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**SUBMISSION ON GOING FOR HOUSING GROWTH DISCUSSION DOCUMENT**

**Introduction**

1. This is the Environmental Defence Society's (EDS) feedback on the Going for Housing Growth Discussion Document (Discussion Document).
2. The Discussion Document describes the government's Going for Housing Growth 'Pillar 1' proposals. Pillar 1 is about how Going for Housing Growth will be progressed through changes to the resource management system.
3. The original intention was for Pillar 1 to proceed through changes to national direction under the Resource Management Act 1991 (RMA), alongside other changes to national direction concerning primary industries, infrastructure and freshwater. However, Pillar 1 will now be progressed as part of Phase 3 resource management reforms. These involve the RMA being replaced by two new statutes: a Planning Act and Natural Environment Act. This means that the proposals in the Discussion Document will not result in the gazettal of national direction under the RMA, but instead inform the design of replacement RMA legislation.
4. Broader policy on Phase 3 is currently being developed by government. It is largely based on the recommendations of an independent Expert Advisory Group (EAG), which were released in March 2025 alongside high-level Cabinet decisions.

5. EDS has conducted a series of reports on Phase 3. Two papers have been published on EDS's website,<sup>1</sup> with a third due for imminent release in early September. These are relevant to the broader design of the system within which the proposals in the Discussion Document would sit.

### **Preliminary points**

6. The Discussion Document has posed 37 questions. We do not respond to all of them. Our feedback focuses mainly on those having implications for environmental outcomes. We group related questions together where appropriate.
7. We have two preliminary points. First, we consider it incongruent that specific elements of a new resource management system (housing) are being consulted on now, in isolation of the many other detailed design features of a Planning Act and Natural Environment Act (eg environmental limits, spatial planning, legislative purpose) which remain highly uncertain. This makes it very hard to determine how (and if) the pieces fit together. For example, the Discussion Document talks about spatial plans being 'informed by' environmental limits, but not what the limits might cover, what their purpose would be, or what their legal weighting would mean for decisions made under a Planning Act.
8. It is also inappropriate for the elements of the new system that are going to be included in national direction to be developed before the primary legislation under which it is made even exists (and where there are still important policy choices to be made by Ministers). It is inefficient for these proposals to be consulted on now, then again through the select committee process for a Planning Act, and then again when national direction is prepared under the new legislation.
9. Housing and all other aspects of land use/environmental policy should be considered and consulted on at the same time. Ideally this would be through the release of an exposure draft of a Planning Act and Natural Environment Act that deals with all issues in an integrated way.
10. Secondly, we have concerns about the regulatory impact assessment (RIS) for the Discussion Document. The relevant aspects of the Going for Housing Growth policy were subject to a regulatory impact assessment dated 12 June 2024 (now over one year old). It is not clear whether this is outdated in light of more specific proposals in the Discussion Document, and in light of the completely new Phase 3 recommendations of the EAG (and its own associated regulatory impact assessment). For some aspects (eg balcony and minimum floor areas) much of the evidence-base for problems is about a decade old and (for example) predates key changes that have been made under the Auckland Unitary Plan. There appears to have been no meaningful assessment of the potential environmental impacts of the proposals.

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<sup>1</sup> <https://eds.org.nz/wp-content/uploads/2025/03/Context-of-resource-management-reform.pdf> and <https://eds.org.nz/wp-content/uploads/2025/03/The-scope-of-the-resource-management-system.pdf>

## Overarching context and problem definition

11. Part A of the Discussion Document provides the context in which Pillar 1 housing proposals are being made, including a general problem definition. The key problem is said to be that “excessively high land prices ... are driven by market expectations of an ongoing shortage of developable urban land to meet demand”.
12. This deserves closer scrutiny. There is undoubtedly a problem with housing affordability in New Zealand. Historically, planning constraints have contributed to this issue in some places (eg Auckland’s metropolitan urban limit).<sup>2</sup> However, in our view two related things have not been adequately established.
13. First is the extent to which ‘inflexible land use settings’ under the RMA are *still* to blame for constrained land supply (or at least market expectations about future land supply). This is an important question, because dramatically enabling more growth in more places (eg by removing urban boundaries or having a Planning Act focused mainly on enjoyment of property rights) will come with significant environmental and social consequences.
14. For example, in Auckland there is now 30 years’ worth of development capacity provided for (around 400,000 houses).<sup>3</sup> Between 2016 and 2021, upzoning in Auckland’s Unitary Plan facilitated the consenting of 21,800 new dwellings, most of which were medium or high density.<sup>4</sup> An analysis of the impact of Auckland’s post-Unitary Plan rural-urban boundary (RUB) in 2020 showed that most discrepancy in land price across the boundary was caused not by regulatory zoning – the RMA land use control – but by the availability of infrastructure to service the land. It was concluded that:<sup>5</sup>

*the boundary is likely to add a price premium of at most 5.2% to developed residential land inside the boundary compared to farmland outside, and at most 4.2% compared to lifestyle land outside. These premiums are substantially lower than estimates in previous studies, and are before accounting for any social costs of more expansive development not included in market prices, such as increased congestion or emissions.*

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<sup>2</sup> See generally Productivity Commission of New Zealand *Better urban planning* (2017).

