Website: http://web.env.auckland.ac.nz/public/geog315/documents/acha279_summary.pdf

It is expected that agriculture, which accounts for approximately 50 per cent of New Zealand's greenhouse gas emissions, will remain absent from the next international agreement. While this affords a degree of protection to New Zealand's agricultural sector (components of which are claimed to be among the most carbon efficient in the world) the burden of achieving carbon emission reductions will fall to other sectors of the economy.

Although we are currently trending in the wrong direction with respect to greenhouse gas emissions, New Zealand's economy and the lifestyle of New Zealanders may be becoming more carbon- and energy-efficient

While we may still be some way from decoupling economic growth from carbon, there are signs that we are becoming increasingly carbon efficient and have the capability to go much further. Battery technology has developed to the point where electric cars are mainstream and in the near future modern homes will be able to be powered by stored electricity. In spite of oil prices being lower than long-term predictions, falling costs associated with non-fossil fuel energy source technology is enabling the exploitation of new energy sources such as solar, offshore wind, tidal and wave energy. Some options will give rise to concerns about the occupation of coastal space and impacts on biodiversity, natural character and landscape values.

It is also becoming increasingly evident that some environmentally friendly behaviour can help the economy and people directly – switching to low-energy light bulbs and more energy efficient ways of heating houses does not only produce environmental benefits but saves people money; it is estimated that New Zealand could save around \$2.4 billion a year by using energy more efficiently. In a similar vein, since 1990, New Zealand's economy has become 27 per cent less energy intensive²⁵, in part due to the growth of the services sector (professional services, information technology, health care etc) as a proportion of the economy as a whole. The energy intensity of other parts of our lives is also declining; cars are becoming more fuel efficient and inner city living has grown in significant popularity since the late 1980s, particularly in Auckland and Wellington.²⁶ Further changes are expected as large cohorts of working adults move into retirement and demand different housing types, have greater expectations of access to amenities

and place different demands on transport infrastructure.²⁷ Equally, younger people are increasingly opting for our urban centres, and far fewer are choosing to drive.²⁸

New technologies have the potential to radically reshape how we interact with, understand and manage our environment

Remote sensing and drone technology are enabling us to monitor and manage our environment with an unprecedented degree of spatial and temporal resolution at an ever reducing cost. Biotechnology has significant potential to benefit the productivity, resource efficiency and environmental footprint of the primary sector. These technologies could hold the key to increasing the precision of our decision making as it relates to land- and water-use, the quality and accuracy of regulation, and the efficiency of resource use. They can, however, raise questions that central and local government have struggled to keep pace with including, for instance, questions relating to data ownership and access. We need to make sure we are able to take advantage of technological innovation without creating new problems. To do this we will need to find a balance between fast adoption of new ideas and technologies and the careful and sensible evaluation of risks.

The potential for technology to reshape cities and rural communities, by enabling remote working in the service and information technology sectors, has long been anticipated but is yet to materialise. Meanwhile automation is moving out of the factory and into the office tower. New consumer technology has great potential to improve the lifestyles of users, and their access to information and services. However, outside of the growth in e-waste and the modes of service delivery, the resource impacts of changes in consumer products are largely unknown. We will only be able to see with hindsight whether this is the second industrial revolution suggested by some commentators – described as a post-employment age – with profound implications for the role of the government and the social fabric of New Zealand's communities.

²⁵ Statistics New Zealand (2014) Energy intensity, Website: http://www.stats.govt.nz/browse_for_stats/snapshots-of-nz/nz-progress-indicators/home/environmental/energy-intensity.aspx

²⁶ Philip Morrison and Ben Schrader. 'Inner-city living - Inner-city revival', Te Ara - the Encyclopedia of New Zealand, updated 13-Jul-12 URL: <http://www.TeAra.govt.nz/en/inner-city-living/page-3>

²⁷ Ministry of Transport (2014) Briefing to the Incoming Minister, Website: <http://www.transport.govt.nz/assets/Uploads/About/Documents/Ministry-of-Transport-BIM-2014.pdf>

²⁸ Ibid.

New Zealand is becoming party to an increasing number of bi-lateral and multilateral trade and governance arrangements, which can open markets to trade and people. As well as providing access to international investment, innovations and cultures, they also act to amplify existing demand for export commodities. Some are concerned that increased international interdependence can, however, reduce regional autonomy and that trade and governance arrangements may limit the effectiveness of domestic environmental regulation and constrain local innovation.

2.4 Unavoidable change

Even if consumer preferences or behaviours change, new technologies or regulation reduce the environmental impact of New Zealand's economy, or if mitigation measures prove successful, global temperatures are expected to rise by approximately 1.5 degrees this century. This sets the scene for significant resource management challenges:

- The sea level is expected to rise in excess of 1 metre over the next 100 years, affecting the 65 per cent of New Zealand's communities and major infrastructure assets that are within close proximity to the coast.²⁹

- The frequency and intensity of weather-related natural hazard events such as drought, wildfire, coastal storm inundation and flooding are expected to rise.³⁰
- The distribution of precipitation is expected to change significantly, making New Zealand's drier regions drier and wetter regions wetter.³¹

As populations grow and as the drive for increasing material wealth continues, increasing pressure will be brought to bear on natural environments and ecosystems. Water quality and the productive potential of soils will become increasingly important, as will the ability to adapt in the face of a changing climate, sea level rise and the introduction of new technologies. The emerging and future context will be dynamic and increasingly complex.

²⁹ NIWA (2011) Planning on a sea-level rise of X?, Website: <http://www.niwa.co.nz/news/planning-on-a-sea-level-rise-of-x>

³⁰ IPCC (2014) Climate Change 2014: Impacts, Adaptation, and Vulnerability

³¹ Wratt, D. and Mullan, B. (2015) Climate change scenarios for New Zealand, NIWA, Website: <https://www.niwa.co.nz/our-science/climate/information-and-resources/clivar/scenarios>

3

**What kind of
future do New
Zealanders
want?**

New Zealand's communities are diverse and evolving – there are many different perspectives on what the future should look like and what contribution the resource management decision-making framework could or should play in bringing about this vision.

3.1 A common goal

Local Government New Zealand's perspective, born of a grassroots connection between councils and New Zealand's communities, and supported by the consistent findings of surveys run by councils and universities, is that New Zealanders place a great deal of importance on their relationship to the natural environment and the extent to which they are able to enjoy a healthy and balanced lifestyle. Our direct and day-to-day engagement with New Zealand communities leads us to conclude that New Zealanders share the common goal of a future characterised by strong communities, social equity, a sustainable economy, and a healthy environment. Underpinning this is that to maintain prosperity at current levels with a growing population we need substantial economic growth.

3.2 A broad view of prosperity

We are moving beyond an inevitable trade-off between the economy and the environment

The resource management system is designed to prescribe clear limits that protect the healthy function of natural ecosystems and define the boundaries within which people can go about their business. Despite this, the practice of balancing economic value against environmental loss has arguably fostered an approach to decision-making that pits the economy against the environment, and has generated a culture of costly and divisive litigation. The general perception appears to be that councils are charged with regulating to protect the environment and that the RMA is an environmental protection statute. Too often the experience of councils is that users of the RMA have a preconception that it is an inevitable barrier to development that introduces unnecessary costs and limits options, that it is a weak statute designed to facilitate the environmentally damaging use and development of natural resources, or that councils have are tasked as

environmental regulators. These perceptions don't quite grasp the breadth of the role that councils play and the objectives they are charged with promoting through the various Acts that make up the resource management system.

It is possible these perceptions stem from a persistent perception that economic growth necessarily impacts negatively on the environment – a view that decisions must strike a balance between competing ends “the economy or the environment”. This approach can lead to decisions that trade-off environmental health against economic growth and rhetoric that casts environmental protection as an economic and social cost. But the economy and environment don't need to be in opposition. In fact, a sustainable, prosperous and equitable future requires regulatory and market systems that align the interest of the economy, society and environment.

