APPENDIX ONE

Submission from Wellington City Council - Reform of the urban and infrastructure planning system

Submission to:	**Ministry for the Environment**
Discussion paper:	**Building competitive cities – Reform of the urban and infrastructure planning system**
From:	**Wellington City Council**
Date:	**17 December 2010**

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Executive summary

Wellington City Council welcomes the opportunity to comment on the discussion paper "*Building competitive cities – Reform of the urban and infrastructure planning system*".

The Council supports options that will enable territorial authorities to improve planning and urban design through district plans, and to enable better planning and provision for strategic infrastructure. The absence of urban planning provisions in the Resource Management Act 1991 (RMA) has meant that most first generation district plans focused purely on managing environmental effects at the expense of a more strategic approach to development. Local authorities have since seen the benefits of taking a more strategic approach to planning, and Council has taken a lead in urban design and centres planning.

The Council supports increased recognition of the urban environment and strategic infrastructure in the RMA, which would reinforce and support the Councils existing approach, and enable an increased focus on integrated planning and urban design, and improved growth and infrastructure management. In particular, initiatives to provide national direction on key infrastructure issues and processes, and more streamlined and integrated designation approval and land acquisition processes are generally supported. A number of suggestions have been made to ensure these designation powers and processes have safeguards in place to protect the environment, avoid 'planning blight', and ensure impacts on local communities are appropriately managed.

Similarly, the Council supports strategic planning frameworks such as spatial planning, and has been involved in or carried out a variety of spatial investigations and strategies at regional or local areas. Proposals to simplify the implementation of spatial plans through the RMA, Land Transport Management Act 2003 (LTMA) and Local Government Act 2002 (LGA) are also supported.

However, the spatial planning model outlined in the discussion paper has been developed for implementation in Auckland, where a new governance model has been introduced partially in order to overcome historical difficulties in aligning the land use side of growth management with the funding and provision of city-shaping infrastructure. A spatial planning model designed for Auckland will not be appropriate in Wellington (or much of the rest of New Zealand) where decision making and funding responsibilities for different parts of the local planning and infrastructure system sit with different agencies.

Internationally, there are a variety of types of spatial planning being undertaken. Rather than rolling out the Auckland model to the rest of New Zealand, further work should be undertaken to identify a spatial planning model that would work effectively outside Auckland. That spatial planning model should have the following features:

- spatial plans should be developed through a collaborative process, and should provide a mechanism for agreeing joint priorities, actions, and investment between parties;
- in particular, spatial plans should provide an explicit mechanism for agreement on infrastructure investment and prioritisation between different levels of government (central, regional, and local);

- spatial plans should address economic and social goals in addition to environmental issues;
- spatial plans should be able to be appealed only on points of law, recognising that it is the appropriate role of elected councillors to develop policy;
- the implementation of spatial plans through RMA and LTMA plans should not require the essential elements of the spatial plan to be re-litigated;
- spatial planning should not be compulsory in areas where growth pressures are not occurring.

Local authorities currently have limited powers to initiate comprehensive redevelopment of private land for urban renewal purposes. Council supports proposed changes to the Public Works Act 1981 which will facilitate major change in key urban areas throughout Wellington City. The Government however needs to also support alternative financing and funding mechanisms (other than development contributions) to enable urban renewal projects to be delivered. This should be part of this review or a commitment made to address this matter through another process.

Council has invested in developing urban design expertise and focused on urban design outcomes across the city over many years, and continues to do so, as have many other councils. This investment in urban design shows in the quality of development occurring within the City. However, there continues to be a shortage of experienced urban designers in New Zealand to enable Councils' to more actively promote quality developments across the City. The Government needs to address this resourcing and capacity issue as a matter of priority, and considers that this could be achieved through the option for a Government Architect to lead urban design initiatives across government and in the urban design field.

Further work is required to develop the package of reforms necessary to fully address the planning and infrastructure concerns raised in the discussion paper, and the Council would be willing to contribute to this work.

1. Introduction

Wellington City Council welcomes the opportunity to comment on the discussion paper "*Building competitive cities – Reform of the urban and infrastructure planning system*". Creating vibrant cities is critical to New Zealand's economic, environmental and social success. People, businesses and investors increasingly make location decisions based on how liveable a city is, and cities such as Wellington are therefore competing on a global stage.

There are many ways in which the public and private sector can work together to create better urban environments, and the Council welcomes the discussion on how the planning system can enable real change in our cities, rather than simply regulating activities or allowing change to occur through a lack of regulation, recognising that cities are important to the growth and prosperity of communities and to the country as a whole.

This submission has been prepared on the basis of Council's role as:

- owner of land and infrastructure assets with respect to roads, water, sewage stormwater reticulation and disposal, public open space, community facilities (swimming pools, libraries, sporting facilities etc);
- a policy agency in terms of the district plan and other council policies;
- a regulator in terms of assessing and making decisions (in terms of it's own designations) and 'recommender' in terms of other requiring authority designations;
- an advocate, educator (through the provision of guidance etc) and facilitator of development.

1.1 Managing growth in Wellington City

Wellington is a dynamic and growing city. By 2031, 40,000 more people are expected to live here than in 2010 (198,00). The exact rate and type of growth experienced will result from a mix of local, national and international factors. These will include the state of the national and regional economy, immigration policies and changes in lifestyles and housing expectations. Many of these factors will be driven by global changes, some unexpected and unpredictable.

To ensure that future growth and change reinforces the physical and spatial characteristics that make Wellington so distinctive, and contribute to the stimulating and intense urban experience it offers, the Council has prepared and is implementing an Urban Development Strategy (2006). The Strategy addresses current planning and funding cycles, as well as considering possible, as well as probable urban development scenarios over the next 30-50 years.

By building on the city's urban form and focusing on quality urban development, Wellington will become more liveable, compact, sustainable and prosperous, have a stronger sense of place, and be better connected and safer.

The way Wellington responds to change depends on many factors (including whatever changes are made to the RMA as a result of this current review process) but is partly determined by the policies and priorities of the City

Council. Through regulatory, advocacy, investment and partnership activities, the Council will play a key role in managing, directing and shaping Wellington's future urban development.

Finally, our planning for the future has been set within the regional context. The long term direction and priorities for urban development set out in this Strategy are consistent with the strategic directions adopted in the Wellington Regional Strategy.

1.1.1 Wellington City District Plan

The Council was one of the first major cities to have a fully operative District Plan (4 July 2000) and achieved this by making a conscious effort to limit variations to the Plan and to resolve appeals as quickly as possible. Since the Plan became operative, the Council has notified 75 Plan Changes to allow better management of development, better achieve strategic direction for the city, and respond to case law and experience. The requirement to keep plans up to date is a necessary, on going function of the Council.

The Council processes on average 900 resource consents a year and 300 other permissions, putting the Council in the top 10 territorial authorities in terms of processing consents.

Our overall budget for administration of the RMA (i.e. plan preparation, resource consent processing and monitoring, enforcement and compliance) was approximately $6.4 m in the 2009/10 year, of which almost $2.7m is funded through user charges and fees.

1.2 Structure of this submission

This submission is in two parts. Section 2 addresses planning and urban design issues raised in the discussion paper. Section 3 covers the options presented in the discussion paper on social and economic infrastructure. This section also provides an overview of the approach taken to designations and the provision of infrastructure in the Wellington City District Plan.

Recommendations are included under each of the options presented in the discussion paper.

Appendix 1 and 2 provide additional information on designations and commentary on questions relating to spatial planning in Auckland.

2. Planning and urban design

2.1 Problems with the planning and urban design systems

The Minister's foreword identifies a number of problems:

- The purpose of the RMA barely mentions urban issues, although the bulk of activity it regulates occurs in urban areas.
- The complex system is cumbersome and inefficient.
- It takes so many years to consult and resolve appeals that plans are out of date by the time they take effect.
- There has been a lack of coordination between central and local government over getting the right infrastructure in place at the right time.

The Council agrees that these issues are priorities that should be addressed in the RMA reforms. A further critical issue, identified by the development community[1], is that the high level of uncertainty in the resource consenting process is a disincentive for investment. In Council's view, a significant contributor to these problems is the poor integration between planning processes under different statutes, and the fact that that plan changes take too long, with the ultimate decision maker (the Environment Court) not involved until the final stages. Unlike the policy environment under the Local Government Act, planning policy under the RMA is always at risk and uncertain.

While these priority issues are all included in the problem statements outlined in the discussion document, they are not particularly prominent in the ongoing discussion. For example, the report of the Urban Technical Advisory Group (Urban TAG) identifies the difficulty, cost, and inconvenience in effecting changes to RMA plans as the major factor leading to inconsistency between RMA plans and the intentions of councils expressed in other policy documents[2]. This is reflected in the Minister's foreword, but is not in the discussion document, where commentary on the lack of consistency in decisions focuses instead on the multiple participants and the role of government.

A further issue is that the distinction between urban planning and infrastructure problems is artificial, and results in the document addressing issues separately that should be considered together – for example the proposed changes to Part 2 of the RMA, or proposals relating to national policy statements and national environmental standards outlined in the discussion document sections 3.4 and 4.1. This creates a risk that the cumulative impact of the options is not identified.

The Council supports the follow changes in the problem statements:

- an increased focus on uncertainty caused by the difficulty, cost, and inconvenience of effecting changes to RMA plans, and by the delay and uncertainty caused by the role of the Environment Court;
- an integrated approach which recognises the relationships between infrastructure development and the urban planning system.

[1] Key findings from the policy workstream: Inter-agency Urban Development Unit July 2009
[2] For example, see Urban TAG report Paragraph 241

A more significant issue that is not addressed in the discussion document is that the effects based nature of the RMA makes it difficult to implement a strategic direction, as the RMA ensures that decisions are made on a case-by-case basis, instead of with a view to a long term or cumulative impact. In its current form, the RMA does not include urban planning provisions, or promote long term land use, infrastructure, strategic planning, or design.

The inability to implement a strategic direction through RMA plans was acknowledged in the introduction of the Waitakere Ranges Heritage Area Act 2008, which was required to achieve the strategic direction sought by the Waitakere community for the Waitakere Ranges. This occurred after the Parliamentary Commissioner for the Environment concluded that "the planning processes were leading inextricably to death by a thousand cuts", and that the "capability to define and manage cumulative effects is critical but variable and the tools to do so are weak". [3]

In Wellington, the Council has undertaken planning for the success of the city, including using collaborative processes with other agencies, stakeholders, and the community. Work currently underway in the *Wellington 2040* project will deliver a strategic framework for the growth and enhancement of Wellington's city centre for the next 30 years. In addition to identifying the future direction and vision for the central city and providing a coordinated direction to the Council's investment programme, the strategy will identify issues facing the city and further opportunities to add to the success of the City. However, after the *Wellington 2040* project has been completed and the strategy adopted, the Council will only be able to give very limited weight to the goals and objectives of the strategy when considering resource consents or changes to the District Plan, in spite of the considerable research and stakeholder and community consultation has gone in to the strategy's development.

The difficulty in managing cumulative effects and implementing strategic decisions through RMA processes point to more fundamental issues with the current planning framework than are addressed in the discussion paper. As these issues are not being addressed in the current phase of the resource management reforms, they suggest that a further phase of reform will be required and a significant priority.

Recommendations:

The Council supports the follow changes in the problem statements:

- an increased focus on uncertainty caused by the difficulty, cost, and inconvenience of effecting changes to RMA plans, and by the delay and uncertainty caused by the role of the Environment Court;
- an integrated approach which recognises the relationships between infrastructure development and the urban planning system.