<sup>3</sup> <https://www.stuff.co.nz/money/350658022/auckland-unitary-plan-improving-housing-affordability-research-shows>

<sup>4</sup> <https://ourauckland.aucklandcouncil.govt.nz/news/2024/03/auckland-upzoning-sparks-more-homes-and-improved-affordability/>. See also <https://www.rnz.co.nz/news/national/564561/auckland-council-says-100-000-new-homes-built-after-planning-rule-book-came-into-force>

<sup>5</sup> SL Martin and DS Norman *An evidence-based approach: Does the rural urban boundary impose a price premium on land inside it?* (Auckland Council, Chief Economist Unit, February 2020).

15. The 2024 RIS shows that plan-enabled development capacity is already high:

159. Table 2 below provides a breakdown of how much development capacity councils were, are, or expect to be providing for housing – both prior to plan changes to give effect to the NPS-UD and MDRS, and following them.

*Table 2: Overview of development capacity enabled under status quo*

Council	Most recent council assessment of 30 year demand	Short-term plan-enabled capacity		Short-term plan-enabled, infrastructure ready, feasible and realisable capacity	
		Pre-NPS-UD/MDRS	Post-NPS-UD/MDRS	Pre-NPS-UD/MDRS	Post-NPS-UD/MDRS
Auckland	197,100 (2023)	909,179	2,615,580	Unclear	271,000
Hamilton	44,400 (2023)	130,600	242,500 <sup>22</sup>	4,300	12,400
Tauranga	28,980 (2022)	63,060	189,500	3,225	Unclear
Wellington	30,407 <sup>23</sup> (2023)	104,941	299,364	26,399 <sup>24</sup>	73,856*
Christchurch	32,103 (2023)	205,178	544,000	82,452 <sup>25</sup>	94,000 <sup>26</sup>
Waikato	13,900 (2023)	12,300	59,700	300	5,600
Waipa	9,400 (2023)	20,400	42,000	4,400	4,100
Western Bay of Plenty	7,710 (2022)	Unclear	Unclear	1,564	1,440
Rotorua	8,250 (2022)	23,700	129,500	1,700	N/A
Kāpiti Coast	11,899 (2023)	17,983	300,996	7,818*	32,673*
Upper Hutt	7,931 (2023)	19,313	241,689	11,361*	18,461*
Hutt	15,421 (2023)	120,518	271,001	16,815*	28,236*
Porirua	11,940 (2023)	150,154	224,767	16,511*	22,589*
Waimakariri	11,308 (2023)	2,273	79,345	2,273 <sup>27</sup>	5,950
Selwyn	23,414 (2023)	11,234	108,024	14,154 <sup>28</sup>	11,550

16. Other analyses have identified a wide range of other reasons for the unaffordability of housing and residential land. These include tax settings, investors' appetite for risk, and issues with the construction sector and supply chains.<sup>6</sup> The RMA cannot be held responsible for important demand-side issues in the housing market, like "immigration or tourism-driven growth pressures".<sup>7</sup> Nor can red tape be blamed for sites that are already suitably zoned for housing development but remain vacant (due partly to incentives for land banking).<sup>8</sup>

17. The relative contribution of all these factors to housing affordability does not appear to have informed proposals outlined in the Discussion Document, which largely assumes the RMA is to blame – or to blame to some unspecified extent – for the country's broken housing market.

<sup>6</sup> See <[www.beehive.govt.nz/speech/speech-government-economics-network-2019-conference](http://www.beehive.govt.nz/speech/speech-government-economics-network-2019-conference)>; K Palmer Separating regulation of the built and natural environments – legislative options (Working paper produced for the New Zealand Productivity Commission, 2017); T Hazledine "Economics and the resource management system" in G Severinsen and R Peart *Reform of the resource management system: The next generation - Working paper 3* (EDS, 2018) at 158; A Dormer and others *Report of the Urban Technical Advisory Group* (July 2010) at 20; Resource Management Law Association *Submission on issues and options paper: Transforming the resource management system – opportunities for change* (2020) at [18].

<sup>7</sup> <https://pce.parliament.nz/media/hxjhxcy/salmon-lecture-rma-reform-coming-full-circle.pdf> at 3.

