APPENDIX 1

Discussion paper: **Improving our resource management system**

From: **Wellington City Council**

Date: **Tuesday 2 April 2013**

APPENDIX 1

Contents

Executive summary

To be completed.

1. Introduction

Wellington City Council welcomes the opportunity to comment on the discussion paper "*Improving our resource management system*". The submission addresses the following matters:

- comments about the consultation process and discussion document
- the Councils district plan, plan changes and resource consent activity
- Councils approach to managing growth

The submission follows the general format and order of issues contained in the discussion paper. Recommendations are included under each of the proposals presented in the discussion paper.

The Council would welcome opportunities to further assist MfE officials in developing a robust package of legislative changes, national guidance resources, and other assistance to ensure effective implementation of these proposed changes.

2. 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 77 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 800 resource consents a year and 200 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.

2.1 Managing growth in Wellington City

The *Wellington Urban Development Strategy* (2006) (UDS) sets a 50-year vision for the future growth and development of the city. It aims to ensure growth occurs where the benefits are greatest, that is, in areas already well serviced by infrastructure and public transport, and with good access to local shopping and services, and community and recreational facilities. The UDS is being implemented by Council through a range of planning, policy and capital investment mechanisms.

Wellington City currently has an estimated population of 200,000. By 2026, this is expected to increase to 235,000, resulting in an additional 15,000 households.

The land available for greenfield development in the northern suburbs has been identified in the *Northern Growth Management Framework* (2003)(NGMF). The NGMF is a non-statutory growth management policy framework. Most of the land remains undeveloped rural zoned land, which will progressively be re-zoned for

urban purposes using a structure plan approach. This approach has been successfully applied to the urbanisation of the Lincolnshire Farms land (formerly rural land on the northern edge of Newlands and Woodridge) which involved the development of a structure plan as part of District Plan Change 45 – 'Urban Development Area and Structure Plan'.

Table 1 below shows the estimated supply of land for greenfield, infill and high density residential development.

Type of residential development	Existing land supply for housing
Greenfield (northern suburbs) – low density	5,000 dwellings (10,000 people)
Residential infill (low/medium density)	6,400 to 14,000 dwellings (12,000 – 25,000 people)
Central City (high density)[1]	7,000+ dwellings (10,500 people)
Total	18,400+ dwellings (32,500 – 42,000+ people)

Table 1

Based on the expected growth in population and existing land supply figures, the following conclusions have been made:

- there is sufficient greenfield land available for development for the next 22 years
- between 28-55 years for infill developments within established residential areas, and
- over 60 years capacity for high density apartment living in the Central City.

Finally, our planning for the future has been set within the regional context. The Council's long term direction and priorities for urban development are consistent with the strategic directions adopted in the Wellington Regional Policy Statement.

2.2 Implementation of the Urban Development Strategy

The following key initiatives have been implemented to help give effect to the UDS and support residential and employment intensification along the growth spine.

Centres intensification

- Central City Framework, Town centre plans and upgrades (Johnsonville, Churton Park, Newlands, Adelaide Rd, Kilbirnie), roading and infrastructure spending
- Commercial and residential intensification (PCs 48, and 73)
- Community facilities policy and implementation plan

Residential intensification

- Medium density residential areas for Johnsonville and Kilbirnie (PC 72)

Residential greenfield development

- Northern Growth Management Framework (NGMF) and Lincolnshire Structure Plan (PC45)

Industrial

- protection of industrial land (PC 73)

Roading and transport

- Alignment with UDS
- Priority given to roading and public transport initiatives to give effect to Ngauranga to Airport Transport Study (Transport Strategy) and centres within this growth spine area

Over the period 2007-2011, 78% of all new housing has occurred along the growth spine, with over half (54%) of this figure comprising high density apartments in the

[1] This figure does not include figures for high density development occurring within suburban centres.

central city (see table 2 below). Whilst residential development has been slow, a high proportion of residential completions have been central city apartments, medium density housing and infill dwellings. These figures significantly exceed the intensification targets in the UDS.

Type of residential development[2]	UDS	Actual
Low density residential greenfield development (standalone housing, with an average of 2 persons/household)	30%	22%
medium density residential (infill/townhouse/terrace dwellings with an average of 1.8 persons/household)	34%	37%
High density (apartments - central city with an average of 1.5 persons/household)	36%	41%

Table 2

3. Improving resource management

Question posed in the discussion document

Has this section correctly described the key issues and opportunities with New Zealand's resource management system?

The following issues with the resource management system have been identified in the discussion paper:

- Complexity and cost of the current planning system
- Resource management does not reflect up-to-date values
- Tensions between different community values not resolved upfront
- Insufficiently proactive and integrated planning for future needs eg housing
- Lack of a consistent service culture
- Learning the lessons of Christchurch: managing hazards

Comment

The Council welcomes changes that will improve the current planning system and reduce complexity and compliance costs.

The Council works closely with the business and wider wellington community through a range of proactive collaborative processes undertaken as part of Councils spatial planning exercises and through the rolling review of the District Plan (as outlined in section 2 above). The Council endeavours to reflect the values of it's communities which include a wide range of stakeholders.

This submission outlines support for a number of the proposed changes relating to consultation with communities, taking a proactive approach to integrated planning, and more actively addressing natural hazard issues.

The Council takes pride in creating a culture that is customer focused. In relation to planning this is reflected in our website; dedicated planning technicians offering free advice to the public; and, attitude of our planning staff to work with applications to

[2] The UDS and the Forecast Id work assume that backyard infill housing (of appropriate scale and character) will continue to be provided throughout residential areas in the District Plan.

resolve matters whether this be through the pre-application process or once an application has been lodged.

The proposed changes in this discussion paper and other possible changes to the RMA represent the most significant changes to the RMA since it was enacted in 1991. The discussion paper is principally focused on the recommendations contained in the Part II Technical Advisory Group (TAG) discussion paper and does not include other matters addressed in two previous TAG reports (Infrastructure TAG, and Urban TAG) and the *Building Competitive Cities* discussion paper. Section 3.8.4 of MfE's discussion paper however states that other than designation, land acquisition (and compensation) provisions and the relationship of the RMA to other key legislation will be addressed later, but that *"other matters"* will be included to inform the development of policy options in mid 2013 leading to the passage of a resource management Bill by the end of 2013. In our view, the whole package of proposed reforms should have been brought together in this discussion paper. This, coupled with the very tight consultation period is of concern to the Council as it has been difficult to understand what the full package of changes might be and the implications of these changes.

The Council is also concerned that a number of the assumptions contained in the discussion paper are based on incorrect information about current RMA practice. This is highlighted by the selection of case studies and anecdotes about poor council processes. To create better understanding, a collaborative approach in identifying the problems would assist as territorial authorities can provide central government with the facts that lie behind the figures.

