5 February 2020

The Resource Management Review Panel
By email: rmreview@mfe.govt.nz

Auckland Council’s submission on *Transforming the resource management system: opportunities for change - Issues and options paper*

Thank you for providing Auckland Council with the opportunity to submit on the issues and options paper *Transforming the resource management system: opportunities for change*. Auckland Council’s submission is attached.

It includes the input from Council Controlled Organisations (CCOs) Auckland Transport, Watercare Services Limited and Panuku Development Auckland.

This submission is endorsed by the Chair and Deputy Chair of the Planning Committee, and a member of the Independent Māori Statutory Board with delegation on behalf of the Planning Committee.

The Independent Māori Statutory Board supports the high-level positions of the submission and advises that it will be providing a submission on some specific matters that are of high interest to Māori in Tāmaki Makaurau.

Six local boards have provided comments on the issues and options paper, and these are appended at the end of council’s submission.

\(\text{s 9(2)(a)}\) if you have any queries regarding Auckland Council’s submission.

Yours sincerely

\[\text{Chair of the Planning Committee} \quad \text{Deputy Chair of the Planning Committee} \quad \text{Member of the Independent Māori Statutory Board}\]
Submission to the Resource Management Review Panel

Transforming the resource management system: opportunities for change – Issues and options paper

Auckland Council 5 February 2020
I greet the mountains, repository of all that has been said of this place,
there I greet the cliffs that have heard the ebb and flow of the tides of time,
and the rivers that cleansed the forebears of all who came those born of this land,
and the newcomers among us all.
Auckland – beloved of hundreds, famed among the multitude, envy of thousands.
You are unique in the world.
Introduction
1. Auckland Council thanks the Resource Management Review Panel and the Ministry for the Environment for the opportunity to provide feedback on Transforming the resource management system: opportunities for change – Issues and options paper (the paper).

2. This submission is endorsed by the Chair and Deputy Chair of the Planning Committee, and a member of the Independent Māori Statutory Board with delegation on behalf of the Governing Body. It includes the input from Council Controlled Organisations (CCOs) Auckland Transport, Watercare Services Limited and Panuku Development Auckland.

3. Local board feedback is appended to the submission.

4. The Independent Māori Statutory Board supports the high-level positions of the Council’s submission and advises that it will be making its own submission on some key matters of interest to Māori in Tāmaki Makaurau.

5. Council’s submission consists first of key principles which it believes should underpin a future resource management system. The submission then follows the format of the options paper by responding to the challenges and reasons the system has not responded to these, followed by specific responses to the issues and proposals it considers most substantive.

6. Council views this review as a once in a generation opportunity to ensure we have the right system in place which actively meets the needs of current and future generations, and which addresses climate change. Council therefore supports fundamental change of the system in order to achieve this.

7. Council strongly encourages the panel and central government to ensure there is good alignment between any proposed resource management system changes and other work already on the government’s legislative and policy work programme. This review is the latest Government reform which impacts on resource management. Others include the Urban Development Bill, Kāinga Ora–Homes and Communities Act 2019, proposed National Policy Statements on urban development, highly productive land, freshwater, and indigenous biodiversity, the Infrastructure Funding and Financing Bill, and National Planning Standards.

8. Council considers central government has a more extensive role to play in supporting the delivery of better resource management system outcomes. Amongst other things, this includes providing funding to enable councils and iwi to deliver the system-level outcomes required. Council has identified a number of opportunities for central government to better support the resource management system within its submission and we are happy to work with Government on what these may look like in practice.

9. Council is also currently submitting to Select Committee on the Urban Development Bill. We have raised a number of issues within that submission for the Select Committee to consider, including the importance of aligning the Bill to the review and reform of the resource management system. Council notes that the government’s reform of the resource management system is seeking to gear the system towards broader outcomes and away from a narrow, effects focused system. In contrast, the Urban Development Bill’s current...
approach is based on minimising effects and does not reflect a wider outcomes-based approach that the RM reform is seeking. The setting aside of planning instruments and the streamlining of processes cannot be at the expense of achieving overall outcomes for social, environmental, economic and cultural well-beings. If these streamlined processes provide advances and models for more efficient ways of delivery, then they should assess for suitability at the wider local government level and looked at as part of other legislative initiatives.

**Tāmaki Makaurau context**

10. Council is a unitary authority. It is the largest council in New Zealand in terms of population and it is also the most diverse. The Auckland region covers a wide range of land uses from dense urban to rural productive.

11. Council is currently the only council in New Zealand which is required to develop a spatial plan which enables coherent and co-ordinated decision making and which provides a basis for aligning council’s implementation plans, regulatory plans, and funding programmes. This was first adopted in 2012 (“The Auckland Plan 2012”), with a revised version adopted in 2018 (“The Auckland Plan 2050”).

12. Auckland Council is also unique in having an Independent Māori Statutory Board (IMSB) to assist council to make decisions, perform functions, and exercise powers. The Schedule of Issues of Significance and The Māori Plan for Tāmaki Makaurau provide a framework for these to be considered. The IMSB also undertakes Te Tiriti o Waitangi Audits to assess whether council acts in accordance with its statutory Te Tiriti o Waitangi responsibilities. The IMSB has provided support and guidance on this submission.

13. The Auckland Plan 2050 identifies that to achieve the Auckland we want, we must address the three most important challenges of high population growth, ensuring prosperity is shared amongst all Aucklanders, and arresting and reversing environmental degradation.

14. More than 1.66 million people live in Auckland already. Over the next 30 years this could increase by another 720,000 people, potentially requiring another 313,000 dwellings and 263,000 jobs. The rate and speed of Auckland's population growth puts pressure on our communities, our environment, and our housing and infrastructure networks, including roads. It also means increasing demand for space, infrastructure and services necessary to support this level of growth.

15. Many Aucklanders are prosperous and have high living standards, yet there are significant levels of socio-economic deprivation, often in distinct geographic areas. Key drivers of this include unequal access to education and employment opportunities, along with high, and often unaffordable, housing costs.

16. Much of Auckland's appeal is based on the natural environment, but this is vulnerable to degradation from the impacts of human activities. Despite regulation and considerable effort, Auckland's environment continues to be affected by past decisions, Auckland's rapid growth and development, as well as emerging threats such as climate change.

17. In June 2019, Auckland Council formally declared a Climate Emergency, recognising the importance of and urgency required to address climate change for the benefit of current and future generations. As a C40 Innovator City and signatory to the New Zealand Climate Leaders Coalition, Auckland Council is also committed to doing its part in meeting the Paris Agreement ambitions of keeping global temperature rise to well below 2°C while pursuing efforts to limit the increase to 1.5°C.
18. This review is timely, providing us with the opportunity to look to the future and ensure we can better provide places to work, live and play for generations of Aucklanders to come, while addressing the significant environmental decline and challenges we are experiencing.
Key principles underpinning the future resource management system

19. There are several key principles that Auckland Council considers are critical to underpin any future resource management system.

- **The system needs to be outcomes based.** It needs to place more emphasis on improving outcomes for people, places and the environment, as well as manage adverse effects (including cumulative effects). The system should seek clearly stated positive outcomes, as well as avoid negative ones. This is the context in which effects should be managed. Council supports these outcomes being based on the four well-beings of the Local Government Act 2002.

- **The system needs to be integrated.**
  - Environmental outcomes and development outcomes need to be addressed in an integrated way. These cannot be separated from each other, as both interact and need to be delivered holistically, in legislation and in practice on the ground.
  - The principles and purpose of the system also need to be consistent with the processes the system regulates.
  - Given the dependent relationship, integration of funding and planning matters needs to be better facilitated by the resource management system, with appropriate mechanisms to enable this.
  - Other legislative, regulatory and policy tools that deal with related matters need to also be updated to better integrate with any changes to the resource management system. It is particularly important for the delivery of Resource Management Act (RMA) outcomes that these tools are aligned and reinforce delivery of the resource management system’s purpose and the outcomes it seeks to achieve.

- **The system should consider wider impacts of decisions beyond the short term and those that can be measured with certainty.** Impacts should be considered in the context of the life of the impact, meaning that the impact on, and concerns of, future generations need particular emphasis. The system needs also to be better enabled to consider things at a system level to avoid issues such as negative cumulative effects. Current approaches within the system, such as the weight given to individual outcomes over community outcomes, can entrench inequity and so these impacts should be able to be considered more in decision making. Council would support explicit consideration being given to the requirements of future generations in the section 6 and 7 matters.

- **Better provision needs to be made in the system for a clear hierarchy of considerations.** This hierarchy should support the delivery of integrated outcomes and help to resolve conflict between considerations in the way which best gives effect to the outcomes sought by the system.

- **The system needs to better affirm Te Tiriti and give more opportunity for te ao Māori to be reflected in approaches and outcomes.** This should include appropriate recognition of, and provision for, the Treaty Partnership, rangatiratanga, te ao Māori, tikanga and community practices and interests, and mātauranga Māori (Māori knowledge systems) within the resource management system.

- **While ensuring the system is fit for the future and takes long-term views into account, the system also needs to deliver on key community expectations around participation and robustness of decision-making.** We need to ensure the system better delivers to meet the increasing public expectations for local input into decision-making, transparency and robustness around planning, and clarity and fairness around resource
allocation decisions while not slowing processes by over consultation and creating “engagement fatigue”. Our understanding of the impact of human activity on our environment has evolved since the Act was introduced. We are much more cognisant of the value of our environment, the scarcity of our resources and the trade-offs the resource management system makes.
Responses to the Issues and options paper

20. Council’s response on individual sections of the issues and options paper is presented below and includes consideration of the questions raised.

21. Council refers to Part 2 (or sections 6, 7 or 8) of the RMA throughout this submission. This should be read to also mean the purpose and principles within any future resource management legislation.

Challenges of the current resource management system

22. At a high level, Auckland Council agrees with the three challenges as described in the paper. All three align to the three challenges identified by the Auckland Plan 2050 (population growth and its implications, sharing prosperity with all Aucklanders, and reducing environmental degradation).

23. Council notes that, unless meaningfully addressed, climate change over the short and medium terms will make the decline of natural ecosystems and biodiversity, and related low resilience of ecosystems, even more pronounced and increasingly irreversible. It also means that the associated benefits from improvements to ecosystems will not be realised.

24. In terms of urban areas not being able to keep up with demand for housing, council believes that as well as supply there is also a need for a high quality of housing and supporting spaces to be provided, and in such a way that enhances the wider urban environment. Sometimes planning decisions on urban development appear to consider only the effects on the natural environment or specific amenity considerations, and not how the urban environment meets the social, economic and cultural needs of people and communities.

25. For Auckland the challenge of housing provision is not one of planning but of how to enable and equitably fund bulk infrastructure (social and physical) to cater for growth. Through the Auckland Unitary Plan, Auckland Council has already enabled one million more dwellings in existing residential zones and almost another million in the city centre, town centres and mixed-use zones. There needs to be an appropriate framework that enables the supporting infrastructure.

Reasons why the system has not responded effectively

26. Council agrees at a high level with the reasons provided for why the system has not effectively responded to these challenges. Some of these issues cannot be completely resolved in each circumstance, i.e. there will always be a degree of cost, complexity and uncertainty and difficult choices to make, but it agrees that the system needs to be rebalanced to address the degree to which these are present.

27. There are several key reasons missing from the panel’s discussion document which warrant further consideration.

28. First, most people’s views of the system are based on their experiences with specific consent or zoning decisions that affect them at a neighbour/neighbourhood level rather than on the social, cultural, economic and environmental outcomes the resource management system and plans are seeking to achieve at a regional level. This can drive frustration with the system. There can also be tension between in-principle support for the social, cultural, economic and environmental outcomes and agreement of how those outcomes should be delivered and implemented at a neighbour/neighbourhood level. Council supports approaches which allow the vision for plans to be driven by people and communities,
and which enable them to understand how local decisions link to delivering on this vision.

29. Second, council does not believe that the discussion on “lack of recognition of the benefits of urban development” has captured the issue fully. **Council agrees that the system does not currently recognise benefits and it should, but it should also more adequately support good integrated urban development and achieving well-designed density.** A singular focus on supply without recognition of the need for quality affordable and environmentally sustainable housing (and the supporting infrastructure) which contributes to high quality urban environments would not deliver social, economic, cultural, or environment well-being for current or future communities. Access to housing is a key issue in Auckland and integrated approaches are required to enable this to be appropriately provided for.

30. Auckland’s development strategy sets out a quality compact approach to growth and development. In this context, the quality aspect of this approach means that:

- most development occurs in areas that are easily accessible by public transport, walking and cycling
- most development is within reasonable walking distance of services and facilities including centres, community facilities, employment opportunities, and open space
- future development maximises efficient use of land
- delivery of necessary infrastructure is coordinated to support growth in the right place at the right time
- we embed good design in all development. Good design includes the attributes of functionality, attractiveness, longevity, innovation and legibility. Good design needs to be integrated at all scales of development. It includes the quality of the city structure, the design of public places and spaces, as well as building and house design. The quality of city design is integral to how a city functions, which affects our overall wellbeing. Good design can contribute to making Auckland a sustainable, attractive, equitable and desirable place.

31. Third, there is a limited relationship between funding and financing systems and the resource management system, although they both have significant impacts on outcomes. **Council supports better integration of funding and planning matters within the resource management system.** In the current system, without these linkages, applications can be approved based on a narrow assessment of effects, but without full appreciation of related infrastructure funding and financing challenges or the need for the developer to stage their housing and infrastructure delivery. This impacts a council’s ability to fund and finance development and can mean that councils are less able to prioritise areas of investment in line with their infrastructure and development strategies, in turn undermining council’s delivery of quality urban development and the four well-beings. It is for this reason that council has opposed the current proposals in the National Policy Statement for Urban Development which more easily provide for out of sequence greenfield development.

**Issue One: Legislative architecture**

32. **Council supports the retention of a single integrated approach to land use planning and environmental management.** Environmental outcomes and development outcomes cannot be separated - both interact and need to be delivered holistically. Splitting the system would do nothing to resolve substantive issues with the system; it would merely relocate these issues, and potentially increase the negative impacts from land use decisions on environmental outcomes and vice versa. This would lead to legal arguments and
interpretations that would result in significant costs in terms of time and money and will increase uncertainty. Council does not see a compelling argument in favour of splitting the system into land use planning and environmental management and opposes it.

33. The current integrated approach more appropriately represents the holistic viewpoint of Māori; recognising the intrinsic relationship between built and natural environment. From a te ao Māori perspective, separating the legislation and moving away from an integrated resource management approach risks further diminishing the influence of the existing provisions designed to ensure Māori have a voice within the system and delivering on better outcomes for Māori.

34. Having separate legislation for the built and natural environment would create a multi-level planning structure. This would create further barriers and complexities for Māori to be fully engaged and effective in processes and could also lead to a situation where the multi-level planning structure could diverge more and more as legislation is amended and national direction is given. It also raises concerns that Māori views would be limited to the environmental management space.

35. Council supports having a resource management system that is reflective of the Te Mana o te Wai framework. It is not clear what, if any, implications a siloed approach would have for embedding the Te Mana o te Wai framework across the resource management system.

36. Council supports building on new thinking on how te ao Māori might be better reflected in our resource management system and embedded within its legislative architecture and encourages central government and Māori to develop this further.

37. Changes made to the resource management system following this review will have consequential impacts that need to be addressed to ensure consistency in dependent and related acts and regulations, for instance the Building Act 2004.