<sup>8</sup> In Ireland, for example, vacant site levies have been imposed to incentivise actual development of housing rather than land banking. See <https://legalblog.ie/vacant-site-levy/>

18. Secondly, to the extent there *is* an issue with constrained land supply due to the RMA, policy makers need to tackle the underlying drivers for *why* the RMA is being used in this way by councils. This is not well addressed in the Discussion Document.
19. The main issue in many places, including Auckland, appears to be the provision of infrastructure to service new housing development (both greenfields and density) rather than zoning.<sup>9</sup> There is little point live zoning land for residential or commercial use if it cannot be serviced with three waters or transport infrastructure. For example, the Auckland Council study referred to above found that simply rezoning more land at the urban fringe would make very little difference to land prices:<sup>10</sup>
- converting farmland or lifestyle blocks outside the RUB into bulk-infrastructured residential sections similar to those inside the RUB would be unlikely to deliver land to the market substantially more cheaply.*
20. This was emphasised by the EAG and is recognised in the Discussion Document, which notes that infrastructure funding and financing issues are being worked on separately (including the sensible idea of value uplift capture). However, the Discussion Document and associated RIS note that such issues are beyond the scope of Pillar 1. Because of this, they do not directly address the most important question: to what extent would infrastructure settings (including local government reform), and other non-RMA interventions, free up adequate land and drive down the price of housing?
21. None of the above is necessarily to say that all specific proposals in the Discussion Document are inappropriate. The key point is that a problem definition that allows the RMA to be treated as the main cause of inflated residential land prices will be one that can be used to justify the blanket removal of important planning measures (eg those encouraging compact urban form and well-designed density). In doing so, it will risk eroding environmental and social outcomes – a trade-off that may not have been needed in the first place.
22. The problem definition is also one-sided (freeing up land for development) and fails to recognise the extensive environmental issues that New Zealand faces with respect to freshwater quality, the marine environment, biodiversity loss, and threats to productive land. Urban growth and development can have, and has had, significant environmental impacts across all these domains, and enabling housing needs to be placed in this context. Continuing environmental decline has been well documented in the government’s own reporting (*Environment Aotearoa 2025*), but this is not mentioned in the Discussion Document.

## **The new resource management system**

***Q 1: What does the new resource management system need to do to enable good housing and urban development outcomes?***

<sup>9</sup> Although the Council’s Infrastructure Strategy considers this growth ‘feasible’.

<sup>10</sup> SL Martin and DS Norman *An evidence-based approach: Does the rural urban boundary impose a price premium on land inside it?* (Auckland Council, Chief Economist Unit, February 2020).

23. Part B of the Discussion Document describes some of the key shifts envisaged for Phase 3 (a Planning Act and Environment Act). These reflect the EAG's recommendations and subsequent high level Cabinet decisions.
24. In our work on Phase 3 reform we have provided extensive analysis of what the future system should, and should not, do. Key elements include the following.
- A scope that is not just limited to addressing externalities, and one that encompasses good urban design (including urban greening), environmental improvement and public interest controls on land (eg to protect productive soils).
  - Ensuring that a threshold for when adverse effects must be managed properly accounts for cumulative effects on the environment.
  - A robust framework for environmental limits which will provide greater certainty for where and how urban development can occur without infringing core elements of environmental wellbeing.
  - Statutory spatial planning which clearly identifies environmental constraints in advance, as well as opportunities for environmental enhancement and effective links to funding and infrastructure planning (see below).
  - A system which builds upon existing compensatory mechanisms rather than creating a new framework for regulatory takings (which would have an unacceptable chilling effect on legitimate regulation).
  - A more standardised system (eg model plans or default consent conditions for common activities), as long as it does not undermine the bespoke management of special or sensitive parts of our environment and does not rely excessively on permitted activity standards.

### **Spatial planning generally**

*Q 2: How should spatial planning requirements be designed to promote good housing and urban outcomes in the new resource management system?*

*Q 20: What role could spatial planning play in better enabling urban expansion?*

25. Effective spatial planning will be one of the most important elements of a future system, for both housing and environment. Key elements of spatial planning should include the following.
- a. The mandatory identification of environmental constraints on maps, and requirements for these to be avoided when planning growth. For large projects, a questionable location (eg wind farms in significant natural areas (SNAs)) is often the reason for a lot of resistance, delay and cost in the system. This need not be the case if 'go' and 'no go' areas are identified in advance. For example, spatial delineation of 'off limits' systems has improved the speed and certainty of decisions in Waikato for geothermal developments.