Based on the proposed changes included in this discussion paper, the changes are piecemeal and appear to be responding to growth related issues such as the provision of housing and infrastructure with a poor understanding of the pressures at work. A more fundamental review of the RMA is required to enable a wider, more strategic approach to a range of issues such as:

- spatial planning and it's relationship to the RMA
- the management of the rural environment and the urban interface ("peri-urban" areas)
- the importance of highly versatile soils for food production (eg class I and II lands) and sensitive environments.
- The benefits of integrated landuse and transport systems

There are a range of national instruments, Ministerial intervention tools and other fast-tracking consenting processes which appear to overlap and therefore present a confusing picture of what the government priorities are, and how these priorities might actually be implemented.

Overall there is a lack of clarity, a lack of factual base to understand the issues, a poor explanation of what is proposed and a somewhat confusing explanation of how it would be implemented. The result is that it is difficult to fully understand the implications of what is being proposed.

4. Proposal 1: Greater national consistency and guidance

Questions posed in the discussion document:

Do you agree with the proposals in 3.1.1–3.1.4 [Council response 4.1-4.4]? Could they be improved? Are there any issues that you think have not been considered?

For each proposal you wish to comment on, are there any costs and benefits that you think have not been considered?

Beyond the suggested additional matters in section 6 and 7, are there any matters of national importance that should be covered in Part 2 of the RMA?

What matters should additional NPSs and NESs cover?

4.1 Changes to the principles contained in sections 6 and 7 of the RMA

4.1.1 Overall broad judgement

Proposal

Sections 6 and 7 would be combined into a single provision that lists matters decision-makers must 'recognise and provide for'.

Comment

The hierarchy of national significance (s6) and other matters (s7) has been replaced by one section, where all matters will be given equal consideration in developing plans and assessing resource consents. This "overall broad judgment" approach would replace the “environmental bottom line” approach that has applied in the Act. This allows a weighing up of the new section 6 matters and removes the hierarchy between sections 6 and 7.

Whilst Council supports a more comprehensive review (as stated in 3 above), this proposed approach is supported as it is an improvement on the current ‘operation’ of sections 6 and 7, which are poorly drafted, contain imprecise terms and often address overlapping issues. It also reflects what is actually happening in practice and in Environment Court case law. The following sections (4.1.2 – 4.1.6) address specific parts of new sections 6 and 7).

Recommendation

Council **supports** this proposed change subject to the matters addressed in 4.1.2 – 4.1.6 below.

4.1.2 Landscape and natural habitats

Proposal

The proposed changes seek to streamline sections 6 and 7 and focus on 'quantifiable' physical characteristics (eg deletion of intrinsic values).

Comment

The TAG report on Part 2 stated that only significant indigenous vegetation and habitats and outstanding natural features and landscapes specifically identified in Regional Policy Statements would be considered a Part II matter. Proposed changes in this discussion paper to re-instate the word "protection" and that these matters could be provided for in district and regional plans, and policy statements, provided they are specifically identified, is supported. This places a greater onus on local authorities to specifically identify and protect these matters. This places a greater emphasis on RMA plans correctly and appropriately specifying areas protected for ecological/landscape etc reasons. It is appropriate that these matters be addressed at the plan development and approval stage rather than debated on a case-by-case basis a part of a resource consent.

Recommendation

Council **supports** this proposed change.

4.1.3 Historic Heritage

Proposal

The current wording of 6(f) is "the protection of historic heritage from inappropriate subdivision, use, and development". It is proposed to modify this wording to:

[recognise and provide for] *"the importance and value of historic heritage"*.

Comment

The Council is concerned that this change of wording significantly weakens the legislative mandate providing for safeguarding of New Zealand's historic heritage. Considering the current focus in New Zealand on earthquake prone building issues and the public response to loss of historic heritage in Christchurch, it is not timely to provide for a diminution of the impact of legislation which provides for retention of heritage places.

Balancing the range of issues in relation to retention of heritage is acknowledged as being a challenge. Potentially the Council has concerns that the Council's position on providing for good use and management of historic heritage will be undermined by changes to the legislation which weaken the position currently held by the Council.

The context of the proposed change to Section 6 and historic heritage in relation to proposed changes to the Building Act are important to address, to ensure that proposed changes to the Building Act do not over-ride the need to provide for effects on historic heritage currently included in the RMA.

The economic value of heritage to the city of Wellington is widely acknowledged. Precincts such as Cuba Street and Newtown Suburban Centre hold a special place for the people of Wellington and are protected through the rules of the Wellington City District Plan. Taking the issues of economic value to the city and social resilience value, into account in assessment of historic heritage values for precincts is important in evaluating and assessing why heritage precincts should be protected. The issue is not generally about stopping reasonable use and development of heritage places. It is about ensuring that changes to historic heritage are managed whilst also providing for reasonable economic use of buildings and precincts. Wellington City Council is

taking a lead in this area in response to the issues of earthquake resilience and developing appropriate proactive tools for managing heritage as opposed to just sitting back and 'protecting' heritage.

Protection and management of heritage is not about stopping development. They are about managing change in a way that ensure that the foremost values of heritage places are retained whilst ensuring that places continue to have an economic life.

Weakening of the legislative mandate to provide for protection of historic heritage would be a significant loss for Wellington City Council's ability to provide for maintenance of the highly valued heritage of the city. This is born out by the Council research which shows that 91% of residents' perceptions are that heritage items contribute to the city's unique character (WCC Annual Report 2011/2012)

Recommendation

That the wording of Section 6 be amended as follows:

- the protection **and management** of historic heritage from inappropriate subdivision, use, and development.

4.1.4 Natural Hazards

Comment

The Council supports proposals to elevate natural hazards into new section 6 and changes to section 106 allowing landuse and subdivision resource consent applications to be refused on natural hazard grounds (this is discussed in more detail later in this submission).

The Council is currently working closely with the Wellington regional emergency management office, Greater Wellington Regional Council and other TAs in the Wellington region to develop a regional natural hazard strategy. This will translate into specific land use controls to manage natural hazards such as earthquakes and sea level rise.

The Council is also actively addressing earthquake prone building issues and the challenges associated with managing risk, landowner costs associated with complying with seismic building standards, economic resilience issues, and the protection of heritage buildings and important character areas. Ensuring there is a consistent approach to these issues with reforms to the RMA and Building Acts will be very important. MfE should also prepare national guidance on natural hazards, and have an NES on sea level rise and flooding matters etc to ensure consistent approaches across the country. This would avoid unnecessary litigation and appeals to the Environment Court.

Recommendation

Council **supports** this proposed change, provided additional national guidance is produced on natural hazards relating to sea level rise and flooding matters.