New Zealand's clean green image is a source of comparative advantage that has been valued by as much as \$20.17 billion a year and 80 per cent of exporters believe this image is vital to their “export profile”.³²

However, at a more fundamental level our natural environment and ecosystems provide and sustain the resource base for New Zealand's primary export and tourism industries, underpin New Zealand's electricity generation system, and provide the aggregate and materials we use to build our cities and transport networks. They provide services such as water purification, pollination, climate regulation³³ and a buffer to coastal storm inundation, erosion and flooding. We value our ability to swim in rivers, lakes and our harbours without fear of getting sick, we wish to maintain and restore traditions of food gathering.

³² Stewart, Matt (2012) 100 per cent Pure Fantasy? Living up to our brand, Website: <http://www.stuff.co.nz/environment/8023412/100-Pure-Fantasy-Living-up-to-our-brand>

³³ Brown, Marie et al (2015) *Vanishing nature: facing New Zealand's biodiversity crisis* (Auckland) Environmental Defence Society

And while we all want a prosperous economy, competitive local businesses, thriving communities and connected cities that generate jobs our children can aspire to, most New Zealanders consider economic growth should not occur at the cost of environmental damage.³⁴ Echoing this sentiment the Land and Water Forum noted its belief, in its third report to the Government, that:

“... it is time to move past the perception that trading-off or balancing values against each other is an almost inescapable part of freshwater management. There are many ways to pursue environmental, economic and social benefits at once, including through accessing new water through efficiency gains and new infrastructure, adding value to our products and services, science and innovation, and leveraging off our environmental performance in export markets. The change we propose sets up the system towards outcomes which are advantageous to all parties, by encouraging people, enterprises and agencies to participate actively and collaboratively to devise and implement local solutions.”³⁵

Communities have continued to ask their councils to do more than simply provide local services

Over the past decade, councils have sought to promote the four pillars of social, cultural, economic and environmental wellbeing in New Zealand, with the support of their communities, even after changes to the purpose of the Local Government Act re-focused councils on the provision of local services, infrastructure and regulations. By doing so, councils have sought to enable and facilitate the development of natural and physical resources in a socially and environmentally responsible way – fostering decision-making processes and projects that deliver ‘win-wins’ across the ‘four wellbeings’.

This approach has enabled councils to develop strategies that promote sustainable growth, such as the Western Bay of Plenty’s SmartGrowth strategy, and plans that lead the way towards a prosperous future, such as the Auckland Plan with its vision of making Auckland the world’s most liveable city. Similar growth management strategies and spatial plans have been prepared from Invercargill and Queenstown Lakes in the south to Hamilton and Whangarei in the north. Much like the resource management system as a whole, their success as tools for managing the issues of the day is difficult to measure,

³⁴ Rose, E. Huakau, J. Casswell, S. (2005), Economic Values: A Report from the New Zealand Values Study 2005, Massey University.

³⁵ Land and Water Forum (2012), Third Report of the Land and Water Forum: Managing Water Quality and Allocating Water

however, it is noted that a number of these documents have been resilient to changes in political environment and remain a light on the hill for those municipalities and in some cases their regions or sub-regions.

New Zealand is slowly joining an international movement that recognises GDP isn’t necessarily the best measure of performance

The adoption of this broad and balanced ‘four wellbeings’ approach is consistent with research on the relationship between economic growth and wellbeing. This finds:

“In a typical country, economic growth improves happiness other things being equal. But other things are not necessarily equal, so economic growth does not automatically go with increased happiness. Thus policy makers should balance the argument for more rapid growth against the arguments for supporting other forms of happiness. This applies to countries at every level of development.”³⁶

The New Zealand Treasury has for some time recognised that a healthy, prosperous and sustainable New Zealand will depend on much more than simply economic growth. Although The Treasury has retained its focus on promoting growth, maintaining macro-economic stability and measuring performance via GDP, it has acknowledged the value of a broader approach. In 2012 The Treasury introduced the concept of a living standards framework, and developed a tool to help prompt central government analysts to consider critical factors such as ‘sustainability for the future’, ‘increasing equity’ and ‘growing social capital’ when advising government ministers.

Other countries have taken this line of thinking a little further than the New Zealand Treasury. For instance, a French commission on the measurement of economic performance (released in 2009) criticised GDP as a measure of performance, on the grounds that it:

- ignores externalities or economic bads such as damage to the environment – by counting goods which increase utility; by failing to deduct bads or account for negative effects of increasing production (eg pollution), GDP overestimates prosperity and welfare
- does not take income inequality into account

³⁶ World Happiness Report p66

- does not consider non-market activities such as leisure and recreation.³⁷

In a similar vein the OECD has stated that it is important to consider income, consumption and wealth together as part of a conceptual framework for measuring and managing economic performance. The OECD has adopted a broad view of wellbeing encompassing:

- material living conditions (or economic wellbeing), people's consumption possibilities and their command over resources;
- quality of life, non-monetary values that shape peoples' experience of life determine the opportunities they have and hold intrinsic value to an individual or community; and
- the long run sustainability of socio-economic and natural systems where people live, work and play.³⁸

Criticisms of narrowly focused measures of performance have gained traction in recent years and have prompted a number of countries and states around the world, including Canada, France, Australia and Bhutan, to adopt alternative, more broadly based measures of performance. Closer to home, Waikato Regional Council and Greater Wellington Regional Council have developed alternative measures of performance, building on the platform provided by the Genuine Progress Indicator. Gisborne District Council is also investigating the development of a broader evaluation framework to help guide its decision-making with the objective of delivering sustainable prosperity for the region.

3.3 Local solutions to local issues

The management of natural and physical resources is inherently complex and contextually sensitive. Decisions need to weigh local histories and aspirations, and place them in their regional and national context. Resource management decision-making processes need to give local people with local knowledge an adequate say in matters that affect them. Resource management systems also need to provide support to local communities if the issues they are dealing with are complex and have costs that fall locally and benefits that fall regionally or nationally.

³⁷ Stiglitz, J.E., Sen, A., & Fitoussi, J.-P. (2009) Report by the Commission on the Measurement of Economic and Social Progress. Paris: The Commission on the Measurement of Economic Performance and Social Progress.

³⁸ OECD (2010c) "A Framework to Measure the Progress of Societies". Working Paper No. 34. STD/DOC(2010)5.

Pushing decisions to lower tiers of government can empower local communities, make the most of local resources and knowledge, and help ensure that decisions are carried through to implementation. Importantly, devolution can help find new and innovative approaches to old problems³⁹ – in this regard it is notable that the United States Supreme Court described America's states as the 'laboratories of democracy'⁴⁰. Here in New Zealand, the New Zealand Initiative has proposed the establishment of Special Economic Zones as a means of tailoring policy reform to regional needs, encouraging regional economic development, and prototyping policy changes before scaling them up or rolling them out across the country.⁴¹

A key feature of a successful resource management system is its ability to reconcile the views and aspirations of different communities at local, regional and national scales.

Some decisions, however, need to be elevated to central government where doing so is in the regional or national interest. This may be where the nature or scale of an issue is beyond the capacity or capability of a local authority to address, or where the benefits of a decision fall locally but the costs fall regionally or nationally – or vice versa.

LGNZ thinks New Zealanders want a resource management system that allows communities to participate in developing locally-tailored frameworks – these would determine the level where decisions are made and what processes are used for reconciling different views and aspirations – but that at the same time avoids unproductive litigation on technical matters and prevents councils from having to 're-invent the wheel' to deal with common issues.

³⁹ Productivity Commission, More effective social services.

⁴⁰ New State Ice Co. v Liebmann: "a state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country."