**Issue Two: Purpose and principles of the Resource Management Act 1991**

A resource management system that is outcomes driven

38. Council supports significant change to the purpose of the RMA to deliver improved outcomes for communities and the environment. The system needs to enable current and future generations to live and prosper in New Zealand through sustainable development and environmental improvement. This shift in purpose would help move from a system which can be singularly focussed on managing harm and adverse effects to one which delivers the positive outcomes people and communities need and desire. This would also better align the system with the outcomes focus of the Land Transport Management Act 2003 (LTMA) and the Local Government Act 2002 (LGA).

39. Council supports simplification of the purpose and principles of the Act. Part 2 of the Act is unnecessarily complex and has different legal requirements for the matters covered. It would be greatly enhanced if it focussed on the systems purpose and clearer outcomes. This streamlining also needs to ensure that the outcomes covered reflect what the system needs to deliver.

40. Council supports greater emphasis on providing outcomes for current and future generations. The issues identified by the paper and our submission clearly illustrate that there needs to be a rebalancing in the current approach to considering matters with more emphasis given to future generations.
Council does not support the separation of environmental and development issues in Part 2 for similar reasons that council does not support the separation of the Act along similar lines. The concerns raised could be more meaningfully addressed through other means such as National Policy Statements, and at the regional and district policy and plans level.

A resource management system that more appropriately references the benefits of urban development

Council supports the purpose and principles of the system to reflect urban development and the provision of infrastructure and community amenities this requires. Providing for appropriate urban development and the things that support and enable this is a fundamental requirement for the system but is currently not given appropriate prominence by the system. To enable this council supports expanding the purpose and principles to promote the delivery of:

- **Quality urban environments.** Quality urban environments is a focus for the proposed National Policy Statement on Urban Development. Council supported this focus but raised concerns with the lack of definition and reflection in objectives and policies. Significant work on understanding quality urban environments has been achieved through processes such as MFE’s Urban Design Protocol and Auckland Council’s Urban Design Manual.

- **Sufficient appropriate capacity for development to meet current and future demands.**

- **Key infrastructure including important transport network components such as arterials and rail/rapid transit.** The provision of key infrastructure is fundamental to development, especially quality integrated outcomes, and needs to be considered in other land use decisions. Where unavoidable due to functional, operational, or technical requirements key infrastructure may need to go in sensitive locations and the system needs to be able to enable this whilst also managing any effects. The implementation of spatial planning will help to further integrate these matters.

- **Key community amenities.** These are fundamental in promoting well-being of communities and are an essential component in urban development.

A resource management system that includes bottom lines and takes precautionary approaches when required

 Council supports the resource management system more clearly requiring environmental bottom lines to be understood and given recognition. Setting environmental bottom lines and limits at a local level in a future system is necessary to support better decision making around allocation of resources, and to more appropriately take into account the cumulative effects of decisions.

 Council supports the inclusion of the precautionary approach in managing effects on the natural environment (including coastal, indigenous biodiversity, allocation of resources) into Part 2. This would allow for a quicker or more adaptive response where there is a lack of full scientific certainty of effects and reduces risks of delaying decisions or measures to prevent environmental degradation. A high evidential burden should not be a barrier to preventing potential environmental harm. The inclusion of the precautionary approach is currently in the New Zealand Coastal Policy Statement and the draft National Policy Statement for Indigenous Biodiversity.

 Council also supports communities being able to set limits above bottom lines. These higher limits should be able to be recognised, upheld, and enforced by the system and its institutions. Any acceptable level of uncertainty in setting such limits needs to be quantified
and the balance needs to be shifted from best practical option towards meeting environmental outcomes where appropriate. There needs to be recognition of the need to limit urban development and the infrastructure demand this brings in some areas.

46. Council favours the use of precautionary approaches when biophysical limits have a degree of uncertainty, but over-use would result in significant harm. National direction which specifies what is to be considered in establishing the environmental bottom lines, such as health of the environment/system and changing water availability needs as a result of climate impact, would be useful.

47. Bottom lines should be set and revised in such a way that they are able to appropriately respond to changes in conditions or improved monitoring information, and local authorities should be able to modify existing consents in cases where revised limits are exceeded by existing uses. This may require the reframing of the period consents are granted for, or the way that existing use rights are dealt with in these instances.

A resource management system that establishes a clear framework for balancing trade-offs

48. Council suggests there needs to be a clearer hierarchy of considerations which supports the delivery of integrated outcomes. The hierarchy offered by Te Mana o te Wai is an example which provides for a clear cascade of what should be considered, and in what order. Council is supportive of employing the Te Mana o te Wai framework as part of this new resource management system.

49. As part of the hierarchy, the matters requiring consideration need to be more clearly described as to what is a bottom line, such as not exceeding biophysical limits, and what is to be balanced, with bottom lines taking precedence so as not to be exceeded. In the current approach some matters get more easily traded off in favour of others, especially where they do not align.

A resource management system that imposes positive duties to deliver on its outcomes

50. Council believes that there should be a stronger requirement to contribute net positive outcomes through the system, particularly in areas or processes which have been lost or degraded. Section 6 of the RMA currently talks about protection, but this does not address ecological systems and processes that have been lost or degraded.

51. Currently the requirements to protect the environment and natural resources are undermined, as the system allows for the mitigation of adverse effects and is often seen as supporting developments that have only minor adverse effects. These contribute to cumulative effects which are currently not adequately addressed and have caused the loss or degradation of important ecological systems or ecosystem services.

52. An example of a system where such positive duties exist is the South Australian Landscape South Australia Act 2019 which, after seeking to protect natural ecosystems, also seeks the “the restoration or rehabilitation of ecological systems and processes that have been lost or degraded, and promotes the health of ecosystems so that they are resilient in the face of change”.

A resource management system that addresses climate change and natural hazards

53. Council supports changes to the current priorities for the effects of climate change to be expanded beyond effects to also include mitigation and development of resilience. This is further addressed in the climate change section of this submission. Allied to this,
council would be supportive of matters which would promote circular and regenerative economy approaches towards resource use.

54. Council supports a new matter which, in considering new activities with associated risk, will prioritise public safety and the protection of life over other considerations. This is expanded on in the climate change and natural hazards section.

A resource management system that is underpinned by Te Tiriti and te ao Māori considerations

55. The Act's purpose should reflect a Treaty-based partnership with specific outcomes to be achieved. The Act's purpose should also have an overarching goal to significantly improve the state of the natural environment. A review of the purpose and principles of the RMA is required as the balancing of these matters against each other impacts on the intent and implementation of s6(e) and s7(a). Outcomes should be developed in collaboration with Māori. Section 8 should require giving effect to, or recognising and providing for Te Tiriti.

56. Council supports new thinking on how te ao Māori is reflected in resource management. A Treaty partnership approach between Māori and the Crown is needed to develop this concept further. This is expanded on in the consideration of issue three in this submission.

57. Council supports the purpose and principles recognising kaitiakitanga and rangatiratanga. This is explored more in issue three in this submission and is consistent with recent Waitangi Tribunal findings and recommendations. Explicitly including rangatiratanga within the purpose and principles of the RMA recognises the fundamental Crown and Māori partnership underpinning all resource management issues in Aotearoa. It enables partnership-based decision-making at appropriate levels, in the right ways and at the right times, while also better supporting te ao Māori and mātauranga Māori to be reflected throughout the resource management system.

58. Cultural landscapes have little to no standing in the current Act, which make them hard to protect and be considered in plans. Council supports the panel further exploring how cultural landscapes could be better protected within the RMA.

Issue Three: Recognising Te Tiriti o Waitangi and te ao Māori

59. We recognise council’s commitment to a treaty-based partnership with Māori. In practice these commitments are delivered through:

• working together to achieve better outcomes for Māori and lifting economic, social and cultural wellbeing
• recognising the link between Māori and whenua through whakapapa
• strengthening our effectiveness for Māori
• optimising post-treaty settlement opportunities to benefit Māori and all Aucklanders.

The system needs to enable this and bring it to life. Therefore, council supports appropriate recognition of, and provision for, te ao Māori, tikanga and community practices and interests, and mātauranga Māori within the resource management system.

60. The purpose and principles of the Resource Management Act need to reflect a true Treaty partnership between the Crown and Māori and provide clarity on the intended outcomes from this partnership. The starting point is considering how rangatiratanga (which in practice looks like self-determination, independence and the right to exercise authority over decision-making and taonga) is applied across the resource management system.
61. The reform provides an opportunity to deliver better outcomes for Māori. It also provides an opportunity to strengthen and clarify the relationship between te ao Māori and how rangatiratanga is applied across the resource management framework (including clarifying local government responsibilities). The resource management system needs to be fit for purpose – an element of this means it needs to ensure it can deliver on intended Treaty settlement outcomes.

62. The Act includes several tools (e.g. iwi management plans, joint management agreements) to support Māori involvement in resource management processes. The success and uptake of these varies widely – further work is required to improve uptake and provide consistency across their use and intent. The tools and resource management processes more widely are very resource hungry, and there is a significant lack of access to information, technology and resourcing for Māori. This can impact on the effectiveness of these tools and processes. Council notes that central government needs to better fund and enable the resources required for capacity and capability for Māori to fully participate in the system and to ensure te ao Māori is appropriately reflected in practice on the ground.

63. There is an opportunity within the review to reorient the resource management system to deliver better outcomes for Māori: by developing a holistic and integrated framework that recognises and provides for te ao Māori and mātauranga Māori, and environmental, social, cultural, and economic wellbeing.

64. This reoriented resource management system should specifically recognise and provide for Māori resource management methods (e.g. rāhui), better enable consideration of customary interests and practices, and ensure greater recognition of intangible values and consideration of the impacts of activities on these elements.

65. Council supports redefining a Treaty-based approach to resource management. Current Māori resource management provisions offer some direction and tools. These have largely not been as effective as they could be, are resource intensive, are applied inconsistently, and there is a lack of clarity around their intent, scope and implementation that too frequently leads to appeals and litigation. This can undermine the ability of these provisions to deliver better outcomes for Māori and all Aucklanders.

66. There are a variety of opportunities across the existing resource management system to consider. Council supports central government engaging directly with Māori to explore these options and to consider how existing provisions within the RMA could be adapted, and what additional tools, mechanisms or direction would be required to support a resource management system that is underpinned by Māori rangatiratanga, and incorporates te ao Māori and mātauranga Māori appropriately.

67. Council supports central government working with Māori to set clear expectations around minimum standards and desired environmental outcomes required. It also supports central government and Māori working together to explore options for addressing concerns around the inconsistent use of permitted baselines and tensions created with requirements to avoid cumulative effects.

68. Council notes the treatment of Māori issues across the full spectrum of matters needs to be consistent. This means the approaches set out in the RMA, LTMA, proposed Urban Development Bill etc. all need to align. This may include clarifying the relationship between the RMA and Te Ture Whenua Māori Act 1993.

69. Council supports a National Māori Advisory Group being established to monitor the efficiency and effectiveness of provisions. In Auckland, the Independent Māori Statutory Board has specific responsibilities and powers under the Local Government (Auckland Council) Amendment Act 2010. One of the purposes of the Board is to measure and evaluate progress or change in Māori well-being over time, assisting Auckland Council to make decisions, perform functions and exercise powers by promoting cultural, economic,
environmental, and social issues of significance for mana whenua groups and mataawaka of Tāmaki Makaurau. A critical part of that measurement and evaluation process is to help ensure Auckland Council and Council Controlled Organisations (CCOs) meet their broader Treaty of Waitangi obligations.

70. **Council supports tripartite approaches to resource management involving central government, local government and iwi/tangata whenua.** Council’s starting point is that we recognise the importance of relationships for delivering resource management outcomes. The Crown, iwi and council relationships are critical to delivery of good cultural, social, environmental, and economic outcomes for Māori and all New Zealanders. Given the Crown’s accountability for the Treaty partnership, Treaty objectives, and settlements, council considers the Crown needs to actively support delivery of those objectives as local government seeks to implement them.

71. Delivering on tripartite arrangements would require central government to provide support and resourcing for Māori for capacity and capability building. It would also require agreement around how primacy of Māori interests is addressed, and a better understanding of relationships and expectations of all parties, particularly where Māori rohe overlap territorial boundaries.

72. There needs to be agreement and clear expectations around who should be involved, how and when (i.e. consideration of how and when partnerships at iwi, hapū, marae, mana whenua, mataawaka, tangata whenua, rūnanga would work in practice). In a resource management context, there are many communities of interest that have varying degrees of interests that require consideration. Council’s view is that local government by the nature of its purpose and functions, has a great deal of expertise in working through such matters with all parties.

**Issue Four: Strategic integration across the resource management system**

73. Auckland Council is the only local authority in New Zealand required to develop and maintain a spatial plan by virtue of the Local Government (Auckland Council) Act 2009. The first spatial plan was adopted in 2012 (The Auckland Plan 2012) and was revised in 2018 (The Auckland Plan 2050). Spatial integration was seen as an important component of a more cohesive and joined up planning and development approach in Auckland.

74. The Auckland Plan 2012 defined spatial planning as a form of planning for cities, regions or countries that seeks to provide long-term direction for development and the achievement of social, economic and environmental wellbeing. The 2012 Auckland Plan provided explanatory information which related this definition back to the following core objectives set out in the European Regional/Spatial Planning charter 1983 (the Torremolinos Charter) which include:

- enhancing quality of life - strengthening communities, providing access to jobs, housing and community facilities
- improving and achieving balanced socio-economic development (growing the economy and reducing disparity)
- responsibly managing the environment, including heritage and the built environment
- developing a land-use plan in the public interest.

75. Council maintains this as its definition of spatial planning today. This definition was retained in the Auckland Plan 2050. It has proven useful in council’s experience as it provides an integrated approach to making decisions, particularly where trade-offs are required.
76. The Auckland Plan was not the first time local government in Auckland had developed spatial plans of this nature. However, it was the first time that spatial planning was integrated into the statutory framework of a council. Based on its experience to date, council has developed a strong understanding of the potential for spatial planning to deliver strategic integration.

77. The requirements of spatial planning in the Local Government (Auckland Council) Act 2009 are broad and outcome focussed with a strategic direction that is required to integrate the four well-beings (social, economic, environmental, and cultural) and provides a basis for aligning both regulatory plans and funding programmes. This has provided council with a holistic strategic umbrella to guide how, where, and when Auckland should grow, and enables alignment to the planning and delivery of infrastructure. It guides what council should invest in across all spheres of its role and functions, and what it is trying to achieve in all its other plans and policies. **Council supports spatial planning being embedded in the LGA.**

78. Council notes that it uses spatial planning as an approach at a finer-grain level in areas such as structure planning, area planning, and in exploring specific local opportunities or issues. Being a unitary authority has made this approach easier.

79. **Council supports spatial planning being used across the planning system to address strategic integration challenges.** The requirement for the spatial plan to form the basis for aligning regulatory and funding plans is open to interpretation. Alignment could be achieved by giving more weight to the plan itself or by requiring regulatory or funding plans to give greater effect to the spatial plan in some way. This includes, but is not limited to the:

- resource management plans under the RMA. This could require the regional policy statement (RPS) to give effect to the spatial plan, or could even see aspects of the RPS being developed and adopted through the spatial planning process
- Long-Term Plan under the LGA
- Thirty-Year Infrastructure Strategy under the LGA
- Regional Land Transport Plan under the LTMA

80. In some areas this would involve ensuring better alignment between purposes, principles, language, approaches, and intended outcomes of statutory tools across the resource management system. For example, in the creation of a spatial planning framework, consistency between the transport planning and funding legislation (currently sitting with the LTMA) and the land use and environmental planning legislation (RMA).