4.1.5 Built environment and land supply, and efficient provision of infrastructure

Comment

Built environment

For a number of years local authorities and the community have seen the benefits of taking a more planned approach, with Wellington taking a lead in urban design, centres planning and residential intensification which has been supported by growth related infrastructure. The Council therefore supports proposed section 6(k) as this change would in principle give increased recognition to the built environment. This would reinforce and support the approach adopted by the Council, and enable an increased focus on integrated planning and better growth and infrastructure management. Recognition of the built environment would also strengthen Council's position when plan changes and resource consents are appealed to the Environment Court.

The Council is however concerned that the proposed wording focuses on the effective functioning of the built environment (eg design and urban form of cities) but not necessarily on urban design issues such as the quality of buildings at a site level and the relationship of buildings and open space.

Character and amenity issues

These concerns are reinforced by the proposed removal of section 7(c) "maintenance and enhancement of amenity values", and s7(f) "maintenance and enhancement of the quality of the environment".

At present, sections 7(c) and 7(f) are the only matters in the RMA which can be interpreted as directly relating to good planning and urban design outcomes. The concept of 'Amenity' covers important aspects of development such as visual quality, convenience of access, good urban form, views, shading, etc, which are fundamental qualities of liveable towns and cities. The suggested removal of section 7(c) and reliance on section 5 may lead to ambiguity and disputes as to what can reasonably be expected of developers.

Over the last 10 years or so development pressures have risen significantly in many parts of the City due to a desire to live closer to the central city and live in inner city character suburbs. As this development pressure increases, and there are fewer developable sites, the cost of developing sites has risen. This development pressure has sometimes led to inappropriate developments occurring, which has lowered the quality of some streets and suburbs.

The Council has introduced stronger character, amenity and heritage controls which includes the 'pre-1930s demolition rule', additional design guides and policy guidance, heritage and character area controls, restrictions on second dwellings on sites, minimum standards for allotment configuration and outdoor living space etc. At the same time Council is targeting areas where higher density residential development can occur.

The Council would be concerned if provisions to manage infill and protect the quality and character of our highly valued suburbs could no longer be protected in this way.

To reduce the uncertainty (and potentially litigation) that can result from any change 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.

Proposed section 6(k) also refers to land supply, which is a different issue. This should be included in another sub-section to section 6.

Land supply for residential use

A stronger focus on strategic, forward planning and planning for growth is very much supported. However, the proposed wording refers to 'land supply' for residential development and this conveys the impression that intensification and renewal on currently developed land is less important than newly available land. It is possible to intensify without making use of new land (for example by adding storeys onto existing buildings as is common in Wellington CBD or by redeveloping a site to a higher density). For this reason, the emphasis should be on Councils to identify 10 years worth of new 'housing capacity' (which would include brownfield and greenfield development as well as other means of increasing housing numbers without relying on new land supply) rather than 'land supply' for residential development.

Housing supply alone is not enough to support growing populations and the provision of community, educational, health, sports, state highways, public transport and other facilities also needs to be part of the forward planning exercise. This may require changes in the way service providers other than territorial authorities (health, education, etc) plan their facilities and new protocols to integrate the various future plans. It is therefore recommended that 'housing capacity and provision of employment opportunities and related services be provided for a matter under section 6 of the RMA. Reference to employment opportunities would then be consistent with proposed changes to section 32 of the RMA,

Recommendation

Council **supports** recognition of the built environment in Section 6 of the RMA

A built environment NPS be released which should provide guidance on key urban issues, including clarifying that section 6(k) relates to:

- The design and urban form of cities
- urban design issues such as the quality of buildings at a site level and the relationship of buildings and open space.

Insert 7(c) “maintenance and enhancement of amenity values”, and s7(f) “maintenance and enhancement of the quality of the environment” into new section 6

Insert a new sub-section into section 6 to specifically refer to future 'housing capacity and provision of employment opportunities, and remove the emphasis on land supply and growth issues

4.1.6 Efficient energy use and renewable energy generation

The re-wording of this section appears to give more weight to considering the benefits of green technology and green buildings. This is strongly supported by the

Council as it allows Council to more actively provide for green buildings which reduce consumption of natural and physical resources and have positive overall environmental benefits.

Recommendation

Council **supports** emphasis placed on efficient energy use and renewable energy generation.

4.1.7 Part 2 - Section 7 methods

New section 7 focuses on efficient RMA processes, promote collaboration between local authorities, and balancing public and private benefits.

It is unclear what would be achieved by inserting these new provisions, as they are generally addressed in other parts of the Act (s21 'Duty to avoid unreasonable delay', s32 (costs and benefits etc), s33 (transfer of powers), RMA process timeframes (consenting and plan changes etc), and s85 (public/ private benefits and rights to compensation).

The ability to use voluntary compensation measures, off-setting or other measures to address adverse environmental effects is a significant change to the Act. This is given little mention. This could address many of the frustrations that developments which overall have positive effects can sometimes be stopped/refused because of adverse effects on immediate neighbours. However, national guidance on this issue is necessary to clarify the intended purpose of off-setting and to ensure this power is used appropriately.

Recommendation

- **Delete** new section 7
- **Retain** voluntary compensation measures, off-setting or other provisions in the RMA, provided national guidance is produced to clarify the nature and scope of off-setting.

4.1.8 Other matters

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:

- The management of the rural environment and the urban interface ("peri-urban" areas)
- The importance of highly versatile soils for food production (eg class I and II lands) and sensitive environments.
- The benefits of integrated landuse and transport systems

These issues will become more significant if the government continues with proposed changes outlined in the discussion paper concerning land supply requirements and opening up more land for housing (leading to urban expansion into high quality soils) to address housing affordability issues.

Spatial planning issues were covered briefly in the *Building Competitive Cities* discussion paper with respect to Auckland, but have not been addressed in this discussion paper. This is a concern given the importance of integrated land-use

planning at a district and regional level in other parts of the country. The relationship of spatial planning to growth and development and it's implementation in RMA plans should be addressed. That spatial planning model could have the following features:

- Be developed through a collaborative process which allows for agreement on joint priorities, actions, and investment between parties;
- Address economic and social goals in addition to environmental issues;
- 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; and
- Not be compulsory, particularly in areas where growth pressures are not occurring.

4.2 Improving the way central government responds to issues of national importance and promotes greater national direction and consistency

Proposal

Development of non-statutory guidelines to clarify when and how central government would develop and employ national tools (e.g. NPSs, NESs).

Comment

There are currently a variety of tools available for central government to provide direction to local authorities: e.g. NPSs, NESs, 'call in' powers, plan change directives. However there is no clarity as to how or when these tools should/will be used. This approach is justified in the discussion paper on the basis that criteria will be developed giving clarity to the private sector and infrastructure companies as well as Councils on how and when the government might intervene.