⁴¹ Crampton, E., Acharya, K., (2015) In the Zone: creating a toolbox for regional prosperity. The New Zealand Initiative. Wellington <http://nzinitiative.org.nz/site/nzinitiative/files/In%20the%20Zone%20WE%20B.pdf>

4

Views on New Zealand's resource management system

Resource management planning and decision-making processes almost inevitably bring different objectives and world views into contact. Contrasting views on matters like who should enjoy access to freshwater, how a city should grow and how much the presence of endangered native wildlife should constrain private property rights mean there will be very different perspectives on any given resource management decision or outcome. Some feel the resource management system is operating effectively and some feel it is broken – the task of evaluating the system’s performance is complex and fraught.

4.1 A high-level overview of system performance

Have changes to the resource management system been robustly justified or accurately targeted?

Although the Acts that make up the core of the resource management system have been amended frequently and repeatedly over the past decades, sometimes substantial reforms have been advanced without the benefit of robust and reliable information on system performance. It is arguable that this has led to a series of changes that address symptoms rather than root causes or part of the problem, but not the whole. Similarly, changes have potentially addressed one issue, but created another or shifted a problem from one part of the system to another.

For instance, the spotlight has fallen recently on the performance of councils as agents with responsibilities for implementing the RMA. In the absence of any substantive performance measures, compliance with statutory processing times seems to have become a proxy for the performance of councils in implementing their responsibilities. Steps have been taken to tighten procedural requirements and incentivise speedy processing, and councils have significantly improved rates of compliance with processing timeframes. But while efficient processing is important, it is possible to place too much weight on processing speed and not enough on the quality of outcomes. Focusing so intently on meeting processing timeframes may have encouraged (or reinforced) a culture of procedural compliance and discouraged proactive engagement and the adoption of a flexible client-centred or outcome-centred culture in councils. Emphasising data on compliance with processing timeframes may have also concealed the reasons why councils were slow to process applications, which could include them taking time to encourage an applicant to lodge consents that are more consistent with plans or likely to promote high quality or sustainable outcomes.

A lack of quality performance data may also have led to:

- Amendments to statute based on anecdote or individual headline-grabbing cases, rather than being based on clearly identified and evidentially justified failures of the resource management system or its constituent Acts. Some changes to the RMA, for instance, have been criticised for being “overly reactionary”, “a solution looking for a problem” or politically motivated.
- A tendency to try to solve problems through changes to the resource management system, when the root cause of the problem lies elsewhere. For instance, driving the release of land for urban land through the Special Housing Accords hasn’t and can’t address other issues that affect the supply and cost of housing, such as the nature of the supply chain, capacity and capability of the building sector, and the marketing strategies of real estate agencies.

There are competing views on the state of New Zealand’s environment but some key trends appear to be negative

Prior to 2015, two ‘State of the Environment’ reports had been produced in New Zealand – one in 1997 and one in 2007. Both were prepared in some haste with the authors forced to rely on whatever data was available. Perhaps unsurprisingly, these reports have been criticised for having unclear purposes, and for generating information that was not useful, trusted or independent, and plagued by significant gaps. The development of National Environmental Monitoring Standards, and the introduction of the Environmental Report Act 2015 (and with it the commencement of an Environmental Report Series) is a positive step towards filling the data gap. So too are changes to the freshwater management regime that specify catchment ‘accounting’, monitoring and reporting requirements, as well as annual progress reports towards meeting community-agreed objectives.

The first 'state of the environment' report in the Environmental Report Series – Environment Aotearoa 2015 – itself, however, notes there continues to be deficiencies in New Zealand's environmental reporting due to:

- a need for inclusion of greater Māori perspectives;
- little information on environmental pressures and impacts;
- need for more diverse data across environmental domains; and
- limited funding to target specific data improvement projects.

Environment Aotearoa⁴² evaluates New Zealand's environment at a general level rather than the performance of the resource management system. It does, however, highlight some important environmental issues:

- Air quality is improving – driven mainly by the shift to cleaner home heating, improvements in fuel and stricter emission limits on new vehicles.
- Metrics show that some aspects of freshwater quality are declining, especially in intensively farmed lowland and urban areas, while others have improved.
- The extent of agricultural land in New Zealand has not changed substantially since 1996 but its use has become much more intensive, leading to soil degradation,⁴³ increased sediment and nutrient leaching/runoff,⁴⁴ and contributing to substantially higher greenhouse gas emissions.⁴⁵

- Many indigenous species face extinction, including 81 per cent of resident bird species, 72 per cent of freshwater fish, 88 per cent of reptile, 100 per cent of frog, and 27 per cent of our resident marine mammal species. The risk of extinction is increasing for some species – since 2005, the threat increased for 7 per cent of our threatened freshwater, land, and marine species.
- Only 10 per cent of New Zealand's naturally occurring wetlands remain and other ecosystems, such as active sand dunes, are also substantially reduced.

We have an enviable stock of renewable natural resources – have we translated this into strong economic growth?

Although generally thought of as an environmentally-focused statute, the way we manage resources in New Zealand is strongly tied to our economic performance – the RMA has an explicit focus on providing for social, economic and cultural wellbeing and until recently the LGA had a similarly broad purpose.

Traditional metrics of economic performance per capita tell us our economy is growing but only fast enough to maintain a position at the top of the bottom half of OECD performance. Despite a recent lift in performance, due mostly to strong Chinese demand for dairy products and the rebuild of Christchurch, in relative terms New Zealand's economy has not advanced over the past two decades and has slipped when compared with Australia's.

New Zealand also has high levels of income inequality – the gap in incomes between the wealthiest and poorest households increased substantially between 1988 and 2014. Only two other OECD nations had their income inequality gap grow by more during this period and the OECD estimates this level of income inequality means New Zealand's economy grew 15 per cent less than would otherwise have been expected.⁴⁶

⁴² Ministry for the Environment & Statistics New Zealand (2015). *New Zealand's Environmental Reporting Series: Environment Aotearoa 2015*.

⁴³ Soil compaction and erosion are significant and widespread issues across New Zealand's agriculture land.

⁴⁴ Between 1989 and 2013, total nitrogen levels in rivers increased 12 per cent, with 60 per cent of monitored sites showing statistically significant increases. About 49 per cent of monitored river sites have enough nitrogen to trigger nuisance periphyton growth, and about 32 per cent of monitored sites have enough phosphorus to trigger periphyton growth.

⁴⁵ New Zealand's greenhouse gas emissions increased 42 per cent between 1990 and 2013.

⁴⁶ <http://www.stuff.co.nz/national/politics/68600911/Income-inequality-How-NZ-is-one-of-the-worst-in-the-world>

4.2 Commonly held views on the resource management system

New Zealand's resource management system is frequently criticised for its failure to arrest or turn around worrying downward trends in environmental health and sustainability. At the same time it is frequently criticised for failing to facilitate the productive use and development of natural resources. Is this a sign that the system is striking a balance between two opposing world views, or is it evidence that we are getting the worst of both worlds?

