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Better urban planning

Draft report – summary version

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August 2016

The New Zealand Productivity Commission

Te Kōmihana Whai Hua o Aotearoa¹

How to cite this document: New Zealand Productivity Commission. (2016). Better Urban Planning Draft Report, Summary version. Available from www.productivity.govt.nz/inquiry-content/urban-planning

Date: August 2016

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ISBN: 978-0-478-44037-9 (online only)

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Linkedin NZ Productivity Commission

¹ The Commission that pursues abundance for New Zealand

Terms of reference

NEW ZEALAND PRODUCTIVITY COMMISSION INQUIRY INTO THE SYSTEM OF URBAN PLANNING IN NEW ZEALAND

Issued by the Minister of Finance, the Minister of Local Government, the Minister for Building and Housing, the Minister for the Environment, and the Minister of Transport (the “referring Ministers”).

Pursuant to sections 9 and 11 of the New Zealand Productivity Commission Act 2010, we hereby request that the New Zealand Productivity Commission (“the Commission”) undertake an inquiry into alternative approaches to the urban planning system.

Context

In its 2012 housing affordability report, the Productivity Commission noted:

Planning must take account of the Resource Management Act (RMA), the Local Government Act (LGA) and the Land Transport Management Act (LTMA). These statutes have different legal purposes, timeframes, processes and criteria. With multiple participants and decision-makers, there is no single mechanism for facilitating engagement, securing agreement among participants and providing information for robust decision-making. The Government should consider the case for reviewing planning-related legislation. (p10)

Development proposals are broken down into economic, infrastructure and environmental components, and examined separately according to relevant legislation. This disconnect can make it difficult to achieve quality integrated urban development. (p121)

The Commission recommended the Government “consider the case for a review of planning-related legislation to reduce the costs, complexity and uncertainty associated with the interaction of planning processes under the Local Government Act, the Resource Management Act and the Land Transport Management Act.”

These regimes underpin not just planning for housing but the productivity of New Zealand’s wider economy. Many parts of the regime have been in existence for considerable time and have evolved in a piecemeal fashion. International best practice has also moved on, and a fundamental review of the urban planning system is due.

Scope and aims

The purpose of this inquiry is to review New Zealand’s urban planning system and to identify, from first principles, the most appropriate system for allocating land use through this system to support desirable social, economic, environmental and cultural outcomes.

The review should identify options to align the priorities of actors and institutions within these regimes, where possible; improve economic, environmental and community outcomes through urban planning; and to deliver optimal efficiency in the delivery of these outcomes.

This will include identifying the most effective methods of planning for and providing sufficient urban development capacity including residential, commercial, industrial and place-based amenity uses, supporting infrastructure and linkages with other regions.

The review should look beyond the current resource management and planning paradigm and legislative arrangements to consider fundamentally alternative ways of delivering improved urban planning, and subsequently, development.

It should also consider ways to ensure that the regime is responsive to changing demands in the future, how national priorities and the potential for new entrants can be considered alongside existing local priorities and what different arrangements, if any, might need to be put in place for areas of the country seeing economic contraction rather than growth.

The scope of this review should include, but not be limited to the kinds of interventions and funding/governance frameworks currently delivered through the Local Government Act, the Resource Management Act, the Land Transport Management Act and the elements of Building Act, Reserves Act and Conservation Act relating to land use (as well as the formal and informal processes, institutions and practices around these pieces of legislation).

The review should also consider the interaction of the urban planning system with planning for other regions and identify those areas where broader system-level change is needed to deliver more efficient urban planning.

The inquiry should cover:

- Background, objectives, outcomes and learnings from the current urban planning system in New Zealand, particularly:
 - how environmental and urban development outcomes have changed over the last twenty years
 - explaining the behaviour, role and capability/capacity of councils, planners, central government, the judiciary and private actors under the regime.
 - the tendency for increasing complexity and scope creep of institutions and regulatory frameworks.
- Examination of best practice internationally and in other cases where power is devolved to a local level in New Zealand.
- Alternative approaches to the urban planning system.

The report should deliver a range of alternative models for the urban planning system and set up a framework against which current practices and potential future reforms in resource management, planning and environmental management in urban areas might be judged.

Exclusions

This inquiry should not constitute a critique of previous or ongoing reforms to the systems or legislation which make up the urban planning system. Rather, it is intended to take a 'first principles' approach to the urban planning system.

Consultation

To ensure that the inquiry's findings provide practical and tangible ways to improve the performance of the urban planning system, the Commission should consult with Local Government New Zealand, the Society of Local Government Managers and the wider local government sector.

The Commission should also consult with the Parliamentary Commissioner for the Environment, non-governmental organisations, resource management practitioners and lawyers and affected industry groups; taking note of the significant bodies of work already produced by many of these groups.

Timeframes

The Commission must publish a draft report and/or discussion document, for public comment, followed by a final report that must be presented to referring Ministers by 30 November 2016.