[3] Referenced in *Managing Change in Paradise: Sustainable Development in Peri-urban Areas* Parliamentary Commissioner for the Environment, Wellington, June 2001.

2.2 Recognise urban environment in the RMA framework

Option 1:

Broaden definitions to include the urban environment by

a) modifying the definition of 'environment' to specifically include the urban environment

b) extending the definition of 'amenity values' so that it addresses the quality of the urban environment to a greater extent.

Option 2:

Amend the RMA to recognise the benefits of a quality urban environment by making specific reference to it in:

a) section 6 (matters of national importance to recognise and provide for) and/or

b) section 7 (other matters for which to have particular regard).

Option 3:

Provide for the scope of the NPS to:

a) include policies to require local authorities to provide an adequate supply of land to meet future urban growth demands

b) include policies requiring the consideration of housing affordability in decision-making, and regional and district plans under the RMA.

Option 4:

Rename the NPS from 'urban design' to the 'built' or 'urban environment'.

2.2.1 Comment

Recognition of urban planning

As discussed above, the absence of urban planning provisions in the RMA has meant that most first generation district plans focused purely on managing environmental effects at the expense of a more strategic approach to development. Over recent years local authorities have seen the benefit of taking a more planned approach, with Wellington taking a lead in urban design, centres planning and residential intensification. Practice has therefore gone beyond the original intention and purpose of the RMA.

Council supports increased recognition for the urban environment within the RMA which would reinforce and support the approach adopted by the Council, and enable an increased focus on integrated planning and urban design, and better growth and infrastructure management. Recognition of the urban environment will also strengthen Councils position when plan changes and resource consents are appealed to the Environment Court.

The recognition should take the form of broadening definitions as proposed by the Urban TAG (option 1), and amending section 6 of the RMA (matters of national importance) to include a specific reference to the urban environment (option 2b).

While the Council is encouraged by proposals to better recognise urban planning and urban design in the RMA, and to enable more strategic provision infrastructure, these options appear to be 'tinkering' with the RMA, with

changes made to some parts of the RMA to just recognise infrastructure and not other types of development.

A more fundamental review of Part II (Purpose and Principles) is required to enable a wider, more strategic approach to be taken to a range of issues such as renewable energy and the use of green technology, the rural environment and it's interface with urban areas, and the continued loss of class I and II lands and sensitive environments, such as the coastline, to inappropriate forms of urban development. This suggests a further round of resource management reforms is necessary.

Urban / built environment National Policy Statement
To reduce the uncertainty (and potentially litigation) that can result from any changes to the RMA, an NPS on the urban or built environment should be prepared contemporaneously with the changes to the Act, so that there is clarity on the meaning of the changes. Clarification of roles, issues and priorities through an NPS and or other urban guidance would give weight and direction to existing and future local government initiatives.

Land supply and housing affordability
While the Council supports the development of an NPS on the urban or built environment, it is unclear what the impact would be of requiring local authorities to provide a supply of land to meet at least 20 years worth of urban growth demand, which is based on the contribution of land supply to housing affordability.

The affordability of housing in Wellington City is of concern to the Council. Home ownership has social and economic implications; it contributes to residents' sense of place and community values, and a lack of affordable housing can have unfavourable impacts on social cohesion, health, educational attainment, urban amenity, economic development and employment. In addition to providing a significant stock of social housing, the Council's approach to affordable housing is to ensure there is a mix of housing types, providing residents with quality choices about where they live – in apartments, townhouses or traditional stand-alone dwellings.

The Council has a well established centres and infill policies, which aim to intensify and invest in the 'Growth Spine (from Johnsonville to the Central Area and out to the airport), and identified suburban centres. This will enhance opportunities for public transport use and better, more efficient use of infrastructure, and allow quality residential infill in other parts of the City. Substantial greenfield development is provided for in the northern suburbs, although as the majority of this land is in the ownership of two companies, there is little that the Council can do to affect the pace at which the land is released for development.

The integrated approach adopted by Council will provide for changing population demographics and different housing demands in excess of the expected 20 years population growth. The Council would have concerns if an NPS required the Council to alter this approach and increase the proportion of growth accommodated by greenfield land supply at the expense of renewal sites. The Council would however support policies and guidance in the NPS and other

non-regulatory guidance which enable local authorities to recognise and provide for future landuse growth or de-population within its city or district.

The drivers of rising housing prices over a number of years are complex and relate to both supply and demand. There is no one clear driver and no one clear response. In some regions housing affordability is acknowledged as a particularly significant issue, but the housing affordability issues / causes are not the same in all regions and the appropriate mix between greenfield and renewal sites will vary across the country, and this is an appropriate issue for local decision making.

It is important to note that the affordability of housing is not just about the purchase price. Affordability also includes property maintenance costs, the costs of transportation to work places, schools, etc, accessibility to facilities and services, and costs related to healthy housing such as heating. Increasing urban expansion can place additional, often hidden, costs on both the owners and the wider community (e.g. transportation costs, traffic congestion and air pollution) – for example, research undertaken in Australia found that for every 1000 dwellings, the costs for infill and fringe (greenfield) developments are $309 million and $653 million respectively (in 2007 Australian dollars)[4]. Local councils are best placed to identify the capacity of existing infrastructure and services to accommodate growth, the costs of urban expansion in different areas, and the appropriate mix of greenfield and infill development, and take into account the views and housing preferences of the local community.

Recommendations:

The Council supports:

- modifying the definition of 'environment' to specially include the urban environment
- changing the definition of 'amenity values' so that it addresses the quality of the urban environment to a greater extent
- amending the RMA to recognise the benefits of a quality urban environment by making specific reference to it in section 6 ('Matters of national importance')
- the development of a NPS on the urban or built environment.

The Council supports a more fundamental review of Part II (Purpose and Principles) and other relevant parts of the RMA to give due consideration to the range of other growth related issues such as the continued loss of highly versatile soils, the rural environment and its interface with urban areas, and other wider environmental issues such as green technology and renewable energy.

The Council does not support the NPS including policies to require local authorities to provide an adequate supply of land to meet urban growth demands for at least a 20 year period if that requires an increased focus on greenfield development at the expense of renewal and intensification in existing urban centres.

[4] Trubka, R. Newman, P. and Bilsborough. D. 2008, *Assessing the Costs of Alternative Development Paths of Australian Cities*

The Council supports policies and guidance in the NPS and other non-regulatory guidance which enable local authorities to recognise and provide for future landuse growth or de-population within it's city or district.

2.3 Auckland Spatial Planning

2.3.1 Comment

Growth management and infrastructure provision
The Auckland spatial plan is intended to be a comprehensive and effective long-term (20- to 30-year) strategy for Auckland's growth and development[5]. The Royal Commission on Auckland Governance initially proposed the Auckland spatial plan to provide a vision for the Auckland region and to guide growth management, planning, and public works investment in the region. The Royal Commission described the need for the plan by saying "The Auckland local authorities have long recognised failures in aligning the land use side of growth management with the funding and provision of city-shaping infrastructure (motorways, regional arterial roads, the rapid transit network, regional water and wastewater networks, and open space networks)"[6]

Relevance of Auckland spatial planning to the rest of the country
It is not clear that the problems that led to the need for a statutory spatial in Auckland are problems of the same magnitude elsewhere in the country. In addition, although the Auckland spatial plan may have a role as a template for spatial plans nationally, Auckland's unique governance arrangements mean that statutory provisions appropriate for Auckland would need to be substantially modified to function effectively in areas that do not have a unitary authority.

For this reason, while the Council has responded to the questions posed by the discussion paper, the views of the Auckland Council should be given priority on Auckland specific issues, and the views expressed in relation to Auckland should not necessarily be taken as the Council's position on how a spatial plan might operate in the Wellington region.

Relationship between central and local government
The Council welcomes the Government's announcement that it intends to engage in the development of the Auckland spatial plan, which is consistent with the approach to infrastructure signalled in the National Infrastructure Plan. It is important for New Zealand that Auckland functions effectively, and that the maximum possible benefits are achieved from the Government's infrastructure investment.

Some Government decisions have the power to change the relative accessibility of places (particularly in areas such as transport and broadband), and therefore have the potential to redistribute jobs and population growth, and these decisions need to be considered with an understanding of their spatial context, and their impact on the development of a city. This will allow decision makers to take into account the contribution of specific infrastructure to achieving the

[5] S79 of the Local Government (Auckland Council) Act 2009
[6] Report of the Royal Commission on Auckland Governance, volume 1 page 527

Government's wider economic and social objectives. Further, decisions on the location and nature of social infrastructure such as schools, hospitals, and prisons have a major influence on the surrounding area.

However, while supporting the spatial plan as a mechanism of engagement and shared planning, the Council believes that a requirement for Ministerial certification of the spatial plan would blur the accountability of the Auckland Council for the contents and implementation of the spatial plan. An alternative approach would be for a mechanism to clarify the nature of the Government's commitment to the spatial plan. This could be achieved by including an Auckland chapter in the National Infrastructure Plan, or by the development of an infrastructure and prioritisation plan in support of the spatial plan that is jointly agreed by the Auckland Council and the Government.

These comments are expanded in Appendix 2, along with a response to the options relating to the Auckland spatial plan set out in the discussion paper.

2.4 Options to consider extending spatial planning with legislative influence to areas outside of Auckland

Option 12:

Regional spatial planning with legislative influence to be:

a) limited to Auckland only or

b) implemented on a voluntary basis by regions, but only available for those regions facing growth pressures and subject to significant levels of local and central government investment in infrastructure and services or

c) mandatory in all regions facing growth pressures and subject to significant levels of local and central government investment in infrastructure and services or

d) implemented on a voluntary basis by regions, for all regions or

e) mandatory for all regions.

2.4.1 Comment

Under current legislation, voluntary non-statutory processes/plans similar to spatial planning are already taking place. In the Wellington Region, local government has worked collaboratively to achieve agreement on the Wellington Regional Strategy (WRS), which is reflected in the Regional Land Transport Strategy and local planning documents. The WRS was developed by the nine local authorities in the region, working with central government and business, education, research and voluntary sector interests, and it provides an overview of the opportunities that exist to lift the region's economic performance, along with improvement in the region's environmental, social and cultural performance.

In addition, a number of important spatial development initiatives have been implemented by the Council within the last 10 years[7] to guide future

[7] These include the Urban Development Strategy and Centres Policy, Northern Growth Management Framework, Structure plans for Lincolnshire Farms and town centre plans for Newlands, Kilbirnie and Adelaide Road.

development in the City. These strategies and initiatives will be guided by the Wellington 2040 Strategy and, in the CBD, by the Central City Framework.

Council's general approach to managing growth in the City is to:

- provide for greenfield development in the northern suburbs
- intensify and invest in the central area and identified suburban centres, and enable quality residential infill in other parts of the City
- enhance opportunities for public transport use.

This integrated approach will provide for changing population demographics and different housing demands in excess of 20 years population growth, encouraging more efficient use of infrastructure whilst limiting the negative effects of urban sprawl.

These examples demonstrate the Council's support for strategic planning frameworks such as spatial planning. Any statutory process for spatial planning should provide clear and quantifiable benefits over the existing voluntary practices (such as the development of the WRS and the Central City Framework) that justify the reduction in flexibility and the additional costs and time involved, and should therefore include mechanisms to simplify the implementation of spatial plans through RMA, LTMA and LGA plans.

The spatial planning model outlined in the discussion paper has been developed for implementation in Auckland, where, as discussed above, a new governance model has been introduced partially in order to overcome historical difficulties in aligning the land use side of growth management with the funding and provision of city-shaping infrastructure.