- b. At minimum, constraints should include SNAs, outstanding natural features and landscapes (ONFLs), significant geothermal features, sites and areas of significance to Māori (where publication of information is appropriate), drinking water sources, elite soils, high hazard areas (with reference to climate adaptation plans), marine protected areas (including where *Motiti* jurisdiction applies), and wetlands. Spatial plans should also indicate the spatial extent of water conservation orders, conservation land and areas having status under international law (eg RAMSAR sites).
- c. Constraints need to be identified before first generation statutory spatial plans are created. Once development is 'authorised' through a spatial plan, and investments made in reliance on it, it will be practically impossible for constraints on it to be retrofitted later on.
- d. There is a clear need to improve the state of the natural environment, not just protect what is left. Spatial planning has the potential to contribute, and its purpose and content should reflect this. For example, rather than just identifying existing SNAs, a spatial plan should identify where additional protected areas would be desirable (and could be restored) in order to join up disconnected habitats or migratory pathways. Singapore does this well in its spatial plan (called a long-term plan).
- e. Spatial plans need to have significant legal weight to make them worth doing. They need to shape both regulatory plans (where and when new development can occur) and investment planning (especially the provision of three waters and transport infrastructure, but also relevant social infrastructure like schools, libraries and community services). Implementation/coordination plans and agreements will be needed to give a level of commitment and clarity around who does what (including funding).
- f. However, the direction of legal influence needs to be the opposite when it comes to environmental limits set under a Natural Environment Act. Spatial plans should be required to be consistent with and, where relevant, give effect to environmental limits (eg to exclude development in areas where it would infringe them). This might exclude urban development from areas where there are already considerable pressures (eg sedimentation) on waterways.
- g. While development identified in a spatial plan should have reasonable certainty of proceeding and have a simpler regulatory pathway, it should not necessarily escape from more detailed regulatory assessment through consenting or designation processes. A decision-maker should remain free to impose conditions or even decline a proposal based on a detailed assessment of its effects on the environment which cannot be determined through high-level spatial planning.
- h. As recommended by the EAG, a robust process involving extensive consultation, independent review, hearings and appeal rights will be crucial if spatial plans are



to have strong and specific legal influence on regulatory plans. This is important for community input, robust testing of evidence, and to protect the interests of property owners.

- i. Without local government structural reform, the governance of regional spatial planning will inevitably be complex. The unitisation of local government would provide a solution, but this has to be approached with care because it is a much larger, more complex exercise than resource management reform (or simply getting rid of regional councils). Within central government, the Department of Conservation should be a spatial planning partner, and be funded accordingly.
- j. Regional spatial plans should be mandatory, but their degree of detail and areas of focus should be flexible depending on the circumstances of the region in question. Some areas may require quite elaborate provisions (including detailed mapping), whereas others may not.
- k. Planning horizons should be long-term and aligned with other planning processes.
- l. Spatial plans should have provision for regular review and be flexible enough to respond to environmental change.
- m. Spatial plans should uphold Treaty settlement arrangements (especially with respect to settlements that engage specifically with regional policy statements that spatial plans are intended to replace).
- n. A *national* spatial plan would be useful in order to present (ie amalgamate) regional spatial plans together alongside other national-level forms of planning having spatial implications (especially *Te Mana o te Taiao – the New Zealand Biodiversity Strategy*).

### **Spatial planning and rural-urban boundaries**

*Q 18: Do you agree with the proposal that the new resource management system is clear that councils are not able to include a policy, objective or rule that sets an urban limit or a rural-urban boundary line in their planning documents for the purposes of urban containment? **No**. If not, how should the system best give effect to Cabinet direction to not have rural-urban boundary lines in plans? **It should not; it should instead focus on provision of adequate development capacity.***

*Q 19: Do you agree that the future resource management system should prohibit any provisions in spatial or regulatory plans that would prevent leapfrogging? **No**. If not, why not? **There are often sound planning (economic, social and environmental) reasons for compact and contiguous urban growth patterns.***



*Q 16: Are mechanisms needed in the new resource management system to ensure councils are responsive to unanticipated or out-of-sequence developments? If so, how should these be designed?*

26. One important element of spatial planning is guiding how urban areas grow (up and out). With respect to outwards growth, the Discussion Document proposes that councils should no longer be able to include a policy, objective or rule that sets an urban limit or a rural-urban boundary line in their planning documents for the purposes of ‘urban containment’.
27. It also proposes deleting other containment provisions, such as policies that require new greenfields development to be contiguous with existing urban areas (provisions that prevent ‘leapfrogging’). This is consistent with the EAG’s idea in Phase 3 reform that spatial plans should not prevent out of sequence or even unanticipated urban development in places where the market wishes to deliver housing.<sup>11</sup>
28. Urban boundaries need to be responsive to demand over time. They need to move, to ensure that land markets remain competitive. This is why there is already an obligation in the National Policy Statement on Urban Development to provide for adequate development capacity and for boundaries to be flexible.
29. However, this should not mean a development free for all. The Discussion Document’s proposal to remove anything facilitating urban containment would prevent the system from driving compact cities and would encourage sprawl. Unfettered sprawl will create big problems for a number of reasons.
30. First, it would generate significant externalities (especially costs for councils and therefore ratepayers). For example, part of the purpose of urban boundaries is to ensure that public infrastructure providers are not burdened with the up-front costs of servicing new developments with things like potable water, waste collection and transportation routes in multiple dispersed locations all at once, or in an inefficient way. At Warkworth, for example, poorly planned and sequenced development has led to significant issues, including a need for sewage to be trucked away as an interim measure because wastewater infrastructure has not been able to be provided in a timely way.<sup>12</sup>
31. Simply requiring a developer to pay for their own pipes and roads within the footprint of a project will not make this problem go away, because in practice individual developments will never be planning islands. They almost always rely on broader, city-wide networks of services and infrastructure to work. Those need to be efficient and cost effective. Councils therefore need predictability in terms of when core community facilities, like wastewater treatment plants or new arterial roading routes, are built/upgraded and how such infrastructure is sequenced over time. Indeed, this is one