Recommendation

This proposal is **supported in general**, however it needs to be considered in the context of the matters addressed by the Council in section 4.3 below.

4.3 Clarifying and extending central government powers to direct plan changes

Proposal

This proposal provides a 'stepped' process for central government direction of plan changes, and envisages gradual elevation of actions similar to the following sequence:

a) Identification of how a RMA plan currently addresses a particular issue, in response to a ministerial query

b) Ministerial direction that a local authority must develop a plan change, including matters that must be considered and outcomes that must be achieved

c) Direct Ministerial amendment of plan

Comment

These changes will enhance the government's ability to direct local authorities to address particular issues in their district. At this stage, this appears to be focused on growth management issues and affordable housing, with the assumption being that increasing land supply will bring down the costs of housing.

However there could be a range of other issues that the government of the time may consider needs to be addressed in RMA plans. Increased use of ministerial intervention powers could represent a shift away from local decision making to more centralised planning. This is a concern if it is done in an ad hoc manner on highly politicised issues rather than based on addressing significant resource management issues. Notwithstanding the "non-statutory guidelines" proposals discussed above, more clarity is required on what matters the Government is likely to want addressed by Councils prior to the minister intervening. This could be done through issuing non-regulatory government policy statements, in a similar manner to the proposal on pg 41 relating to *"a non-statutory agenda approved by Cabinet for developing a programme of NESs and NPSs*".

Local Government is faced with increasing pressure to cap rates and when setting priorities through Long Term Plans it is essential to know ahead of time about any plan changes which might be directed.

Recommendation

The Council **does not** support the proposed changes.

4.4 Making NPs and NESs more efficient and effective

Proposal

This proposal involves:

- The establishment of combined NPS/NES documents and
- NPSs and NESs to apply to specific regions or localities; and
- Changes to streamline processes for the development of NPSs and NESs

Comment

The discussion paper states that currently the development and scope of NPSs and NESs do not offer sufficient flexibility to quickly adapt and respond to issues as they arise. No information has been provided on what 'further streamlining of NES and NPS timeframes' would entail. However, increasing the speed with which NPSs/NESs may be made is likely to limit the time available to Council to amend plan provisions if required.

NPSs and 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. Council 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.

Clarification is sought as to the role that local government will have in setting the agenda for NPSs and NESs.

Recommendation

- Council **supports** the proposal to enable a combined NPS and NES on nationally significant issues.
- Council neither supports or opposes changes to NES and NPS timeframes as there is no information provided on what these proposed changes might entail
- Local government should be consulted when developing a national agenda for national policy statements and national environmental standards.

5. Proposal 2: Fewer resource management plans

Questions posed in the discussion document:

Do you agree with the proposals in 3.2.1–3.2.4? Could they be improved? Are there any issues that you think have not been considered?

For each proposal you wish to comment on, are there any costs and benefits that you think have not been considered?

Do you agree with our assessment that better quality plans and plan-making processes would significantly reduce costs and delays, including those associated with consenting and appeals?

Who should be responsible for making final decisions on resource management plans?

5.1 A single resource management plan using a national template that would include standard terms and conditions

Proposal

This proposal involves all councils having a single plan in place within 5 years (per district or a broader area by councils in that area). The single plan would consolidate all planning documents into one. Regional and district councils would develop their plans as they currently do (using the Schedule 1 process including current appeal provisions) and "insert their sections into the new single plan template".

The single plan would have to be consistent with "a new planning template developed by central government." The template would include standardised terms, definitions, zones and rules for particular activities.

Comment

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.

Managing existing RMA plan processes

In practice, the national plan template proposal would require all councils in New Zealand to re-write existing plans over a 5 year period to achieve a standard plan structure including nationally consistent provisions. This proposal does not address the complexity and costs of transitioning from the current approach to plan making to this standardised approach. For instance:

- It is unclear how Councils would manage recently notified district (or regional) plans or plan changes as part of a rolling review. This is particularly problematic where there are outstanding appeals. Given the proposed timeframes for developing 'templated plans' legislative provisions may need to be included requiring parties to withdraw from appeal processes. This could raise a range of natural justice issues from using this approach, and

significant costs would be imposed on parties (for example, if the appeal concerned the potential re-zoning of rural land to residential/urban).

- Significant plan development costs would be imposed on the local government sector (and the community) which would effectively prioritise 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.

If central government decides to proceed with requiring 'template plans' then the government should only 'start the five year clock' once the new national planning template has been finalised. Central government should have an assistance package to resource Councils through this process.

Recommended approach to national template

The Wellington City Council's preferred approach is that a national plan template be introduced via the quality planning website as a non-regulatory guidance tool. This would allow councils to move to a more standardised approach over time, to the extent that the national template is appropriate for their local conditions. It would be a 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. The Council together with Greater Wellington Regional Council and other territorial authorities in the Wellington Region are currently exploring ways to standardise their plans. This is unlikely at this stage to result in a combined plan, but would lead to issues and plan structures addressing common issues consistently. The Ministry for the Environment should be incentivising and assisting Councils through processes such as this rather than imposing arbitrary legislative requirements on Councils which will not necessarily promote better practice and will add significant compliance costs on ratepayers and plan users.

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 (e.g. standardisation of forms for building and resource consents) and national standards for the delivery of online services and for the electronic submission of consent applications. It should be possible for 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 bring about significant benefits in this area.

Recommended approach to standardising definitions and technical provisions

Instead of a complete national template, some standardisation of district plan provisions (as suggested in the discussion paper) and terminology 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 ways rules are implemented, which are variable across the country because of different topographies, character and amenity issues.

Recommendation

- A national plan template be introduced via the quality planning website as a non-regulatory guidance tool.

- The Ministry for the Environment should incentivise and assist Councils to standardise approaches to RMA plans by providing expertise and resources to Councils in developing their RMA plans and providing on-line services

5.2 An obligation to plan positively for future needs eg land supply

Proposal

This proposal involves amending ss30 and 31 (Functions of regional and territorial authorities) to:

a) Confirm that 'managing for positive effects' is one of Council's core functions; and

b) Insert a requirement for Council to ensure there is adequate land supply to provide for at least 10 years of projected growth in demand for residential land

Changes are also proposed to s32 (Bill currently going through the house) which will require greater appreciation of economic and employment considerations.

Managing positive effects

This 'future focussed' approach is to be reflected in the proposed 'single plan' approach which will be controlled through the national plan template and the standardisation of certain plan provisions (see section 5.1 above where this is discussed in more detail).

The Council agrees that the case-by-case assessment of activities and the 'environmental bottom-line' approach to resource management has come at the expense of managing cumulative effects and implementing strategic decisions through RMA processes. The proposed changes to sections 30 and 31 (Functions of regional and territorial authorities) allowing a "positive, future focussed approach to planning" are supported provided it is not focused solely on land supply. Clarification on this important matter is needed.