HON BILL ENGLISH, MINISTER OF FINANCE

HON PAULA BENNETT, MINISTER OF LOCAL GOVERNMENT

HON DR NICK SMITH, MINISTER FOR BUILDING AND HOUSING, MINISTER FOR THE ENVIRONMENT

HON SIMON BRIDGES, MINISTER OF TRANSPORT

About the summary version

This summary version provides the key points, questions, findings and recommendations from the Productivity Commission's draft report as part of its inquiry *Better Urban Planning*.

The terms of reference for this inquiry invite the Commission to review New Zealand's urban planning system and to identify, from first principles, the most appropriate system for allocating land use through this system to support desirable social, economic, environmental and cultural outcomes. The inquiry will look beyond the current resource management and planning system to consider fundamentally different ways of delivering urban planning and development.

The report follows the release of the issues paper in December 2015, consideration of submissions; meetings with a wide range of interested parties; and the Commission undertaking its own research and analysis.

To see the full version of the draft report - including information on how to make a submission – please visit our website www.productivity.govt.nz.

Key inquiry dates

Submissions due on the draft report	03 October 2016
Engagement with interested parties on the draft report	August – November 2016
Final report to the Government	30 November 2016

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Overview

The Government has asked the Productivity Commission to undertake an inquiry into the system of urban planning in New Zealand. The main purpose of the inquiry is to “review New Zealand’s urban planning system and to identify, from first principles, the most appropriate system for allocating land use through this system to support desirable social, economic, environmental and cultural outcomes”. The inquiry will look beyond the current resource management and planning system to consider fundamentally different ways of delivering urban planning. The aim of the inquiry is to set out what a high-performing urban planning system would look like. In doing so, the Commission was asked to consider the background, objectives, outcomes and lessons from the current urban planning system in New Zealand as well as international best practice.

Why this inquiry is important

Well-functioning cities and urban areas matter a great deal to the wellbeing of New Zealanders. When cities function well, they provide greater access to and choices of housing, better protection of our natural environment and cultural values, and quality infrastructure at the right time in the right place. Well-functioning cities also provide greater choices of employment and higher wages, a wider pool of labour for firms, and more opportunities for specialisation, innovation and easier transfer of ideas – the engine of economic prosperity.

Successful cities are not only places where people work; they are also attractive places where people consume goods and services, play and are creative, all within urban areas that have atmosphere and unrivalled access to a wide range of amenities. Successful New Zealand cities also acknowledge the special relationship of Māori with the land on which cities are built, and provide “great spaces and places for Māori to be Māori” (Ngā Aho & Papa Pounamu, 2016, p. 31).

But the growth of cities also creates costs as a result of people working and living in close proximity to one another. Costs include pressure on infrastructure, congested roads and long commutes, air pollution and degradation of the natural environment, as well as unavailability of affordable housing. Urban growth can also lead to social exclusion through segregation of people across space by income. These costs put a premium on good city organisation and planning where the advantages of urban growth and city living can be enjoyed and the costs and negative impacts of such growth can be effectively minimised.

What makes a high-performing city?

The “first principles” mandate of this inquiry led the Commission to investigate the nature of cities, and the factors that contribute to their success (Chapter 2). Most of the benefits from cities are created by the innumerable decisions that people and firms make about where best to locate, trade and meet. As urbanist Jane Jacobs observed, the “point of cities is multiplicity of choice.” Rising incomes and new technologies mean that these preferences shift over time. Land that was once best employed for manufacturing may now be ideally-placed for new retail or residential units. As a result of these wider social developments, cities evolve in unexpected and unpredictable ways.

A number of factors stand out as important underlying drivers of high performing cities (Box 1).

Box 1 Factors that make a successful city

- Planning frameworks are responsive and are able to adapt to changing values, preferences, technology, populations and demographic patterns, economic trends, and expectations.
- Development capacity is sufficient for housing and other land uses to meet demand. Reasonably priced housing makes it easier for workers to move to locations and jobs where they can best use their skills.

- Infrastructure investments are coordinated effectively with land supply and population growth. This means well-coordinated transport infrastructure that enables residents to get to work at a wide range of locations, at reasonable cost and in a reasonable time. It also means the land for public streets, infrastructure networks and public open spaces being planned and secured well before development begins. In this way infrastructure plays an important “city shaping” role.
- Effective governance arrangements that integrate land use with the provision of infrastructure and public amenities in a complex, rapidly evolving environment. This includes a strong interface between all levels of government.
- The quality of the natural environment in urban areas is managed effectively. This acknowledges that the natural environment plays a major role in the liveability of cities, most notably through the provision of substantial ecosystem services.
- Development supports the social and economic participation of residents from all areas of the city.
- Social, cultural and creative vibrancy.

Planning can contribute to wellbeing

While the choices of people and firms are the driving force behind how cities grow and evolve, urban planning makes three main contributions to wellbeing. The first contribution is to ensure that people and firms appropriately consider any negative impacts on others and the natural environment. One implication of people living and working close to each other is that decisions about land use can affect others. Urban planning can help manage conflicts between people, by setting up rules and policies to minimise significant harms on others and by setting up processes to reach decisions on competing interests.