81. The benefit of spatial planning in Auckland as an integrating tool is in its broad outcomes-focussed approach. **Council supports spatial planning continuing to be broad in its approach and would oppose it being narrowed to specific land use matters.** This would limit its integrating potential, and add potential strategic confusion if separate planning approaches were then employed to consider those matters not included in a narrower spatial planning requirement. In practice this would have the effect of prioritising the narrower specific land use matters over broader economic, social, cultural and environmental wellbeing.

82. Council has seen real benefit from having its spatial plan linked to the purpose of local government through the four well-beings as this provides for greater alignment. This also means that community engagement on priorities and approaches for delivering the four well-beings occurs at a much earlier stage (through spatial planning engagement) rather than later, as regulatory or financial plans are developed. Communities are familiar with the four well-beings, and engage more at this outcomes level, and it means that they have greater understanding or support for the potentially challenging proposals required to meet an outcome. An example of this is council’s adoption of a quality compact city approach. There was extensive engagement with communities on this issue through LGA processes before it moved into the finer grained decisions in developing the Unitary Plan and providing for
infrastructure funding. This is why it is important for spatial planning to be embedded in the LGA.

83. The spatial planning requirements under the LGA allow council to take a more flexible approach to consultation, thereby engaging more meaningfully with our community, partners, and stakeholders. For this reason, council supports the more flexible and holistic approaches towards consultation and decision-making enabled by the Local Government Act for spatial planning rather than the more formal, potentially litigious, approaches within the RMA for the development of resource management plans. Given the nature of what spatial planning needs to achieve, its development needs to employ a collaborative engagement approach across its communities and with key partners such as mana whenua, central government, infrastructure providers, social service providers and all who have an interest in the region.

84. Further to this, council supports explicitly providing for mana whenua and mataawaka involvement in developing regional spatial plans. This could also include the development of specific inputs into spatial planning by Māori. To achieve this would require central government investment in building mana whenua and mataawaka capacity and capability.

85. The spatial plan should also be cognisant of Te Ture Whenua Māori Act and the Conservation Act, while ensuring consistency in provision for Māori values and interests across these Acts.

86. Council also believes that central government’s alignment of its infrastructure provision to regional spatial planning would enable closer cooperation between local and central government. This would need to be a collaborative endeavour involving central and local government, such as the Auckland Transport Alignment Plan. This would achieve better integration between national and local priorities in a spatial context.

87. Council notes that current issues around funding and financing of infrastructure would undermine any benefits from integrated planning since infrastructure is a key determinant of the timing and sequencing of growth and development.

88. Council supports all regions being required to develop some form of spatial plan. However, given the potential requirements for expertise and cost in the development of such plans, council suggests an approach that would scale the requirements and timeframes of plans based on regional needs. Regional councils would need to work with multiple district councils (and their communities) in developing a spatial plan and this could make the process far more complex.

89. Council would welcome approaches that could be employed to make inter-regional cooperation on plan development easier to achieve. A number of issues cross political boundaries, particularly environmental management, growth and development, and infrastructure provision and funding. Facilitating greater inter-regional co-operation would assist with developing and implementing shared approaches to shared issues. This could include guidance or standards which give all plans a standard approach or format, whilst allowing for responsiveness to the needs of a region.

90. Council supports spatial planning playing a key role in achieving improved environmental outcomes, particularly in being able to address cumulative effects. This could be achieved in a number of ways, for example:

- identifying environmental constraints at the strategic level (or apex of planning framework), for instance flood-prone or ecological areas, could guide development
- spatial mapping of environmental limits could enhance allocation approaches
• integrated planning of built form, transport and land use could support development which allows for less travel or more sustainable modes of travel, and enables adaptation and resilience.

91. Council notes that good information to inform decision making is required if spatial planning is to support improved environmental outcomes. Detailed spatial data is not always readily available for use. This means that environmental monitoring and analysis at the right level, frequency or times and in relation to the “right” matters is essential.

Issue Five: Addressing climate change and natural hazards

92. The resource management system is a significant tool in organising Auckland’s land use and spatial functions, as well as in protecting the life-sustaining capacity of our natural environment. It can be a significant tool in achieving climate mitigation and adaptation.

93. To prepare Auckland for the risks from climate change, the resource management system needs to help Auckland take a precautionary approach to climate change adaptation and also help it transition to a low carbon city.

94. In November 2018, council committed the Auckland region to play its part in delivering the Paris Agreement objective of limiting global temperature rise to 1.5 degrees Celsius. Council also declared a Climate Emergency in June 2019, in response to the call for greater urgency in Auckland’s transition to a net zero carbon future.

95. To deliver on Auckland’s climate action commitments, council is currently developing Te Tāruke-ā-Tāwhiri: Auckland’s Climate Action Framework. This framework outlines climate change mitigation actions to reduce greenhouse gas (GHG) emissions, while identifying adaptation actions to ensure the region is resilient to the impacts of climate change. There are a number of climate actions that are within council’s control but also a large number that are not, such as those that central government, industry, communities and individuals have control over.

Climate mitigation (emissions reduction)

96. Council supports the RMA being used as a tool to address climate change mitigation. Climate change mitigation should be prioritised as a matter of national importance, under Part 2 of the RMA.

97. The RMA should address climate change mitigation in a way that enables councils, through land use planning, to support certain activities that contribute to low carbon development and decarbonisation of the economy and discourage or prevent activities that will result in higher GHG emissions. It is critical that the RMA provides an effective mechanism to ensure we are not locking ourselves into a higher emissions trajectory as a result of land use decisions. The RMA needs to enable decision making that supports a low carbon future, and this needs to be identified as a key outcome for the system to deliver. In addition, a range of supporting approaches and mechanisms need to be built into the system which lead to improved energy or resource efficiency, support of low carbon technology such as electric vehicles, transport-oriented development or building sustainability.

98. National direction under the RMA should be provided to support climate change mitigation. This could include:

- A National Environment Standard with controls on emissions (linked to the carbon budgets being developed by the Climate Change Commission under the Climate Change Response (Zero Carbon) Amendment Act 2019).

- A National Policy Statement to support the transition to a low carbon, circular and regenerative economy.
99. **Council supports the RMA playing a complementary role to the New Zealand Emissions Trading Scheme (NZ ETS) in addressing climate change mitigation.** The current government focus is on the NZ ETS as the main policy tool to address climate change mitigation. Council’s position is that the NZ ETS is only one of several important tools to address climate change mitigation. We are concerned that relying on the NZ ETS as the main tool will be insufficient to reach our climate commitments, particularly as some of the largest contributors to New Zealand’s total GHG emissions have limited exposure to the market mechanism the NZ ETS uses to discourage emissions. From 2008, when the NZ ETS was introduced, to 2017, New Zealand’s net GHG emissions increased by 16.5 per cent.

100. **To achieve the objectives of the Climate Change Response Act 2002, including reducing all GHG (except biogenic methane) to net zero by 2050, other central government legislation will need to support its delivery and not impose policy barriers or conflicts that undermine the Act’s intent.** It is critical that other legislation, including the RMA and the Building Act, supports and aligns with the Climate Change Response Act 2002 as the framework for New Zealand’s transition to a low emissions and climate resilient economy.

*Climate adaptation*

101. Climate adaptation is adjusting to actual and expected effects of climate change. Climate change risks are inherently uncertain. Auckland’s ability to withstand known and unknown climate risks will significantly improve the region’s resilience.

102. **To achieve this, Council supports including climate adaptation as a matter of national importance under Part 2 of the Act.** The term ‘effects of climate change’ in Section 7(i) of the Act is unclear and open to interpretation, and does not adequately signal the seriousness or the urgency of the issue. It sits too far down the hierarchy of resource management considerations. Climate adaptation must not be traded off and must be prioritised against other resource management matters.

103. When making resource management decisions, climate adaptation requires an emphasis on the longer-term consequences. For instance, proposed housing in an area that might not be viable in the projected climate of 2090 due to the impact of sea level rise. Climate projections offer scenarios at 2040, 2090 and 2110 to help build adaptation action. Resource management decisions should consider these longer timeframes as well.

104. Climate adaptation requires a precautionary approach in resource management decisions. There is inherent uncertainty in understanding climate risks. Climate risks will emerge due to multiple stressors, such as emissions and population growth. A precautionary approach requires caution in decision making where the effect is unknown. This can be at odds with the enabling framework of the Act.

105. Climate adaptation need not be focused on limiting development; rather it should ensure that development occurs in the right places, and in the right way. It can also redirect the resource management system to better provide for innovation, so that communities can adapt. For instance, ‘sustainable innovation’ such as ‘green building’, food resilience, de-centralisation of energy grids etc. should be enabled and incentivised in the system. As such, climate adaptation needs a balance of the precautionary approach with flexibility and support for adaptive capacity, so that Aucklanders can be resilient in the face of climate change.

106. **Council supports clear national direction around climate adaptation matters, including central government providing clarity and direction around managing existing use rights in the context of managed retreat.** This would also help to provide certainty to affected communities, clear pathways and options for resolving issues, and better enable equitable outcomes for affected parties at a regional and national level.
107. **Council supports central government investigation into a range of tools, including dynamic adaptive pathway approaches and spatial planning, to support long-term planning for climate adaptation.** Council considers it is important to ensure these tools are legislatively enabled and in place as soon as practicable given the current climate change emergency we face.

108. **Council supports clear and streamlined mechanisms being introduced to the resource management system to enable speedy adoption or incorporation of the national adaptation plan being developed under the Climate Change Response Act.** Council notes that there will be public input opportunities as the national adaption plan is developed, and adoption into regional plans should not provide the opportunity to relitigate matters already agreed at a national level.

The avoidance and management of natural hazards

109. The paper considered the management of natural hazards in a similar vein to climate adaptation. While managing and avoiding hazards is part of climate adaptation, there is a nuanced distinction between these terms. Climate adaptation can be broader in its focus, i.e. food resilience, water security, low carbon living etc. Hazard management should have greater focus on the preservation of life and a focus on avoidance of risk.

110. **Council supports the preservation of life being elevated above the matters of national importance under Part 2 of the Act where a precautionary approach is required (i.e. where natural hazards occur or are likely to present challenges in the future). Where the hazard presents known risks to human life and property, the focus should be on avoiding development rather than the option to remedy and mitigate the effects of development on risks.** Protection of existing property should be treated as a secondary consideration but still take precedence over existing part 2 matters. Council considers human life and well-being should be the determining factor in how we respond to the threat of natural hazards. We do not think this should be traded off against other considerations. Council notes the potential complexities in implementing this in practice, including determining the criteria for assessing hazards and determining who makes these decisions and in what circumstances. There is an opportunity to draw on mātauranga Māori in working through these complexities as well as involving Māori in decision making, for example through co-governance approaches.

111. For instance, if a land use consent is likely to enable residential development in an area that will erode due to sea level rise, no development should occur in this area, or councils should be able to use limited duration consents in these areas, eg consent for 40 years. The regulatory framework needs to support territorial authorities to prohibit development where there is current or future risk to life and property.

112. An issue with enabling development in high-risk natural hazard areas is cumulative impacts. For instance, if a dwelling in a single house zone can convert into two dwellings, or if minor dwellings are enabled, over time the population in these areas starts to grow. There may be minor effects from additions to the property, but at the suburb level this changes the face of the suburb, and the risk profile of the area. The focus should be on avoiding, rather than to remedy or mitigate the effects of development.

113. **Council also supports national direction that provides clearer planning restrictions for development in high risk areas.** This guidance would be useful in supporting councils to consider and address resource consent applications in these cases. It would also be useful to require the Minister to develop and amend national direction under the RMA in response to the national adaptation plan developed under the Climate Change Response Act.

114. Climate change can exacerbate the intensity of natural hazards. There is inherent uncertainty around the effects of climate change, and natural hazards can evolve quickly. The system
needs to be able to respond to emerging threats or ‘crisis’ situations. For instance, a streamlined approach within the resource management system would help respond to threats. Council supports central government exploring options for introducing streamlined approaches and tools in the RMA that would allow more effective and efficient responses to emerging threats or crisis situations. Council notes this has not been specifically proposed in the paper but thinks it warrants further consideration by government.

115. There needs to be better information and disclosure requirements around the natural hazard risks when purchasing or renting property. While coastal inundation risk is currently included on Land Information Memorandums, this is insufficient to assume that the property owner understands the level of risk. Also, it is unclear if property owners assume that if their property is at risk, territorial authorities or central government will compensate for the loss of that property.

116. Council supports national guidance or direction around disclosure responsibilities being included in the RMA. This will help councils identify what level of risk needs to be disclosed and ensure councils will not be hesitant to disclose risk for fear of court litigation.

117. Council would also support the introduction of disclosure requirements on other parties. This might include requirements on property owners in relation to subsequent purchasers or occupiers, or on conveyancing solicitors as part of due diligence processes within property purchase transactions.

118. The resource management system should ensure that disclosure about the level of climate risk is easy to understand and not couched in jargon and is based on an agreed level of risk – i.e. clear standards to be developed around levels of known risk to support informed decision-making by affected parties.

119. As the resource management system begins to respond to climate adaptation and risks, general understanding around climate adaptation and natural hazard will grow and support better decision-making. Council also notes there are opportunities to improve the implementation of risk assessments.

**Issue Six: National direction**

120. Council agrees that national direction plays an important role in addressing issues that are clearly of national importance (for example those currently addressed in section 6 of the RMA). If strongly evidence-based and prepared with genuine public engagement, Council believes that national direction has the following key benefits:

- ensures a more consistent approach to issues of national importance
- provides more clarity and certainty to councils, tangata whenua and communities
- narrows the scope of debate about how to interpret provisions in the statute that address matters of national importance.

121. National direction needs to recognise that all communities are different, and therefore national direction should only be used for genuine issues of national importance and not for matters which are highly local. National direction needs to avoid being unnecessarily prescriptive which removes the ability for more locally tailored responses to issues of national importance.

122. However, council believes it is essential that national direction is genuinely integrated across issues and addresses the challenges of achieving positive economic, social, cultural and environmental outcomes. Any national direction should be required to demonstrate how integration has been achieved and where any trade-offs have been made.
123. **Council agrees that central government should be required to produce an integrated suite of policies and standards for a range of matters, not just New Zealand’s coastal environment.** We suggest national direction is reviewed within 15 years of it coming into effect.

124. Council is conscious of the amount of time and effort that would be required to deliver national direction through a single combined instrument such as a Government Policy Statement, while also ensuring it is robust and has broad community support. Despite this, council believes the preparation of a combined instrument such as a Government Policy Statement would assist central government in tackling the integration challenge/opportunity previously mentioned, and therefore sees potential merit in such a document. **Council supports central government further exploring the option of delivering national direction through a single combined instrument.**

125. **Council supports the use of more directive instruments for a limited range of matters.** Matters that lend themselves to directive instruments are generally those where scientific measurement is required and/or where there is no logical reason why one council should have different standards to another. Directive instruments should be limited to matters of this type and should be supported by the same level of analysis and engagement required for the preparation of policy statements and plans. Council is not in a position to recommend a definitive list; however, it will undertake further work on this and will be in a position to provide a list at a later stage in the resource management reform process.

126. National planning standards are useful in freeing up councils and communities to focus on more strategic issues rather than getting bogged down in the detail of specific standards for which there is no reason why one council should have a different standard to another. Council supports further developing national planning standards, provided councils are able to prepare their own standards to address issues that justify a regional or city/district response.

127. As already noted, council supports stronger recognition of Te Tiriti through a range of mechanisms and a national policy statement could be beneficial in achieving this.

128. Council supports removing duplication of effort and improving clarity on issues through central government led direction in collaboration with Māori.