As noted previously, the Council is concerned that this review, whilst containing many positive changes, does not take a more comprehensive approach to resource management. As stated in Council's submission on the Building Competitive Cities discussion document, a more fundamental review of Part II (Purpose and Principles) and other relevant parts of the RMA needs to be undertaken to give due consideration to the range of other growth, employment and development related issues such as the urban form of cities, 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.

Housing affordability

One of the key reasons for making these changes is to address housing affordability issues. 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 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 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 therefore 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)[3]. 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, the appropriate mix of greenfield and infill development, and take into account the views and housing preferences of the local community.

The Urban TAG report includes a comprehensive discussion of the factors that affect housing affordability, however only some of the issues were included in the Building Competitive Cities discussion paper, and there is virtually no discussion on these issues in this discussion paper. The proposed changes mentioned above together with the range of resource consent changes alone will not effectively address housing affordability issues. These matters will only be addressed through taking a comprehensive review of the housing and financial markets, land banking activities of private developers, the costs of building and infrastructure and the role of government in the housing market.

Planning for growth and quality development

The Council agrees that local authorities should be planning for future growth, but does not support arbitrary requirements for providing at least 10 years of projected growth in demand for residential housing. Other matters such as employment issues are also important considerations which have not been identified.

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

Whilst Wellington City has ample land available for residential development, the supply and demand for residential development is dependent on a wide range of factors outside the control of local authorities.

The focus should be on providing local authorities with the enhanced legislative 'tools' to be able to assemble underutilised land and buildings to open up areas for redevelopment. The Government also needs to support alternative financing and funding mechanisms (other than development contributions) to enable urban renewal projects to be delivered, and show a commitment to address these matters.

The Council would however support policies and guidance in an NPS and other non-regulatory guidance which enable local authorities to recognise and provide for future growth within its city or district.

Recommendation

- The Council supports changes to sections 30 and 31 that will require Councils to be future focussed and managing for positive effects.
- The Council does not support the requirement for an adequate land supply to provide for at least 10 years of projected growth in demand for residential land
- Government should provide alternative financing and funding mechanisms (other than development contributions) to enable urban renewal projects to be delivered.
- Enhanced legislative tools should be provided to enable Councils to assemble underutilised land and buildings to open up areas for urban redevelopment
- **Insert** a new sub-section into section 6 to specifically refer to future "housing capacity and employment opportunities" and remove the emphasis on land supply and growth issues
- The Council would **support** policies and guidance in an NPS and other non-regulatory guidance which enable local authorities to recognise and provide for future growth within its city or district

5.3 Enable preparation of single resource management plans via a joint process with narrowed appeals to the Environment Court

Proposal

The discussion document puts forward a proposal to enable district and regional councils to group together and jointly prepare a single integrated plan for each district or larger area subject to the following criteria:

- One set of rules per area
- Enables effective catchment management (air and water)
- Brings material efficiency/cost gains.

This would require a certain process to be followed and narrowed appeals to the Environment Court.

If the Councils were happy to use this process it would shift the role of Councils from setting policy for it's communities to the community and independent commissioners. The process requires front-loading consultation and resolution of issues prior to

notification, which will have cost implications, but may lead to reduced overall costs due to the restrictions imposed in appeals to the Environment Court.

Comment

The Council agrees that RMA plans take too long to be made operative, which imposes significant costs on business and ratepayers. Initiatives to try and shorten this process are supported.

The proposals have the potential to improve RMA decision making, particularly for regional councils and rural authorities where integrated catchment management planning is important.

For metropolitan councils such as Wellington, it is unlikely this process would be used given the identified criteria.

The report refers to the need for more certain processes and plans, citing the costs of long, uncertain processes etc, and proper consideration of RMA issues is being deferred into resource consent processes because plans "fail to tackle the big issues". Allied to this were comments about getting earlier, more intensive consultation going so that the issues are properly thrashed out.

The Council has undertaken extensive consultation with it's community on key issues associated with intensification and character and quality of development and targeted growth management. The Council has proactively planned for the future of the city, including using collaborative processes with other agencies, stakeholders, and the community. This has included developing place-based non-statutory development frameworks for Johnsonville, Newlands and Kilbirnie town centres, and Adelaide Road.

Recommendation

The Council neither supports nor opposes this provision.

5.4 Empower faster resolution of Environment Court Proceedings

Proposal

This proposal involves changes to:

- Increase the Environment Court's power to enforce agreed timeframes
- Strengthen provisions to require parties to undertake alternative dispute resolution
- Make law changes necessary to deliver the full potential benefits of electronic case management

Comment

It is difficult to comment on this section in the absence of further details about how the proposed reforms will be implemented.

In terms of an alternative dispute resolution process, it is noted that these are generally regarded as voluntary (eg mediation). Strengthening the provisions to require parties to undertake alternative dispute resolution may assist with faster resolution. There is already some precedent for them being required as a mandatory procedural step (eg District Court civil claim processes, employment disputes).

While the proposed changes are supported, there may be other factors that could be addressed to more meaningfully speed up the Environment Court appeal process such as introducing a maximum timeframe for release of a decision post hearing.

Recommendation

The Council **supports** the changes to streamline the Environment Court process and also suggests that consideration be given to other factors such as introducing a maximum timeframe for release of a decision post hearing.

6. Proposal 3: More efficient and effective consenting

Questions posed in the discussion document

Do you agree with the proposals in 3.3.1–3.3.11? Could they be improved? Are there any issues that you think have not been considered?

For each proposal you wish to comment on, are there any costs and benefits that you think have not been considered?

6.1 A new 10-working-day time limit for straight forward, non-notified consents

Proposal

This proposal involves the introduction of a 10 working-day processing timeframe established for consents that meet criteria to be specified in the regulations. The criteria could include simple bulk and location breaches and small scale in-fill or unit title subdivisions in residential areas. The introduction of an associated fixed cost is also raised as a possibility.

Comment

The implementation of a 10 working-day timeframe is a fundamental change and is Central Government's response to the current 'one size fits all' approach.

While the 10 working-day timeframe may appear to be a solution to reducing processing times and costs to applicants, it is unlikely to make a meaningful difference, relative to the costs/difficulties of establishing new processing systems.

Concerns are raised with regard to how timeframes for rejecting an application under s88(3) or making the substantive decision-making test align with the proposed 10 working-day timeframe would be applied. Further, the Reform Bill is proposing that the completeness checks be increased from 5 to 10 working days – again the discussion paper does not address this aspect.