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<sup>11</sup> At [264].

<sup>12</sup> See generally <https://www.nzherald.co.nz/nz/three-more-auckland-housing-developments-to-have-sewage-trucked-away-and-then-thats-it-says-watercare/7QCR4MPUXNBXRDF4J2SBCAMWQM/>; <https://www.1news.co.nz/2024/07/13/fears-warkworths-wastewater-woes-could-kill-growing-town/>

of the fundamental reasons for doing spatial planning – the current disconnection between land use and infrastructure planning.

32. Developers could be required to pay for infrastructure (both within a project's footprint and financial contributions to any offsite trunk upgrades, like upgrading wastewater treatment plants). But even this would not remove all externalities. It will still ultimately be councils who will inherit the responsibility of maintaining and replacing roads, streetlights, public transport and refuse collection in the long-term. The externalities of sprawl will persist long after private housing is created. Sprawl and non-contiguous development will also make service provision less efficient and may even impact councils' ability to provide it at all (eg public transport to far-flung urban fringes). Compact (and contiguous) urban form can make the provision of this infrastructure more efficient, including by fully realising the potential of existing infrastructure rather than having to build new infrastructure elsewhere.
33. Secondly, sprawl bakes in long-term impacts on urban residents and society even if they are not strictly 'externalities'. There are many benefits that come from compact towns and cities, extensively canvassed in the literature.<sup>13</sup> They include reduced commuting times for workers (improving people's quality of life) and more affordable transportation (especially if they are not dependent on private motor vehicles). They encourage active transport modes like walking and cycling (which have health benefits) and the provision of infrastructure (eg cycleways) that enables them.
34. Compact form can create a sense of community that comes from denser neighbourhoods and human interaction (especially for elderly people) and enhances the potential for connection and collaboration between people and businesses. It enhances access to amenities and community safety (from having more people around). It can also reduce barriers to job opportunities. Such things are the core business of planning.
35. Then there are the long-term environmental impacts of sprawl. For example, it locks in car dependency, and the carbon emissions, congestion and chemical runoff that comes with it.<sup>14</sup> It places greater pressure on rural land that, from an intergenerational perspective, may have far better uses (eg for food production) or other benefits (eg rural landscapes).
36. Removing compact urban from planning would make New Zealand an outlier internationally. For example, In the late 2010s Ireland had big problems with market-led, ad hoc urban development. Many developers collapsed in the wake of the global financial crisis, leaving behind inefficient and incomplete dispersed developments, cities that could not accommodate population influx, and an urban form that did not work well for society. The crisis exposed the issue of "ghost estates," or unfinished housing

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<sup>13</sup> For example, see <https://round-city.com/why-compact-cities-achieve-smarter-growth/>

<sup>14</sup> Compare the RIS at 5: Increased capacity in greenfields areas would have impacts because they are "likely to be further from public transport options and centres, increasing car dependency (and potentially congestion) and greenhouse gas emissions."

developments scattered across the countryside which were largely the result of over-ambitious and unfettered private sector development. Ireland's government said:<sup>15</sup>

*We have made mistakes in the past and we have allowed the country to sprawl and develop without a coherent plan, and to the detriment of many of our places and our people.... [which] works against the creation of attractive, liveable, high quality urban places in which people are increasingly wishing to live, work and invest.*