**Issue Seven: Policy and planning framework**

129. Council believes that much of the complexity within, and lack of integration between plans, is a result of the current statutory framework and statutes. The level of complexity and process can itself be a barrier to public input. **Council agrees that the quality of plans can be improved through changes to the framework and the statutes themselves.**

130. Council also believes that changes should be made to the statutory framework to enable plans to be prepared more efficiently, while still enabling a high degree of participation by communities.

131. **Council agrees that some oversight/review of council policy statements and plans by central government and the courts is beneficial. However, council believes the current level of oversight should be reduced.** Council believes this can be achieved without compromising natural justice, or social, economic, cultural and environmental outcomes. Any changes to the current arrangements would need to ensure that the principles of the Treaty are upheld, and that Māori can challenge council decisions if necessary, without having to go through an even more onerous process than at present.

132. As already noted, council supports introducing a requirement for regional spatial plans to be prepared that have effect across the RMA, Local Government Act and Land Transport Management Act.
133. With respect to combined RMA plans, council’s experience as a unitary authority is that preparing such a plan for Auckland has provided significant benefits in terms of addressing region-wide issues in a strategic and outcomes-focused way, ensuring greater integration and consistency, and ultimately reducing effort and cost. However, council is conscious of the governance challenges this option raises in other parts of New Zealand.

134. As council is a unitary authority, the allocation of functions of regional and district councils under the RMA is not a major issue for Auckland. Council’s experience in preparing the Auckland Unitary Plan is that there are some matters for which there is an overlapping responsibility, and that this resulted in some duplication of provisions and added complexity. Council is happy to discuss this matter directly with the Panel in greater detail if that would assist.

135. In relation to potential changes for the plan-making process, council is reasonably supportive of the current process set out in Schedule 1 of the Resource Management Act. This process allows a high degree of public participation and oversight.

136. However, council supports the ability to adopt a streamlined process similar to that through which decisions were made on the Proposed Auckland Unitary Plan. Council does not see any reason why this should require approval from central government, as it currently does. The streamlined process should be set out in the statute. While improvements could be made, Council’s overall view of the special process introduced for the Auckland Unitary Plan is that it provided huge benefits in terms of allowing the Auckland Unitary Plan to come into effect in a timely way, while ensuring a high-quality plan and enabling a high degree of public participation and natural justice. This is one example of how the role of the courts can be reduced without compromising natural justice or outcomes.

137. Council does not believe the appointment of hearing commissioners by central government is necessary. If the streamlined process is adopted, then council supports a joint council/central government process for appointing hearing commissioners. Council also supports a requirement for input from Māori and for the commissioners to be accredited.

138. Having indicated general support for the Schedule 1 process combined with allowing councils to adopt an alternative streamlined process, the council strongly encourages the Panel to thoroughly investigate the pros and cons of completely new processes for preparing plans, such as those used in countries with legal and planning systems that are very different to New Zealand’s.

139. Council supports early and ongoing involvement of central government in the preparation of plans, however council does not believe it is necessary for draft plans to be approved by central government before they can be notified.

140. Council is of a scale where it has a considerable amount of plan-making expertise, however it supports central government having a greater role in supporting best practice. A particular area where central government can provide a valuable role in plan-making is environmental monitoring. There are considerable benefits in having a single, centralised agency responsible for monitoring specific components of the environment to enable the preparation of robust evidence-based plans.

141. One option the council strongly supports is strengthening the ability to restrict private plan changes. Council accepts there are benefits in allowing private plan changes. However, plans should be council and community-led documents, and it is through the council-led plan-making process that the strategic content of policy statements and plans should be debated, tested and confirmed. This is the best way to ensure the integrity of the planning framework as a whole is maintained.
142. The Auckland Plan 2050 and the council’s regional policy statement are underpinned by robust evidence and engagement processes and linked to council and central government funding plans. For this reason, council supports introducing clear restrictions on private plan changes to ensure they do not challenge fundamental aspects of a council’s strategic planning framework that have already been set. A primary restriction should be that private plan changes that are contrary to a regional policy statement or regional spatial plan/future development strategy cannot be accepted. Private plan changes that are contrary to these higher-order documents are highly problematic and should be prevented.

143. Another critical matter is the need to ensure infrastructure planning and committed funding is in place before private plan changes can be accepted and notified for submissions. Decision making should be required to consider the timeframe of the delivery of the necessary infrastructure. Bulk infrastructure needs to be in place either before or at the time of decision making, or at the very least guaranteed to be in place within a short period of time thereafter. The network/system point of view needs to be considered, including any potential impact on existing infrastructure networks.

144. Council also supports allowing councils to reject private plan changes within five years of a plan becoming operative (or the matter having been considered) rather than two years, and limiting the ability to appeal decisions to reject private plan changes within this timeframe.

145. Councils have a limited ability (at the decision-making stage) to make amendments to private plan changes that have been accepted (as opposed to adopted). Under the current Schedule 1 process, councils are faced with having to make a submission to ensure there is scope for amendments to be made. This can add complexity and costs (including public costs) to the private plan change process. Council acknowledges the natural justice issues that arise when amendments are made that go beyond the scope of submissions, and suggests that a process such as the process the Environment Court is able to use under section 293 of the RMA could be used where a council in its decision-making role, seeks to make amendments that have not been requested in submissions. Council would strongly support the panel considering options for addressing this issue.

146. There are a number of other changes that could also reduce complexity across the resource management system. These are dealt with under Issue 14.

**Issue Eight: Consents and approvals**

147. Plan making (which forms the basis for resource consent assessment processes) is a process of ‘push and pull’ between interest groups with often strongly competing values. Decision makers will often need to weigh up these competing values, and a compromise position is not uncommon. Such compromise positions often constitute plan provisions that enable certain activities, provided adverse effects are avoided or mitigated. Often, this is a ‘juggling act’ to enable a certain amount of development in return for management of effects.

148. While the current system of generally aligning activity status to impact and risk is working reasonably well, improvements could be made through legislation and plan-making. These could include:

- **Enabling more use could be made of permitted activities for lower impact/risk activities.** (including through specification in in the RMA itself or through National Environmental Standards). However, this would have monitoring/compliance implications.

- **The number of activity statuses under the RMA could be reduced, for example controlled and non-complying activities could be removed.** There is overlap between
discretionary activities and non-complying activities, and one of these activity status categories could be removed. Lay people often confuse non-complying activity status with prohibited activities. Activities that are not provided for could revert to discretionary activities. Non-complying activity status is often used in plans to denote the general undesirability of a particular activity or form of development. We consider that if objectives and policies are robust enough, there should be little inherent difficulty in declining a discretionary activity where it is considered undesirable relative to a plan's intent. Further, more use of prohibited activity status should be made where the community and council are confident that certain activities are not desirable from an environmental or policy perspective.

- **Restricted discretionary activity status** could be applied to activities that generally fit within the plan's policy expectations in terms of intensity and scale of development and land use, but can be scrutinised in terms of design, localised impacts and other relevant assessment criteria. Restricted discretionary activities status narrows the scope of assessment, and if accompanied by non-notification provisions provides a significant degree of certainty.

- **Discretionary activity status** could be applied for activities that require a more detailed or broader assessment, or that push a plan's boundaries, and are assessed on their merits.

- **Prohibited activity status** could be used more frequently to provide certainty where particular activities are highly undesirable (including through specification in the RMA itself or through National Environmental Standards). The 'enabling' ethos of the RMA and case law have tended to steer council's away from using prohibited activity status in their plans, even where an activity is likely to have potentially significant adverse effects. The council encourages the Panel to consider ways in which the statutory framework can provide greater certainty in relation to the prohibition of activities.

- **Graduated and proportionate timeframes** that reflect the nature and complexity of a proposal/consent application. The one-size-fits-all approach to timeframes under the current system does not reflect the diverse range of resource consent applications that are processed by councils.

*Notification process for resource consents*

149. Currently a large proportion of resource consent applications are required to go through a notification assessment, the majority of which ultimately proceed on a non-notified basis. This requirement can involve a significant investment of resource by councils and contributes to uncertainty. In the international setting, many jurisdictions have much quicker and more streamlined processes for assessing and determining notification. For example, in many Australian states the planning legislation is much more prescriptive than the RMA as to what is and isn't publicly notified, and consent planners are not required to undertake bespoke notification assessments on each application – following lodgements, applications are either notified, or not, on a prompt basis.

150. **Council encourages the panel to explore an approach where status is linked to requirements of notification.** For instance, discretionary activity status could link to automatic public notification. While this would be prescribed by the legislation, there would be discretion for councils in their plan-making process in terms of setting activity status. For example, a plan could prescribe whether a building height infringement in a residential zone is a restricted discretionary or discretionary activity. The choice of activity status would then dictate the notification pathway. There may be need for provision that in exceptional circumstances
councils could exercise some discretion to notify applications with a restricted discretionary status.

151. There are widespread benefits associated with this approach to both applicants and councils. There is more certainty, less cost and less waste. This approach is also likely to lead to more streamlined process and shorter consenting timeframes. It is, however, heavily reliant on the plan-making stage to ensure activity status is carefully analysed and established, taking into account the potential impacts including on infrastructure assets, as this will dictate the approach to all applications with regard to notification.

Appeals and hearings

152. It is important to provide some potential for the appeal of decisions. However, this needs to be proportionate to the issues being addressed in an application.

153. Council supports the establishment of a less formal and legalistic Planning Tribunal to hear appeals on applications that do not challenge the fundamental intent of a plan.

154. More generally, the processes around hearings need to be improved, supplemented by more public education. The current hearings process can be confusing and problematic – hearings can be called by the applicant or submitter.

155. Environment Court appeal rights could be retained for discretionary activities, which should be activities that potentially challenge the fundamental policy direction of a plan.

Changes to the process for designations

156. Council supports the system making it easier to designate and build public infrastructure.

157. A benefit of using designations is they help protect a route for future activities. The current interpretation of the Act and practices have resulted in an expanded level of detail being requested as part of Designation applications, with potential to lose sight of the intent of the RMA. This needs to be improved. The consent process should be used for a greater level of detail on environmental matters.

158. Designations are usually put into place before final designs are undertaken which can result in conflict between requiring authority applicants and council planners as to the level of information that must be supplied with a designation application.

159. It is acknowledged that there should be an appropriate level of detail provided to enable a proper assessment of the proposal, for example an assessment on infrastructure requirements to support a school. However, it may not require, for example, an in-depth geotechnical assessment at that point in time.

160. Council supports consideration of options to address this and suggests a solution could be introducing different types of designations. For example, one type of designation could achieve route protection earlier at a lower level of design information, and another type of designation could be applied for situations where designs have been done which would provide for all of the benefits of designation and overcome the current conflicts.

161. Council supports longer lapse times for key infrastructure projects to enable long term infrastructure funding and planning, particularly for linear infrastructure. The timeframes for lapse dates on Notices of Requirement and designations are insufficient for long term infrastructure planning and funding, particularly for linear infrastructure. A 15-year lapse period for full designations and up to 30 years for concept designations may be more appropriate.
Changes to matters such as the review and variation of consents and conditions and use of receiving environment baselines

162. The remit and intent of section 127 of the RMA should be made clearer in legislation, and guidance on how it should be applied should be provided to avoid ambiguity, exploitation and confusion. Section 127 can currently be exploited to increase building height, move whole buildings, and add additional development rights. A future system could benefit from employing a similar approach to that under the Building Act for varying building consents. That is, new provisions could allow for applications to vary resource consents rather than the conditions of resource consents.

163. Challenges exist around resource consent applicants using either implemented or unimplemented consents as 'receiving environment' baselines against which new or amended applications are assessed. While the RMA enables cumulative effects to be considered, the incrementalism that can occur through using implemented or unimplemented consent baselines can be a challenging matter for councils to manage.Council supports consideration being given to the way in which such issues can be better addressed.

Te Ao Māori and Treaty considerations

164. There has been significant time and effort committed by Māori into the resource consenting processes. There is concern about mana whenua capacity to review and respond to consent applications. There are cost, capacity and prioritisation issues arising from this. There are also issues around how no response from mana whenua is managed i.e. it can sometimes be treated as a "no issue" response.

165. Council encourages central government to consider options for addressing this issue. Options may include:
   • providing more resources and funding to Māori to better enable active participation in resource consent decisions
   • making mana whenua pre-engagement a requirement for large/complex projects
   • improving the options for better and more timely sharing of information to mana whenua with the expectation this will enable and improve timeliness of responses to applicants.

Issue Nine: Economic instruments

166. A future system has the potential to enable a range of economic instruments to be applied in a variety of settings. Auckland Council submits that a future system should provide for a suite of economic instruments to ensure they are relevant, responsive, adaptable, flexible, and able to be systematically monitored where they are being used to ensure benefits are being achieved and costs are estimated correctly.

167. Economic instruments could be applied in a variety of instances, for example land-use impacts and allocation of scarce public resources. They can:
   • help strike the right balance between allowing activities to occur and minimising and/or offsetting that activity’s adverse impacts
   • be used to gear a system towards achieving positive outcomes, not just levying charges for adverse effects on the local catchment in the short-term.

168. We agree economic instruments are underused under the current system and that they should be an integral part of any reformed resource management system. Council supports the
options the panel has cited in its issues and options paper in principle, noting that the options at 118.e. and f. would require further clarification. Council’s position is that a future system must avoid creating incentives for resource hoarding or commercialisation/exploitation of economic instruments.

169. Council would support reviewing the Local Government (Rating) Act 2002 to achieve a broader remit and consistent system approach for economic instruments.

170. Council submits that economic instruments should be applicable to all public resources, including resources that are administered via separate statutes, such as minerals.

171. A resource management system must ensure that the full costs of environmental impacts are borne by those causing them. People should pay the full costs they incur on society; otherwise, negative activities will not be reduced. This means the Crown must therefore also be subject to economic instruments.

172. Economic instruments (such as funding mitigation strategies and congestion charging) should be able to be tailored/customised at the regional/local level. They should acknowledge cumulative effects and also be consistent with te ao Māori and Tē Tiriti o Waitangi.

173. Council submits that there is a need to set standards and guidance at the national level (for example, how costs are to be apportioned and how to achieve best and highest use). This must include guidance on when making trade-offs to achieve wider benefits is appropriate, and how it should occur, for instance in deciding whether to continue protecting certain sites or allowing development to occur.

**Issue Ten: Allocation**

174. The complex and connected issues of population growth, growing inequity, environmental degradation and climate change mean that persisting with a system of allocating resources based on past approaches and expectations is unlikely to remain fit for purpose in the future. Council agrees that the “first in first served” approach has not been an effective mechanism to achieve highest value use of resources. This approach has fallen short of achieving equity or wider societal beneficial outcomes when allocating resources, particularly as resources become over-allocated.

175. In council’s experience, allocation decisions work better when existing and potential uses/users are considered at the same time. A future system supporting such an approach would allow for prioritisation of uses to achieve outcomes and enable a better understanding of cumulative effects and changing demands on resource use. This is difficult to achieve under the current system and “first in first served” approach.

**Need for certainty and avoiding perverse outcomes**

176. Council would support a future resource management system that provides flexibility by offering a suite of approaches/options that can be applied to manage allocation of resources. This should include the current “first in first served” approach, which despite its limitations, may still be appropriate in some circumstances.

177. For instance, where resources are not under significant pressure, a “first in first served” allocation approach may still be appropriate within a system with ‘safety nets’. This includes being established within an environmental bottom line and with robust monitoring to send early signals that the system may be coming under pressure. For an approach to work, the system needs to provide the ability to apply adaptive management and thus provide the ability to move to a different allocation approach where necessary.
178. Council recognises that a future system needs to achieve a balance between providing certainty for uses/users and flexibility for the system to be more responsive to adapt to declining environmental quality, changing land use and climate change impacts.