Because different values held by individuals and community groups are brought to bear in decisions on the use, development and protection of natural and physical resources, resource management decisions can be a 'lightening rod' for debate and conflict between competing world views. This means there can be as many opinions about the quality of a resource management decision as there are participants in a process. Although this complicates the task of evaluating the resource management system, there are some commonly expressed views on its performance:

- The time and cost of processes are excessive for all parties involved. The Auckland Regional Coastal Plan, for instance, took 12 years to develop and was finalised just in time to be superseded by the Auckland Unitary Plan. After purchasing a site, it took Foodstuffs 20 years to gain the necessary approvals to develop a planned Pak'n Save at Wairau Park in Auckland.⁴⁷ Practice in recent years has evolved following experiences like this and applicants and councils are beginning to take a more collaborative approach, where more emphasis is placed on "front-end" engagement with communities and regulators. Legislative changes to prevent frivolous and vexatious litigation, and anti-competitive behaviour have begun to work, as have changes to Environment Court practices that require expert conferencing and prioritise pre-hearing mediation. Greater emphasis on collaboration and communication has helped some complex projects move rapidly through resource management approval processes – Mighty River Power's application to develop the Nga Awa Purua power station attracted only a handful of submissions to the council hearing, which lasted less than a day, and attracted no appeals to the Environment Court.
- Consenting processes under the RMA are overly complex and litigious, which encourages regulatory authorities to avoid risk and focus on procedural compliance rather than the quality of an outcome – this often prevents officers from using discretion, and burdens small projects with disproportionate information and procedural requirements. On the other hand, there have been significant improvements in councils' processes in recent years. Decisions on minor matters are increasingly timely, while the use of pre-lodgement meetings is proving valuable in reducing the number of disputes between local authorities and applicants the system is required to mediate. Biennial reporting on RMA implementation⁴⁸ by councils also shows several positive trends. Resource consents are increasingly being processed on a non-notified basis with a marked trend toward less notification by regional and unitary authorities (7 per cent and 5 per cent notification rates respectively in 2012/13) and the continuation of low levels of notification of consents by Territorial Authorities (3 per cent in 2013). In 2012/13 fewer than 1 per cent of consents were subject to litigation and statutory timeframes were met in 97 per cent of all consent types. While these are encouraging trends, this information does not show us how many applications are "left on the drawing board", or how many applications are designed to ensure non-notification because the consenting regime is perceived to be too hostile – in both instances potentially "editing out" innovative proposals.
- It takes too long to make plans and decisions, which reduces flexibility, makes it harder to promote large-scale and ambitious projects, and makes our system slow to respond to emerging trends, new evidence, unintended consequences or new opportunities. On average, it has taken 6.3 years after a district plan has been notified for it to become operative, 6.1 years for a regional plan, 4.4 years for a regional policy statement and 2 years for a plan change.⁴⁹
- The inability of the system to respond quickly to emerging trends and new technology is partly a matter of practice. A draft district plan for Kamo was prepared in real time with the local community over five days of intensive community engagement in a process named the Kamo Place Race. While the need to subsequently follow the procedural requirements of the RMA meant that it was just over 12

⁴⁷ <http://www.nbr.co.nz/article/appeal-deadline-passes-pak-n-save-wairau-all-go-85446>

⁴⁸ Ministry for the Environment (2014), Resource Management Act Survey of Local Authorities 2012/2013

⁴⁹ Data provided by LGNZ

months before for the resulting plan change to become operative, it does demonstrate that at least to some extent, the limited flexibility and responsiveness in the RMA may be overcome by local authorities willing to loosen the reins and innovate outside of the formal system.

- The complexity of the RMA and the cost of engaging experts to buttress one’s position makes it more difficult for individuals to compete with corporate entities, and is a barrier to community participation – individual community members regularly represent themselves at hearings or build a case off the information and evidence provided by councils. On the other hand, vested interests – including individual community members with NIMBY⁵⁰ and BANANA⁵¹ attitudes – have disproportionate power and too much scope to limit competition or thwart rezoning and development that would be in the wider public interest.
- The design of the resource management system allows, and sometimes encourages, conflict between government agencies and different tiers of government (central, regional and local). This can create costly and divisive debate and generate adversarial relationships between parties that would ideally be working collaboratively to promote common outcomes and deliver benefit for the New Zealand community as a whole.
- There is a strong and persistent view that the resource management system has, at its core, a focus on environmental protection. This complicates the process of balancing private and public interests and reconciling the relationship between private property rights and the public good. The relationship between (and different roles of) New Zealand’s resource management and conservation systems is unclear and poorly understood.
- The broad ability to have a say in proposals that are of wide community interest applies necessary scrutiny and improves the quality of decision making. While narrowing the field of potential opponents may further speed the process and reduce the avenues for NIMBY or BANANA sentiments, the rejection of the New Zealand Transport Agency’s Basin Reserve Flyover proposal by both a board of inquiry and the High Court, and the potential chilling effect on similar future proposals is considered by many to be a positive outcome. For better or worse, the outcome of this case may well have

been different had the field of potential opponents been narrowed.

- Plans and decision-making under the RMA, LTMA and LGA affect each other, all have different purposes, processes and criteria, and operate over different timeframes. This results in duplication and lack of clarity, demands considerable time and resourcing from all parties involved, and potentially frustrates efforts to promote innovative projects.⁵²
- There is geographic, temporal and financial misalignment between national, regional and local interests in relation to urban growth. Councils and government have struggled to agree where and when growth should occur in Auckland, for instance, and central government providers of physical and social infrastructure (including roads and schools) have struggled to align the timing of their investment and development plans with those of the council. In addition, too many of the costs of planning for, accommodating and delivering growth fall on local councils and communities, who can only recuperate these costs over the longer term through rates and service fees, which only exacerbates the difficulty of aligning the timing and location of investment.
- Central government has been slow to provide national policy direction and national environmental standards and, without this guidance, regional councils have had to develop their own approaches to managing complex and common issues. This has led to inefficiency and increased cost for ratepayers, and in some instances councils have struggled to deliver robust management frameworks in a timely manner. It has proven difficult, for instance, for some councils to set effective limits to protect and preserve the functioning of natural ecosystems. This is particularly the case in relation to the management of non-point source contaminants which has meant that the progressive intensification of agricultural activity and urban expansion has had a cumulative negative effect on many of New Zealand’s freshwater ecosystems. More and better guidance from central government is required to support the effective implementation of environmental and planning regulations – a suite of well-integrated national policy statements and national environmental standards is well overdue.

⁵⁰ Not in my back yard

⁵¹ Build absolutely nothing anywhere near anything

⁵² MfE, building-competitive-cities-technical-working-paper pp 8-9

- Planning in urban areas appears to send perverse price signals regarding the best use of land, encouraging land banking on the one hand and the subdivision and urban development of productive (and irreplaceable) soils on the other.⁵³
- The resource management system doesn't have access to all the levers necessary to gain sustainable outcomes. For instance, copper from brake pads is a major contaminant in marine environments adjacent to urban roading networks. Councils and the Transport Agency don't have the power to control the design of brake pads or restrict the importation of copper pads. Similarly, health legislation requires water suppliers to meet 1 in 200 year security of supply requirements. This is outside the resource management system but is a significant driver of network design and water allocation decisions.
- Decisions made under the resource management system by councils, the Environment Court and Boards of Inquiry are difficult to predict, and can be inconsistent – as can be the quality of expert advice provided to decision-making bodies.
- Resource management is increasingly a multi-disciplinary endeavour and the number of disciplines required to inform quality decisions grows with the increasing specialisation of professions. While the size and location of some local councils presents challenges in attracting the right skillsets, in other jurisdictions the volume-driven demand for timeliness and consistency has increased reliance on procedures and check lists. In both cases the resource management practitioner is called on to draw the shortest line between the beginning and end of processes that are a platform for competing interests, budgetary constraints and statutory timeframes rather than focusing on the outcomes generated. To both of these ends the quality of decision making suffers, either by the inability to attract or retain the necessary skills, or by raising the importance of administrative, bureaucratic and political faculties above those needed for challenging professional judgements by qualified and experienced professionals.

The lack of agreed performance metrics and sporadic reporting on environmental performance makes it hard to take a clear position on these questions. The answer may become clearer as better information emerges in coming years, but in the meantime we can say that many important metrics of freshwater quality and

biodiversity are trending downwards, we are losing productive soil through compaction, sedimentation and urbanisation at an alarming rate, and there is little evidence that we have been able to translate New Zealand's stock of renewable natural resources into improved economic performance relative to other countries in the OECD.

We can also say that processes under the resource management system are time consuming, complex and often not proportional to the risk or impact of a proposal. There is also evident misalignment between the planning statutes under which decisions are made on the use and development of natural and physical resources. These factors are compounded by persistent issues around information, capacity and capability in councils and central government agencies. What is more difficult to say is whether these issues are due to the design of the resource management system, or whether they are due more to the way the Acts that make up the system are implemented – there are many instances of good and efficient outcomes, and practice is clearly evolving to be more evidence-based, collaborative and aligned with strategic objectives.