37. The Irish system, through its National Planning Framework, now consciously seeks to shape population distribution across the country. Ireland's National Planning Framework is quite explicit in its aims: balanced distribution of population growth across regions, three quarters of growth outside Dublin, and 40 percent via greater density (infill and brownfields regeneration).<sup>16</sup> Its rationale is not just about the efficient deployment of infrastructure, but also the need to drive equitable social outcomes across the country and improve the environment.
38. It is also worth considering the opposite situation in Houston, where high growth accommodated by urban sprawl based on motor cars and extensive impervious surfaces (eg concrete) has contributed to issues with flooding, urban heating, costly infrastructure retrofits (eg floodgates for individual properties)<sup>17</sup> and large social, economic and environmental consequences (eg loss of wetlands that could have acted as sponges).<sup>18</sup>
39. This does not mean urban containment policies should be allowed to inflate land prices. The purpose of compact and sequenced development is not to prevent growth or make land markets uncompetitive, but to guide it in ways that are predictable, efficient and in the public good.
40. A future system should also more proactively seek to shape *demand* for housing across regions. This could reduce pressures where there are significant environmental and infrastructure constraints and to encourage development where it would be socially, economically and environmentally beneficial.
41. Finally, we note that the RIS for Pillar 1 of Going for Housing Growth does not address the issue of rural-urban boundaries at all. Ministry staff confirmed that this assessment has not been required, unlike every other aspect of RMA policy being consulted on as part of Phases 2 and 3. This is of considerable concern.

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<sup>15</sup> <https://assets.gov.ie/static/documents/project-2040-national-planning-framework-841f7a87-133c-4d9a-9ec7-d1d3da634105.pdf>, at 5, 28.

<sup>16</sup> <https://assets.gov.ie/static/documents/project-2040-national-planning-framework-841f7a87-133c-4d9a-9ec7-d1d3da634105.pdf> at 11.

<sup>17</sup> <https://greensourcedfw.org/articles/when-climate-change-meets-sprawl-why-houstons-once-lifetime-floods-keep-happening>

<sup>18</sup> "The Katy Prairie northwest of Houston was once about 600,000 acres of flood-absorbing land; recent development has reduced it to a quarter of that capacity": <https://greensourcedfw.org/articles/when-climate-change-meets-sprawl-why-houstons-once-lifetime-floods-keep-happening>

## Housing growth targets and the release of land

*Q 3: Do you support the proposed high-level design of the housing growth targets? Why or why not?*

42. We are largely agnostic as to the high-level design of housing growth targets presented in the Discussion Document. Sufficient development capacity needs to be provided for somewhere in a new system to enable housing. Growth targets can be one way to provide for this.
43. However, we note that operative plans that 'live zone' decades worth of land from the outset (if these are to be the only instruments that count towards housing targets) will need to communicate clearly whether (and when) different areas will be serviced by infrastructure. This is necessary to avoid situations like Warkworth (housing without adequate wastewater infrastructure), given that the immediate provision of pipes and roads will not be feasible for all live zoned land.
44. Infrastructure constraints on live zoned land could be communicated through explanatory notes in regulatory plans that cross-reference spatial plans, and through online digital platforms that allow different layers (regulatory and strategic) to be superimposed across individual landholdings.
45. As mentioned, it will also be crucial for spatial plans (which would have legal influence on zoning in regulatory plans) to identify growth areas in places that avoid environmental and other (eg hazard) constraints.

*Q 4: How can the new resource management system better enable a streamlined release of land previously identified as suitable for urban development or a greater intensity of development?*

46. Spatial plans and regulatory plans should identify and enable future urban areas in appropriate places. As long as those processes are robust (including public participation and appeals to the Environment Court), there should be a general expectation that some form of urban use will be appropriate.
47. However, live zoning such areas should not occur automatically based only on narrow economic indicators (like land price differentials or the availability of infrastructure). Market indicators are useful information to have, but the planning process is the appropriate means by which the detail of such decisions should be made in accordance with the law and community expectations.
48. For example, it will be important that more detailed planning elements of the area like green space, location of development in relation to waterways, management of flooding/other hazards, and design considerations (privacy, accessibility, energy performance etc) are open to public involvement and environmental scrutiny. That would be the case even if the discretion of a planning authority did not extend to questioning the appropriateness of urban use (eg housing) in principle. The

environmental adequacy of district plan changes is often dependent on their detail, not a general description like residential, commercial or mixed use.

49. Alternatively, such detail could be provided for in a structure plan at the point a future urban zone is included in the regulatory plan. As long as there were no change in circumstance or new information (eg regarding limits or hazards), narrower triggers could then be used to bring this change in zoning 'online' through a more streamlined process. Front ending detailed structure planning well before an actual zoning change may make it easier to account for a future urban zone in councils' housing growth targets (more would be known about, for example, the density of development), as well as give confidence to communities and environmental groups that future regulatory changes would be sound when it is triggered.

