
REPORT 4
(1215/52/IM)

SUBMISSION ON BUILDING COMPETITIVE CITIES: REFORM OF THE URBAN AND INFRASTRUCTURE PLANNING SYSTEM

1. Purpose of Report

To seek approval of a submission on potential resource management reforms, as set out in the discussion paper titled *Building Competitive Cities - Reform of the Urban and Infrastructure Planning System*.

2. Executive Summary

This paper summarises key issues and options presented in a discussion paper released by the Minister for the Environment on proposed changes to the urban and infrastructure planning system as part of phase 2 of the resource management reforms. The discussion paper identifies key issues or problems and presents a range of possible solutions, without identifying preferred options. Appendix One contains a draft Council submission. Submissions close on 17 December 2010.

The problems identified with the current framework for urban planning and infrastructure development include:

- inadequate recognition of the urban environment in the Resource Management Act 1991 (RMA);
- an overly complex planning system;
- lack of clarity and consistency; and
- inflexible infrastructure approval processes.

The discussion document outlines options for extending spatial planning outside of Auckland, where it is being implemented as part of the governance reforms. The submission supports spatial planning, based on the Council's experience of undertaking a variety of strategic spatial planning exercises, and supports proposals to simplify the implementation of spatial plans through the RMA, Land Transport Management Act 2003 (LTMA) and Local Government Act 2002 (LGA). However, rather than rolling out the Auckland model to the rest of New Zealand, the submission proposes that further work is undertaken

to identify a spatial planning model that would work effectively outside Auckland.

There are a number of other 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. Options that are supported in the submission include:

- legislative recognition of the urban environment in Part II of the RMA;
- development of a national policy statement (NPS) on the urban or built environment;
- a new national instrument that would allow a combined NPS and national environmental standard (NES) on nationally significant issues;
- the appointment of a Government Architect and national urban design panel, on condition that the use of the national urban design panel is not compulsory;
- provisions allowing the use of compulsory acquisition to assemble land for urban renewal;
- a more strategic approach to the development of NPSs, NESs, and national guidance;
- amendments to the current categories of requiring authorities;
- a new category of designations to facilitate long term infrastructure planning by enabling corridors and sites to be protected, even where infrastructure funding and final design has not been finalised; and
- streamlining designation and resource consent processes.

The submission identifies a number of options that are not supported, and some where the impact of an option is unclear and further work is required. These include the proposal for a national plan template, which has the potential to impose very significant transition costs on the Council in moving to a new district plan. The submission instead proposes investigation of increasing national consistency of plans by measures such as standardising definitions.

The submission does not support an NPS requiring 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.

The chance to discuss a number of significant issues has been missed in the discussion document. These include consideration of the wider range of tools required for urban renewal projects (including financing and funding mechanisms), and options to address the difficulty in managing cumulative effects and implementing strategic decisions through RMA processes.

3. Recommendations

Officers recommend that the Committee:

1. *Receive the information.*
2. *Agree to the draft submission (attached as Appendix One) in response to the discussion document *Building competitive cities: Reform of the urban and infrastructure planning system.**
3. *Agree to delegate to the Chief Executive and the Portfolio Leader Built Environment the authority to make any changes to the submission required as a result of decisions of this Committee, as well as minor editorial amendments, prior to the submission being sent to the Ministry for the Environment.*

4. Background

In January 2010, the government appointed two technical advisory groups (TAGs) to review policy around urban planning and infrastructure. TAG recommendations were received by the government and have now been refined and included as options in a discussion document entitled *Building Competitive Cities - Reform of the Urban and Infrastructure Planning System* which has been released for consultation by the Minister for the Environment.

The closing date for submissions is **Friday 17 December 2010**. It is understood that the Minister for the Environment, Hon Nick Smith, intends to introduce a Bill to the House in the middle of next year. The draft submission is attached as Appendix One.

4.1 Problems with the urban planning and infrastructure framework

The discussion document identifies a number of problems with the current statutory and non-statutory framework for urban planning and infrastructure project development. These include:

- inadequate recognition of the urban environment in the RMA;
- an overly complex planning system;
- lack of clarity and consistency; and
- inflexible infrastructure approval processes.

The document contains 50 options and sub-options put forward by the two separate TAGs and officials, but the Government's preferred options have not been identified. The most significant options are discussed below.