It is perhaps worthwhile noting that the Building Act, introduced about the same time as the RMA and with a similar focus on outcomes rather than prescription, has been amended over time to revert to a more prescriptive framework. Perhaps it is harder to successfully implement an enabling statute than the architects of the system in the late 1980s anticipated. Is it only now – with the benefit of two decades of practice and steps to improve the quality of monitoring data and national direction – that we have begun to see the resource management system working effectively?

< Evaluating the performance of the resource management system is a difficult and potentially divisive task – it is hard to define problems and perhaps a more fruitful approach would be to start by asking how we can do a better job? >

⁵³ Productivity Commission report, Using land for housing,

5

Evolution in New Zealand's resource management system

The complexity and importance of effective resource management governance and decision-making has been evident for many decades, as have global trends in environmental degradation and ecosystem disruption. There has been a sustained effort to ensure New Zealand’s resource management framework remains fit for purpose – the almost annual changes to the RMA have become more ambitious and a series of ad hoc changes to governance and decision-making arrangements in recent years is evidence of a real willingness to experiment with key features of the system.

5.1 A drive to develop responsibly

Over the past decade there has been a global paradigm shift that has increased the importance of ‘green growth’ as a driver of policy and investment. During the same period in New Zealand there has been a marked drive from the government to increase the value gained from responsibly using New Zealand’s natural resources. This has manifested as:

- A willingness to investigate the mineral resources located within conservation lands.
- Efforts to facilitate exploration of the mineral (including oil and gas) reserves in our Exclusive Economic Zone (EEZ) – including by creating a more robust regulatory regime within which this can take place.
- Targets for strong growth in the primary sectors (including fisheries and aquaculture) supported by: (a) direct government investment in water storage and irrigation schemes, (b) government intervention to break the political deadlock hampering water planning in Canterbury, and (c) the introduction of water quality and quantity limits to increase the certainty within which investment and regulatory decisions are made.
- Providing national policy support for the development of renewable electricity generation.
- Investing in the development and implementation of a series of national environmental standards (eg air quality.)
- Establishing of a national consenting framework to speed the processing of applications for nationally significant infrastructure (ie irrigation dams).

- Introducing the requirement for decisions to give effect to government policy statements rather than simply to choose options that deliver the best benefit-cost ratio⁵⁴.
- Introducing of a carbon emissions trading scheme.

In parallel to this drive to create wealth by developing natural resources, New Zealand’s ‘limits to growth’ have become apparent – especially where the Government’s strategy for achieving growth raises the potential for conflict between economic growth objectives, water quality objectives, efforts to maintain or reduce carbon emissions and the objective of protecting New Zealand’s coastal and marine environments. Key markets overseas are increasingly demanding greater environmental credentials and the New Zealand public has demanded higher environmental quality – the ‘social contract’ that gave farmers latitude to maximise their production in order to generate economic spillover benefits for New Zealand has been challenged, for instance, and is in a state of evolution.

5.2 A drive to consider the big picture and national interest

Resource management plans and decisions in New Zealand are increasingly being forced to consider the longer term, reflecting a wider range of perspectives and accounting for complex and dynamic interactions within and between systems (institutional, environmental, social and economic).

⁵⁴ Pickford, Michael “State Highway Investment in New Zealand: the decline and fall of economic efficiency.” *Policy Quarterly* (2013): 28-35.

This is translating into heightened cost–benefit analysis requirements, an increasing reliance on empirical data and evidence-based policy, and a trend towards more prescriptive central government direction (including through national policy statements and national environmental standards), a tightening of monitoring and reporting requirements, and the publication of independent national environmental accounts.

Although welcomed by many, some worry about the loss of local discretion that occurs as central government tightens the resource management framework and provides more national direction. In relation to the latter point, there are real concerns at the proliferation of loosely integrated national standards and policies, which have the potential to increase the complexity of the system and add an additional burden for councils. Councils are now required to reconcile potentially competing national directives – such as those to increase housing supply and water quality – as well as the competing objectives of communities at multiple scales. There will inevitably be discussions about the scope of the new National Plan Template and defining the line between central government direction and local discretion.

5.3 A willingness to tailor governance and decision-making arrangements

Improving the coordination of central and local government decision-making is of particular interest in New Zealand. Central government appears to recognise that national interventions at the regional and local level can complement national scale decision-making, and create scope for more innovative, diverse and direct policy approaches. Examples include:

- The Housing Accords and Special Housing Areas Act 2013 (HASHA) was introduced “to enhance housing affordability by facilitating an increase in land and housing supply in certain regions or districts identified as having housing supply and affordability issues”⁵⁵. Under HASHA, agreements (Housing Accords) can be reached between a local authority and the government on how they will work together to address housing related issues. These agreements provide new administrative arrangements as well as special decision-making powers and streamlined pathways for the assessment and approval of new development proposals in Special Housing Areas. Although clearly designed for Auckland, many other local authorities

have accessed the streamlined processes accessible via the HASHA.

- A partnership has been formed between Tauranga City, Western Bay of Plenty District, the Bay of Plenty Regional Council, tangata whenua, central government (particularly the NZ Transport Agency), businesses, education groups, industry and the community to respond to the significant growth pressures in the region. Operating under the name of SmartGrowth, the local government members and the chair of the Combined Tangata Whenua Forum have signed a memorandum of agreement committing them to implementing SmartGrowth (which now includes a spatial plan) under the LGA and RMA.
- A Marine Spatial Plan is in development for the Hauraki Gulf, which also has adopted a multi-stakeholder approach to address competing uses and environmental pressures on the Gulf. The Project Board consists of senior representatives from within five of the Sea Change – Tai Timu Tai Pari partner organisations – Auckland Council, Waikato Regional Council, key government departments and the Hauraki Gulf Forum. Each organisation contributes people, time and budget to the programme. The Steering Group is made up of 50 per cent iwi representatives and 50 per cent council and government agencies. It provides leadership and will recommend to councils and other agencies how the plan can be put into practice. The planning ‘pen’ itself is held by a Stakeholder Working Group, which has input from more than 130 people from a range of groups, from industry bodies to conservationists.

Neither SmartGrowth nor Sea Change – Tai Timu Tai Pari are embedded in statute. They are in effect, voluntary coalitions of the willing. However, both have a degree of commitment from the agencies that have responsibility for implementing the outcomes of these process through funding or regulation. While Sea Change – Tai Timu Tai Pari is at an early stage and is yet to bear fruit it has raised the expectations of many that will be difficult to step away from. In the case of SmartGrowth the multi-stakeholder collaborative approach has provided some resilience to changes in political environment and key personnel and is assisting coordination on the ground between local, regional and national agencies and the private sector.

⁵⁵ Section 4, Housing Accord and Special Housing Areas Act 2013

Will voluntary arrangements be enough or sufficiently enduring?

The relevance of this question is demonstrated by the recent history of regional growth planning in Auckland. The 1999 Auckland Regional Growth Strategy was adopted by the regional, district and city councils of Auckland following three years of intensive negotiation and stakeholder engagement, with the councils committing to aligning policy and funding to deliver the strategy just as the SmartGrowth councils have done. While its introduction was hailed as the product of an inclusive process that provided a unifying vision and certainty to land owners and development interests, Auckland local government authorities were later associated with poor community engagement, a lack of collective sense of purpose and regular disputes over urban growth and the provision of infrastructure. These were amongst the reasons cited by the Royal Commission on Auckland Governance ten years later in their case for change that paved the way for formation of the super city.

New and locally specific governance arrangements and decision-making criteria have emerged where the existing system has struggled to deal with pressing issues

In recent years central government has chosen in several instances to create new processes for local decision-making. Both the Auckland Unitary Plan and Environment Canterbury's Regional Policy Statements and RMA plans are being developed on the basis of perceived need for a streamlined process for concluding plans under the RMA.