### **Intensification and urban design**

50. The Discussion Document poses several specific questions concerning how urban intensification should be provided for in a new system. Our view is that intensification is vital to compact, efficient and sustainable cities, and is likely to put less pressure on natural features and rural production. So, while intensification should not be allowed to come at the expense of urban greenery, significant viewshafts, hazard risk or heritage/character protection (and the compulsory use of medium density residential standards are problematic because of this), dense cities are appropriate, especially around rapid transit and public transport corridors. The development of Ørestad in Copenhagen is a recent example of how this can be done in an environmentally sensitive and innovative way.<sup>19</sup>
51. However, we wish to make a more general point about a future system. Greater urban density creates the potential both for problems (eg privacy issues, loss of nature) and benefits (eg collaboration and connection). Urban design will therefore be a crucial consideration in a future system, to encourage the benefits of density while mitigating its downsides.
52. History has shown that the market will not always provide for effective design of dense space without planning intervention or guidance. For example, one report highlights that in the 2000s, market choices in the Wellington CBD led to undesirable outcomes. A particularly perverse result was apartments being built with their main windows located on boundary walls. This meant that some residents relied upon neighbouring properties remaining vacant to retain their daylight and outlook, an issue that could have been remedied at the design stage but is much harder to retrofit once built.<sup>20</sup>
53. Phase 3 reform proposals have flagged many elements of urban design as being beyond the scope of a system concerned with externalities and the enjoyment of property rights. This is of significant concern.

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<sup>19</sup> <https://www.wonderfulcopenhagen.com/wonderful-copenhagen/international-press/international-press/orestad-urban-nature-and-world-class-architecture>

<sup>20</sup> Ministry for the Environment *Urban design case studies* (2008). On RMA and Building Act jurisdiction generally, see <https://www.environmentguide.org.nz/activities/land-use/building-act-2004/>.

54. For example, the orientation of a building has been mentioned as something to exclude from consideration. This may not *always* be trivial. Orientation could, for example, have significant implications for people's privacy, or the energy efficiency of a building. Even controls on the colour or materials of a fence might range from the pedantic (subjective preference) to the legitimate (eg high reflectivity that blinds motorists).<sup>21</sup>
55. One study in the United Kingdom, for example, found that poorer communities are ten times more likely to get worse design, even though better design would have been affordable.<sup>22</sup> This can have significant ramifications for the quality of people's lives within a community (and not just for residents of individual houses). Planning is about building places that are welcoming, connective and safe, among other things.
56. Minimum floor areas and requirements for balconies are other examples of urban design controls that have been singled out by the Discussion Document (see below).

### Minimum floor areas and balconies

*Q 33: Which rules under the current system do you consider would either not meet the definition of an externality or have a disproportionate impact on development feasibility?*

57. We disagree with the premise of this question, because a future system should categorically *not* be based only on the management of externalities. As pointed out by the EAG's Minority Report, this narrow scope would exclude many controls in which there is a legitimate, intergenerational public interest, including the protection of elite soils from urban expansion and the protection of indigenous biodiversity or soil on private land if it did not impact neighbours. We have explored this further in our work on Phase 3 reform.
58. With respect to minimum floor areas, several things should be noted. Poorly sized housing can impact disproportionately on vulnerable people who are essentially forced to live in such places.<sup>23</sup> It is disingenuous to paint this just as a 'choice' to which the market will be responsive, to the benefit of all.<sup>24</sup> Tenants, including social housing tenants, might not require the 'nice to haves' but they do deserve the dignity of a liveable home – including one of a minimum size.
59. A recent report by Auckland Council showed that, even under the existing RMA, over half of the 110 consented plans analysed had floor areas smaller than best-practice guidelines and were therefore not fit for purpose for many urban dwellers.<sup>25</sup> This is bound to be exacerbated if developers can make houses even smaller with no planning

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<sup>21</sup> For example, compare concerns about New Plymouth's Len Lye Centre, which were subject to careful design consideration: <https://www.stuff.co.nz/taranaki-daily-news/news/70409827/len-lye-centre-dont-fear-the-glare>

<sup>22</sup> <https://www.ucl.ac.uk/news/2020/jan/new-housing-design-england-overwhelmingly-mediocre-or-poor>

<sup>23</sup> For example, see: [www.rnz.co.nz/news/national/531808/catastrophe-in-the-making-fast-tracked-housing-on-flood-prone-land-sparks-concern](https://www.rnz.co.nz/news/national/531808/catastrophe-in-the-making-fast-tracked-housing-on-flood-prone-land-sparks-concern)

<sup>24</sup> See RIS at [128].

<sup>25</sup> 62 percent of new dwellings consented in Auckland in 2023 were townhouses, flats and units.

oversight. Similar deregulation in the 1990s resulted in the provision of some apartments that were just 12 square metres in size.<sup>26</sup>