5. Discussion

5.1 Spatial planning

Description of options (see sections 2.3 and 2.4 of the submission)

The Auckland Council is currently required to prepare a spatial plan to provide a long term strategy for Auckland's growth and development. A range of options is presented for further development of the statutory provisions for Auckland's spatial plan¹, as well options for spatial planning legislation beyond Auckland.

Comment

The Council supports spatial planning, as is evident from the variety of strategic spatial planning exercises that have already been undertaken in Wellington over the last 10 years². These strategies and development frameworks will be guided by the overarching Wellington 2040 (City Strategy and Central City Framework), which will be brought to Council for consideration in March 2011.

These strategies and frameworks set out Council's general approach to managing growth in the City, which is to:

- provide for greenfield development in the northern suburbs;
- intensify and invest in the central area and identified suburban centres, particularly those with strong transport links and existing community facilities (such as libraries, community centres, aquatic facilities, etc);
- ensure quality residential infill throughout the City; and
- enhance opportunities for public transport use.

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 – for example, it would be inappropriate for a spatial plan adopted by a regional council to direct the contents of a local council's Long Term Plan.

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, the submission proposes that further work is undertaken to identify a spatial planning model that would work effectively outside Auckland. The

¹ The Auckland Council is required to prepare a high-level spatial plan to provide a long term strategy for growth and development, taking into account the provision of infrastructure, supply and demand of business land, affordable housing etc by the Local Government (Auckland Council) Act 2009. The plan could be given effect to through the Long Term Plan (LTP) asset management plans, and resource management plans (landuse).

² These include the Northern Growth Management Framework and associated structure plans for Lincolnshire Farm, and the Urban Development Strategy and Centres Policy which is being given effect to through town centre plans for Newlands, Johnsonville, Kilbirnie and Adelaide Road, and the District Plan (plan changes 72 and 73). The Central City Structure Plan is an example of detailed spatial planning.

submission recommends that 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;
- spatial planning should not be compulsory in areas where growth pressures are not occurring.

5.2 Legislative recognition of urban planning and urban design

Description of options (see section 2.2 of the submission)

The discussion paper proposes:

- legislative recognition of the urban environment in Part II (Purpose and Principles) of the RMA,
- a national policy statement³ on the urban (or built) environment. This would give increased direction and clarity to local authorities, infrastructure providers and the general public on future urban growth and housing affordability. These matters would be given effect to through district plans, and
- the national policy statement could require councils to provide at least 20 years supply of land for future urban growth.

Comment

The absence of urban planning provisions and the focus on managing environmental effects in the RMA has meant that most first generation district plans responded to development as it occurred rather than taking a more strategic approach. Over recent years local authorities have seen the benefit of taking a more planned approach, with Wellington taking a lead in structure planning, urban design, centres planning and development, and residential intensification. Practice has now gone beyond the original intention and purpose of the RMA.

The discussion paper is disappointing in that it provides no direction on what the Government considers would be an effective planning system rather than an environmental-effects based system. It is a concern that the Council will not have a further opportunity to comment on these matters until the Bill is released

³ The Ministry for the Environment can develop national policy statements (NPS) on matters of national significance. The Council (and all other local authorities) must then give effect to the objectives and policies in the NPS when implementing the District Plan.

for consultation early next year, at which point it is assumed Government policy on these matters will be outlined.

However, specific recognition of urban issues has been strongly supported in the submission as this will enable an increased focus on strategic planning and urban design, and better growth and infrastructure management. Legislative recognition of these issues will also strengthen Council's position when plan changes and resource consents are appealed to the Environment Court.

A more fundamental issue is that these proposed changes are moving the focus of the RMA from a focus purely on environmental effects to a mixed assessment of environmental effects, urban planning and strategic provision of infrastructure. This may lead to confused and inconsistent decision making unless there is a more considered assessment of the purpose and principles underpinning the RMA. The submission therefore supports a more fundamental review of the RMA.

The submission also supports a proposal to amend the Public Works Act 1981 to enable local authorities to compulsorily acquire and assemble land for major urban renewal projects (such as Adelaide Road and Kilbirnie). An opportunity has however been missed to address appropriate financing and funding mechanisms to enable urban renewal projects to be developed. This concern has been outlined in the submission.

20 year land supply target

As outlined above, Council strategies and plans provide for Wellington's changing population demographics and housing demands in excess of 20 years population growth through a combination of greenfield development and renewal. The intention is to encourage more efficient use of infrastructure whilst limiting the negative effects of urban sprawl.

The submission does not support an 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.