Cost and time implications for the applicant

The proposal as described has the effect of shifting Council input to before lodgement, ie the pre-application stage. As suggested in the discussion document, in order to confirm that no further information is required or that all criteria in the RMA, regulations and the plan is met, the involvement of the processing planner and potentially Council's technical advisors (on matters such as traffic, urban design, heritage) is required upfront. The time spent by the processing planner and technical advisors pre-lodgement needs to be cost recoverable. At present this is contractual rather than statutory.

Overall the 10 working-days for consents will not achieve a reduction in timeframe as when pre-lodgement requirements are combined with the 10 working-day timeframes the total time is likely to equate to the existing 20 working-day timeframe.

Resource implications for Council

A 10 working-day timeframe will have far reaching resource implications for Council. Managing workloads of staff is particularly problematic as the number of consents received is not static. The number of applications received fluctuates on a monthly and annual basis. For example the number of resource consent applications received each month has ranged from the mid 40s to just fewer than 90 in the past year.

To manage 10 day timeframes in addition to fluctuations in the number of resource consents received would require a dramatic increase in the number of planners processing applications. The reduced timeframes remove the ability of planners to 'juggle' deadlines of the numerous 'live' consents that are processed at any one time. Further, staff sickness can currently be accommodated and generally worked around within the 20 day timeframes however one staff member being sick could have serious implications in terms of meeting a 10 day timeframe. Whilst annual leave can be better planned for than staff sickness, there would also be similar issues to contend with to ensure staff annual leave needs/obligations are able to be met. The increased staff resource necessary to manage the 10 day timeframes would lead to increased costs for the applicant.

Council understands that applicants, at times, desire a response on a resource consent application in less than 20 working-days. In response to this need Wellington City Council currently offers 5 and 10 working-day timeframes ('fast track' consents) however there is a higher application fee and is at Council's discretion. Factors that influence Council's decision to work to shorter working-day timeframes include: resource capacity (staff workload), complexity of the application, and any need for input from other Council technical officers (eg vehicle access engineer, heritage advisor). While this service has existed for a considerable period of time, it is rarely used by applicants, possibly due to the additional application cost involved.

Guidance

Should a 10 working-day timeframe be imposed then precise guidance in terms of what activities / applications the 10 day timeframe could be applied to will be needed in order to avoid legal challenges. Council suggests that if technical advice were required from a Council officer (eg traffic engineer) to the processing planner on a consent, it would indicate that a 10 working-day timeframe is not appropriate.

Fixed cost

Council's objection to fixed costs is discussed in more detail in section 6.7 below. In summary Council does not support a fixed cost as additional time spent on applications above the fixed cost fee would be subsidised by the ratepayer. Given that this is not appropriate, the likely response would be that the fixed cost would need to be set higher to subsidise those applications that take longer to process.

Recommendation

Council **does not support** the mandatory introduction of 10 working-day processing timeframes.

Council **does not support** a fixed cost for these applications

6.2 A new process to allow an 'approved exemption' for technical or minor rule breaches

Proposal

Councils are to be given discretion to classify an activity as 'deemed permitted' where only very minor or technical breaches have triggered the need for resource consent.

Factors relevant to the exercise of this discretion might include:

- Breach is very minor, technical or similar (ie very nearly permitted);
- Neighbours are unaffected or are only affected to a minor degree;
- Environment is affected to a very minor degree.

Comment

In principle Council supports such a recommendation provided the anticipated benefits of 'approved exemption' outweigh the difficulties it creates.

The planner will be required to make a discretionary judgement call determining that there are no demonstrable effects on neighbours/environment. Such an assessment requires flexibility because legislation that is too prescriptive could lead to an incorrect decision being made. With reference to the examples provided in Table 1 on page 53, a residential site coverage exceedance by half a square metre may have no effects at one location but at another site could have shading effects on a neighbour. If the legislation were too prescriptive this could not only lead to the 'wrong' call but it would also lead to planning creep as it leads to a challenge of the permitted baseline.

The discussion paper does not address what happens in the event of a neighbour considering that they are affected. Guidance is sought as to whether the neighbour has the right to challenge/appeal the decision? There would obviously be the ability to undertake a judicial review and these may become more common; with these there also comes a cost.

Clarification is sought as to Council's role in the process. Framing of the proposal as a Council discretion indicates an intention that Council would issue some sort of 'deemed permitted' activity statement or certificate. The setting up of any new process and implementing systems to manage that process will always have a financial cost to Council (eg producing forms, fact sheets, computer systems to monitor timeframes and manage data).

The 'approved exemption' also raises concerns as to whether it will have the effect of promoting / encouraging unlawful activity. It may encourage an increase in unlawful development with developers willing to take a 'risk' as to whether Council will take enforcement action or grant an 'approved exemption'?

1 day timeframe

The one working day processing period is not possible to achieve and is not appropriate. In order to ensure a consistent approach, it is good practice for any discretionary judgement call to be peer reviewed. The peer review process adds additional time. In order to ensure that the effects were insignificant, a site visit would often be the only way to ensure that this was the case. For example with

regard to the 'out of sight satellite dish on a heritage building' it could not be confirmed that it was 'out of sight' without a site visit, again with time implications. With this example there may also be the need for discussion with Council's heritage advisor to confirm that the form of fixture would not have a detrimental effect on the fabric of the building. Difficulties would also arise with time taken through internal mail and allocation by managers. A one day response could also preclude any staff activities that require the team for the day eg team training. A five day timeframe would be more appropriate.

Recommendation

Support in principle but the approach needs to be flexible and at the discretion of Council, with the ability to reject such applications where not considered appropriate.

Council recommends that the timeframe of one day be amended to five days

6.3 Specifying that some applications should be processed as non-notified

Proposal

The Regulations could direct non-notification as a nationwide standard for specified activities.

Comment

Central Government currently has the NES mechanism available to them as a means of introducing regulations which have a nationwide effect. Additionally Council has the ability include non-notification clauses into district plans, or not to notify activities in accordance with section 95. It is not clear therefore why a separate process or introduction of other forms of regulation is required or necessary.

The discussion document is silent on how such regulations would be developed or whether any sort of consultation would be undertaken. Would local government have a voice in the process? Without awareness or consideration of local issues, a generic response will not take account of the local environment.

Given current concern with affordable housing, it is unsurprising that small-scale residential subdivisions and in-fill housing 'anticipated' by plans are candidates for 'non-notification'. While such an approach is appropriate for certain issues such as contamination, a blanket approach regarding house-extensions or minor alterations could have a more than minor effect on neighbours. Any non-notification clause would effectively remove affected parties from the consent process and as such the local community, through the District Plan, need to feedback on proposed changes as they currently have the ability to do.

Recommendation

Council **does not support** this proposal.

6.4 Limiting the scope of consent conditions

Proposal

Amend the RMA provisions that determine the scope of conditions to clearly identify the types of conditions that can be imposed.