179. **Council supports timeliness of allocation decisions being a key factor in any allocation system.** Allocation decisions can involve resources which are essential for communities to be able to function. In particular, providers of water, wastewater and other essential public services who are reliant on allocation decisions will benefit substantially, in terms of both the efficiency and effectiveness of their operations, if more timely and consistent processing of allocation applications is required. In turn, this will result in wider benefits for the overall well-being of communities who rely on the provision of these essential services. There are likely to be a variety of ways open to the Review Panel to achieve more timeliness and consistency in allocation decisions, but it will require new methods, systems and structures rather than the status quo.

180. This submission discusses the concept of a clear hierarchy of obligations and system outcomes. Having clear national and local direction on prioritisation of uses is necessary to assist with improving certainty for allocation of resources along with integration of various legislation and their instruments in relation to infrastructure. An option in a future system could be setting timeframes for allocation decisions to be made based on where a matter may sit in relation to prioritisation of uses and/or the hierarchy of obligations.

181. **A future system must therefore consider economic, social, cultural and environmental trade-offs when allocating a resource.** A narrow focus on economic outcomes only is likely to result in perverse outcomes for wider society, the natural environment and future generations’ ability to meet their needs.

182. The current consenting framework for discharge to water and allocation rights also raises concern from a te ao Māori and Māori interests perspective. Council understands government intends to deal with water allocation issues.

### A possible approach to allocating in a future system

Council suggests that a possible approach (out of a suite) to allocation in a future resource management system could be considering a precautionary approach whereby the decisionmaker leans towards taking caution and environmental protection where there is uncertain or inadequate information and where a proposed activity’s effects could be significantly adverse.

The New Zealand Coastal Policy Statement and the draft National Policy Statements for Indigenous Biodiversity include this principle. The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 includes a similar requirement on the responsible minister.

A precautionary approach could allow for a quicker or adaptive response where there is lack of full scientific certainty, which often results in delaying decisions or measures to prevent environmental degradation.

Alternatively, a future system could establish levels of certainty/uncertainty or acceptable levels of evidence for various attributes/criteria such that a decision is made to act rather than being delayed.

### Environmental bottom lines

183. Council considers that setting environmental bottom lines/limits in a future system is necessary to identify an allocation allowance. It may also be appropriate for legislation to specify what is to be considered in establishing environmental bottom lines, such as health of the environment/system and changing water availability needs as a result of climate change impacts.

184. A future system needs to be able to provide methods/tools that can quantify an acceptable level of uncertainty to help decision makers strike the right balance between the best practical option and environmental outcomes sought.
185. Limits are established on best available information and a future system would need to be flexible to adapt and respond as new or more information becomes available.

**National guidance and a guiding framework**

186. As stated above, council considers allocation matters are a structural issue. Council considers that national guidance or direction is useful on matters where prioritisation of uses is necessary to assist in trade-offs made in decision making at the local level. This particularly applies to arguments where economic certainty and investment may hold more weight for longer consent duration rather than a shorter consent duration necessary to better manage the resource.

187. **Council supports a future system having a guiding framework, setting out national and local level allocation principles, including prioritisation of uses.** Such a framework should consider matters such as:

- diversity of catchments, resources, values and demand
- clear articulation of the trade-offs for assessment approaches councils may use
- balancing differing demands and needs, e.g. personal use vs productive use, different agricultural activities
- economic investment/returns and environmental outcomes are a dynamic balance which needs greater transparency
- use of communal resources comes with an obligation to be responsible for future generations ability to use resource i.e. use now will not preclude the right of future uses. This may mean reallocation of over allocated resources, lower limits on discharges or not getting full allocation requested.
- reconciling central government directions and policies that conflict with allocation of resources, e.g. push for growth in urban areas or in agriculture and the conflicting impact this has on natural resources through associated allocation.

**Principles to guide local decision making about allocation of resources**

188. **Council supports the RMA providing principles to guide local decision making for the allocation of resources and to achieve consistency across New Zealand.** Ideally these are set within a national framework, as discussed above. Local principles should:

- include prioritisation of uses/users
- state that resource allocation is a primary purpose of the resource management system, established in a clear hierarchy of obligations and outcomes.

189. The principles need to be clear and directly flow from national outcomes, whilst providing flexibility to recognise local differences in resources and community outcomes. Elevating the principle of Te Mana o te Wai currently in the National Policy Statement on Freshwater Management, or similar, into the RMA’s purpose would provide a positive foundation to establish principles for allocation within legislation.

190. Establishing outcomes and principles at the national level, supported by guidance for local decision making, would assist in providing an alternative to the “first in first served” approach. Elevating the importance of future generations, health of the natural environment, and the impact of climate change in the allocation system is critical.
191. If the future system strengthens the use of spatial plans, council suggests they could play a strategic role in the overall identification of priorities for potential allocation uses or could be linked into the plan-making/allocation process to inform development of priorities.

Allocating resources across boundaries

192. **A future system should recognise that inter-regional issues can potentially become national issues and may need to be assessed differently.** Assessing one region’s needs over another may need to consider well-being and resource use outcomes at the system level, particularly if there are national economic and social implications of not gaining access to a resource. For example, some regions may need to import resources from an adjoining region e.g. Auckland sourcing water from the Waikato region.

193. While some resources extend across regional boundaries – for example, groundwater aquifers – or have shared resources where allocation of discharges need to be managed – for instance, harbours – working together is necessary to share the responsibility, achieve fairness, and better understand and manage cumulative effects on the resource. **Council suggests that a future system should encourage and support councils to work together when allocating discharges into the shared spaces.** For example, Auckland Council and Northland Regional Council are working together on discharge allocation into the Kaipara Harbour. Such joint approaches are likely to require financial support from central government.

Ability to intervene

194. **Councils should have the ability, and system support, to intervene when desired outcomes are not being met.** This goes over and above current monitoring and review of consent conditions and is geared towards requiring a consent holder to undertake positive action.

195. Better monitoring is required to understand reasonable use and triggers for adverse effects.

196. It would also be useful to nationally define ‘reasonable use’ to enable improved understanding of cumulative effects. In the case of water, this would mean going beyond the requirements under section 14(3)(b) of the RMA.

197. Section 14(3)(b) of the RMA currently provides a legal right for reasonable domestic use and stock water purposes, if adverse effects are not generated. The legal right to take water for stock, recognising the animal welfare issues at stake, does not recognise other sectors such as horticulture. It may be a step too far to enable this, but there may need to be better management of this in future. Metering and/or an ability to monitor and charge for such services may be options under a future system.

Distinction in the approach taken to allocation

198. **Council submits that a future system should have distinct approaches in allocating rights to take resources, discharge to resources and occupy public space, although it may rely on the same set of overall allocation principles.**

199. Recognising that all three allocation types require the determination of environmental bottom lines prior to determining what is to be allocated, the actual allocation is influenced by different criteria and therefore the system should provide for different approaches.

200. **Catchment-based allocation systems/plans should have greater importance** and support within a future system, including the collaborative processes used to establish limits and determine the allocation approach appropriate for that catchment given present and future demand. Catchment allocation plans can include both taking and discharging.
201. The allocation of public space to occupy largely affects the coastal marine space. The existing approaches to date seem to work. The New Zealand Coastal Policy Statement provides guidance on values and prioritisation. However, council would support consideration around how a future system could make it easier to use economic or financial instruments such as coastal occupation charges. This should include considering whether the RMA is the right legislative tool for such instruments to sit in, given it can be a litigious process to develop charges such that it discourages their use.

202. There may be aspects of the fisheries quota management system that may be appropriate for allocating water. Under the RMA councils tend to issue static amounts of water – up to x cubic metres per day and y cubic metres per annum. For resources that have high levels of variability, such as surface water, a consent that offers a percentage of the available resource may provide a more dynamic mechanism that provides for greater protection of the natural environment. It is noted that the RMA may not potentially preclude such an approach now or encourage it.

Dealing with the allocation of resources such as water and coastal marine space outside the RMA

203. Council notes that the removal of resource allocation matters from the RMA would not remove the need to allocate resources. Nor would it remove the need for clear processes to enable allocation. Separation would simply take this requirement and place it elsewhere. Council is not convinced that separation of resource allocation from the RMA would fix issues relating to allocation or ensuring the need for a robust, fair system.

Monitoring and allocation issues

A key question to address when considering whether to retain resource allocation under the RMA or to separate it, is whether allocation can be separated from the setting of sustainable limits that determine the amount of a resource that can be allocated.

One process is determining what is available for allocation, and the other is determining who or what sector benefits from the allocation. From a simple conceptual approach these look like different activities. Once the resource availability has been determined, from the resource’s perspective it does not matter who or what gets to utilise that resource.

The main risk from such a separation is the loss of the dynamic response between the two systems. Such a separation would limit the effectiveness of any monitoring and response type systems that may underpin the resource consent process.

The RMA contains several tools that councils use to manage resource use. For example, the RMA allows for resource consents to be issued for up to 35 years. Councils usually issue water take consents for a much shorter period (e.g. 15 years) and can link commencement and expiry dates to enable cumulative effects and allocation decisions for a resource to be made jointly. The separation of the setting of allocation limits and the allocation would limit the use of such techniques. The separation of these two functions would reduce councils’ ability to take a dynamic or adaptive approach to management, and would create two separate processes with limited, if any linkages. It may also limit the development of thinking around the linking of taking resources with the discharge to resources.

204. Council considers that for a separate system to work effectively, it would require robust and committed monitoring and enforcement resources. This needs to be supported by robust feedback loops between the regulatory system and the allocation system, particularly if it involves different agencies with different roles and/or goals.

205. Further work is required to better understand allocation issues for Māori, including ownership and Treaty settlements and claims.

Issue Eleven: System monitoring and oversight

206. Council supports the statutory framework requiring local and central government to monitor the state of the environment and the effectiveness of their policies and plans in achieving their intended outcomes. Council also supports a greater emphasis being placed on the interconnectedness between monitoring and decision-making.
207. Council notes, however, that despite current statutory monitoring requirements, the quality of environmental and plan-monitoring is highly variable, and in some cases poor or non-existent. Council encourages the Panel to explore options to address this.

208. With respect to the performance of the resource management system as a whole, council supports central government (or an independent agency established by central government) playing a more active role.

209. On a more specific note, council is aware of the challenges that exist in monitoring the impact of some activities that are permitted in plans or in the RMA itself (e.g. water takes for domestic use), and encourages the panel to explore options to ensure the impacts of these activities can be effectively monitored.

210. Current monitoring and reporting do not provide a full picture of whether resource management outcomes from a te ao Māori perspective have improved. Council supports the use of mātauranga Māori to develop a monitoring framework. It also supports involvement of Māori in state of the environment monitoring and reporting.

**Issue Twelve: Compliance, monitoring and enforcement**

211. It is important that the infringement regime recognises that not all non-compliance can be considered equal. For this reason, it is necessary to have a variation of infringement amounts available for councils to use, including spot fines, restorative justice, enforceable undertakings and more sentencing options such as community service, home detention, or even development or consent suspensions.

212. New legislation should consider the potential for providing a formal mandatory completion process within the RMA. As per the Code Compliance Certificate process under the Building Act, a formal completion process for resource consents will provide more certainty for property owners that a consented activity has been undertaken in accordance with the approved plans and will encourage consent holders to ensure they submit the necessary information to get their final sign off. A formal mandatory completion process will result in more consent holders voluntarily submitting the necessary information, assisting councils to focus their resources on the things that matter. It is recognised that the matter of cost implications of this would need to be considered and weighed up with the potential benefits of such an approach.

*Bearing the cost of carrying out compliance services*

213. The current user pays system has limitations. It focuses the costs on the party benefitting from the consented activity. The user pays system can also detract from planning being viewed as a public good.

214. Council supports consideration of whether the processing of consent applications in a future system should:

- remain applicant funded
- be rates funded
- be funded by central government
- be funded by some combination of the approaches above.

215. Greater central government funding is needed to support monitoring national priorities (national policy statements and national environmental standards). This could incentivise people to do the right thing and apply for a consent.
Issue Thirteen: Institutional roles and responsibilities

216. Council supports Māori involvement in discussions regarding roles and responsibilities, recognising that the relationship with Māori is at a central government level through the Treaty partnership.

217. It seeks clarification on the role and mandate of a potential National Māori Advisory Board and will support Crown and Māori exploring options for formalising mechanisms to provide more opportunity for Māori as decision-makers and contributors i.e. through mana whenua fora and membership of planning committees on councils.

Issue Fourteen: Reducing complexity across the system

218. There are a number of other changes that could also reduce complexity across the resource management system.

219. As discussed in response to other issues, council also supports the statutory framework and statutes themselves clearly specifying activities that are prohibited. Given the case law associated with prohibited activities under the RMA, councils often rely on non-complying activity status for activities that are likely to have significant adverse effects. This has led to considerable complexity in the resource management system and uncertainty for applicants and the community.

220. Council supports government working with Māori to better inform government’s understanding of the barriers to Māori involvement in the resource management system and in developing responses.

221. Council submits that a future resource management system should be easy to navigate and not be complex. This would require legislation that uses plain language and avoids unnecessary words.

222. Evaluating what are ‘low-impact/low-consequence consents’ and identifying what these impacts might be could enable applications that go beyond such a baseline to be assessed differently. Such an approach would complement a focus on taking cumulative effects into account.

223. A future system could also make more use of online consenting. Council submits there should be consideration of a comprehensive nationwide system for online consenting (including automated processing). In addition to increasing efficiency, it would make data collection and monitoring easier, thereby enhancing effectiveness.
Aotea / Great Barrier Local Board feedback on the reform of the resource management system

Context
- Aotea Great Barrier Island lies 90km east of Auckland City in the Hauraki Gulf and is Auckland Council’s most remote and isolated area.
- Over 60 per cent of the island is Department of Conservation (DoC) estate; 43 per cent of which is the Aotea Conservation Park.
- The island has no reticulated power nor water.
- The island has a permanent population of 936 residents (2018 Census).
- There is a total of 1,135 dwellings of which 573 are considered unoccupied private dwellings.
- Almost half (44 per cent) of households were one-person households; this is a high proportion when compared with the regional average of 19 per cent.
- In 2013, the median household income was $30,100, much lower than the regional median of $76,500 and the lowest income across all local board areas in the Auckland region.
- There is no public transport and transport to and from the mainland is by either plane, a 35-minute flight one way, or by ferry a four-and-a-half-hour trip one way.

Environmental and resource management concerns for the Aotea / Great Barrier Local Board Area

There are many environmental issues and resource management concerns facing the Aotea / Great Barrier Local Board area including but not limited to:
- Climate change concerns including drought, increased forest fire risks, coastal erosion and food production shortages.
- Degradation of the marine environment including the ongoing depletion of marine biodiversity and increased marine pollution and pests.
- Marine dumping as an acceptable way of disposal of dredged sludge and the lack of policies for the Exclusive Economic Zone.
- The long-term effects of development on the terrestrial environment including erosion, biosecurity, sedimentation, loss and pollution of wetlands, potable water, water security, and wastewater damage.
- A housing crisis where locals struggle to afford to live on the island due to a shortage of rental availability, housing affordability and social housing.
- Frustration to build on Aotea with the increased cost, delays, bureaucracy and centralisation of the Auckland Council planning and building consent processes.
- Aotea is an International Dark Sky Sanctuary and increased urbanisation of surrounding mainland areas could cause future light pollution.