Auckland's Independent Hearings Panel, which is appointed by the Government, is hearing submissions on the Proposed Auckland Unitary Plan independently of the Auckland Council. The panel will make recommendations on the final form of the plan, which will take effect when accepted by the council. Submitters will have the right to appeal the merit of decisions to the Environment Court if the council opts for an alternative to the panel's recommendations, or if recommendations are beyond the scope set by the original proposed plan and submissions to it.

The powers granted to Environment Canterbury's Commissioners, who are appointed by Government, enable them (under the RMA) to oversee the preparation of proposed planning documents, hear submissions and make final decisions.

However, in doing so they must have particular regard to the locally and collaboratively developed Canterbury Water Management Strategy (CWMS) that predates the statutory management of Canterbury Regional Council. The CWMS as well as being developed collaboratively, puts in place a collaborative approach to setting water quality and quantity limits at a catchment level, and creates a coordinating strategic framework within which catchment based collaborative processes can take place. Like the Auckland Unitary Plan process, the ability to appeal the merit of decisions is restricted.

The rationale for introducing the alternative planning processes in Auckland and Canterbury is in part based on a sense of urgency to translate strategy into action: in Auckland's case the Auckland Plan, in Canterbury the CWMS. However, it is also predicated on significantly greater upfront community engagement, which appears to be reflected proportionately in the extent to which parties have the right to appeal the merit of council decisions – a step that has been taken to facilitate a speedy process and to incentivise the full and good-faith participation of stakeholders in planning processes.

On another tack, the Waikato River Authority provides a useful illustration of the relationship between Treaty settlement legislation, the emergence of co-management regimes and the resource management system. The Authority is made up of five Crown appointees, including the Chairperson of the Waikato Regional Council, a nominee of the councils of the Waikato region, and five iwi appointees. The Authority's key strategy document, The Waikato Vision and Strategy, forms part of the Waikato Regional Policy Statement and so must be given effect to in subordinate regional and district planning documents. The Authority can also appoint 50 per cent of the membership of commissioners on regional council committees considering river-related resource consents. As the Authority also administers a \$210 million clean-up fund for the river,⁵⁶ this provides a specific example of an arrangement that seeks to align strategy, planning and funding.

⁵⁶ <http://www.waikatoregion.govt.nz/Community/Your-community/iwi/Waikato-River-co-management/Role-in-co-management/>

Examples of tailoring the system to resolve local issues have generated some outcomes that should be read as notes of caution

While HASHA has streamlined development approvals in Auckland and given early access to the provisions of the Proposed Auckland Unitary Plan, there are concerns that pressure to achieve targets set under the Housing Accord is leading to the release of land for urban development and approval of development proposals well ahead of planned or intended extensions to infrastructure networks. This has the potential to increase the burden on rate payers to forward-fund infrastructure that may remain underutilised for some time to come.

While collaborative approaches to addressing resource management issues provide a more constructive alternative to an adversarial approach, they are not necessarily faster or cheaper. In fact, the opposite may well be true. A significant commitment of resources (time/money/expertise) is required from both the authorities charged with facilitating a collaborative process and from the communities who need to be involved if the processes are to be meaningful. As evidenced by experiences to date in processes for setting limits for freshwater quality and quantity, collaborative processes are also often more lengthy, even if they are as hoped, more enduring. Together the investment required to enable effective collaborative process is considerable. While there remains appetite, local authorities, their communities and tangata whenua are already showing signs of being stretched by today's experiments and there is a risk of the system becoming overloaded if the take-up of collaborative practices runs ahead of local authorities and their communities' capacity to implement them.

Finally, while local tailoring is proving useful, it is generally focused around the management of a single issue. Be that giving effect to a Treaty settlement, water quality or housing affordability. In elevating the resolution of one issue, it is difficult to ensure that other interests are not unduly compromised as some commentators and industry groups are suggesting is occurring. An issue that is already raising tensions between urban Auckland interests and those of the Waikato – the tendency appears to be to tailor the system to address issues in our big centres but what effect is that having on surrounding regions?

5.4 A slow move to valuing ecosystem services

There is increasing interest in valuing natural systems by estimating the benefits they provide. This is captured in the notion of ecosystem services. Ecosystem services are the benefits provided by ecosystems that contribute to making human life both possible and worth living. They can be grouped into four broad categories: provisioning, such as the production of food and water; regulating, such as the control of climate and disease; supporting, such as nutrient cycles and crop pollination; and cultural, such as spiritual and recreational benefits.

Integrating 'ecosystem services thinking' into management frameworks provides a platform for those services to be accounted for in the same terms as competing interests and so weighed more accurately, as well as exchanged and potentially traded. Some find this a difficult concept to accept for both ideological and practical reasons – should nature be valued in this way and is it even possible?

Valuing nature opens the door to environmental offsetting – the practice of making an environmental improvement that is at least equivalent to environmental damage being done elsewhere

While there is considerable complexity involved in ensuring that the improvements are real and that they are equivalent to what is being lost, environmental offsetting has gained international traction in public and private sectors. The international Business and Biodiversity Offsetting Program (BBOP) is a collaboration of financial institutions, government agencies, environmental non-government organisations and businesses with significant environmental footprints, such as mining interests. Together, the members are testing and developing best practice on biodiversity offsets and conservation banking worldwide.⁵⁷ Some national and state government agencies have also adopted offsetting as key components of their resource management systems. In particular, Australia's federal government uses environmental offsets within the framework provided by its 1999 Environmental Protection and Biodiversity Conservation Act, and the state governments of New South Wales and Victoria both have well developed offsetting systems.

⁵⁷ BBOP (2015), Business and Biodiversity Offsetting, Website: <http://bbop.forest-trends.org/>

New Zealand has been slow to formally adopt environmental offsetting, and where it has been practiced it has been relatively ad-hoc with variable results. While there remains a lack of formal government policy on offsetting, it is increasingly finding its way into regional and district plan and policy documents. In 2014 the Department of Conservation released a good practice guide for biodiversity offsetting. The lack of demand for offsetting in New Zealand is likely due to the general absence of strict environmental bottom lines, which means there is no requirement to net-out environmental effects – it was this requirement that gave rise to demand for environmental offsets overseas.

5.5 Increasing customer focus and use of collaborative processes

Traditional approaches to resource management problem solving, policy development and decision-making have also begun to come under pressure. New approaches to policy development and decision-making have begun to emerge – collaboration has become a powerful and viable alternative to lobbying and litigation as we shift away from being a country of developers to being a country that is trying to find a sustainable and balanced economy and environment. The drive for collaboration has been motivated by a range of different reasons, including the desire to:

- reinforce the role of communities – both directly and through their elected representatives – in decision-making on resource management strategies, plans and policies;
- retain the role of lawyers and the courts in ensuring that the law is both applied properly and that natural justice is safeguarded, while recognising that resource management decisions – especially on matters of policy – often require social and value judgements that may be better made by politically accountable bodies;
- reduce the cost and increase the predictability of decisions;
- ‘unwind’ the ‘win–lose’ nature of resource management in New Zealand and foster a focus on ‘win–win’ solutions;
- build a shared base of information upon which to make decisions;

- gain public buy-in and build commitment to implementing policy and decisions; and
- reduce the influence of local government officials and/or redefine their role as facilitators and catalysts rather than drivers of policy.

Some commentators suggest the ‘rise of collaborative approaches’ we are currently witnessing is a result of the formal system of democracy becoming “increasing ineffective in accomplishing the ideas of democratic politics.”⁵⁸ Accordingly the focus is turning to questions of institutional design and decision-making processes.

A number of factors point to a system in flux, such as the Land and Water Forum’s recommended changes to resource management governance and decision-making, the experiments of several regional councils in collaboration, an increasing central government appetite for national direction, and the strong resistance of some parties to limit access to merit appeal rights. We have arguably begun a process of considering whether the design of our resource management institutions and governance processes are fit for purpose when it comes to resource management decision-making.