This could involve limiting conditions to those that relate directly to:

- The provision(s) of the plan that has been breached (where appropriate);
- The adverse environmental effects of the proposal; or
- That are offered/agreed to by the applicant.

Comment

Council considers that the RMA provisions and case law together currently do provide sufficient clarity on the imposition of conditions. Experience suggests that conditions are often the factor that enables the granting of a resource consent. It is common practice at Council that conditions are negotiated with the applicant prior to the issuing of a consent.

It is therefore debateable whether a less flexible approach to conditions will ultimately benefit applicants and central government's pro-growth agenda. Increased rigidity means that many applications that are currently approved on the basis that conditions offered by or agreed with an applicant appropriately mitigate adverse effects may actually need to be declined under a less flexible regime.

It is noted that no mention is made of section 220 and the different types of conditions it specifies. It is unclear whether these are considered suitably specific to be retained.

The suggested focus on plan breaches or adverse effects overlooks the aspects of decision-making on consent applications that can justify the imposition of conditions such as Part 2, objectives and polices for example. The relationship between consent conditions and activity classification is not discussed. Further, not all activities are amenable to a clear quantifiable-breach/related effects analysis.

Recommendation

Council **supports** this proposal in principle but questions whether legislative change is needed.

6.5 Limiting the scope of participation in consent submissions and appeals

Proposal

It is proposed that submissions and appeals are limited to the matters that justified a decision to notify an application and only on effects directly related to those matters.

In a 'limited notification' scenario, neighbours who do not provide a written approval will only be able to comment on matters that directly affect them.

Comment

This is a very significant proposal. Limiting what aspects of a notified application that submitters may submit on seems contrary to, and erodes, the general participatory objective that underpins the RMA.

Council's appreciation of the effects of a proposal and its relationship with relevant planning instruments is usefully informed by submissions. With the reduced scope for submissions, these benefits would be lost. With the reduced ability of submitters to address any matters of which they have knowledge and believe relevant to the proposal, could lead to less testing of applications by the consent process and to less robust decisions being made.

The onus will be on the Council to carefully identify all the separate categories of effects, clearly identifying who is directly affected and by what (eg height) for notification purposes. To avoid legal challenge, extremely robust notification decisions will be required as these will determine participation and scope by a party in the resource consents process. The writing of such decisions will take time and will have an associated cost to the applicant and will lead to a likely increase in legal challenges

Guidance is sought in a number of areas as it is not clear whether Council would have discretion to review their decision on the level of effect eg traffic, if a submitter highlighted that the local roading network did not operate as indicated by the applicant or understood by Council. Such effects have been highlighted to us through the submission process. Would this have the effect of opening up appeal rights?

Recommendation

The Council **does not support** this proposal.

6.6 Changing consent appeals from de novo to appeals by way of rehearing

Proposal

The proposal is that the Environment Court will no longer hear consent appeals on a 'start from scratch' basis, but will instead rely on earlier evidence.

A tribunal or other forum may be established to resolve small scale applications and minor complaints.

Comment

The evidence given at the Council hearing, including the Council's evidence, will form the basis of the evidence on appeal. The robustness and quality of that evidence will consequently be of heightened importance.

The Council's decision will also assume more prominence, as the focus on appeal will be whether the Council decision should stand, rather than a total intervention by the Court. The robustness and quality of Council decisions will also be of heightened importance as a result.

The combination of focus on Council's evidence and Council's decision will have time and cost implications as the hearing process is likely to involve a higher standard of Council evidence and Council decision-making. The professional competency of commissioners, even more than before, will be of paramount importance.

Consideration needs to be given to the Environment Court process. If the Environment Court is simply to be a court of record to decide on matters in dispute then would Judges sit alone and Commissioners be abandoned?

Recommendation

Council **supports** changes that will lead to the more timely resolution of appeals.

6.7 Improving the transparency of consent processing fees

Proposal

It is proposed that Council set their own fixed charges for certain kinds of resource consent (possibly identified by activity, zone, classification). Councils would retain the ability to determine the amount of the fixed charges. Where fixed charges are not required Councils will be required to provide an estimate of the charges in advance. The provision of an estimate would be mandatory, instead of only being provided at the applicant's request.

Comment

Council currently records the time spent on each application. In line with good customer practice, when the initial fee is nearing being spent, the applicant is called and advised and in most cases is provided with an indication as to how much more time completing the application will involve.

Fixed fee

A fixed fee would in a best case scenario for Council, lead to the 'unders' and 'overs' cancelling each other out. However even in this scenario it is not clear why one applicant should be financially penalised whilst another benefits. Less well prepared applications generally take longer to process and a fixed charge would result in this type of application being subsidised at the cost of the well prepared applications. The worst case scenario is any fixed or capped charges that do not recover costs will require a subsidy from the ratepayer.

Setting of fixed fee charges would be problematic as, even if the zone or classification were similar, no resource consent application is the same due to the site specific environment. In addition as expressed above the quality of an application will also impact upon fee with poorly prepared applications generally being more expensive to process.

If fixed fees were introduced, how often could they be reviewed and re-set by Councils will be important as Councils, for example, may need the ability to react to the introduction of plan changes or a new NES with corresponding increased processing time requirements.

Mandatory estimates

An applicant can currently request fee estimates under section 36. The preparation of such estimates takes time and involves discussions with relevant technical advisors to assess their input requirement. The time taken in preparing fee estimates is currently passed on to the applicant. Again if this cost is not past on to the applicant it would be ratepayer subsidised.

Recommendation

Council **does not support** the introduction of fixed costs nor the mandatory requirement to provide a fee estimate.

6.8 Memorandum accounts for resource consent activities

Proposal

Memorandum accounts are a means of disclosing the accumulated balance of revenue and expenses incurred in the provision of certain services. Councils would be required to produce an account disclosing balance of revenue and expenses in relation to resource consent activities.

Comment

Whilst the increased transparency of cost setting and recovery processes is supported, the concern remains that the cost and effort involved in preparing the proposed 'memorandum account' is commensurate to the benefit. This is particularly in light of the existing reporting requirements under the Local Government Act 2002 (revenue and financing policy, funding impact statement).

Recommendation

The Council neither supports nor opposes this provision.

6.9 Allowing a specified Crown-established body to process some types of consent

Proposal

The proposal involves the expansion of Ministerial call-in powers, or the creation of new legislation, to allow the Minister to specify 'nationally important issues' that would be eligible for an alternative consenting process.

A dedicated Board of Inquiry or other Crown body would process applications in a 3-4 month timeframe.

Comment

Council does not consider that an alternative process is justified. Council has the capacity and has demonstrated the ability to process non-notified resource consents within statutory timeframes (100% on time since September 2009). From the information provided it is not clear whether the establishment of a Crown body will materially assist in the making of faster decisions on eligible applications.