Aotea / Great Barrier Local Board feedback

Aotea / Great Barrier Local Board makes the following high-level comments concerning changes that need to be made to the country’s resource management system.
1. We are a strong advocate for protection of the environment. Climate change and environmental protection needs to be of priority in all our decision-making at every step of the journey from national direction to spade in the ground. It needs to be forefront in our vision and people need to be held accountable for the protection of our environment.
2. We seek provision for the protection of “wild places” where nature is not impacted by humans.
3. We support a holistic approach to resource management. In Aotearoa New Zealand a Te Ao Maori perspective must be used which recognises the interconnectedness of all living and non-living things, and which seeks to understand and work within the total system, not just parts of it.

4. We support giving effect to Te Tiriti o Waitangi / Treaty of Waitangi by making it more integral and provision made for Māori participation.

5. Current consent process methodologies deal better with localised environmental impacts from single applications, than with the cumulative effects of multiple proposals in a similar location. A new act must develop new strategies for protecting whole catchments over the longer term from potentially harmful developments.

6. Adequate resourcing for resource management compliance must be provided. The strengthening of local authority powers to monitor and enforce compliance in a timely, efficient and effective way is imperative.

7. We would be supportive of green bonds being used as an economic instrument within the bounds of the Resource Management Act (RMA).

8. We support streamlining the processes to be cheaper, easier and quicker. The RMA needs to be equitable for everyone.

9. The system should not just set a minimum standard of pass/fail but should incentivise and reward those who achieve higher standards. This should include incentives and support for new models of housing including building materials and designs, especially in rural areas. There are already ways to support stakeholders in the property and construction sectors to design, construct and operate projects in a more sustainable, efficient and productive way that can be recognised by planning authorities, e.g Green Star.

10. We would be supportive of the inclusion of zero waste principles to all RMA activities and this would be dealt appropriately within consent application provisions. Waste and pollution should not exist by design and products and materials must as far as possible be reused, repurposed or recycled, i.e the system must promote a circular economy.
Attachment B


Relevance to the Albert-Eden Local Board

1. Local boards are a key part of the governance of Auckland Council. Local boards have responsibilities set out in the Local Government (Auckland Council) Act 2009, specifically:
   • identifying and communicating the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the Auckland Council.

2. Local boards provide important local input into region-wide strategies/plans and can also represent the views of their communities to other agencies, including those of central government.

Albert-Eden Local Board planning framework

3. Every three years local boards set their strategic direction through a local board plan.

4. Albert-Eden Local Board Plan 2017 outcomes, and the objectives under these outcomes, that relate to the review of the Resource Management System, include:
   • Albert-Eden has a strong sense of community
   • Our parks are enjoyed by all
     o Our parks are well maintained, appropriately developed, and our community feels a sense of ownership of them
     o Our parks meet the needs of our growing population and our diverse communities
   • Our community spaces are well used by everyone
     o Our facilities provide diverse and inclusive spaces that meet the changing needs of our community
   • Albert-Eden has thriving town centres and a growing local economy
     o Our town centres are attractive destinations
   • Travelling around Albert-Eden is safe and easy
     o We have transport options that are easy to access and suit the different needs of our community
     o Our streets are safe and enjoyable to use.
   • Our natural and cultural heritage is valued
     o Our unique cultural and environmental heritage is identified and protected
   • We respect and protect our environment
     o Sustainable practices are encouraged and fostered
     o Our unique environment is protected and enhanced.

5. The full 2017 Albert-Eden Local Board Plan can be found at:
Albert-Eden Local Board feedback on the Review of the Resource Management System:

6. We recognise the significance of Tiriti o Waitangi and Te Ao Māori and the importance of the role of Māori as kaitiaki.

7. The local board support changes to the resource management system that will improve outcomes for the environment, people and places. This includes cutting the current complexity and cost, while better protecting our natural environment and providing a more holistic response to climate change (adaptation, mitigation, resilience) and the development of high-quality urban environments.

8. The local board requests a resource management system to allow for improved protection of trees, and groups of trees, that are of significance and/or in areas of low tree cover. This includes increased community involvement in the identification of trees for protection and the reinstatement of the ability to have a general tree protection rule.

Issue 1: Legislative architecture

9. Retain the RMA as an integrated statute with enhanced principles for land use and environmental management.

Issue 2: Purpose and principles of the Resource Management Act 1991

10. Reframe ss. 5, 6, 7 to more clearly provide for outcomes-based planning.

11. Strengthen ss. 5, 6 and 7 to more explicitly require environmental limits and/or targets to be set.

12. Recognise the need to ensure there is sufficient development capacity to meet existing and future demands including for affordable housing.

13. Recognise other urban planning objectives. We request consideration of a new duty for local authorities to make local decisions and exercise their powers so as to minimize contributions to climate change. If that is not possible, we request consideration be given to ensuring decisions promote adaptation to the effect of climate change. In the current RMA, this would sit around the second group of provisions in Part 4 (sections 30-36E).

14. Provide for new concepts to address climate change. Recognise Te Mana o te Wai, or its underlying principles in Part 2.

Commentary: The main problem with the RMA as presently constituted is that it is overly focused on preventing negative effects on the environment and does not have a lot to say about how best to achieve desirable outcomes (such as urban development) in keeping with desirable environmental outcomes. The purpose of the Act is clearly stated in Section 5 (1) to be “to promote the sustainable management of natural and physical resources” but a lot of the detail is about avoiding, remedying or mitigating adverse effects.

The new act should include a section or chapter specifically on managing urban development. There are currently proposals for the new Urban Development Authority to allow it to over-ride the relevant District or Regional Plans and in effect to be given decision-making power to approve its own plans. This is contrary to the legal system and unnecessary, the plan change process can accommodate the requirements and ensure that there is adequate opportunity for public participation in major decisions which will have effects extending for a century or longer.
The new act should include climate change as a matter of national importance.

**Issue 3: Recognising Te Tiriti o Waitangi / the Treaty of Waitangi and Te Ao Māori**

15. Strengthen the reference to the Treaty in s8.

16. Remove barriers to the uptake of opportunities for joint management arrangements in s36B and transfer of powers in s33.

17. Make provision for new approaches and partnership arrangements in the management of resources, drawing on the experience of Treaty settlements. Clarify meaning of iwi authorities and hapū.

18. Provide funding mechanisms to support Māori participation. Provide for regular auditing of council performance in meeting Treaty requirements.

19. Provide for other bodies to promote issues of significance to Māori and develop capability and capacity, building on the examples of the Independent Māori Statutory Board in Auckland, and the Environmental Protection Authority’s (EPA) statutory Māori advisory committee, Ngā Kaihautū Tikanga Taiao

**Issue 4: Strategic integration across the resource management system**

20. Provide for spatial planning within the RMA with statutory linkages to other relevant legislation.

21. Expand spatial plans scope to include other matters such as environmental protection and restoration, climate change mitigation and adaptation, rural land use change and resource management in the coastal marine area.

22. Give spatial plans legal weight under the RMA, LGA and LTMA.

Commentary: Private plan changes can undermine or change key provisions of the relevant District Plan, which should be considered when progressing a private plan change or not. For example, the Auckland Unitary Plan includes large areas designated as Future Urban, where planned urban development can occur years or even decades ahead, but only when it is judged to be appropriate and funding is on hand to develop the required infrastructure for a complete new community.

Some developers who have land-banked parts of the Future Urban zone have sought to force Council’s hand through private plan changes, leading to poorly planned incremental sprawl rather than properly considered development of new communities.

**Issue 5: Addressing climate change and natural hazards**

23. Develop national direction to encourage the types of activities needed to facilitate New Zealand’s transition to a low carbon economy. This includes renewable energy, carbon capture and storage, uptake of low emissions technologies and efficient urban form.

24. Use “spatial planning” for land use and infrastructure as a tool for addressing climate change mitigation.

25. Use spatial planning processes to identify future adaptation responses (in the context of the national adaptation plan) that connect with regulation, infrastructure provision and adaptation funding. Improve implementation of risk assessment.

26. Clarify what changes might be needed to existing use rights in the context of managed retreat. Introduce new planning tools such as “dynamic adaptive planning pathways” and other measures.
Commentary: Climate change needs to be properly integrated into the new RMA. Planning law is one of the key tools for emissions mitigation; a more compact city will reduce the need for commuting and other forms of travel, and more energy efficient buildings will further reduce energy consumption. Auckland Council proposed in the Draft Unitary Plan that mandatory Green Star Energy Rating were required for larger buildings (residential and commercial) but this was struck out by the Hearing Panel, on the reason that this was covered by the Building Act. This is an example of a step councils could include though a plan change, or by the Government through a national policy instrument.

Another area is to give councils the power to declare certain land off-limits for development because it is prone to flood damage or permanent inundation due to sea-level rise. At present councils are in a double bind, if they formally declare properties to be flood-prone they run the risk of legal action for reducing the value of private properties, but if they do not make such rulings they run the risk of legal action for failing to act when they knew of the hazard. Several councils have already been subject to legal action or received threats from law firms acting for affected property owners.

The new act should to make it possible for councils to take into account:
1. the likely impact on climate change (ie potential to increase or decrease to New Zealand’s emissions) and also
2. the likely impact of climate change on projects, for example through sea level rise, more extreme weather events etc when considering whether or not to grant consent under the RMA.

Issue 6: National direction
27. Require a mandatory suite of national direction, including provision for regular review.

Issue 7: Policy and planning framework
29. Provide for an ‘outcomes’-based approach to the content of plans.

Issue 8: Consents/approvals
30. Simplify notification decisions by:
   o requiring that plans specify the activities that must be notified,
   o more clearly defining who is an “affected party” or when “special circumstances” that require notification would apply.
31. Maintain a separate consent pathway for nationally significant public infrastructure proposals.
32. Improve transparency by requiring all applications and consents issued to be electronically available to the public.
33. Facilitate lower cost consent processes by mandating online systems.

Commentary: The notification system can again be made more flexible. Currently there are just 3 possible choices: Full Notification (open to anybody), Non-Notification or Limited Notification, which is very tightly limited to only allow those who are immediate neighbours of the subject site, which can mean as few as three or four directly adjacent property owners to submit.

Limited Notification should be expanded to include persons with a greater than average interest in the proposal e.g. persons who can demonstrate that they may suffer adverse effects such as
traffic or shading generated by the proposed development despite not being an immediate
neighbour, or a local planning or neighbourhood group with a history of advocacy on behalf of the
community likely to be affected by the proposal, or a special interest group such as the Tree
Council, Forest & Bird etc. At present, only very large proposals are fully notified, so in most cases
there are either no submitters at all or a very small number and consequently very little likelihood of
independent expertise being considered by the decision makers.

Issue 9: Economic instruments
34. Broaden and strengthen provisions for financial contributions.
35. Require mandatory charges for use of public resources, such as coastal space.
36. Develop national direction and guidance on use of economic instruments.
37. Offer councils a broader range of economic tools to support the resource management system
such as emissions taxes, tradable emissions permits, transferable development rights, tools
for environmental offsetting, and congestion charges.
38. Allow or require councils to use revenue from economic instruments to protect, restore and
maintain natural resources.
39. Enable easy short- and longer-term transfers of consents to facilitate markets for resources.

Issue 10: Allocation
40. Provide for new resource allocation methods and criteria to be developed nationally or locally.
41. Consider the role of specific tools in resource allocation such as spatial planning, transferable
rights, tendering or auctioning.

Commentary: Over the last decade water rights have become a significant issue. The review of the
resource management system should include provisions for councils to restrict permittable takes.

Issue 11: System monitoring and oversight
42. Require a policy response from central/local government in response to outcomes identified
by environmental reporting.
43. Develop an outcomes monitoring system that is culturally appropriate and recognises
mātauranga Māori.

Issue 12: Compliance, monitoring and enforcement
44. Provide for strengthened statutory powers and penalties, including for where non-compliance
has resulted in or been motivated by commercial gain.
45. Provide for improved cost recovery of CME functions (including permitted activity monitoring
and investigation of unauthorised activities).
46. Consider the role of restorative justice in enforcement processes.
47. Establish improved data gathering and reporting processes.

Issue 14: Reducing complexity across the system
48. Reduce complexity through a systemic approach of reform.
Papakura Local Board input into the review of the resource management system

Background

The government is undertaking a comprehensive review of the resource management system with a primary focus on the Resource Management Act 1991 (RMA).

The review is being led by the Resource Management Review Panel. The panel has just released an issues and options paper that starts a conversation about issues to be considered and addressed by the review, and sets out some initial thoughts on possible options.

The review's aim is to improve environmental outcomes and better enable urban and other development within environmental limits.

This is part of a two-stage process to improve the resource management system. The first stage aims to reverse some changes made by the previous government and to make some changes to freshwater management. Auckland Council made a submission on these changes which are currently before Parliament.

The second stage is a more comprehensive review of the resource management system which seeks to build on the government's work priorities across urban development, climate change, and freshwater, and wider projects being led by various external groups. The review's aim is to improve environmental outcomes and better enable urban and other development within environmental limits.

The review's scope includes:

- a primary focus on the RMA
- looking at how the RMA interfaces with the Local Government Act 2002, Land Transport Management Act 2003 and Climate Change Response Act 2002
- the role of spatial planning
- consideration of the potential impact of and alignment with other relevant legislation (including the Building Act 2004 and Fisheries Act 1996), government programmes and regulatory reviews currently underway within the resource management system
- role of institutions, that is, consideration of which entities are best placed to perform resource management functions.

The panel's issues and options paper highlights three key challenges facing the resource management system:

- the natural environment is under significant pressure
- urban areas are struggling to keep pace with population growth
- rapid changes in rural land use have increased the pressure on ecosystems.

The panel has also identified the below three topics of interest:

- the natural and rural environment
- urban and built environment
- te ao Māori.
The issues and options paper identifies several reasons why the resource management system has not responded effectively. These include a lack of clear environmental protections, a lack of recognition of the benefits of urban development, a focus on managing the effects of resource use rather than planning to achieve outcomes, lack of effective integration across the resource management system, insufficient recognition of the Treaty and lack of support for Māori participation, and issues with compliance, monitoring and enforcement.

The paper identifies 14 key issues and invites submissions on options to address these. The issues covered are:

- Legislative architecture
- Purpose and principles of the RMA
- Recognising the Treaty of Waitangi and te ao Māori
- Strategic integration across the resource management system
- Addressing climate change and natural hazards
- The role of national direction
- Policy and planning framework
- Consents/approvals
- Economic instruments
- Allocation of resources e.g. water
- System monitoring and oversight
- Compliance, monitoring and enforcement
- Institutional roles and responsibilities
- Reducing complexity.

The panel will submit its final report to the Minister for the Environment by 31 May 2020. Following that, the government is expected to engage with iwi/Māori and stakeholders and undertake public consultations on the development of its reform proposals.

Local board input is required by Friday, 24 January 2020 for views to be incorporated into the Auckland Council submission. If received after that date the input will be appended to the council submission.

The submission period closes on Monday, 3 February 2020.