Internationally, there are a variety of types of spatial planning being undertaken. Rather than rolling out the Auckland model to the rest of New Zealand, further work should be undertaken to identify a spatial planning model that would work effectively outside Auckland. The spatial planning model should have the following features:

- spatial plans should be developed through a collaborative process, and should provide a mechanism for agreeing joint priorities, actions, and investment between parties;
- in particular, spatial plans should provide an explicit mechanism for agreement on infrastructure investment and prioritisation between different levels of government (central, regional, and local);
- spatial plans should address economic and social goals in addition to environmental issues;
- spatial plans should be able to be appealed only on points of law, recognising that it is the appropriate role of elected councillors to develop policy;
- the implementation of spatial plans through RMA and LTMA plans should not require the essential elements of the spatial plan to be re-litigated.

National role out of spatial planning

The Council does not support mandatory spatial planning for all regions. As noted above, the purpose of the Auckland spatial plan is to provide a long term strategy for growth and development, taking into account the range of issues

relevant to managing growth, including provision of infrastructure, supply and demand of business land, affordable housing etc. These are not major issues everywhere in New Zealand. Using Statistics New Zealand's medium series projections, whereas 60 per cent of New Zealand's population growth between 2006 and 2031 will be in the Auckland region, 29 of New Zealand's 67 territorial areas are projected to have the same number or less people in 2031 as in 2006, and a further 19 have a projected average annual population growth of 0.5% or less over that period.[8]

The costs of introducing a new statutory planning mechanism to manage growth are clearly not justified where growth is not occurring. On that basis, regional spatial planning should not be mandatory for all parts of New Zealand.

Even in regions where there is growth occurring, the scale of growth may not require region wide planning – for example, while there is growth occurring in the western Bay of Plenty and Tauranga City, other parts of the Bay of Plenty region are projected to have a stable or declining population. It is unclear how the costs of undertaking regional spatial planning in the Bay of Plenty would benefit the residents of Kawerau or Opotiki districts. This implies that, if regional spatial planning is introduced for areas where growth is occurring, the process should be voluntary so that the costs and benefits of the exercise can be evaluated locally where the costs will be borne.

Suitability of the Auckland model for other regions
The spatial planning model that is implemented for Auckland will need substantial review before being implemented elsewhere. As the Auckland Council is a unitary authority, it is responsible for planning for growth, adopting the Regional Policy Statement and Regional Land Transport Strategy, developing regional and district plans, and funding local infrastructure projects. As the same decision makers will be responsible for both determining the strategy and delivering and funding its implementation, they will be incentivised to ensure that implementation issues are assessed in developing the strategy. In this environment, the creation of statutory relationships between these plans can potentially streamline the implementation process without changing the accountabilities of existing councillors.

However, in most of the rest of New Zealand where there are separate regional and local councils the situation is very different, with decision making and funding responsibilities for different parts of the planning system sitting with different agencies. A statutory mechanism allowing a spatial plan adopted by the regional council to dictate the contents of a territorial authority's District Plan and Long Term Plan would divorce decisions from the responsibility for funding and implementation, fundamentally changing the existing accountability of local councils to their communities. The implications of these changes would extend far beyond the planning process, and it is essential that any proposals are considered in a process that takes into account the institutional implications.

As the discussion paper notes, the Minister for Local Government has initiated a first principles review of New Zealand's local government system, including its

[8] There are 67 territorial authorities from 1 November 2010 when the Auckland Council came into existence. These statistics do not take into account the change in the boundary between Auckland and the Waikato.

purpose, structure, functions, status, funding, and relationships. Given the potential of spatial plans to be implemented in a way that changes the role and accountability of local government, if the Auckland model of spatial plans is extended outside of Auckland, the roles and accountabilities of the various parties should be established through the local government review. This would enable institutional analysis of the governance and accountability issues to be considered along with the urban planning matters discussed in the discussion paper. In addition, the longer time frame would allow lessons learnt from the Auckland spatial planning to be reflected in the implementation elsewhere.

Recommendations:

The Council supports spatial planning in principle, and supports mechanisms to simplify the implementation of spatial plans through RMA, LTMA and LGA planning documents.

Further work is required to identify a spatial planning model that will work outside of Auckland. In the Council's view, that model should have the following features:

- spatial plans should be developed through a collaborative process, and should provide a mechanism for agreeing joint priorities, actions, and investment between parties;
- in particular, spatial plans should provide an explicit mechanism for agreement on infrastructure investment and prioritisation between different levels of government (central, regional, and local);
- spatial plans should address economic and social goals in addition to environmental issues;
- spatial plans should be able to be appealed only on points of law, recognising that it is the appropriate role of elected councillors to develop policy;
- the implementation of spatial plans through RMA and LTMA plans should not require the essential elements of the spatial plan to be re-litigated.

The Council does not support regional spatial planning being mandatory in all regions.

2.5 Improved Tools

Option 13:
Introduce a national template for local and regional plans.

Option 14:
Stage the implementation of a national template plan for NPSs and NESs.

Option 15:
Provide for the production of a combined NPS and NES as a single document.

2.5.1 National Template

The proposal to provide a national plan template containing provisions for matters of national importance, or where there is a need for national consistency, could provide a mechanism to balance the achievement of efficiencies from greater national consistency while preserving an appropriate level of local variation.

However, in practice, the national plan template proposal would require all councils in New Zealand to re-write existing plans over a 7 year period to achieve a standard plan structure including nationally consistent provisions. This would impose significant costs on the local government sector, effectively prioritising the allocation of resources to the standardisation of plans ahead of substantive reviews of planning provisions to improve planning outcomes, or to address emerging issues. These costs would be transferred to the ratepayers throughout the country in favour of the lower administrative costs that will be borne by those businesses and infrastructure companies that work across more than one local authority boundary, or work nationally.

If a national plan template is introduced, it should only be via the quality planning website[9] as non-regulatory guidance tool. This would allow Councils to move a more standardised approach over time, to the extent that the national template is appropriate for their local conditions. It would potentially provide a particularly valuable resource for smaller councils that may not have sufficient in-house planning resources to undertake thorough planning reviews of all aspects of their plans.

It is highly likely that developers and infrastructure providers would receive more benefits from an emphasis on improving and standardising elements of service delivery. Priority areas for investigation would be a standard approach to the collection of information (eg standardisation of forms for building and resource consents) and national standards for the delivery of online services, including the provision of planning information and for the electronic submission of consent applications. It should be possible consent applicants to access District Plans through an interactive online format, however the level of technical expertise and resource required means that individual councils working on their own are unlikely to be able to achieve this. Stronger national leadership could catalyse significant benefits in this area.

Standardising definitions and technical provisions
Instead of a complete national template, some standardisation of district plan provisions may be possible without the same level of transition costs. This could include definitions and methods for calculating site coverage and height etc; however this would need to be done with care, given that definitions are closely tied to the way rules are implemented, which are variable across the country because of different topographies, character and amenity issues.

Combined NPS and NES
NPSs and a NESs are currently developed using separate decision making processes (an example is the NPS and NES for electricity transmission). This is inefficient and can lead to inconsistencies between policy and standards. The

[9] www.qualityplanning.org.nz

submission supports the proposal to enable a combined NPS and NES on nationally significant issues. These issue based instruments could then be inserted into district and regional plans without interpretation problems and the use of the First Schedule process.

Recommendations:

The Council does not support the introduction of a national plan template, but would support the development of a guidance note on the quality planning website.

A priority area for investigation should be the standardisation of some technical, non-controversial district and regional plan definitions, and technical methods for calculating site coverage, height and other bulk and location provisions.

The Council supports further investigation of the provision of guidance on standardising elements of service delivery, such as application forms and standards for online delivery of services, and stronger national leadership on a move to e-planning (online services).

The Council strongly supports changes that would allow the production of a combined NPS and NES as a single document.

2.6 Options to improve the quality of urban design

Option 16:
Establish a National Urban Design Panel.

Option 17:
Establish a Government Architect.

2.6.1 Comment

There are currently a range of non-statutory mechanisms that are available for councils to use to improve the quality of urban design in their areas, including mechanisms that provide a review of proposals by external experts. In Wellington, the mechanisms that have been used successfully include:

- development of urban design expertise in-house;
- use of structure planning or the development of non-statutory place-based planning frameworks, including the Northern Growth Management Framework (non-statutory) and Lincolnshire Farm Structure Plan (statutory and included as part of the District Plan), Johnsonville Town Centre Plan and Adelaide Road Framework (rules to help give effect to these development frameworks are included in the District Plan);
- an independent Waterfront Technical Advisory Group (TAG) that approves all waterfront developments prior to submission of resource consent;
- standard processes involving input from an independent advisor when officers prepare urban design advice;

- external peer review of Council urban design assessments at the request of a resource consent applicant.

Council has invested in developing urban design expertise over many years, and continues to do so, as have a number of other Councils. This investment in urban design shows in the quality of development occurring within the City. However, there continues to be a shortage of experienced urban designers in New Zealand to enable Councils' to more actively promote quality developments across the City. The Government needs to address this resourcing and capacity issue as a matter of priority, given the relationship between quality built urban form, productivity, and the economy.

The options in the discussion paper to improve the quality of urban design are not however well considered. They do not consider the costs of implementation or the potential duplication of effort, the skill base and capability within NZ currently and the role of educational institutions in training and development of planners and urban design professionals.

Urban planning and urban design expertise and capacity is variable throughout the country. However a blanket requirement for large or significant projects to be signed off by national and/or regional urban design panels will add an additional layer of bureaucracy and costs, which may not always be justified. It also has the potential to remove decision making from local elected decision makers.

The status quo allows councils to assess the benefits of mechanisms to improve urban design against the costs and delay involved. It is unclear what additional local benefit a National Urban Design Panel (NUDP) would provide. While a voluntary or enabling system – when a Council or applicant would have the option of seeking advice from a NUDP – would provide an additional option that could be used when appropriate, the Council opposes any compulsory mechanism that would automatically impose costs and delay on local authorities or resource consent applicants.

The proposal to appoint a Government Architect (or some other appropriate title) would provide some additional capacity within government focused on improving the quality of urban design. This role could take over the 'urban' function within the Ministry for the Environment, which has been responsible for developing the Urban Design Protocol, and for developing the urban design toolkit, urban design guidance, urban design research, urban design champions, seminars, conferences etc. This function in MfE has suffered from a lack of profile and resourcing in recent years.

The Government should look to overseas examples, where the UK's Commission for Architecture and the Built Environment (CABE), the Advisory Team for Large Applications (ATLAS), and the Major Cities Units in the UK and Australia are examples of initiatives aimed at increasing capability and capacity, and sharing information, experience and advice. These types of initiatives can have a considerable impact on ensuring more consistent and better quality policy, and better built environment outcomes, and the Council supports Government initiatives in this area.

Recommendations:

The Council does not support a national urban design panel unless the panel's involvement in any particular project is at the discretion of the relevant territorial authority or the applicant.

The Council supports the creation of a Government architect advocacy role to improve capacity and practice within central and local government.

2.7 Options to improve land assembly

Option 18:

Rely on existing methods and processes to amalgamate land, including purchase, negotiation and joint ventures.

Option 19:

Extend the scope of the Public Works Act to ensure that local authorities are able to compulsorily acquire and amalgamate land for major urban regeneration projects provided:

a) some form of central government oversight is required as a safeguard and/or
b) the power to compulsorily acquire land for urban redevelopment should be used as a tool of last resort and/or
c) power to compulsorily acquire land should be limited to specifically defined works and/or
d) Māori land is not able to be compulsorily acquired under any circumstances.

Option 20:

Develop new tools for land assembly.

2.7.1 Comment

The discussion paper addresses land assembly issues in the context of improving the viability of quality urban renewal, although it is important to note that the ability to assemble land to achieve a viable development site is only one of the tools required for successful urban renewal.