An NPS could instead require local authorities experiencing urban growth demands to be able to show how housing and infrastructure demands are being addressed in strategic planning and transport strategies.

5.3 Nationally consistent district and regional plans

Description of options (see section 2.5 of the submission)

The proposals include:

- a national district/regional plan template containing standardised issue-based chapters in order to provide national consistency on common issues, whilst enabling some appropriate local variations to be addressed;

- a new national instrument that would allow a combined national policy statement and national environmental standard on nationally significant issues. This would in effect be a mini district plan on a single issue.

Comment

National template

The 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 standardisation of plans ahead of substantive reviews of planning provisions.

Some standardisation of district plan provisions may be possible without imposing such high transition costs. This could include standard definitions, and standard methods for calculating site coverage and height etc. However, this would need to be done with care, as 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 National Policy Statement and National Environmental Standard
National Policy Statements (NPSs) and National Environmental Standards (NESs) are currently developed using separate decision making processes (for example, the NPS and NES for electricity transmission). This is inefficient and can lead to inconsistencies between policy and standards. The submission supports the proposal to enable a combined NPS and NES on nationally significant issues.

5.4 Urban design assessments and capacity building

Description of options (see section 2.6 of the submission)

There are several options to enhance urban design practice including requiring large or significant projects to be agreed by national and/or regional urban design panels, the appointment of a Government Architect to advocate for quality urban design, and initiatives to ensure more consistent urban design provisions in district plans.

Comment

Council has significantly invested in urban design expertise and outcomes over many years, and continues to do so, as do many other Councils. However, there continues to be a shortage of experienced urban designers in New Zealand to enable Councils to more actively promote quality development. The Government needs to address the issue of capacity as a matter of priority. The current reforms provide an opportunity to consider the role of educational institutions, as well as other options for capacity building.

The submission is supportive of the proposal for a Government Architect as an adviser on new government building and infrastructure development. The role

could also involve a wider advocacy role throughout local and central government and the private sector, similar to models developed overseas.⁴

It is proposed that this role/office would help in the design of Public Private Partnerships, and chair the national design panel for large or complex urban design related projects. No detail has been provided on how this process may be implemented.

Council already uses a range of different approaches for assessing and achieving urban design outcomes, including the Wellington Waterfront Technical Advisory Group (TAG), the use of independent specialist urban design expertise on specific projects, and peer review of WCC urban design assessments at the request of a resource consent applicant.

It would be a concern if central government processes duplicate resources being invested by councils, and add cost and time to the resource consenting process. The proposals also have the potential to undervalue the importance of the local knowledge, understanding, and context that is held by local councils. The mandatory use of regional and/or national urban design panels for assessing large or significant urban design related projects is not therefore supported.

A voluntary or enabling system, where a Council or applicant would have the option of seeking advice from a national urban design panel, would provide an additional option that could be used when appropriate. There is value in a model such as the UK's Commission for Architecture and the Built Environment (CABE) where specialist expertise is available on an 'as required' basis, and there is a centre of expertise for thought leadership and research.

The options to improve the quality of urban design are considered in limited detail. For example, no consideration is given to the costs of implementation or the potential duplication of effort, skill base and capability within NZ currently, and the role of educational institutions in training and development of planners and urban design professionals.

5.5 Mechanisms to encourage urban renewal

Description of option (see section 2.7 of the submission)

This option would allow local authorities to compulsorily acquire and assemble land for major urban renewal projects with safeguards to avoid inappropriate use of these provisions.

Comment

In Wellington, town centre policy frameworks (Johnsonville, Newlands, Kilbirnie and Adelaide Road) have been approved, and public space and roading changes are being implemented or are proposed over a number of years. Most of the land in these areas is fragmented and/or in multiple land ownership and a variety of land uses. This is typical of areas in other parts of New Zealand.

⁴ The UK's Commission for Architecture and the Built Environment (CABE), the Advisory Team for Large Applications (ATLAS), and the Major Cities Unit in the UK and Australia are examples of initiatives aimed at increasing capability and capacity, and sharing information, experience and advice.

Council currently has limited powers to stimulate comprehensive redevelopment of this private land.

This proposal would give Council more options to facilitate major change in these key urban areas throughout the City. This is an important opportunity for promoting urban renewal and has been supported in the submission, provided this review also evaluates financing and funding mechanisms (other than development contributions) to enable urban renewal projects to be developed.