**Papakura Local Board feedback**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Papakura Local Board Feedback</th>
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<tbody>
<tr>
<td><strong>Issue 1: Legislative Architecture</strong></td>
<td>The Papakura Local Board support a single integrated approach. If the RMA were to be split into an environment management statute and a land use planning statute alignment, integration would be required as both areas are inter-related.</td>
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</table>

1. Should there be separate legislation dealing with environmental management and land use planning for development, or is the current integrated approach preferable?
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<tr>
<th>Issue</th>
<th>Papakura Local Board Feedback</th>
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<tbody>
<tr>
<td><strong>Issue 2: Purpose and principles of the Resource Management Act 1991</strong>&lt;br&gt;2. What changes should be made to Part 2 of the RMA? For example:&lt;br&gt;3. Does s5 require any modification?&lt;br&gt;4. Should ss. 6 and 7 be amended?&lt;br&gt;5. Should the relationship or ‘hierarchy’ of the matters in section 6 and 7 be changed?&lt;br&gt;6. Should there be separate statements of principles for environmental values and development issues (and in particular housing and urban development) and, if so, how are these to be reconciled?&lt;br&gt;7. Are changes required to better reflect te ao Māori&lt;br&gt;8. What other changes are needed to the purpose and principles in Part 2 of the RMA?</td>
<td>The Papakura Local Board support the RMA purpose being outcomes focussed as opposed to an enabling approach, ie: by managing natural resources sustainably for improved outcomes for people, places and the environment.&lt;br&gt;The board believe there should be a clear hierarchy of consideration that support the delivery of integrated outcomes, eg: similar to Te mana o te wai approach - 1 protect health and mauri of nature, 2 essential needs of people, 3 consumptive use that does not adversely impact the mauri of nature.&lt;br&gt;The board believe the following priorities should also be included:&lt;br&gt;• Impacts of accumulate effects&lt;br&gt;• Climate change including mitigation and development of resilience&lt;br&gt;• High quality urban developments that take into account the practicalities of living, ie: street widths, public transport, on site parking, on street parking, communal gardening opportunities, urban forest opportunities.&lt;br&gt;• Capacity for developments to meet current and future demand&lt;br&gt;• Provision of key infrastructure and Community amenities including public transport</td>
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<td><strong>Issue 3:</strong>&lt;br&gt;Recognising Te Tiriti o Waitangi / the Treaty of Waitangi and te ao Māori&lt;br&gt;9. Are changes required to s8, including the hierarchy with regard to ss. 6 and 7?&lt;br&gt;10. Are other changes needed to address Māori interests and engagement when decisions are made under the RMA?</td>
<td>The Papakura Local Board believe if a ‘te ao Māori’ approach is taken at a high level the outcomes will benefit all.</td>
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<td><strong>Issue 4</strong>&lt;br&gt;Strategic integration across the resource management system&lt;br&gt;11. How could land use planning processes under the RMA be better aligned with processes under the LGA and LTMA?</td>
<td>The Papakura Local Board support legislation giving greater weight to spatial planning. Spatial plans should have statutory status.&lt;br&gt;Spatial planning is a consultative process yet can potentially be undermined through the private plan change process.</td>
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<td>Issue</td>
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<tr>
<td>12. What role should spatial planning have in achieving better integrated planning at a national and regional level?</td>
<td>The board agree that spatial planning at a national level by central government would be useful in terms of national infrastructure provision. This is particularly relevant to Papakura, as people are now buying properties in the Waikato region and commuting to Auckland due to accommodation costs.</td>
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<tr>
<td>13. What role could spatial planning have in achieving improved environmental outcomes?</td>
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<td>14. What strategic function should spatial plans have and should they be legally binding?</td>
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<td>15. How should spatial plans be integrated with land use plans under the RMA?</td>
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<tr>
<td><strong>Issue 5</strong></td>
<td><strong>Addressing climate change and natural hazards</strong></td>
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<tr>
<td>16. Should the RMA be used as a tool to address climate change mitigation, and if so, how?</td>
<td>The Papakura Local Board believe the RMA could be used to mitigate climate change. A sliding scale could be applied to existing use consents particularly for air emissions and other types of contaminant discharge consents that would require actions to improve on the contaminant discharge levels over time. Limitations should be placed on land use in areas prone to inundation, e.g., requirements for raised habitat floor height thresholds.</td>
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<td>17. What changes to the RMA are required to address climate change adaptation and natural hazards?</td>
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<td>18. How should the RMA be amended to align with the Climate Change Response Act 2002?</td>
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<td><strong>Issue 6</strong></td>
<td><strong>National direction</strong></td>
</tr>
<tr>
<td>19. What role should more mandatory national direction have in setting environmental standards, protection of the environment generally, and in managing urban development?</td>
<td>The board support mandatory national direction in setting environmental standards, protection of the environment and in managing urban development which enables local decision-making and/or tailoring for implementation to suit local circumstances.</td>
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<tr>
<td><strong>Issue 7</strong></td>
<td><strong>Policy and planning framework</strong></td>
</tr>
<tr>
<td>20. How could the content of plans be improved?</td>
<td>The board believe legislation should have an emphasis on achieving positive environmental outcomes. Private plan changes should not be able to undermine the Regional Policy Statement. The board agree that spatial planning is a useful tool that should align with the planning and budget processes. The board support the current Schedule 1 plan-making process however believe councils should be able to elect to use alternative</td>
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<td>Issue 8</td>
<td>Papakura Local Board Feedback</td>
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<tr>
<td><strong>Consents/approvals</strong></td>
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<td>24. How could consent processes at the national, regional and district levels be improved to deliver more efficient and effective outcomes while preserving appropriate opportunities for public participation?</td>
<td>streamlined processes for full plan reviews without the need for Ministerial approval. Where a streamlined process is adopted the board support a joint central government / council appointment process to the panel with input from mana whenua. The board does not support the proposal for ministerial appointment of panel. The board also support greater weight being given to iwi management plans.</td>
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<td>25. How might consent processes be better tailored to the scale of environmental risk and impact?</td>
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<td>26. Are changes required for other matters such as the process for designations?</td>
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<td>27. Are changes required for other matters such as the review and variation of consents and conditions?</td>
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<td>28. Are changes required for other matters such as the role of certificates of compliance?</td>
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<td>The board has a concern about situations that occur on a regular basis when an applicant applies for a consent that slightly infringes the rules. Then at a later date applies for an expansion of use and gets it approved based on the existing use rights being place. Whereas if the applicant had applied for the full extent of the use in the original application it would have been declined. To some extent this speaks to cumulative effects. The rules are being undermined by stealth. The board agree with simplifying the categories of activities (controlled, restricted discretionary, etc) and processing nationally significant proposals, direct referrals, etc.</td>
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<td>The board believe the legislation should require applicants to conduct assessments that address improving environmental outcomes for the community as part of consenting process. The board agree with reducing the complexity of minor consent processes by only requiring certain applications to conduct a full assessment of environmental effects. However cumulative effects of developments may be significant even though the consent is minor.</td>
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<td>The board agree with establishing a separate permitting process and dispute resolution pathway for residential activities with localised/minor effects (building on the current process for marginal or temporary non-compliance or boundary activities). The board agree with more clearly specifying permitted development rights for residential activities.</td>
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<td>The board agree with simplifying notification decisions by:</td>
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<td>- requiring that plans specify the activities that must be notified, or</td>
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<td>- more clearly defining who is an “affected party” or when “special circumstances” that require notification would apply.</td>
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<td>The board agree with maintaining a separate consent pathway for nationally significant proposals.</td>
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<td>The board support improving transparency by requiring all applications and consents issued to be electronically available to the public.</td>
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<td>The board support facilitating lower cost consent processes by mandating online systems.</td>
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<td>The board believe the effort to streamline processes cannot be at the expense of the public having the opportunity to have their say.</td>
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<tr>
<th>Issue 9</th>
<th>Economic instruments</th>
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<tr>
<td>29.</td>
<td>What role should economic instruments and other incentives have in achieving the identified outcomes of the resource management system?</td>
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<tr>
<td>30.</td>
<td>Is the RMA the appropriate legislative vehicle for economic instruments?</td>
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<td>The board agree with broadening and strengthening provisions for financial contributions. This should not be used as a cost effective way for developers to avoid responsibilities of mitigating impacts.</td>
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<td>The board agree with requiring mandatory charges for use of public resources, such as coastal space, but would not support the public being charged for use of a public space.</td>
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<td>The board agree with developing national direction and guidance on use of economic instruments.</td>
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<td>The board agree with councils being offered a broader range of economic tools to support the resource management system such as emissions taxes, tradable emissions permits, transferable development rights, tools for environmental offsetting, and congestion charges.</td>
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<td>The board agree with allowing or requiring councils to use revenue from economic instruments to protect, restore and maintain natural resources.</td>
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<th>Issue 10</th>
<th>Allocation</th>
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<td>The board support the “first come first served” approach being modified as this approach has not been an effective mechanism to achieve highest value use of resources.</td>
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<tr>
<td>31. Should the RMA provide principles to guide local decision making about allocation of resources?</td>
<td>The board agree that new resource allocation methods and criteria should be developed nationally and/or locally. Cumulative effects should be a consideration.</td>
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<tr>
<td>32. Should there be a distinction in the approach taken to allocation of the right to take resources, the right to discharge to resources, and the right to occupy public space?</td>
<td>The board support the RMA providing principles to guide local decision making about allocation of resources.</td>
</tr>
<tr>
<td>33. Should allocation of resources use such as water and coastal marine space be dealt with under the RMA or elsewhere as is the case with minerals and fisheries, leaving the RMA for regulatory issues?</td>
<td>The board believe the allocation of resources use such as water and coastal marine space is best dealt with under the RMA. Legislation needs to be aligned with other relevant Acts.</td>
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<td>The board believe there is a need to collaborate across regional boundaries in relation to resource takes (i.e. water) and other consenting matters.</td>
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<td>A government contribution / cost sharing approach is required to ensure the burden of protection of resources doesn’t fall to councils with “deepest pockets” where there are cross-boundary considerations.</td>
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<td>The board agree that greater power should be given to the consent authority to carry or cancel a consent.</td>
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<td>The board agree that the basis upon which the holder of a consent may obtain a renewal needs to be changed to reflect better environmental outcomes than that originally consented.</td>
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**Issue 11**

**System monitoring and oversight**

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<thead>
<tr>
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<tr>
<td>34. What changes are needed to improve monitoring of the resource management system, including data collection, management and use?</td>
<td>The board agree with developing an outcomes monitoring system that is culturally appropriate and recognises mātauranga Māori.</td>
</tr>
<tr>
<td>35. Who should have institutional oversight of these functions?</td>
<td>The board agree with requiring a policy response from either central or local government in response to outcomes identified by environmental reporting. However it should be noted adequate funding would be required to implement the policies developed.</td>
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<td>To give greater oversight and monitoring to central government (eg: the Ministry for the Environment, the Environmental Protection Authority or a new agency) will create another layer of administration that will need to be funded. Funds would be better utilised in funding policy implementation.</td>
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<tr>
<td><strong>Issue 12</strong></td>
<td><strong>Compliance, monitoring and enforcement</strong></td>
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<tr>
<td>36. What changes are needed to compliance, monitoring and enforcement functions under the RMA to improve efficiency and effectiveness?</td>
<td>The board believe institutional changes for delivery of compliance, monitoring and enforcement functions could be progressed in a number of ways as suggested:</td>
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<tr>
<td>37. Who should have institutional responsibility for delivery and oversight of these functions?</td>
<td>i. retain a devolved system with stronger support, guidance, and performance monitoring from central government. However the board would want to see a collaborative / educational approach as opposed to a “big brother” approach.</td>
</tr>
<tr>
<td>38. Who should bear the cost of carrying out compliance services?</td>
<td>ii. provide for central and/or regional oversight/delivery of enforcement functions. The board would want to see a collaborative / educational approach.</td>
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<td>iii. provide for escalation of enforcement matters to a central agency, such as the Environmental Protection Authority.</td>
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<td>The board agree with providing for strengthened statutory powers and penalties, including for where non-compliance has resulted in or been motivated by commercial gain.</td>
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<td>The board agree with providing for improved cost recovery of compliance, monitoring and enforcement functions (including permitted activity monitoring and investigation of unauthorised activities).</td>
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<td>The board agree with considering the role of restorative justice in enforcement processes.</td>
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<td>The board agree with establishing improved data gathering and reporting processes. Data gathered should be environmental outcome focussed.</td>
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<td>The board support stronger penalties for non-compliance, eg: demolishing a scheduled building without consent would attract a moratorium on that land for no building for over ten years. Monetary penalties are not effective. A developer will gladly pay a fine.</td>
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<tr>
<td><strong>Issue 13</strong></td>
<td><strong>Institutional roles and responsibilities</strong></td>
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<tr>
<td>39. Although significant change to institutions is outside the terms of reference for this review, are changes needed to the functions and roles or responsibilities of institutions and</td>
<td>The board do not believe central government agencies playing a greater hands-on role in the RMA system (for example, through a greater operational role for the Ministry for the Environment, or an expanded role for the EPA) would simplify the RMA system. Roles would need to be clearly defined.</td>
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<td>bodies exercising authority under the system and, if so, what changes?</td>
<td>That board agree with pooling planning resources of central and local government to enhance capacity and capability. Outcomes would need to be clearly defined.</td>
</tr>
<tr>
<td>40. How could existing institutions and bodies be rationalised or improved?</td>
<td>The board agree with the principle for providing for combined decision-making by regional councils and territorial authorities. Although in general this would not apply to Auckland, there are situations where this would apply in terms of the areas bounding other local authorities.</td>
</tr>
<tr>
<td>41. Are any new institutions or bodies required and what functions should they have?</td>
<td>The board does not agree with establishing a new agency to appoint and provide administrative support to Independent Hearing Panels.</td>
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<td>The board agree with providing for an expanded role for Judges and Commissioners of the Environment Court in other decision-making bodies such as Boards of Inquiry and Independent Hearing Panels.</td>
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<td>The board does not agree with providing for independent oversight of the system through:</td>
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<td>i. a greater role for the Parliamentary Commissioner for the Environment or the Environmental Protection Authority</td>
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<td>ii. establishing a Water Commission or broader Resource Management Commission</td>
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<td>iii. establishing a National Māori Advisory Board on Planning and the Treaty.</td>
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<td>These would add additional complexity to the RMA system. If they were established, roles and responsibilities would need to be clearly defined.</td>
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<td>The board agree with the creation of accountability mechanisms within larger councils, to enable them to better exercise democratic oversight of planning departments and council controlled organisations.</td>
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<tr>
<td>Issue 14</td>
<td>The board acknowledge that balancing planning for development and growth, resource allocation and managing outcomes for the environment are complex.</td>
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<td>Reducing complexity</td>
<td>The board believe that duplication of provisions at the regional and district level should be reduced.</td>
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<td>Issue</td>
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<td>43.</td>
<td>How can we remove unnecessary detail from the RMA?</td>
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<td>44.</td>
<td>Are any changes required to address issues in the interface of the RMA and other legislation beyond the LGA, LTMA?</td>
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Chairperson  
Papakura Local Board  

Deputy Chairperson  
Papakura Local Board  

Date: 28/01/2020
Attachment B

14/01/2020

Relevance to the Puketāpapa Local Board

1. Local boards are a key part of the governance of Auckland Council. Local boards have responsibilities set out in the Local Government (Auckland Council) Act 2009, specifically:
   - identifying and communicating the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the Auckland Council

2. Local boards provide important local input into region-wide strategies/plans and can also represent the views of their communities to other agencies, including those of central government.

Puketāpapa Local Board planning framework

3. Every three years local boards set their strategic direction through a local board plan. Changes to the has relevance to many of the outcomes and objectives in the 2017 Puketāpapa Local Board Plan.