Limited tools to promote urban regeneration

The major redevelopment opportunities in Wellington are in city fringe or identified suburban growth areas such as Johnsonville, Newlands, and Kilbirnie town centres, and Adelaide Road. These sites are characterised by fragmented/multiple land ownership and a variety of land uses, as is typical of areas in other parts of New Zealand. These areas have real potential to transform cities, but development visions are hard to realise due to their complex nature and limited mechanisms available to actively bring about change.

In principle, increasing the range of tools available for land assembly would be beneficial. Difficulties in securing cooperation and buy-in from landowners, the

uncertainties, risks and costs around the compulsory acquisition of land, and the long timeframes for making progress can all be barriers for urban renewal projects under the existing provisions. It is likely that in there are cases, where at least some land must be purchased and amalgamated by the public sector to achieve town centre or urban regeneration, requiring significant up-front funding, and in some circumstances compulsory acquisition.

Public-private partnerships
However, the problem is wider than the compulsory acquisition of land by local authorities. At present, even if there is a clear strategy and planning provisions in place for an area that requires the amalgamation of land parcels, there is no effective mechanism available to achieve this. The option of amending the Public Works Act would force local authorities to buy and develop land; a better option would be to allow other parties (private developers) to take on these roles in certain circumstances in accordance with agreed strategies, leaving councils to undertake the strategy and planning.

If the Public Works Act is modified to provide for the compulsory acquisition of land for urban renewal there are a number of issues that would need to be worked through, including:

- the need for specific controls to ensure that compulsory acquisition powers can not be used improperly for commercial gain
- modification of the existing offer back provisions.

Where land is assembled for urban renewal, it is likely that property titles will be amalgamated, and that building envelopes do not follow existing boundaries. In addition, private sector development or public private partnerships are likely to be used for development projects. These factors all make existing buy back provisions problematic.

It is notable that the Infrastructure TAG proposed that the Public Works Act be amended so that acquiring authorities could buy out this provision when purchasing land, which would address this issue. Although the proposal was also endorsed by the Urban TAG, it has not been included in the discussion paper. If this proposal is not supported by Government, another mechanism will need to be developed to address the offer back provisions, or the ability of local authorities to enter into commercial development relationships as part of urban redevelopment projects will be significantly impaired.

Finance and funding tools
As noted above, land assembly is only one tool; successful urban renewal is also likely to require the reconfiguration of infrastructure and services, and appropriate financing tools. It is disappointing that the discussion paper does not discuss the adequacy of funding or financing tools, in spite of the fact that financing and funding mechanisms were included in the terms of reference for the Urban TAG.

The discussion paper notes that internationally a range of mechanisms are used to achieve land assembly. In most overseas jurisdictions, there are also associated funding mechanisms. For example, most of the Australian models for urban redevelopment were established with an up-front injection of funding

and/or significant land assets from the relevant state government. These are often in the form of interest-free loans, repaid at the end of the development period or as returns from development are made possible. Similarly local Development Area Agreements in the United Kingdom are explicitly related to the provision of direct central government funding to local government.

Other jurisdictions use a variety of value capture mechanisms to assist redevelopment projects to provide a viable return. These mechanisms are typically used to capture the increased value created by public investment in transportation and facilities, in order to share the cost of infrastructure between the public and private parties who receive a benefit. Transportation projects, for example, can increase adjacent land values, and thus generate a windfall for private landowners. As an example of windfall land value increases, a recent study found that there were statistically significant rises in values of houses located near railway stations following the announcement of upgrades, to Auckland's Western Line[10]. The study found that the estimated anticipated benefits (demonstrated by increased land values) were broadly comparable with the budgeted costs.

Mechanisms used internationally that allow public agencies to capture a portion of the private windfall to assist in funding the development include: local improvement districts; public-private development of adjacent land; traffic impact fees such as congestion charging; tax increment financing districts; and direct redevelopment. An example direct redevelopment is where public development agencies buy privately held land near transportation hubs that is zoned for low-density use on the open market, increase the designated use density, then sell the land back to private developers on the open market, capturing the capital gain resulting from both the increase in designated use density and the presence of the transportation hub.

Tax increment funding (TIFs)
The Council has investigated the implementation of one of these value capture instruments in the New Zealand context. Tax increment financing essentially consists of borrowing against future property tax revenue to fund a proportion of a redevelopment project. It relies on anticipated increases in tax (rate) revenue as site values increase as a result of investment and redevelopment. The increased tax revenues are the "tax increment." Tax increment financing allocates the tax increment within a certain defined district to finance debt issued to pay for the project, so that the project is partially funded by those who benefit most from the land value uplift.

The Council is currently seeking legal advice on implementing a version of a tax increment financing scheme through the Local Government (Rating) Act 2002, and has discussed the use of this type of scheme with Auckland Council officers in the context of spatial planning, and would welcome further investigation of this mechanism through the resource management reforms. In the Council's view, discussion of mechanisms such as spatial planning and land assembly without consideration of funding and financing tools is incomplete and unlikely to be effective.

[10] Grimes, Arthur and Chris Young. "Anticipatory Effects of Rail Upgrades: Auckland's Western Line 2010," Motu Working Paper 10-11

Recommendations:

The Council supports the expansion of the scope of the Public Works Act and better linkages to the RMA to ensure that local authorities are able to compulsorily acquire and assemble land for major urban renewal projects.

The Public Works Act 'offer back' provisions should not apply if land is compulsory acquired for urban renewal.

The Council supports the development of new tools for land assembly.

The Council supports the recommendation of the Urban Technical Advisory Group calling for a review to evaluate the effectiveness and applicability to New Zealand of financing and funding tools applied in other jurisdictions.

3. Options for social and economic infrastructure development

3.1 Wellington City District Plan

The Wellington City District Plan was notified in 1994. At that time 173 designations were 'rolled-over' from the District Scheme and new designations included from:

- Four Crown agencies (Ministers of Corrections, Justice, and Education, and the Prime Minister (Government House)
- Two local authorities (Wellington and Porirua City Council), and
- Seven requiring authorities (NZ Transport Agency, MetService, Wellington International Airport Ltd, Transpower, Telecom, KiwiRail and Kordia).

The designations can be grouped into the following categories of infrastructure:

Table 1: Wellington City District Plan Designations

Type of designation	Number	Percentage
School	77	45%
Telecommunications	25	14%
Local infrastructure (WCC)	20	12%
Airport safety	9	5%
Roading and transport (NZTA)	8	5%
National electricity transmission	7	4%
Regional infrastructure (Wellington RC)	6	3%
Railway	5	3%
Electricity	4	2%
Courts	3	2%
Police	3	2%
Airport	2	1%
Prisons	2	1%
Governor general	1	0.5%
Local infrastructure (Porirua CC)	1	0.5%
Total	*173*	*100%*

Since the District Plan was made operative in 2000, two new designations have been approved for a school (Ministry of Education) and a new road (Wellington City Council), and there have been 14 alterations/amendments and designation uplifts made by requiring authorities.

3.1.1 District plan controls on infrastructure

The district plan provides for a range of infrastructure and utilities through:

- Designations on the planning maps and a designations schedule, some of which include specific controls limiting development associated with a designation

- Utility rules which provides for electricity and telecommunication lines and cables, and masts etc.
- Renewable energy provisions to encourage the efficient use of energy and greater use of renewable energy.

The low number of new designations in Wellington City is due to several factors:

- There are already a significant number of existing designations in place which allow requiring authorities works to be carried out works on the designated land without needing a new or altered designation.
- The district plan and other council related initiatives have encouraged infill development to occur within areas already serviced by key infrastructure, resulting in a significant proportion of residential and commercial development over the last 10 plus years occurring within the established urban environment. Most of the development has been serviced by existing or upgraded infrastructure that has not needed to be designated.
- Most greenfield development is occurring within the northern suburbs of Lincolnshire, Woodridge, Churton Park and Stebbings Valley. This land is largely owned and developed by two landowners. Infrastructure planning and development occurs between Council and these two landowners as part of the resource consent/development contribution agreement process, without the need for designations.

3.1.2 Other district plan issues

Historical use of designations

Prior to the Government reforms of the 1990s designations were widely used by local authorities and the Crown to protect land for future infrastructure development. Hospitals, universities and port authorities (among others) were able to designate land as they were part of the Crown. The Wellington City District Scheme (now District Plan) was full of Crown and local authority designations for a range of existing and future public works. In particular, it was common for the National Roads Board (now NZTA) and local authorities to designate future roads whilst many roads or road widenings were just shown on planning maps as 'future roads' that weren't designated. In many cases there was no funding and or programme of work in place. Many of the proposals were never implemented leading to urban decay, poor urban design and inefficient use of land.

In Wellington, the hospital and university acquired land and had it designated without a clear programme of work, leading to concerns by local communities about under investment in land and infrastructure owned by these authorities leading to lower property values and poor urban environments. Any new proposals for changing the designation provisions and eligibility should be mindful of these historical issues.

Wellington City District Plan controls on existing designations

The District Plan imposes a number of restrictions on certain 'rolled-over' designations to ensure a range of matters are protected if further development of the infrastructure asset takes place. The District Plan controls have been

imposed in relation to heritage protection, noise, roading, electro-magnetic fields (Transpower) etc. This approach was initially resisted by requiring authorities, but in the end agreed to.

In most District Plans roads are designated for roading purposes. In the Wellington District Plan, the state highway network is designated, but all roads under the control of the Wellington City Council are zoned and subject to a number of permitted activity provisions which allow for a range of roading related works to take place as a permitted activity.

The rationale for adopting these two approaches (at the time the District Plan was developed and notified) was that designations and activities typically designated (eg roads) should generally be subject to the same provisions as other types of activities.

Special District Plan recognition for key institutions not able to designate

Specific provision has been made in the Wellington City District Plan for Wellington Hospital, Massey University and the national war memorial, and Victoria University (Kelburn Campus) by way of special precincts (zones). These allow a range of activities and buildings consistent with their institutional use. Wellington Airport (WIAL) also has it's own Precinct which allows a range of airport and non-airport activities. Only the airport runway and flight paths are designated in the District Plan. WIAL have chosen not to designate the rest of the airport area land as the enabling provisions of the Precinct policies and rules allow for non-airport related activities which can not be provided for under a designation.

The Port is owned by CentrePort (which is jointly owned by Greater Wellington and Manawatu-Whanganui regional councils). It runs a commercial port and is also an important commercial developer in the City. To recognise these dual functions, the Port is zoned Central Area (which also covers the whole CBD) to allow for a wide range of commercial, retail and business/industrial activities to take place. In recognition of the day to day operational needs of the port area, the urban design controls which apply to Central Area buildings do not apply in the Port Area. There are also more generous access and noise controls on port activities.

Furthermore, Telecom, Vodafone and other requiring authorities often choose not to use the designations process to provide for new telecommunications facilities. This appears to be where they do not own the site and lease it from a landowner. To designate would require them to buy the land (in most cases), have it subdivided and have legal access to the land. This is often not feasible or practical. These companies are therefore submitters on district plan reviews/plan changes to ensure provision is made for their infrastructure needs. Specific provision has been made for their activities in Chapters 22 and 23 Utilities of the District Plan.

Council has recently reviewed the Residential and Suburban Centre sections of the District Plan as part of it's rolling review. Specific provision has been provided for a number of private schools located in residential areas to enable their ongoing use, and allow some modest development to occur without the need for a resource consent.

The merits for extending designation provisions to Ports, tertiary institutions and other institutions such as private schools is addressed in section 3.3 of this submission.