The introduction of a dedicated Board of Inquiry or other Crown body also risks ad-hoc decision making.

If this proposal is proceeded with clarification is sought in a number of areas:

- What will Council's role and appeal rights be in the context of the proposed process?
- Will the Council have a 'gatekeeper' role as to whether an applicant can proceed through the proposed process (as per the current direct referral process)?
- Will applicants have discretion as to whether to seek to use the proposed process?
- Will Council have ongoing enforcement responsibility for decisions made through the proposed process?
- What sort of activities / applications would be suitable candidates for the proposed process?
- Would applications be required to go through a pre-lodgement process (similar to the EPA) in order to ensure applications are processed within three to four months?
- Will the public have an opportunity for meaningful public submissions and assessment of matters?

Recommendation

Council **does not support** this proposal.

6.10 Providing consenting authorities tools to prevent land banking

Proposal

The proposal involves new powers for territorial authorities to require construction of subdivision infrastructure within a certain time after s223 certification.

Comment

While the intent is to provide Councils with tools to prevent land banking, Council is concerned that the tools proposed will not address the perceived problem.

It is foreseen that developers, as they do already, will simply stage their consents thereby avoiding the requirement to progress their development. Reducing the timeframes by three years will not make a significant difference towards addressing the problem. Often applications for s223 and s224 certificates are applied for at the same time, with the works necessary to complete the subdivision being carried out during the period of the resource consent which is usually 5 years or longer. Efficiencies at LINZ and the electronic Landonline system have meant that there are less benefits of having plans approved first under s223 as there once were.

Recommendation

The Council neither supports nor opposes this provision.

6.11 Reducing the costs of the EPA nationally significant proposals process

Proposal

The proposal addresses the following:

- The Minister would only have to publish a summary of reasons for making a direction, with full reasons available from the EPA on request.
- Boards of Inquiry would be required to have regard to cost-effective processes and EPA advice on administrative matters when determining procedures (including hearing process and location, and the commissioning of advice).
- Parties would be required to provide documents electronically in the first instance.
- The draft decision could be deleted from the process, or the period for comments reduced from 20 to 10 working days.
- The EPA would be permitted to provide planning advice to a Board of Inquiry
- The process could be halted if any fee was unpaid, with the obligation to pay classified as debt due to the EPA.

Comment

The proposed changes are unlikely to materially reduce the costs to applicants of engaging in this process nor will they speed the process up.

The proposed amendment to the RMA that any consent process can be stopped if associated charges for the process to date have not been paid in full is an issue that is also faced by Councils. It is requested that the RMA be amended to also enable Councils to stop the processing of a consent if associated charges for the process to date have not been paid in full. The Council should also be able to withhold the issuing of a consent until all charges associated with that consent have been paid in full, as is the case for a building consent. If it was also clear that such payment would not prejudice the applicant's objection and appeal rights to the payment of additional fees, this would not prevent an applicant from later pursuing legal recourse if dissatisfied with the amount of fees charged.

Recommendation

Council **supports** the proposal but requests territorial authorities also have the ability to halt the processing and issuing of a consent until associated charges (to date) have been paid in full

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7. Proposed 4: Better natural hazard management

Do you agree with the proposal in 3.4.1? How could it be improved? Are there any issues that you think have not been considered?

Are there any costs and benefits that you think have not been considered?

Proposal

Natural hazards are included as a matter in principles of the RMA. S106 is amended to ensure that all natural hazards can be effectively addressed in both subdivision and land use consents. It is also proposed the full risk of natural hazards – both likelihood and the magnitude of the impacts – be taken into consideration in these decisions.

Comment

This matter is expanded upon in section 3.2.3 of this submission.

The proposed inclusion of natural hazards in section 6 and amendment to section 106 is likely to ensure that attention is consistently paid to natural hazards, rather than on a plan by plan basis.

Clarity is sought around how the different regulatory regimes will work together, for example, sections 71-73 of the Building Act 2004. It is however considered appropriate that the risk assessment (both frequency and impact) be considered as this aligns with Civil Defence legislation.

There is merit in extending section 106 beyond subdivision consents applications. For example extending it to land use applications as these could be affected by natural hazards such as flooding / sea level rise. Consideration needs to be given to the alignment of different district plans and rules as identification and upstream influences are catchment related and could be managed by different district plans.

Recommendation

Council **supports** the proposed changes to s6 and s106.

8. Proposal 5: Effective and meaningful iwi/Māori participation

Do you agree with the proposal in 3.5.1? Could it be improved? Are there any issues that you think have not been considered?

Are there any costs and benefits that you think have not been considered?

How flexible or prescriptive should the tools for iwi/Māori participation be?

Proposal

Where a local authority does not otherwise have an arrangement in place with local iwi, it would be required to establish an arrangement that allows iwi to provide comprehensive advice during plan development. Advice would be provided before decisions on submissions and would have statutory weight. Requirements to consult with iwi when developing NESs would be aligned with those for NPSs. Criteria for joint management agreements and transfers of resource management responsibility to iwi would be amended to facilitate easier and more frequent use. Criteria around structure, minimum consent and lodgement process for iwi management plans will be established with potential for link to a single resource management plan.

Comment

Council actively supports effective engagement with Iwi/Maori. Council is actively engaged with Port Nicholson Settlement Block Trust in the review of 'Tangata whenua' chapters of the Wellington City, Hutt City and Upper Hutt City District Plans. The Ministry for the Environment is assisting with financial support for a contracted consultant. Council applauds this approach and would encourage central government to put more resource into Iwi/Maori consultation at a local level. Council therefore supports this approach in principle subject to funding from central government.

Guidance is sought for situations where Iwi/Maori are not able to provide advice (for example due to capacity reasons) during the development of plans. Clarification is also sought as to timeframes around consultation.

Recommendation

Council **supports in principle** initiatives that will ensure effective enegagement of iwi in plan development processes.

9. Proposal 6: Improving accountability measures

Do you agree with the proposal in 3.6.1? Could it be improved? Are there any issues that you think have not been considered?

Are there any costs and benefits that you think have not been considered?

How flexible or prescriptive should reporting requirements be?

Proposal

Proposes the introduction of an 'expectations system' developed collaboratively by central and local government. This is likely to involve reporting on identified KPIs. An improved national monitoring of local authorities and state of the environment reporting is expected.

Comment

The capturing and reporting of any information has cost and resource implications. Council seeks funding assistance as any changes to what is captured involves resources and costs money. The current reporting is currently focused on process whilst outcomes are not that well addressed.

Detailed guidance is required from MFE to ensure that data captured is consistent across territorial authorities.

Recommendation

Council **supports** this proposal in principle however reporting requirements need to be developed in collaboration with local government.