⁵⁸ Watson, V. (2014) Co-production and collaboration in planning – The difference, *Planning Theory and Practice*, Vol. 12:1, pp 62-76.

5.6 Recognition of the rights of the environment

A still uncommon but emerging international movement⁵⁹ has seen the granting of rights to the environment itself, rather than to the human users or managers of it. The signing in 2014 of Ruruku Whakatupua, the Whanganui River Deed of Settlement establishes the Whanganui River as a legal being with rights, powers, duties and liabilities.⁶⁰ While all parties exercising functions, duties or powers under the broad suite of resource management and related legislation must recognise and provide for the status of Te Awa Tupua⁶¹, the effect and effectiveness of this framework remain somewhat uncertain.

While a number of Iwi/hapu, look to this model as one that closely aligns with their world view, it remains unique in New Zealand. More recent Treaty settlements that have involved interests in the management of waterbodies continue to adopt and extend the more common co-management approach involving the establishment of new entities with equal Mana Whenua and Crown (including local government) representation, and with more direct links to the functions of local authorities. This reflects the international experience where the movement to grant rights to the environment is considered interesting and an approach with promise, but still so far outside of existing management paradigms that it is perhaps risky and to be approached with caution – for this reason these approaches do not appear to be gaining momentum too rapidly.

< If we extend the boundaries of ‘the system’ to include aspects enabled through government the resource management system quite clearly has the scope to enable tailored responses to local issues. Will these localised responses be enough to address the issues that prompted them? Will they create new issues or merely shift the problem? In many instances it is too soon to tell. If we think these localised responses are successful, however, should we continue to rely on *ad hoc* changes to the law to enable them, or should we view these responses as prototypes or signposts for reform? >

⁵⁹ For instance, in Bolivia the 2010 Law of the Rights of Mother Earth (Ley Corta de Derechos de la Madre Tierra) “seeks to recognize the rights of Mother Earth, as well as the obligations and duties of the Plurinational State and society to guarantee respect for these rights”. Those rights are prescribed in the statute to include the right to life, to live free of contamination and to restoration, amongst others.

⁶⁰ Ruruku Whakatupua – Te Mana o Te Awa Tupua (Signed, 5 August 2014) contains the agreed terms of a new legal framework for Te Awa Tupua which upholds the mana of the Whanganui River and recognises the intrinsic ties which bind the Whanganui River to the people and the people to the Whanganui River.

⁶¹ Te Awa Tupua is the legal entity that is the Whanganui River.

6

**What would a fit
for purpose
resource
management
system look like?**

Is the path to a fit-for-purpose resource management system one of evolution or revolution – should we aim to extend and improve the current system, or has the time come for fundamental reform?

LGNZ believes there to be a broad consensus that inaction is not an option and change is necessary. While the degree and pace of change may remain a point of contention there are common themes from across the spectrum of interests that provide a compass-bearing for the direction of travel and should form part of any future system regardless:

- The system needs to be capable of operating successfully in a context that is dynamic and different from the one in which the present system was designed – it needs to be flexible and adaptive.
 - Any changes need to capitalise on the trend towards increasingly participatory process. These processes rely on the availability of quality data and the ability to translate and communicate it to lay audiences. They move the role of regulators from one of controller, to one of trusted advisor, interpreter and facilitator.
 - The system has to be capable of facilitating the achievement of particular outcomes, not just the avoidance, remediation or mitigation of adverse effects.
 - The capacity and capability of local authorities, the courts, central government agencies, sector groups and NGOs needs to be developed to match the current and future needs and demands of the system. To that end, any changes will need to be advanced hand-in-hand with measures to guide implementation, and to ensure that suitable capacity and capabilities are available where and when needed.
 - If it is to address current shortcomings, the resource management system has to be more than merely a platform for resolving disputes between competing interests, or a tool for forcing externalities to be considered in decisions on resource use and development. It must be capable of aligning the efforts of communities, government and business towards achieving outcomes that advance common interests.
- The lack of alignment between core components of the resource management systems needs to be resolved to reduce duplication of process and to assist the alignment of strategy, planning and funding – particularly in urban areas experiencing growth pressure.

How much change is required and how rapidly should changes be progressed?

A number of options for reform have been raised by different players in the resource management system in recent years. These have ranged from: a continuation of gradual evolution punctuated periodically by more substantive issue- or location-specific reforms, through to fundamental reforms the likes of which we have not seen since the reforms of the mid-1980s.

While we think there is consensus that inaction is not an option and that change is necessary – to a greater or lesser degree – we need to progress with caution and avoid lurching to an idealised alternative. Reforms that substantively change governance and institutional arrangements can have significant transactional costs and can create substantial uncertainty for long periods of time. We must, on the other hand, avoid moving too slowly and losing opportunities to address today's acute issues.

6.1 A stepped programme of reform – from evolution to revolution

LGNZ favours a progressive or 'stepped' programme of change. One that starts with and builds from the current programme of change, and that increases the scope and degree of change only once the impact of amendments have been evaluated and understood. For this reason, LGNZ recommends that any reform programme should be underpinned by a transparent programme of evaluation, monitoring and review. This programme should be designed to reveal the effectiveness of changes in achieving desired outcomes in a timely and transparent way, and to underpin good quality decisions about the rate and scope of possible additional reforms.

Step 1: Continued improvement of the system

The current program of reforms is encouraging and moving, we think, in a positive direction. The Resource Legislation Amendment Bill gives formal recognition to collaborative processes for decision making and a wider suite of national policy direction accompanied by improved implementation guidance and interventions to ensure that repetitive debate on technical matters is reduced – possibly through further national standards and the introduction of a national planning template.

The Bill provides for bespoke interventions to respond to particular local demands. In addition, we may see additional accords under HASHA between central government and local authorities, the appointment of statutory managers with additional powers, an increased use of independent hearing panels and advisory panels, and the creation of co-management entities comprising representatives of the Crown and/or local authorities and mana whenua.

LGNZ supports this programme of continual improvement and bespoke interventions, and considers useful extensions to this program to include:

1. Providing more and clearer national direction in the form of national bottom lines across a range of environmental domains that are able to be targeted regionally (rather than nationally) or focused on ecosystem typologies – pure national bottom lines that apply everywhere are too blunt.
2. Increasing the weight or regard that is to be given to the achievement of positive outcomes in planning and decision-making.
3. Increasing the role of alternative dispute resolution approaches (ie mediation) and pre-hearing or pre-notification collaboration to reconcile the interests of different public agencies and tiers of government.
4. Further encouraging parties – including the courts and Boards of Inquiry – to jointly commission expert advice and technical input (ie modelling).
5. Gearing incentives to drive effective collaboration – eg as the Resource Legislation Amendment Bill provides for, encouraging councils to adopt collaborative processes and encouraging stakeholders to collaborate in good faith by limiting the ability of parties to appeal the merit of council decisions that give effect to the consensus recommendations of a collaborative group.
6. Allowing smaller councils to escalate difficult resource management issues that are beyond their capacity to address robustly or rapidly to a Crown-agent or agency.
7. Initiating an active program – led by central government – to monitor, harvest and spread lessons emerging from ‘prototype’ frameworks around the country for dealing with difficult resource management issues (eg in Auckland, Waikato and Canterbury for dealing with growth management, co-governance and diffuse contaminant management respectively).
8. Introducing a framework that enables environmental offsetting to achieve no net loss of value, where there are no viable alternatives and subject to the ability to demonstrate additionality and equivalence. This may go some way to compensating for adverse environmental effects that are otherwise ‘balanced out’ against positive, social or economic effects.
9. Allowing specified provisions in resource management plans to be quickly amended in response to certain pre-determined triggers. This may include for example: triggers for the release of development capacity through up-zoning of certain land once occupancy thresholds are reached; or reverting to input controls for nutrient management in agriculture if output controls fail to protect environmental bottom lines.
10. Providing for the use of negative discount rates when evaluating the impact of development proposals on natural ecosystems that are rare or irreplaceable, or deliver significant ecosystem services – thereby increasing the regard that must be given to their value in the medium and long term.