3.1.3 Overall summary of designation issues in Wellington

The Wellington City District Plan provides for a range of infrastructure as permitted activities and generally treats infrastructure provisions in a similar manner to other activities. This is consistent with an effects based approach to managing activities, which was encouraged by central government when the Council was preparing it's first generation district plan.

Some requiring authorities rely on the district plan provisions to use a range of approaches to providing for infrastructure. The designations process is not always seen as the most appropriate mechanism as it generally requires the company to purchase the land and have legal access. Uses of the land are also limited to the purpose for which it has been designated. This is not always practical or desirable for the requiring authority or the landowner when developing infrastructure. A typical example of this is that cell sites may be located some distance from a road and not easily accessible. In this case, the telecommunication company will often lease the land.

It is important therefore to acknowledge that the ability to designate is not always used as the means to facilitate the development of infrastructure. Secondly a number of companies that are able to designate or might be able to designate following this review may not want to designate where they have activities which are not infrastructure related and therefore not able to be designated. Where local authorities have made specific provision for these activities, as applies in Wellington with the airport, port, universities and hospital, then designations may also not be appropriate or desirable in that instance.

Accordingly, considerations around whether the Government confers designation powers on certain providers of network or social/economic infrastructure should be carefully considered in light of why these powers are required and what if any circumstances are in place which prevent it from providing this infrastructure. Secondly, it is important to ensure that there are the right checks and balances in place to avoid abuse of power in the applications of designations or there is poor financing and infrastructure planning that leads to designations not being implemented. A number of specific recommendations on these matters are set out in section 3.5 below.

3.2 Options to prioritise nationally significant issues

3.2.1 Option 1

Using NPSs, NESs and other forms of national standards in a more systematic way through

a) *developing an agenda of proposed NPSs and NESs*
b) *developing a greater number of nationally-consistent standards*
c) *allowing certain aspects of infrastructure construction and operation to be conducted without the need to apply for approval, as long as it meets nationally-consistent standards*

d) taking into account where 'reverse sensitivity' issues are, or could be, an issue.

Comment
There has been no clear programme for the promulgation of NPSs and NESs to date. Council supports a more strategic approach being taken to national instruments. Local government should be involved in helping develop this agenda.

Council supports national instruments where there is a clear problem that needs to be addressed, that will reduce compliance costs and will effectively manage environmental effects. This could include developing NESs' on technical issues associated with infrastructure provision, as well as guidance on specific infrastructure practice issues on the Quality Planning Website and the Ministry for the Environment website. This non-regulatory guidance could be used as a testing ground for developing national instruments. This could be signalled when the guidance is issued to enable careful and rigorous assessment of it's suitability as a national instrument, and to ease the transition into regulation involving changes to resource management plans.

As noted earlier Council is also supportive of a national instrument that combines policies and rules as this will allow relatively easy integration into the district plan.

Recommendation:

The Council supports in principle the development of an agenda for the development of national instruments, and the promulgation of national guidance and appropriate national instruments.

Option 2:
Making use of the options in Chapter 3 to support the efficient delivery of infrastructure:

a) enabling the development of combined NPS and NES documents to communicate national priorities, so councils can more easily incorporate national direction into plans
b) introducing a national template plan for local and regional plans.

Comment
See comments in section 2.5 above.

Recommendations:

The Council does not support the introduction of a national plan template unless it can be clearly demonstrated that the benefits of standardisation outweigh the costs, taking into account the transition costs.

The Council supports changes that would allow the production of a combined NPS and NES as a single document.

3.2.2 Option 3

Amend section 6 or 7 of the RMA to explicitly refer to the importance of infrastructure and the benefits that derive from it.

Comment

Work commissioned by Ministry of Economic Development and Ministry for the Environment[11] as part of this review of the RMA concludes that the lack of specific recognition of infrastructure in Part II of the RMA is not affecting the provision of significant infrastructure, and that decision makers are generally approving infrastructure projects. There is however recognition that the process for obtaining consents contributes to delays (and costs) and that this is a source of frustration for proponents.

Amending sections 6 and 7 of the RMA to specifically provide for significant infrastructure is not supported for the following reasons:

a) The difficulties in defining what types of infrastructure would be covered by new clauses in sections 6 or 7 of the RMA. Picking certain types of infrastructure may exclude other types of infrastructure which are equally or more significant depending on the particular project (eg water use for electricity generation over the use of the same water for irrigation use, telecommunications facilities and networks, ports, public schools vs private schools etc).

b) Aligned to the above issue, is that there may be a push for other types of activities/resources to be given precedence in Part II (other than urban development referred to in section 2.2 above). This would be a major departure from the environmental effects based approach contained in the RMA. Infrastructure projects could therefore be approved that demonstrate a number of benefits in spite of the environmental effects it will create.

Part II changes will not in themselves lead to changes in the way infrastructure is consented and provided for. A range of other national instruments, and in particular, changes to RM plans, would need to be implemented.

Recommendation:

The Council does not support changes to Part II of the RMA to make specific provision for infrastructure.

3.3 Options to change access to the designations system

Option 4

Extend eligibility for designations to a broader range of infrastructure types, particularly providers of ports and electricity generation.

[11] Providing National Guidance on Infrastructure through the Resource Management Act 1991, 2010, http://www.med.govt.nz/upload/75102/Final%20section%206%20and%207%20infrastructure%20report.pdf

Option 5

Define eligibility based on 'nature of development' rather than the type of infrastructure.

Option 6

Narrow eligibility for full 'requiring authority' status and establish a new status of "limited requiring authority:

a) eligibility: a 'limited requiring authority' would make more of a distinction between public and private benefit of the infrastructure and/or whether the ownership or financing is publicly or privately provided

b) approval process: approve 'limited requiring authority' status on a project-specific basis only, to reflect the purposes of each particular project

c) powers: a 'limited requiring authority' would have access to a lesser range of powers than available to a full requiring authority. Limits could be applied on one or more of access to compulsory acquisition; protection against incompatible development; and removal of decision-making rights.

Option 7:

Change all references in RMA from 'network utility operator' to 'infrastructure provider'.

Option 8:

Amend definition of 'infrastructure' in the RMA so it reflects the full range of eligibility for requiring authority status.

3.3.1 Comment

It appears from reviewing the discussion document that Government does not propose any changes to the designation powers currently available to the Crown and local authorities. This is supported by the Council.

The list of requiring authorities in Table 2 in Appendix 1 shows that there are a wide range of infrastructure types. The original intent of the requiring authority status was to ensure public agencies were able to provide 'essential services' through the designation process. Typically these essential services were deemed to be network utility providers. As they are linear in nature and often crossed multiple property, zone and/or territorial authority boundaries it was considered important these companies were able to secure existing and future routes and to be able to compulsory acquire land under the Public Works Act 1981. However the government reforms of the 1990s led to many of these 'public services' being provided by state owned enterprises and private companies such as Telecom and electricity companies. Importantly, requiring authorities are also able to make decisions on their own designations.

The discussion paper seeks comment on these designations powers in respect of the existing list of requiring authorities, as well as other providers of important infrastructure.

Full requiring authority status - national infrastructure

The Council is supportive of the current approach that allows *national infrastructure providers* such as NZ Transport Agency, Transpower, KiwiRail etc to be requiring authorities and be able to designate for specific projects/works. Given the importance of this infrastructure to local communities and the national economy the RMA should continue to be specifically provided for this infrastructure through designations.

Making a clear distinction between the 'nature of development' rather than 'type of infrastructure' is difficult. The Council supports making a distinction between those requiring authorities that are part of a 'non-divisible network' (such as electricity transmission, roading and broadband etc), and location/site specific developments.

Limited requiring authority status

The following are network utility operations that the Council would support having limited requiring authority status:

a) *Network utility providers that are not part of a non-divisible network*
This would include infrastructure that is site specific (and would include airports)

b) *Electricity generators*
The Council supports the requiring authority status extending to energy generators given their importance to the local and national economy, but recognises they can generate significant adverse environmental effects which are experienced by local communities, but that many of the positive benefits are regional or national. The Council is encouraging the use of renewable energy and initiatives designed to reduce green house gas emissions through a range of regulatory and non-regulatory means. The Council is therefore particularly interested in initiatives by the Government which will continue to promote and develop more forms of renewable energy.

It is recommended however, that a number of checks and balances be placed on the approval of these electricity generators as set out in the recommendation below.

c) *Schools and tertiary institutions*
Private schools, polytechnics, universities and private tertiary institutions cannot designate. However, there is often little environmental difference between public schools and these activities. The Council recognises that they form a very important part of our national schooling and tertiary education infrastructure.

As school and university rolls in Wellington come under increasing pressure, these institutions need to be able to expand and redevelop their sites, provided they do not adversely impact on local communities. As

stated earlier in this submission, in the past (under the Town and Country Planning Act 1977) these institutions were able to designate and without the right controls in place, this led to urban decay issues. Council also recognises the benefits provided to local and national communities of improving education outcomes.

However, because of the nature of activities and scale of development (often in residential areas) these developments can often be controversial and resisted by some parts of local communities. The Council therefore supports private schools, polytechnics, universities and private tertiary institutions being able to designate for school purposes, consistent with state schools. However this power to designate should be subject to the approval of territorial authorities and on a project by project basis. A suitable definition for 'private school' should be included in the RMA to only allow for primary and secondary schools. This power to designate should not extend to child care facilities given the small size (generally) and large number of centres within residential areas. National guidance on these matters should be produced.

Similar criteria to the matters in s167 criteria[12] of the RMA for granting requiring authority status could be included in the matters a territorial authority would consider in granting a designation (and access to compulsory acquisition powers). In addition, a territorial authority could also consider whether the district plan already provides for present and likely future activities/works of the proposed LRAs,

Timeframes and processes currently applying to the assessment of resource consent applications should also apply to requests for designations by LRAs. This includes Government being able to use the call-in/board of inquiry processes and other national significance processes set out in Part 6AA of the RMA.

Change definition of network utility provider to infrastructure provider

The Council supports a new definition, which in addition to network utilities will provide for port, hospital, university, private school and tertiary institution facilities, consistent with the submission points above.

Recommendations:

The Council supports designations powers currently available to the Crown and local authorities remaining unchanged.

The Council recommends the following changes be made to the existing eligibility requirements for designations:

[12] Section 167(4) states:
The Minister shall not issue a notice under subsection (3) unless he or she is satisfied that—
(a) the approval of the applicant as a requiring authority is appropriate for the purposes of carrying on the project, work, or network utility operation; and
(b) the applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a requiring authority under this Act and will give proper regard to the interests of those affected and to the interests of the environment.

Requiring authorities

1. All infrastructure companies should be eligible for requiring authority status provided they are:
   - A national 'infrastructure provider'
   - Provider of part of a 'non-divisible network' (such electricity transmission, roading and broadband)

2. All requiring authorities should have access to designation and compulsorily land acquisition powers and continue to be decision makers on their own designations.

Limited requiring authorities (LRAs)

3. All network utility providers that are not part of a non-divisible network, ports, hospitals, tertiary institutions, electricity generators and private schools would have limited requiring authority status with access to designation and compulsorily land acquisition powers). Appropriate definitions for these activities should be included in the RMA.

4. Individual designation projects by LRAs should be approved on a project by project basis by the relevant territorial authority, with rights of appeal to the Environment Court. This process would continue to include notice of requirement and outline plan (where appropriate) approval processes.

5. Where a project by a LRA is considered nationally significant, the processes outlined in Part 6AA (proposals of national significance) should be followed.

6. In addition to the existing requiring authority assessment criteria in s167 of the RMA, territorial authorities should be able to consider to what extend the district plan already makes provision for the project, and whether being able to designate (and have access to compulsory acquisition powers) in warranted in the circumstances.