5.6 Priority for nationally significant infrastructure projects

Description of option (see sections 3.2 of the submission)

This would involve developing an agenda for the development of more NPSs and NESs and national guidance on nationally significant issues, and changing Part II of the Act to specifically recognise infrastructure over other types of physical resources.

Comment

The submission supports a more strategic approach to the development of an agenda for the promulgation of NPSs and NESs, rather than the ad-hoc approach that has been adopted to date. Non-statutory national guidance on concept designations (see 5.8 below), notices of requirement, and outline plan approval processes have been supported.

A strong case has not been made for making specific provision to significant infrastructure in Part II (Purpose and Principles) of the RMA. Specific recognition for infrastructure would in effect be 'picking winners' over other important environmental issues.

5.7 Powers to designate

Description of options (see section 3.3 of the submission)

A number of options have been presented about what types of agencies or projects should be able to designate for specific projects/works, whether they should have access to compulsory acquisition powers, and who the final decision maker should be.

Comment

The Crown, local authorities and key infrastructure providers such as Transpower, KiwiRail, electricity line companies, and NZTA can designate and compulsorily acquire land for 'public' works. These requiring authorities are currently the final decision maker for their own infrastructure projects but must have regard to recommendations by territorial authorities. There is no proposal to change these powers.

Council's submission supports the option of a second tier of designating authority (called Limited Requiring Authorities (LRAs)) and expanding it to enable electricity generators, ports, universities and other tertiary institutions, and private schools, to be able to designate. One option is for those existing requiring authorities which do not provide 'national infrastructure' to become

LRAs. The submission supports a proposal that the consent authority for designations by LRAs would be territorial authorities.

5.8. Strategic infrastructure planning

Description of option (see section 3.4 of the submission)

A new 'concept designation' mechanism would enable requiring authorities (but not LRAs) to identify future routes for strategic infrastructure for up to 25-30 years.

This would facilitate long term infrastructure planning by enabling corridors and sites to be protected for future development, even where funding and final design has not been finalised.

Comment

This option has been supported as it could be a useful tool for Wellington City, particularly in the provision of important road and public transport routes and other key infrastructure. However, historically long term designations led in some cases to underinvestment in areas and 'planning blight'. Long term concept designations could potentially have similar effects unless appropriate checks and balances are put in place, as recommended in the submission.

Further analysis of these options is required to determine 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. The submission suggests a number of measures to ensure the appropriate checks and balances are in place to avoid unreasonable use of this significant power.

5.9. Streamlining designation & resource consent processes

Description of options

These options relate to:

- integrating multiple approval processes (designation approval, regional resource consents, Public Works Act consents and archaeological consents) into a single approval process for nationally significant infrastructure projects;
- streamlining designation processes and timelines.

Comment

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

Aligning designation processes with resource consent notification and timelines is supported in general for small designations. However, it has been noted that designations often involve large and complex projects where it may not be possible to meet these consenting timelines.

The submission also suggests archaeological consenting processes under the Historic Places Act be brought into the RMA.

5.10 Improving compensation and compulsory acquisition processes

A number of initiatives are proposed to improve compensation and acquisition processes. These have been supported.

5.11 Consultation and Engagement

No consultation has been taken place with external parties. The submission was prepared by a project team from Council's policy and planning, infrastructure and regulatory groups.

5.12 Financial Considerations

There are no direct financial implications resulting from the preparation of this submission.

5.13 Climate Change Impacts and Considerations

There are no direct climate change implications resulting from the preparation of this submission.

5.14 Long-Term Council Community Plan Considerations

There are no direct LTCCP implications resulting from the preparation of this submission.

6. Conclusion

A number of the options in the discussion paper promoting strategic planning and integrated provision of infrastructure have been supported. Spatial planning is supported in principle, but further work is required to identify an appropriate spatial planning model. Some options have not been supported as they would give too much power to requiring authorities at the expense of local decision making and with potential significant impacts on local communities.

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Supporting Information

1) Strategic Fit / Strategic Outcome

This submission is consistent with the Council's strategic outcomes for the city, particularly the Urban Development Strategy.

2) LTCCP/Annual Plan reference and long term financial impact

No implications.

3) Treaty of Waitangi considerations

No implications.

4) Decision-Making

This is not a significant decision.

5) Consultation

Consultation is not required for the submission on this discussion paper.

6) Legal Implications

There are no legal implications.

7) Consistency with existing policy

There are no implications for Council policy – the submission is consistent with Council policy.