60. The literature shows that small living quarters can have highly deleterious effects on people, especially if they are mass produced 'shoeboxes' that are not carefully and professionally designed.<sup>27</sup>
61. This does not necessarily mean that existing controls in various district plans currently strike the right balance between size and affordability, only that the planning system needs the ability to create *some* minimum size requirements alongside other relevant measures (eg ceiling heights, which can alleviate some of the downsides of smaller floor areas).<sup>28</sup>
62. Proposals to remove minimum floor areas completely are particularly concerning in the context of broader Phase 3 proposals to disallow design requirements for 'internal' aspects of buildings, because careful design is often why smaller apartments work for residents. The market is not guaranteed to provide this on its own without oversight or guidance.<sup>29</sup>
63. Minimum floor area controls also exist in the specific context of particular urban areas (eg how much public space and amenities are available to residents nearby, something that influences how much time people need to spend in their apartments), so a blanket prohibition would be inappropriate. For example, inner city Auckland is very different from Rotorua, which is why minimum apartment sizes are smaller in the former.
64. Separate performance standards exist under the Building Code for basic things like daylighting, ventilation, and privacy. But (except for retirement villages) these do not cover all the matters that minimum apartment sizes safeguard, like how cramped a dwelling is generally.<sup>30</sup>
65. Similarly, with respect to apartment balconies, a lack of access to fresh air or private open space can contribute to residents' poor mental health or vulnerability to illness, especially in times of stress. For instance, balconies in apartment buildings proved to be extremely valuable for urbanites' wellbeing during the COVID 19 pandemic.<sup>31</sup>
66. This does not mean all apartments need to have large or costly balconies (or that existing minimum areas in district plans, up to 15 square metres in some places, are necessarily appropriate), only that the costs and benefits of providing for modest access to the outdoors should be within the scope of planners to consider. For example, the

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<sup>26</sup> <https://www.nzherald.co.nz/nz/panel-paves-way-for-shoebox-living/MANGYQ3JSEVQG4TIKVQDJWTEIQ/>

<sup>27</sup> <https://theconversation.com/size-matters-why-nzs-new-housing-rules-risk-cheap-builds-and-shoebox-apartments-234162>; <https://www.verywellmind.com/are-there-mental-health-benefits-to-living-in-a-small-space-5270523>

<sup>28</sup> See [https://www.nzherald.co.nz/rotorua-daily-post/news/rotorua-mayor-fears-apartment-size-rule-change-amid-housing-shortage/6Q5TT7ODUZCX5JLVNZ4LIKHXKI/#google\\_vignette](https://www.nzherald.co.nz/rotorua-daily-post/news/rotorua-mayor-fears-apartment-size-rule-change-amid-housing-shortage/6Q5TT7ODUZCX5JLVNZ4LIKHXKI/#google_vignette)

<sup>29</sup> See <https://www.stuff.co.nz/life-style/home-property/83215100/unitary-plan-will-it-really-prevent-shoebox-apartments>

<sup>30</sup> See <https://www.stuff.co.nz/life-style/home-property/83215100/unitary-plan-will-it-really-prevent-shoebox-apartments>

<sup>31</sup> See, for example, <https://link.springer.com/article/10.1007/s10668-023-03732-w>.



Wellington Residential Design Guide states that “smaller balconies or decks may be appropriate ... where apartments are small”.<sup>32</sup>

67. In our view the more pertinent issue here is not one of scope (excluding council jurisdiction over floor size and balconies entirely), but rather proportionality. There is a sensible provision in Victoria’s 2017 Environment Protection Act that could build on this approach in new planning legislation:<sup>33</sup>

*a decision, action or thing directed towards minimising harm or a risk of harm to human health or the environment should be proportionate to the harm or risk of harm that is being addressed.*

68. We also note that it is not clear what exactly is being proposed (which further highlights the need for an updated RIS in light of new Phase 3 proposals). On the one hand, the RIS for the Going for Growth Housing Package states that councils would be *prohibited* from setting minimum floor areas and requiring balconies for apartments.<sup>34</sup> In our view this would be inappropriate for the reasons outlined above.

69. On the other hand, the Discussion Document proposes at [125] something slightly different: “that standardised zones do not include standards or matters of discretion for minimum floor areas or balconies”. Under Phase 3 proposals, councils would still have the *ability* to create bespoke controls that depart from rules in a standardised zones if they produced a ‘justification report’. In our view, this (rather than the prohibition described in the RIS) would be an appropriate solution to ensure that such controls are proportionate but still possible where they could be justified.

70. Also, rather than being a blanket prohibition on small housing, rules for minimum apartment sizes in plans could trigger a consenting pathway to allow smaller apartments *if* they addressed effects in other ways (eg through careful design, or where site specific context meant it was appropriate within a zone). This approach would allow the costs and benefits of specific proposals to be considered (which may be quite different from each other).

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<sup>32</sup> <https://wellington.govt.nz/-/media/your-council/plans-policies-and-bylaws/district-plan/volume02/files/v2residential.pdf?la=en&hash=69F00B5DACB36E73DA6E19A3B6F86FFE3CDC9BDD> at 20

<sup>33</sup> Section 14: Compare Natural and Built Environment Act 2023 s 9(1), which was more focused on proportionality of process.

<sup>34</sup> At 4.