4. Local Board Plan outcomes, and the objectives under these outcomes, that relate to the review of the Resource Management System, include:
   - Connected communities with a sense of belonging
     - Maori are recognised and affirmed as mana whenua
     - Our cultural diversity is valued and communities feel recognised and included
   - Improved wellbeing and safety
     - Neighbourhoods where people know each other and feel safe and valued
     - Provision and promotion of opportunities and services supporting healthy and active lifestyles
   - Thriving local economy and good job opportunities
     - A wide range of local businesses and social enterprises, creating meaningful employment and work experience
     - More job opportunities for local people, particularly those who face barriers to employment
   - Transport choices meet our varied travel needs
     - Affordable and frequent public transport options that are well linked and easy to access
     - More environmentally sensitive transport
   - Urban development meets community needs
     - Provision of more healthy and affordable housing
     - Well-planned, connected neighbourhoods that are appealing and sustainable
     - Lively town centres that are accessible, attractive and safe
• Vibrant and popular parks and facilities
  o An accessible network of open spaces that provides a variety of sports and recreational opportunities
  o Safe and accessible facilities for the whole community
  o The Waikowhai coast is enhanced and accessible
• Treasured and enhanced natural environment
  o Mana whenua are valued partners on key environmental projects
  o The mana of our harbour, waterways and maunga is recognised
  o Biodiversity and significant trees are protected
  o People and businesses adopt sustainable practices


Puketāpapa Local Board feedback on the Review of the Resource Management System:

We support changes to the resource management system that will improve outcomes for the environment, people and places. This includes prioritising a more holistic response to climate change (adaptation, mitigation, resilience) and high-quality urban environments. We also recognise the significance of Tiriti o Waitangi and Te Ao Māori and the importance of the role of Māori as kaitiaki.

We suggest that improving the legal standing of locally developed spatial plans (as discussed in Issue 4) for localised areas on an as-needed basis will contribute to a more flexible resource management system that can adapt to changing issues and opportunities within local communities and environments, such as the ever-evolving challenges related to climate change discussed in Issue 5.

We would like local councils to receive clear direction from central government on how to produce spatial plans that can become mandated components of the wider resource management system. If this occurs, we believe that the aspirations of local communities can be better integrated into the system. Understanding and implementing the aspirations of local communities should be an important component of a system that improves outcomes for people, places and the environment.

In relation to the points in the Issues and Options Paper:
• **Issue 1 Purpose and Principles**: Largely still relevant especially the three pillars of sustainability: social, economic and environmental. However, in practice the outcomes have not addressed in an integrated way.
  *Localised spatial planning is an opportunity to look at these points holistically in manageable packages.*
• **Item 87 e**: Triggers in legislation to require spatial plans can help develop a finer resolution of planning for localised contexts beyond the general planning rules (eg Unitary Plans or District Plans)
• **Item 87 f**: Within the current context where cumulative adverse effects have led to the purpose of the RMA is not being achieved (as noted in Items 23 and 24), spatial planning should be widened in scope to address more holistic issues than housing and urban growth.
  *With sufficient consultation, spatial planning has the potential to address sustainable...*
resource management challenges with buy in from the community, providing more access and equity to resource management processes.

- **Issue 13 Institutional Roles and Responsibilities**: Local councils, particularly at the Local Board level, are closest to their places and communities. As the Puketāpapa Local Board, we are currently in the process of developing spatial plans, including an Integrated Area Plan around housing developments. *Spatial planning as an exercise is valuable in its collaborative and focused approach and we would like to see similar or more successful models adopted in a consistent framework as a part of the resource management system.*

- **Issue 9 Economic Instruments & Issue 12 Compliance, Monitoring and Enforcement**: There should be more severe consequences to breaking consent conditions – we have seen a general disregard for breaking conditions in our area. There is also an opportunity to utilise revenue from economic instruments and enforcement to fund locally beneficial activities such as spatial planning. *Spatial planning is a resource heavy exercise in terms of cost, human resource and community capacity. If spatial plans were to be mandated by statute, then extra resources need to be allocated to allow for this work to take place.*

We would also like the resource management system to allow for improved protection of trees, and groups of trees, that are of significance and/or in areas of low tree cover. This includes increased community involvement in the identification of trees for protection.

End.
Formal feedback from the Waiheke Local Board on the reform of the resource management system

The Waiheke Local Board is a strong advocate for protection of the environment and for an inclusive approach to resource management. This is reflected in its Local Board Plan 2017-2020 which has as a key outcome:

“Inclusive planning and place-making through fostering a regulatory environment which protects and enhances the unique character of Waiheke’s people and environment.”

Essentially Waiheke

Adopted in 2000, and refreshed in 2016, the board recognises Essentially Waiheke as the voice of the community on matters of future planning and development. Its values and principles are considered central to the Hauraki Gulf Islands District Plan and subsequent planning documents. The vision for the Essentially Waiheke Refresh 2016 is included below:

Waiheke, a beautiful island that embraces its essential character through:

1. Restoring, protecting and enhancing what makes Waiheke special: its character as a place and as a Community
2. Keeping the beauty, integrating the precious natural environment with the island’s village and rural features.
3. Being home to a small, active community that is thriving, active, opinionated, caring, creative, diverse, environmentally-aware, and where resources are accessed equitably.
4. Creating social, cultural and economic opportunities that give the community hope and prosperity.
5. Becoming a sustainable tourist destination, that attracts people for its natural environment and the symbiotic, relaxed island pace of life.

The Waiheke Local Board believes that changes to the resource management system should align in terms of these values. The aspirations and concerns of the Waiheke community about the environment are relevant to this document and can be accessed on page 13 of the document.

Environmental and Resource Management Issues of concern for the Waiheke Local Board Area

There are a large number of environmental and resource management issues facing the islands in the Waiheke Local Board area including but not limited to:

- The degradation of the marine environment including the ongoing depletion of marine biodiversity and increasing marine pollution.

• Land biodiversity is also under threat due to certain types of development. For example, coastal developments have caused the degradation of shore bird and penguin nesting sites. The inadvertent introduction of predators and diseases has had major impacts on forest flora and native species.

• The long-term effects of the removal of vegetation, protection of mature trees and development on the terrestrial environment including the resulting erosion, pest incursion, sedimentation, loss of wetlands, stormwater and wastewater damage.

• An increasingly disenfranchised community where residents, and elected members alike, feel they have minimal say over building and infrastructure developments on the island, due to political frameworks which are exacerbated due to planning interpretations of the Resource Management Act.

• Frustration from those attempting to build on the islands with, delays, bureaucracy ever-increasing costs, as well as centralisation of Auckland Council planning and building consent processes.

• Climate change is already impacting the islands with the imminent inundation of low-lying areas, the collapse of natural coastal structures and the impacts of destructive and adverse weather events on infrastructure.

Other areas of concern linked to the broader resource management system include:

\[\text{o} \quad \text{An inequitable ferry service, which is more expensive than trips of similar distance in Auckland.}\]

\[\text{o} \quad \text{A housing crisis where Waiheke residents and other Aucklanders struggle to afford rising rents and house prices. The board recognises that this is not a product of the resource management system alone but also of adverse social and political factors.}\]

The board makes the following high-level comments concerning changes that need to be made to the country’s resource management system:

1. **New Zealand needs an holistic approach to resource management which recognises the interrelationships between all facets of the natural environment encompassing the land, sea and the air and which involves the changing climate, rising sea levels, the electromagnetic spectrum and all other relevant dimensions. In Aotearoa New Zealand a Te Ao Māori perspective must be used which recognises the interconnectedness of all living and non-living things, and which seeks to understand the total system, not just parts of it.**

2. **A new resource management act is required to not only manage land-use but also to rigorously enshrine environmental protection measures. Over the time that the Resource Management Act 1991 has been in force, this central purpose has been out-prioritised by other criteria in the act, and this must be rectified. Part Two of the act should be rewritten to recognise the pre-eminence of environmental bottom lines, as recommended by the Environmental Defense Society in its report on reform of the resource management system.**

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3. To gain sustained environmental enhancements, the country needs more than just an act which manages and controls the impacts of development. It needs to be aligned with a plan for environmental restoration which is targeted, measurable, and which holds those delivering the plan accountable. The board endorses the Environment Defense Society’s call for a National Environmental Plan which would be a single, integrated and coherent piece of national direction that would address all matters of national importance and the relationships between them (page 1).

4. A resource management act cannot deal effectively with the vast issues affecting the marine environment and new statutes are required to deal with restoration of the seas.

5. The community perceives that damaging development continues to occur despite council policies, plans and national legislation. The reform needs to result in a greater ability for communities to influence consent decisions in favour of environmental protection. The current “effects-based” act seems to put greater emphasis on allowing applicants to mitigate non-complying activities, than prohibiting those which could have damaging long-term outcomes. This needs to change. A new act must develop clearer escalating definitions of environmental effects and the extent to which they impact on the environment.

6. The elected members have a strong view that multitudes of “no-more than minor effects” have caused major negative environmental impacts and have been permissive by nature. A new act must develop new strategies for protecting whole catchments, over the longer term, from potentially harmful developments.

7. In areas where development has been traditionally allowed, and generally accepted, consenting processes need to be cheaper, easier and quicker. The National Policy Statement on Urban Development is producing planning standards and district plan templates which will be used to make planning processes faster, more universal and user-friendly. Local authorities need to align with these new processes for the benefit of their communities.

8. The government needs to recognise and enable new housing models to emerge, or be supported actively, through the terms of a new Resource Management Act. There needs to be a national approach to enabling affordable housing initiatives which is actively empowered through legislation.

9. We need a significant change to the country’s approach to waste management which recognises the full cost of waste and its removal. A new resource management system needs to control actions which grow the country’s waste pile rather than merely mitigating the impacts of accumulating waste.

10. The current system has become a litigious one, with many consent approvals fought through the courts at great expense to applicants, councils and communities who want to oppose potentially damaging developments. A reformed resource management system should enable outcomes decided by agreed environmentally-driven policies rather than through drawn-out court battles.

11. The movement of earth from site to landfill should be minimised due to the shortage of clean fill sites and their effects on the environment. Planning protocols should promote retention of fill on site, within existing contours and without extensive cut and fill.
12. In keeping with Essentially Waiheke, the board contends that character is part of the built environment and that there needs to be a greater weighting given to community character as an environmental attribute.

13. The awareness of the value of trees in the landscape is critical. Tree protections are outdated and fines an encouragement to fell existing mature and developing trees.

14. A new resource management act might be more prescriptive on the expectations of local authorities as to the level of monitoring required to assure resource management compliance e.g. a higher level of compliance is required for the protection of trees and vegetation on road reserves and development sites.

Memorandum

22 January 2020

To: Planning Committee
Cc: All Waitematā Local Board members
Subject: Resource Management Review Panel’s Issues and Options paper
From: Waitematā Local Board

Purpose

1. To provide Waitematā Local Board’s feedback on the Resource Management Review Panel’s Issues and Options paper.

Context/Background

2. The government is undertaking a comprehensive review of the resource management system with a primary focus on the Resource Management Act 1991.

3. The review is being led by the Resource Management Review Panel. The panel has just released an issues and options paper that starts a conversation about issues to be considered and addressed by the review and sets out some initial thoughts on possible options.

4. The review’s aim is to improve environmental outcomes and better enable urban and other development within environmental limits.

5. Local boards can provide formal feedback on the Issues and Options paper by 24 January 2020, which will be included verbatim as part of council’s submission before submissions close on 3 February 2020.

6. Council will have a further opportunity to provide a submission on the next phase when the Ministry releases its proposals for reform, expected in mid-2020. This second submission will look at the more detailed attributes of the proposed reforms.
Waitematā Local Board Feedback

Issue 1: Legislative Framework

1. The Waitematā Local Board strongly oppose any concepts that would separate urban development laws from the Resource Management Act, and the same requirement of net environmental enhancement should apply to both urban and rural areas.

Issue 2: Purpose

2. The Waitematā Local Board recommends that the purpose of the Resource Management Act should aim to improve the environment as well as mitigation with a focus on net positive outcomes. The board further specifies there should be a requirement for every development to have a net positive effect on the environment.

Issue 3: Recognising Te Tiriti o Waitangi

3. The Waitematā Local Board supports entwining the principles of Te Ao Māori through the act and supports Māori involvement in spatial planning and significant resource development and extraction.

Issue 4: Strategic Integration

4. Strategic integrated planning will be better achieved through spatial planning that is led and managed at a regional level in consultation with local stakeholders, other regions, and central government.

5. The scope of spatial plans should be expanded beyond housing and growth to include environmental protection and restoration, land and sea management, and climate change mitigation and adaptation.

Issue 5: Addressing Climate Change

6. The Waitematā Local Board supports the RMA to be used as a tool to address climate change by allowing regional authorities to protect its natural resources that serve a carbon sequestration and biodiversity function, and to reduce carbon intensive transport requirements through good spatial planning.

7. The RMA should incorporate the principles of the Climate Change Response Act 2002 or be secondary to it. Clear direction should be given within the RMA that councils must consider climate emergency response in decision-making.

Issue 6: National Direction

8. The Waitematā Local Board supports the establishment of clear high environmental standards through regulation that strengthen environmental protections and requirements. National direction may play a role in guiding local authorities and facilitating good planning and decision-making. The establishment of National Planning standards is welcome.
Issue 7: Policy and Planning Framework

9. The Waitematā Local Board supports spatial planning at a regional level and the facilitation of coordination and collaboration across the regions to share ideas and best practice.

10. Good spatial planning should communicate a vision that facilitate positive development and provide for an outcomes-based approach that requires developments to have a net positive outcome and that these documents should be legally binding.

Issue 8: Consents/Approval

11. The Waitematā Local Board supports a simple consent framework with a focus on positive outcomes and suggests a single stage plan making process.

12. There needs to be better transparency in the consenting process that provides opportunities for public involvement where the effects of the activity are more than minor to the community or the environment.

Issue 9: Economic Instruments

13. The Waitematā Local Board supports the use and development of economic instruments, as described in 118d, to incentivise the use of resources more efficiently, and revenue from economic instruments ringfenced to improve environmental quality, fund environmental remediation, fund the setting aside of public land, and the transition to a low carbon/low waste economy. Within an urban context this could also encompass improving amenity within a more compact urban form.

Issue 10: Allocation

14. The Waitematā Local Board supports the idea that principles guide local decision-making, which would be subject to judicial review, that prioritises the current and future needs of the mauri of the land and waterways and the community. The board proposes that climate change, the environment and its ecosystems and the current and future needs of NZ residents be considered in the allocation and renewal of consents. Further the board proposes that the duration of consents be reduced and the power to the consent authority to vary or cancel a consent be increased to allow them to act in special circumstances. The principles would apply to resource extraction, discharge into resources and the right to occupy public space.

Issue 11: System Monitoring and Oversight

15. The Waitematā Local Board supports that institutional oversight of all monitoring functions should be the responsibility of the Parliamentary Commissioner for the Environment, and functions should include data collection of environmental and urban outcomes. Further it supports local and central government to provide policies in response to outcomes identified by environmental reporting.
Issue 12: Compliance, monitoring and enforcement

16. The Waitematā Local Board supports consistent, firm and effective enforcement of resource consents by local government under the oversight of the Parliamentary Commissioner for the Environment.

17. Further the board proposes that a portion of the revenue collected through enforcement should be ringfenced for environmental remediation and a portion used to offset the administrative costs for enforcement.

Issue 13: Institutional Roles and Responsibilities

18. It is the view of the Waitematā Local Board that good regional planning is at the heart of the RMA and this is a core service of local government so proposes that decision-making and enforcement powers should be at a local level.

Issue 14: Reducing Complexity across the System

19. The Waitematā Local Board supports the clarification of priorities in the RMA to align with the LGA, LTMA and Climate Change Response Act to reduce complexity and facilitate ambitious future-focused strategic planning that provides more protections for the environment, more effective planning of homes, provision of infrastructure and social infrastructure like schools, parks, libraries, cafes and more certainty and less risk for development.