7. Timeframes and processes currently applying to the assessment of resource consent applications should also apply to requests for designations by LRAs.

8. All existing approved requiring authorities which are site specific and not linear in nature should be re-classified as LRAs.

9. Criteria should be included in the RMA to define limited requiring authorities based on the project being a site specific, rather than a linear project.

Definition of infrastructure provider

10. Amend the definition of network utility provider in s167 of the RMA to include ports, hospitals, universities, private schools and tertiary institutions, and rename network utility providers 'infrastructure providers'.

3.4 Concept designations

Option 9:

Eligibility for concept designations. Either:

a) all infrastructure projects eligible for designations should be able to make use of concept designations or

b) only a subset of projects eligible for designations should be able to make use of concept designations and/or

c) concept designation status should be conferred on any future infrastructure identified in a statutory spatial plan.

Option 10:

Level of detail required with application. Either:

a) sufficient detail is required to identify a comprehensive envelope of future impacts or

b) sufficient detail is required to identify high-level impacts only.

Option 11:

Powers, protections and obligations provided to infrastructure providers:

a) infrastructure providers would have the full range of powers currently provided through notices of requirement including access to PWA powers or

b) infrastructure providers would have more limited range of powers than currently provided under notices of requirement, and limited PWA powers and/or

c) a maximum lapse period of 10 years would apply or

d) a longer maximum lapse period, such as 20–30 years would apply.

3.4.1 Comment

Concept designations

Concept designations have the potential to protect routes from development that might compromise the future provision of roads, public transport routes, prisons, schools or other strategically important infrastructure. The suggestion in the discussion paper is that this could apply for a 20-30 year period, or a period similar to a Spatial Plan. The approval process would not require the level of detail needed in a standard notice of requirement for a designation, but would involve a public process. If the spatial plan is adopted by the government for Auckland and given effect to through the RMA (and RMA plans), and a similar planning regime applies to the rest of country, then there is a certain level of logic in providing for such as mechanism. However, the Council does not support making a spatial plan compulsory for the rest of the country outside of Auckland as stated in section 2.4 of this submission.

There is merit in having such a mechanism in the Act to protect strategic sites and routes provided the problems of long term designations under the Town and Country Planning Act is avoided (as mentioned in section 3.1.2 of this submission). These problems involved cases where land was designated by the Crown or local authorities, but the designation was not given effect to. This placed an unfair economic burden on landowners and the community and led to

underinvestment in localities and subsequent planning blight. If such a power is provided for in the RMA it should be subject to approval by the relevant territorial authority and the decision reviewed by the territorial authority and the designating authority at 10 yearly intervals or when a district plan is reviewed.
Secondly, this authority should only be given to the Crown, local authorities and other requiring authorities who are providers of national infrastructure such as NZTA, Transpower, and KiwiRail, etc (as recommended under 3.3 above).

The Crown, local authorities and requiring authorities should provide sufficient detail to enable an assessment of a 'comprehensive envelope of future impacts'. This will help ensure this instrument is used wisely, and is likely to be implemented when funding, planning, design work, and consultation has been completed, and the final design stage can be completed. At that point a full notice of requirement (NOR) should be lodged with the local authority in a similar manner to the current designation process. The level of detail associated with the NOR and the subsequent decision will determine whether an outline plan is required at a later stage. The Council does not support a lesser requirement where only minor aspects of the development can be assessed.

Further analysis of these options is required relating to which agencies might have access to these powers, and whether there should be a requirement to compulsorily acquire the land, and what level of environmental effects assessment should be required before confirming a concept designation.

Designation powers
A number of these matters have been addressed in section 32.3 above.

The 5 year lapse period for un-implemented designations is too short in the Councils view, leading to unnecessary costs and uncertainty for requiring authorities when re-consenting, and administrative costs for local authorities in processing these new NORs. Ten years in a reasonable period to allow designations to be implemented and is consistent with when a district plan is required to be reviewed,

Recommendation:

Concept designations should be approved on a project by project basis by the relevant territorial authority for a maximum period of 30 years.

Council supports the concept designation instrument in principle being available only to the Crown, local authorities and national infrastructure agencies as recommended in section 3.3 above, but further analysis and work is required by the Ministry for the Environment to ensure there are sufficient checks and balances in place to ensure the concept designation remains relevant and progress is being made towards implementing it.

One approach could be to require a compulsory review every 10 years by the requiring authority and that this review be submitted to the relevant territorial authority to ensure reasonable progress towards giving effect to the designation is being made.

The relevant territorial authority in consultation with the designating should have the power to remove, alter, or re-confirm the concept designation.

Council does not support Limited Requiring Authorities having access to the concept designation provisions.

The 5 year lapse period for un-implemented designations should be changed to 10 years.

3.5 Streamlining approval processes

3.5.1 Option 12:

Integrate multiple approval processes into a single approval process for a nationally significant infrastructure project.

Comment

These options are supported in the submission as in some cases, such as the Inner City Bypass, separate RMA and Historic Places Act 1993 (HPA) etc processes means separate hearing and appeal processes, adding to delays and costly litigation. Integrating these processes will also ensure better decision making.

Bringing archaeological consent processes into the RMA

In the current legislative setting which is focused on managing environmental effects, the HPA archaeological authority provisions are an anomaly. The provisions providing for the protection of archaeological sites, sit outside other similar legislative processes. The archaeological consent provisions were not incorporated into the RMA in 1991, and the current HPA legislation is a continuation of legislation established 30 years ago. It is an opportune time to ensure alignment and amalgamation of the two statutes.

The argument for amalgamation of the archaeological provisions into the RMA includes the following issues. There are misconceptions in both the public mind and in local authorities about the responsibilities under the RMA and the HPA. These misconceptions can be simplified and addressed as part of this review process. There is currently no responsibility on the part of a local authority to advise or alert an applicant to the jurisdiction of the HPA and NZ Historic Places Trust in regard to the requirements under the HPA for Archaeological Authority application.

Archaeological issues associated with a proposed development are in many cases, considered after a resource consent has already been issued. If all consent issues were equal and were considered together by one authority - the local authority - an integrated approach to development would be achievable. Developments could be designed and approved based on the archaeological issues being considered together with other consents relating to building type, site context, earthworks, construction phase, and mitigation works, etc. This would lead to efficient and improved environmental and archaeological

outcomes, whilst improving certainty for applicants and reducing delays and compliance costs.

Recommendations:

Council supports integrating multiple approval processes into a single approval process for a nationally significant infrastructure project.

Council supports the archaeological consenting processes from the Historic Places Act being brought into the Resource Management Act 1991.

3.5.2 Option 13:

Remove duplicated processes through:

- *a) providing for designations to be automatically 'rolled over' into updated district plans when provided for in a spatial plan and/or*
- *b) removing the current two-stage process ('notice of requirement' and 'outline plan') for approving development by establishing the development's limits when the initial designation is approved and/or*
- *c) providing that where a concept designation is in place, 'controlled activity' consent status would automatically apply to any subsequent resource consent applications.*

Comment

Automatic roll-over of designations in district plans when part of a spatial plan

One option put forward in the discussion paper is that if a spatial plan is adopted by a region, it presents:

> *"the opportunity to maximise the value of investing in costly, long-lived infrastructure strategic infrastructure, including leveraging greater productivity gains by coordinating investment decision, where appropriate. However, the current designations process may not necessarily support effective spatial planning as requiring authorities can seek designations in areas of their choosing, irrespective of any commitments in a spatial plan."*

In the Councils view, this understates the ability that territorial and regional authorities currently have in enabling effective regional and spatial planning, and manage the development of strategic infrastructure through the designations process. Designations are the mechanism through which policies in Regional Policy Statements, the Regional Land Transport Strategy and Plan, Regional and District plans, and Long Term Plans (formerly LTCCPs) are given effect to. Most regions also have non-statutory economic growth strategies, such as the Wellington Regional Strategy, which guides development across the region and is given effect to by these statutory instruments.

A spatial plan may be effective for Auckland now that it is a unitary authority, and is probably necessary because of the lack of an agreed approach on key growth issues (as reflected in the range of approaches to strategic and RMA plans) by the previous Auckland territorial authorities and Auckland Regional Council and the government.

Council does not support designations in district plans automatically rolling-over if they are included in the spatial plan. Spatial plans will not contain the level of detail needed to assess the impacts of designations. It is appropriate that this level of detail and review processes continue to be dealt with in district plans and as part of the designations roll-over process.

All existing designations in district plans that have been implemented have ongoing rights to use the land for that identified purpose, except where there are regional resource consents relating to land, air, or water for which there are currently limited terms up to a maximum 35 years. At the expiry of the resource consent, the requiring authority must have these consents renewed.

These designations can however be challenged when a district plan is reviewed. The RMA requires that territorial authorities inform requiring authorities (with current designations in the district plan), that they intend to publicly notify a review of the district plan, and to invite the requiring authority to indicate whether they want the designation rolled over or modified. The requiring authority has at least 30 working days in which to respond. A modified designation must be accompanied by the nature of the modification and the reasons for the modifications.

If the requiring authority fails to respond to the Council no provision for the designation shall be included in the district plan. This designation, with or without modifications, is then included as part of the notified district plan. It then becomes subject to submissions and challenge consistent with all other provisions in the district plan.

This process adds costs, delays and uncertainty for requiring authorities as it again 'opens up' the designation to challenge by other parties and the general public. The territorial authority also incurs additional administrative costs in running this process.

Scope of designations
Descriptions given to designations are often general in nature, allowing the requiring authority to use a site for a wide range of uses. 'Railway purposes', 'telecommunication purposes', 'education purposes', 'roading purposes' etc. have allowed requiring authorities to develop sites for a wide range of uses with only outline plan approval required from the territorial authority with respect to:

- the height, shape and bulk of the proposed work
- it's siting, finished contour
- vehicle access, circulation and parking; and
- landscaping.

This means that communities often have little knowledge of the nature of works likely to occur on land and limited opportunity to be involved in this

development process. Unchallenged designations can lead to areas of land being designated that are no longer required, but the requiring authority, for whatever reason, chooses not to alter or uplift the designation. This can lead to the inefficient use of land, poor urban design and contribute to lowering property values. The Council therefore does not support changing these provisions for similar reasons given in section 3.4 Concept designations.

Council does not therefore support removal of district plan roll-over processes that enable review of existing designations. This review process also applies to Council designations, which in Wellington make up 12% of all existing designations in the District Plan (ie 20 of the 173 designations in the plan)

There are however problems where a designation has to be implemented within a certain time period, but a district plan review is notified part way through this term. Specific provision should be made in the RMA to allow requiring authorities to give effect to this term of the designation without it being part of the district plan roll-over process. As recommended in section 3.4 above the Council considers that the existing default term of 5 years for a designation to be given effect to should be changed 10 years.

Remove the two stage notice of requirement' and 'outline plan' process

These processes enable Council to recommend appropriate changes and conditions to requiring authorities. This process generally operates well. Agents acting for requiring authorities will liaise with Council's resource consent planners to determine whether an outline plan is required, and submit it on the basis on these discussions. In up to 50% of all cases the Council waives the requirement for submitting an outline plan.

Accordingly, in a similar manner to the comments above, Council does not support the removal of the two stage notice of requirement and outline process as this provides the Council with opportunities to ensure subsequent development is planned and designed to avoid remedy or mitigate adverse environmental effects.

Controlled activity status on resource consents associated with concept designations

Controlled activities cannot be refused, and conditions can not be placed on resource consents which may have the effect of refusing the application. Whilst the consent authority for these consents are regional councils, Council does not support a controlled activity status as the effects of the proposed activities may be more than minor, and should either be mitigated or the application be refused.