Step 2: Over-writing the core statutes within the resource management system

The changes outlined above may not be enough, however, to achieve the outcomes New Zealanders are looking for. Within a complex and dynamic system the risks of unintended consequences from issue-specific interventions are significant. These risks grow with the scale of issues our resource management system is charged with resolving. Continued tinkering implies the continued ‘parallel-evolution’ of the core statutes in the management system, potentially hindering efforts to achieve alignment on the ground and possibly making it harder to share the benefits of innovative location- and issue-specific interventions that prove successful.

LGNZ believes that following on from the programme of continual improvement described above, the RMA, LTMA and LGA should be “over-written” to improve their clarity, reduce their complexity and enhance their connectivity. A process of over-writing would provide an opportunity to:

- Re-craft provisions that are difficult or unwieldy by picking-up lessons that have been gained through practice;
- Harmonise processes and timeframes across aspects of the system (e.g. enabling the use of consultation under one statute to support decisions under another);
- Improve alignment between planning, funding and delivery decisions and tools; and
- Embed the lessons that have been gained from successful “localised experiments” into the resource management system.

The “over-write” should be accompanied by either:

- A suite of new provisions for dealing with metropolitan growth management issues – these could include provisions to ensure processes for dealing with small proposals that have little risk of material effect (i.e. house extensions) are proportionate, and provisions that coordinate land use and infrastructure planning and funding; or

- Greater ability to craft bespoke resource management arrangements at a local or regional level to deal with specific issues. These arrangements could enable changes to decision-making and governance arrangements within agreed parameters, and would have a sunset clause after which the expectation would be that arrangements would revert to normal (but this decision would follow a review and there would be an option to extend or embed the changed arrangements if they proved desirable). Similar ideas have been promoted recently by LGNZ under our funding review⁶² as “special zones” for growth, and by the New Zealand Initiative⁶³ under the umbrella concept of “special economic zones”. These concepts add to the discussion considerations of local variation in government policy on finance, migration, and foreign investment.

Decisions on which of these two approaches should be advanced at the same time as the “over-write” should be made transparently and draw on findings from the evaluation, monitoring and review programme established at the outset of the reform programme. That said, LGNZ believes there is significant merit in the concept of an “overwrite” and that this should be progressed as soon as possible following completion of the first step of reforms, and completed within three years of its initiation.

Step 3: Moving beyond evolution

In our view, although they have merit, there may be underlying issues that the measures in steps 1 and 2 are unable to address. We therefore support recent calls for a multi-party, independently mediated process for considering the need for and nature of more fundamental reforms. Any move towards more fundamental reforms is likely to imply changes to governance and institutional arrangements that could cause substantial disruption, uncertainty and cost. The more fundamental the reform, the more likely it is to have quasi-constitutional implications. This is because resource management reform has the potential to change the relationships between central government, local authorities and tangata whenua, as well as recalibrate the roles of our democratic and judicial institutions in decision making and oversight. Changes to the resource management system could also affect the nature of individuals’ rights and interests in resources in ways that are not yet clear. Accordingly, a multi-party and collaborative process,

⁶² LGNZ 2015, Local Government Funding Review 10 Point plan: incentivising economic growth and strong local communities.

⁶³ The New Zealand Initiative 2015, In the zone: Creating a toolbox for regional prosperity

supported by central government, is a necessary precursor to any decisions on fundamental reform that could have implications for governance and institutional arrangements.

The consideration of reform options that emerge from such a process would need to be underpinned by a shared understanding of the performance of the current resource management system, an agreed objective or vision for the future, and a shared platform of information upon which to base analysis.

Without prejudice to the development of alternative options as the earlier stages of resource management reform proceed, and noting that a full range of options should be evaluated if more fundamental reforms are contemplated, we suggest the following options should be amongst those considered:

- **Blending the land use, infrastructure planning and funding components of the LGA, RMA and LTMA into a single Planning Act and creating a separate Environment Act.**

While this could provide greater alignment between central and local investment decisions (including the purpose, timing and location of investment) and remove duplication, the radical changes to governance arrangements implied by such an approach could be expected to cause extreme upheaval that will take a long time, possibly decades, to settle.

- **Retaining the RMA, LGA and LTMA but installing overarching spatial planning legislation that sets the regional strategic direction and the high-level parameters within which the “implementation” acts of the LGA, RMA and LTMA are to operate.**

Driven by local authorities, a number of spatial plans have

already been developed with this intent. These ‘prototypes’ would provide rich pickings for learnings that could inform the design of a spatial planning framework designed to drive coordination across the RMA, LTMA and LGA under a single regional vision. To avoid adding complexity to clarify the hierarchy of resource management documents and decision-making institutions, such a plan could incorporate and replace the requirements of regional policy statements, and could be led jointly by regional councils and territorial authorities with input and support from central government agencies.

- **Changing financial signals to promote sustainable decision-making that integrates economic and environmental outcomes.**

Achieving these outcomes may require significant expenditure in the short-term to develop long-lived infrastructure, investment to enhance stocks of natural capital, or decisions to forego the short-term exploitation of natural resources to ensure a sustained flow of benefits. Options could range from the application of resource rents and changes to focus the tax regime on resource-use rather than income, to the application of negative discount rates when undertaking benefit cost analyses of proposals that may affect irreplaceable, rare or strategically placed natural capital, or to appropriately reflect the future value of long-lived infrastructure. Proposals to change financial incentives require specialist input and careful consideration. Their potential impact on existing and future rights means they can be controversial, but their potential as a tool for driving sustainable resource management decision making means, we believe, these options should be considered alongside the other options noted above.

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**Next steps in
LGNZ's 'blue
skies'
programme**

7.1 We want to hear your views

Before reaching a position on the nature, timing and degree of reform required to ensure our resource management system is fit for purpose, LGNZ is interested to hear your views on the matters and options raised in this thinkpiece.

We note that the Government's recently released Resource Legislation Amendment Bill has promoted some changes that align with options discussed in this thinkpiece. The proposal to introduce a national plan template, increase ministerial powers to intervene in local processes and establish new collaborative and 'fast-track' plan-making processes, in particular, respond to some of the matters we discuss in this paper. And the Productivity Commission's recently announced inquiry into the urban planning system has a wide terms of reference.

In addition to hearing your general views, and without wanting to limit the scope of your feedback, we are particularly keen to hear your perspectives on:

- Our decision to focus attention on the three core 'Planning Acts' at the core of the resource management system – the RMA, LGA and LTMA.
 - Our assertion that the resource management system is a critical part of New Zealand's competitive advantage in an increasingly resource constrained world, and belief that if we get the settings of the resource management system right we could position New Zealanders to enjoy sustained high levels of prosperity and wellbeing.
 - Whether we have adequately described the dynamic and increasingly complex context the resource management system needs to be designed to operate within.
- Our characterisation of the common goal we believe New Zealanders have with respect to resource management.
 - Whether we have adequately captured the key perspectives and views on the performance of the resource management system in section 4 of this thinkpiece.
 - Our characterisation of the 'evolution' evident in the resource management system as described in section 5 of this thinkpiece.
 - The scope of options and 'stepped approach' we have suggested.
 - How the government's resource management reform programme and, specifically, the proposals included in the Resource Legislation Amendment Bill (2015) would align with our proposals.

Different people and sectors will have a different view on the matters discussed in this thinkpiece and LGNZ welcomes recent indications that central government supports the concept of a multi-stakeholder collaborative process to move discussion forward on the resource management system.

We intend to take your views into account as we finalise our thoughts on the resource management system and as we engage with other stakeholders, the Ministry for the Environment and the Productivity Commission on this topic. We encourage you to send your feedback to us at:

clare.wooding@lgnz.co.nz; or
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