Recommendations:

The Council does not support statutory spatial planning for the Wellington Region (and other parts of the country other than Auckland) being compulsory, but if a region chooses to 'opt-in' and adopt a spatial plan, then designations in district plans should automatically roll-over if they are included in the spatial plan, but with the proviso that these designations are reviewed at least every 10 years to avoid the inefficient use of land, urban decay and poor urban design.

If there is no spatial plan requirement, Council does not support the automatic 'rolling over' of designations into updated district plans as requiring authorities should be required to review whether existing and proposed designations remain relevant and appropriate or are likely to be implemented.

Council does not support the removal of the existing two-stage process for designations (notice of requirement and outline plan approval).

Council does not support the introduction of a controlled activity status on resource consents where a concept designation is in place as proposals cannot be refused if they have more than minor environmental effects.

3.5.3 Option 14

Establish consistent processes by:

- *a) requiring clearer and earlier notification for individual landowners who may be affected by a compulsory acquisition, specifying the amount and location of their land likely to be affected to the extent that this is known; and the type of interest to be acquired and/or*
- *b) introducing pre-application consultation requirements for concept and project designations and/or*
- *c) requiring public hearings for any concept designation and/or*
- *d) providing non-statutory guidance to inform 'notice of requirement' and 'outline plan' processes and/or*
- *e) applying consistent statutory timeframes to all project designations.*

Comment

These options are generally supported as they will improve processes and ensure fairer, more considered decisions and compensation for affected landowners. In particular, concept designations are likely to involve planning for nationally significant infrastructure which will involve significant public investment with impacts on local communities. The Council therefore supports public notification of these concept designations where they are likely to fail the notification tests in the RMA. This test should also apply to project designations.

Aligning designation processes with resource consent notification and timelines processes etc are supported in general for small designations however, designations often involve large and complex projects where it may not be possible to meet this consenting timelines. This issue needs to be addressed.

In the case of outline plans, guidance is needed on when requiring authorities should submit an outline plan to a territorial authority, as it will depend on the level of detail submitted and approved as part of the notice of requirement and the nature and scale of the proposed development in relation to relation to residential and other sensitive environments.

As previously stated, national guidance on the provision and assessment of infrastructure is supported, particularly in respect of notices of requirement and outline plan processes.

Consistent statutory timeframes should also be followed, however it is noted this is often difficult with designations because of their scale and complexity.

Recommendations:

Council generally supports Options 14 a) to e), subject to the qualifying statements above, as they will introduce more consistent and effective processes and guidance in relation to compulsory acquisition processes, and for concept and project designations.

3.5.4 Option 15:

Improve investment certainty for resource consents (relating to regional consents).

a) introduce a new process for re-consenting with the following features:
- *(i) confer rights to apply for an existing consent holder*
- *(ii) expressly allow renewal applications well within the existing consent term*
- *(iii) provide for the consented scale of activity to continue while the re-consenting application is being processed*
- *(iv) limit the scope of the new consent to the existing scale of activity within the same 'effects envelope', where practical*
- *(v) constrain the information required in an application to the effects of the existing operation, emerging/new effects, or emerging values or expectations. Applicants would not be required to provide information about the effects of the existence of a physical structure, such as the existence of a dam occupying a river bed*
- *(vi) constrain notification and consultation requirements to directly affected parties, rather than the public at large*
- *(vii) take account of Treaty settlement issues where they are relevant.*

b) When deciding on re-consenting applications, consider either:
- *(i) requiring consent authorities to confine their concerns to the effects of the existing operation, emerging/new effects, or emerging values or expectations. Consent authorities would not be permitted to consider the effects of the existence of a physical structure or*
- *(ii) allowing a consent authority to consider any matter it considers relevant*

Comment:

This option relates to regional consents required for a range of regional council functions relating to water, air and coastal permits. These matters have not been commented on as they are outside the jurisdiction of Wellington City Council. However, it appears that many of the matters raised here relating to re-consenting issues are already dealt with under section 124 of the RMA. This section recognises rights of current consent holders and allows consideration of existing investment in infrastructure associated with the use of a natural

resource. These amendments were brought into the 2005 amendments to the RMA.

3.6 Enhanced designation decision-making

3.6.1 Option 16

For "limited requiring authorities" only require a decision-maker for designations to be independent of the infrastructure provider:

a) for notices of requirement, remove the decision-making role from requiring authorities to make the decision-maker independent from the infrastructure provider.

b) if the option to remove the outline plan stage is not adopted (option 13), consider retaining decision-making for outline plans with the infrastructure provider and

c) the decision-maker for concept designations, if sought by limited requiring authorities, would also be independent of the infrastructure provider and

d) the significance of the project should determine the most appropriate decision-maker. Nationally significant projects would be considered using existing processes available under the RMA; for example, by a board of inquiry. Non-nationally significant projects would be determined by a territorial authority, or through existing RMA processes, including the ability to request independent commissioners or direct referral to the Environment Court.

Comment

These matters have been addressed in section 3.3 above.

3.6.2 Option 17:

Ensure the objectives of infrastructure investment are appropriately recognised. Decisions on designations (both concept and project) should be based around the following considerations:

a) whether the project is consistent with the purpose and principles of the RMA

b) the extent to which the project is consistent with any relevant NPSs, NESs, regulations and/or other nationally consistent standards

c) the extent to which the infrastructure provider's objectives are delivered by the project – guidance on these matters could be provided by relevant NPSs

d) the extent to which any adverse effects of the option have been avoided, remedied or mitigated

e) the benefits of the project

f) the impacts of any conditions that are imposed on the delivery of the objectives of the project

g) the extent to which the proposal is consistent with other planning documents such as a spatial plan, regional policy statement, national infrastructure plan, growth strategy, etc, and the need for consistency in approach across council boundaries

h) the extent to which realistic options for co-location of infrastructure could be appropriate and have been considered.

Comment
The Council supports in principle most of the matters listed, except there are a number of matters (c, e, f,) which are outside of the current ambit of the RMA relating to the *'sustainable management of natural and physical resources'*. This could lead to decision makers giving too much weight to non-environmental matters leading to developments of low environmental quality. If this approach is adopted, there should be changes to Part II of the Act. However, as stated in section 3.2.3 above, Council does not support changes to sections 6 and 7 of the RMA specifically relating to the provision of infrastructure.

Recommendation:

Council supports measures that will ensure integrated environmental decision making, but does not support changes which are outside the current ambit of the RMA as it relates to the sustainable management of natural and physical resources. This could lead to decision makers giving too much weight to non-environmental matters leading to developments of low environmental quality.

3.6.3 Option 18:

Ensure that national consistency is achieved where appropriate by making use of the identified options (1 to 3) to provide greater national direction on objectives and standards.

Comment
These matters have been addressed under section 3.2 above.

3.6.4 Option 19:

Amend the RMA in relation to projects called-in by the Minister, to give greater status to the reasons for ministerial call-in.

Comment
Council supports this amendment as it will help inform decision makers on why the designation is considered by government to be of national significance. Government should however ensure that the reasons given are based around resource management issues as set out in *Section 142 'Minister may call in matter that is or is part of a proposal of national significance'*.

Recommendation:

Council supports giving greater status to the reasons for ministerial call-in when making designation decisions on nationally significant infrastructure.

3.6.5 Option 20:

Support integration with spatial planning

a) decisions about individual project or consent designations should seek to 'give effect' to infrastructure that is consistent with an

existing spatial plan, where the effects of the development are reasonable given the scale of the project

b) any applications for designations that are not consistent with an existing spatial plan would need to provide additional justification.

Comment
These matters are addressed in section 3.5.2 above.

3.7 Improve compensation and acquisition processes under the PWA

Options 21
Increase the current solatium of NZ $2000

Option 22:
Link the value of the solatium to the length of time an affected landowner has owned the property.

Option 23:
Widen the solatium provision to provide for a discretionary payment when acquiring land that does not include a dwelling used as a private residence.

Option 24:
Introduce a hardship payment mechanism.

Option 25:
Research into current NZ valuation practices used to determine 'fair market value.'

Option 26:
Requiring authorities to pay more where there is demonstrable benefit to securing early settlement.

Option 27:
Allow a requiring authority to take early possession of a property

Option 28:
Require the requiring authority to obtain a further valuation if the affected landowner has not done so after a reasonable period

3.7.1 Comment

These options are supported as they provide fairer and more streamlined processes and compensation for landowners when requiring authorities negotiate or compulsory acquire land to enable a designation to be given effect to.

Recommendation:

Council supports options 21 to 28 are supported.

3.8 Managing the transition of adopting any of the options

Option 29:

Introduce a sunset clause on existing designations that have not yet been used.

Option 30:

'Grandfather' existing designations into any new system for minor improvements or maintenance.

Option 31:

Ensure that the next generation of district plans give due account to existing designations, where development and investment has taken place in accordance with the designation

3.8.1 Comment

Sunset clause

Option 29 would be impose a time limit on when designations in district plans would lapse and would act as an 'incentive' for requiring authorities to give effect to them. Section 3.5 'Streamlining approval process' of this submission outlines Councils position on designation roll-over processes and district plan reviews. Council considers that the 10 year period for requiring district plans to be reviewed, which also involves a review of existing designations (and whether they remain relevant), as well as changing the default notice designation consenting period from 5 years to 10 years remains the most appropriate approach to providing for designations and ensuring they are reviewed on a reasonably regular basis.

Grandfathering existing designations for minor improvements or maintenance

It is not clear what is meant by this proposal as there is no information provided in the discussion paper. It is assumed that it relates to exempting existing designations from needing to get the approval of territorial authorities for alterations which are minor in nature. It is difficult to determine what is minor in nature, as some designation alterations may be significant. If national guidance was produced on this matter it may be possible to exempt certain types of minor works. However, until this is done, it is recommended that no changes be made to these existing legislative provisions.

District plans taking account of existing designations

This option appears to relate to concerns about reverse sensitivity issues, however there is only passing comment contained in the discussion paper on this matter. The Council acknowledges that reverse sensitivity issues are important considerations when assessing development impacts on strategic infrastructure assets. There is likely to be variable practice on these issues throughout the country. There are a number of provisions contained in the Wellington City District Plan relating to noise insulation in respect of the

airport, port and the state highway, setbacks from electricity transmission lines, and building and signage controls in relation to the state highway network.

National guidance on these issues would assist with the development of the next generation of district plans.

Recommendations:

The Council does not support setting arbitrary sunset clauses on when existing designations must be given effect to. This is because existing designation roll-overs provisions and a recommended extension of the 5 year designation period to 10 years will ensure the continued appropriateness of existing designations

No changes should be made to the existing legislative provisions relating to alterations to existing designations, but national guidance should be produced to encourage greater consistency throughout the country.

National guidance should be produced on managing reverse sensitivity issues associated with the ongoing use and development of infrastructure.

On behalf of Wellington City Council:

Celia Wade-Brown
Mayor

Appendix 1

Designation powers

A requiring authority means a Minister of the Crown, a local authority or a network utility operator as defined under section 167 of the RMA:

***"network utility operator** means a person who—*

- *(a) undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or*
- *(b) operates or proposes to operate a network for the purpose of—*
  - *(i) telecommunication as defined in section 5 of the Telecommunications Act 2001; or*
  - *(ii) radio communication as defined in section 2(1) of the Radiocommunications Act 1989; or*
- *(c) is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or*
- *(d) undertakes or proposes to undertake the distribution of water for supply (including irrigation); or*
- *(e) undertakes or proposes to undertake a drainage or sewerage system; or*
- *(f) constructs, operates, or proposes to construct or operate, a road or railway line; or*
- *(g) is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or*
- *(h) is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or*
- *(i) undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act,—*

and the words network utility operation have a corresponding meaning
requiring authority means—

- *(a) a Minister of the Crown; or*
- *(b) a local authority; or*
- *(c) a network utility operator approved as a requiring authority under section 167."*

Local authorities designate land for public works such as for roading and public transport purposes, and the provision of key infrastructure such as reservoirs, landfills, sewage treatment plants, reserves etc. Other Community facilities such as libraries, sports facilities etc could also be designated.

The Crown designates for schools, prisons, police stations, court houses. NZTA designates for a range of roading and public transport purposes.

Section 167 of the RMA requires all network utility operators wanting to become a requiring authority (and having the power to designate) to apply to the Minister for the Environment. Since 1991, 95 network utility operators have been given requiring authority status. This 'authority' allows network utility operators to designate land for specific projects or works. The Minister is presently limited in his/her assessment to consideration of:

(a) the approval of the applicant as a requiring authority is appropriate for the purposes of carrying on the project, work, or network utility operation; and

(b) The applicant is likely to satisfactorily carry out all the responsibilities (including financial responsibilities) of a requiring authority under this Act and will give

> *proper regard to the interests of those affected and to the interests of the environment* [s167 (4)]

This provides the minister with a very broad range of powers without clear direction on what the purpose of requiring authorities are and the designations powers that will be conferred upon them. The main issue, as the legislation is presently formulated, is that a requiring authority then has access to the coercive powers in the Public Works Act 1981 to compulsorily acquire land for an identified purpose. This is seen by some as a potential problem as private companies which are not accountable to the public (only their shareholders) could abuse these powers. Evidence provided by GHD Ltd in 2005[13] and 2010 (as part of this review process) to date does not indicate that this concern is being acted out,

Requiring authorities

Table 2 below provides a summary of requiring authorities grouped by infrastructure type:

Table 2

Type of requiring authority	Number	Percentage
Electricity line companies	29	31%
Airports and airport safety	21	22%
Communications (eg Kordia, Telecom and Vodafone etc)	11	12%
Irrigation	10	11%
Water, drainage, wastewater reticulation & disposal	6	6%
Petroleum reticulation (oil companies)	6	6%
Railways	5	5%
Gas reticulation	4	4%
National electricity transmission line companies (Transpower[14])	1	1%
Roading and transport (NZTA)	1	1%
Transmission of geothermal energy	1	1%
Total	**94**	**100%**

The majority of requiring authorities are local electricity line companies, most of which were formed as a result of the electricity reforms of the 1990s, when they were formerly owned by local authorities.

[13] This research was commissioned by Ministry for the Environment to assist then in reporting back to Cabinet on possible changes to the designations provisions in the RMA.
[14] Contact Energy and Powerco have requiring authority status to be able to connect into the national grid from rewewable energy projects (eg windfarms) anywhere in the country. However, because their activities are general 'local' in nature they have been included in the Electricity line companies category.

Appendix 2

Auckland Spatial Plan

Option 5:
Retain the current spatial planning legislation, which provides flexibility for the Auckland Council in developing and implementing the spatial plan.

Option 6:
Simplify the planning framework for Auckland by:

- *a) using the Auckland spatial plan to incorporate either the:*
  - *i. the Regional Land Transport Strategy and Auckland Regional Policy Statement or*
  - *ii. the Regional Land Transport Strategy*
- *b) replacing RMA plans (ie, regional policy statement, regional and district plans) for Auckland with a requirement for a single unitary plan.*

Option 7:
Improve the effectiveness of the Auckland Spatial Plan by giving it an appropriate level of statutory influence on the RMA, LGA, and LTMA, Plans by either:

- *i. 'giving effect to'60 the Auckland spatial plan or*
- *ii. 'being consistent with'61 the Auckland spatial plan or*
- *iii. 'having regard for'62 the Auckland spatial plan*
- *iv. considering the Auckland spatial plan on a voluntary basis.*

Option 8:
Reduce litigation and improve the certainty of decisions, while providing safeguards during development of the spatial plan by either

- *a) providing for:*
  - *i. full appeal rights on the spatial plan or*
  - *ii. limiting appeal rights to points of law*
- *b) and/or providing for a statutorily prescribed consultation process instead of the Special Consultative Procedure under the LGA, that:*
  - *i. ensures effective multi-party engagement in regional strategic direction-setting and/or*
  - *ii. improves iwi/Māori participation in resource management decision-making*
- *c) and/or during the development of the spatial plan, requiring an independent specialist review of the spatial plan to test its evidence base, robustness, affordability and coherence, and provide recommendations to the Auckland Council. The Auckland Council to publicly report its response to the recommendations of the review before it adopts the spatial plan.*

Option 9:
Provide for review of the spatial plan by

- *a) amending the Local Government (Auckland Council) Act to require the spatial plan to be reviewed every three years, with defined responsibilities for the Government and the Auckland Council in the*

review process. Neither party can force a review in between the three-year period

b) amending the Local Government (Auckland Council) Act to require statutory linkage with the LTCCP and require the spatial plan to be adopted at the same time or up to one year prior to adoption of the LTCCP.

Option 10:

Mechanisms for central government to influence the Auckland spatial plan:

a) a GPS that sets out the Crown (or national) objectives for Auckland and/or

b) require ministerial certification that the Auckland spatial plan complies with all GPSs, before final adoption by the Auckland Council and/or

c) make more effective use of existing mechanisms to express Government priorities and direction, including NPSs and NESs and/or

d) express central government priorities and objectives in a policy mechanism, such as the National Infrastructure Plan and/or

e) use the spatial plan as the mechanism for engagement between central government and the Auckland Council.

Option 11:

Central government using suitable and appropriate mechanisms to direct its entities, agencies and departments, and funding agencies to

a) give effect to a GPS for Auckland and/or

b) be consistent with the adopted Auckland spatial plan indecision-making and/or

c) have regard to the adopted Auckland spatial plan in decision-making and/or

d) reflect central government's priorities and objectives for Auckland in their statements of intent.

Comment

The Auckland spatial plan will be a comprehensive and effective long-term (20- to 30-year) strategy for Auckland's growth and development[15]. Although the Auckland spatial plan may have a role as a template for spatial plans in other regions of the county, Auckland's unique governance arrangements mean that statutory provisions appropriate for Auckland would need to be substantially modified to function effectively in other areas, and therefore in this section comments are specific to Auckland except where specified.

The current legislation requires the Auckland Council to develop a spatial plan that encompasses the strategic direction for Auckland, an economic development strategy, and as an integrated regional land use and transport plan that focuses on region shaping initiatives. However, the legislation does not provide any links to other legislation that would allow the Auckland Council to implement the plan through RMA or Land Transport Management Act (LTMA) plans without repeating the entire planning processes under RMA / LTMA provisions.

[15] S79 of the Local Government (Auckland Council) Act 2009

Without changes, these legislative requirements will add years to the planning process in Auckland, without adding any certainty that planning outcomes will improve, particularly in relation to RMA issues where aspects of the plan will inevitably be appealed to the Environment Court. To address this repetition and delay, the legislation should be amended to provide for:

- regional and local RMA plans and LGA plans to be required to be consistent with the spatial plan, and
- appeal rights on the spatial plan only on points of law. Strategic policy decisions should properly be made by elected representatives, not by the judiciary.

As the Auckland Council is a unitary authority, it may be feasible to use the spatial plan to replace the Regional Land Transport Strategy and Regional Policy Statement so that the Council has one high level strategic document.

The Regional Land Transport Programme is required to be consistent with the Government Policy Statement on Land Transport Funding. This requirement should override the need for consistency with the spatial plan, in the same way that it does with the Regional Land Transport Strategy under the LTMA.

The Auckland Council should be empowered to consult the various stakeholders (including iwi/Maori) in a manner agreed between the stakeholders and the Council, with the backup of the special consultative procedure as the final stage in the consultation process. The option involving developing a new statutory consultation procedure is not supported. This would reduce the Auckland Council's ability to tailor consultation to the needs of particular stakeholders, and increase risk / legal complexity by introducing new compliance requirements instead of using existing well understood mechanisms. Similarly, creating a process unique to this plan for an independent specialist review will add cost and complexity for unclear benefits.

The Council does not believe that a long term strategic plan should need to be reviewed every three years. The proposal to require a review of the spatial plan prior to every Long Term Plan risks focusing the Council's attention and resources on planning instead of implementation, and requires the spatial plan to reviewed in a cycle that will overlap with local body elections. The minimum review period should be 5 years.

Role of Government in the Auckland Spatial Plan

The Council welcomes the Government's announcement that it intends to engage in the development of the Auckland spatial plan, which is consistent with the approach to infrastructure signalled in the National Infrastructure Plan. Some Government decisions have the power to change the relative accessibility of places (for example in transport and broadband), and therefore have the potential to redistribute jobs and population growth. It is important that decision makers understand the spatial impact of these kinds of decisions, and take into account the contribution infrastructure can make to the achievement of the Government's economic and social objectives. Further, decisions on the location and nature of social infrastructure such as schools, hospitals, and prisons have a major influence on the surrounding area. The development of a spatial plan provides a mechanism to consolidate information

currently held by a variety of agencies, and to develop shared projections to underpin future decisions.

The Government has set out the purpose and scope of the Auckland spatial plan in legislation, and through the resource management reforms will subsequently establish further statutory implementation mechanisms (if any). It is unclear what role a further statement of Government objectives for the spatial plan, as proposed in the discussion paper option 10, would have, or why the Government would have objectives for Auckland that differ from its goals for New Zealand. Detailed objectives developed in advance of the evidence developed through the spatial planning process could frustrate the purpose of spatial planning, and more general objectives for the spatial plan are already set out in the legislation or in other government policy.

The proposal to require ministerial certification that the spatial plan complies with government policy would be a significant change to the New Zealand system of local government, which generally provides for local government to operate autonomously within its statutory authority, subject to judicial review or other judicial appeal processes. Ministerial certification of the spatial plan would blur the accountability of the Auckland Council for the contents and implementation of the spatial plan. It would lengthen the planning process, and could weaken the ability of the Auckland Council to interact with stakeholders who may have an incentive to re-litigate issues through the certification processes. While there are significant advantages in having a spatial plan agreed by Government and the Auckland Council, this should be achieved by engagement and negotiation rather then by a Ministerial certification or approval process.

The proposal for Ministerial certification also assumes that the planning process should not influence government policy. For example, given the spatial plan's role in integrating land use and infrastructure planning and the long term planning horizon, it is conceivable that the evidence developed in the planning process will support projects not currently prioritised or included in the Government Policy Statement on Land Transport Funding (GPS). Rather then automatically ruling such projects out of consideration, a more appropriate process would be for the Auckland Council to adopt the spatial plan and for the Minister of Transport to then consider whether or not the evidence supported a change to the GPS.

The alternative proposed in the discussion paper supports a top down approach to planning[16], with government decisions flowing down to the Auckland spatial plan and then on to other regional plans such as the Long Term Plan. This ignores the fact that the Auckland Council is the agency with the most complete and detailed information on the current and planned growth of Auckland. It would be more appropriate for the planning model to allow for the spatial plan to contribute to national policy development.

An alternative approach to Ministerial certification would be for a mechanism to clarify the nature of the Government's commitment to the spatial plan. This

[16] Eg see as illustrated in the discussion paper Figure 2: a possible spatial planning model for Auckland, page 26

could be achieved by including an Auckland chapter in the National Infrastructure Plan, or by the development of an infrastructure and prioritisation plan in support of the spatial plan that is jointly agreed by the Auckland Council and the Government.