Second, urban planning can also create the opportunities and conditions that enable people and firms to make their decisions. This is seen most clearly in the organisation and provision of infrastructure, where the supply of water pipes and roads is needed before development can take place. Third, urban planning can ensure that communities have access to the public spaces, facilities and amenities that help support wellbeing and vibrancy in cities

However, there are limits to what planning can achieve, and attempts to steer cities in particular directions can be harmful. To make the greatest contribution to wellbeing, planning systems need to be open to growth, able to respond to unexpected change, and respectful of the decisions made by individuals and firms.

In examining alternative planning approaches and design attributes that could form the basis of a future planning system in New Zealand, the Commission has been guided by the extent to which the following four goals are likely to be achieved:

- flexibility and responsiveness - ability to change land uses easily;
- provision of sufficient development capacity to meet demand;
- mobility of residents and goods to and through the city; and
- ability to fit land-use activities within a defined biophysical envelope.

Outcomes from the current system

An important avenue of investigation for this inquiry is getting a sense of whether the urban planning system in New Zealand has delivered the outcomes expected of it. The planning system is governed by three main statutes – the Resource Management Act 1991 (RMA); the Local Government Act 2002 (LGA); and the Land Transport Management Act 2003 (LTMA). The RMA is primarily a regulatory statute, while the LGA and the

LTMA govern budgeting, service and infrastructure provision and planning. The purposes of the three principal planning Acts suggest that the main outcomes sought from the planning system are the maintenance of or improvements in environmental quality, the supply of local infrastructure and services in a timely and cost-effective manner and to desired standards, and the safe and reasonably easy movement of goods and people.

Given the focus of this inquiry on urban planning, the Commission has focussed on those environmental outcomes most closely connected to cities, urban development and land use. These include air quality, drinking and recreational water quality, and climate change. For urban outcomes, the Commission has focused on four measures that reflect the purposes of the current Acts, are essential to the effective functioning of cities, or both. These measures are:

- the availability of sufficient development capacity to respond to population growth pressures;
- the speed and safety with which people and goods can move around a city;
- the extent to which essential infrastructure and services (eg, roads, water treatment, waste management, public transport) keep pace with demand and are maintained; and
- the ability of local residents and governments to fund essential infrastructure and services over time.

Available data provides a mixed picture of the performance of the urban planning system in New Zealand. (Box 2)

Box 2 **Outcomes from the current urban planning system**

- Air quality generally complies with national standards, is good by international levels, and has improved against some measures. Despite these improvements, air quality problems remain in some smaller New Zealand cities and towns.
- The proportion of New Zealanders serviced by safe drinking water has increased over time, reflecting more effective regulation, support from central government and increased investment from local authorities in water treatment.
- The quality of fresh water is generally lower in waterways that flow through urban areas. The sources of pollution in urban waterways typically include sewage leaks and stormwater run-off.
- Net and total greenhouse gas emissions have increased by 54% and 26% respectively since 1990.
- Development capacity has failed to keep pace with demand in New Zealand's fastest growing cities. Partly as a result, housing affordability has deteriorated significantly over the past 25 years. People on lower incomes feel the burdens of this deterioration most heavily.
- Urban congestion levels have been broadly steady for the past 10 years, and traffic-related accident and fatality rates have been falling since the 1970s. Despite improvements, New Zealand has a relatively high rate of traffic-related deaths compared with other developed countries.
- New Zealand has low levels of public transport use by developed world standards. The rates of public transport use have been broadly stable since the early 2000s.
- More New Zealanders live in dwellings connected to systems for treating sewage than the OECD average. New Zealand sewerage systems appear to score somewhat poorly against a number of international benchmarks.

The ability of councils to change or improve outcomes through the planning system depends to a large degree on whether local government is the primary actor. Changes in technology and consumer preferences, and central government policy, can be more significant factors. However, the muted effects on many urban and environmental outcomes described above point to weaknesses in the design and operation of the New Zealand planning system.

Underlying political dynamics have constrained the effectiveness of the planning system for both urban and environmental outcomes. For environmental outcomes, these dynamics include pressure both from some sectors not to regulate pollution stringently. In the urban environment, these dynamics include pressure from incumbents to introduce restrictive land use rules and not raise rates or debt to pay for the infrastructure required to enable new development. Any new planning system needs to consider, and manage, these dynamics.

Urban trends in New Zealand

The inquiry investigated a number of important urban trends in New Zealand cities. A rich picture of spatial transformation can be observed, which raise important policy issues and insights for this inquiry (Box 3).

Box 3 New Zealand urban trends

- New Zealand is a largely urbanised country, yet this result is highly dependent on how an 'urban area' is defined. The commonly cited figure that 86% of New Zealanders live in urban areas is based on a New Zealand-specific definition that includes cities and small towns. Other common definitions lead to lower levels of urbanisation.
- Population growth in New Zealand has been unequally distributed, with much growth concentrated in or near Auckland while most other main urban areas have grown either modestly or not at all. Populations have mostly declined in smaller urban areas. These trends are projected to continue.
- Auckland is larger, younger, denser, faster growing and more ethnically diverse than other New Zealand cities. Strong natural increase and international migration have driven its growth.
- New Zealand cities tend to grow out rather than up. Except for Wellington, recent urban growth has largely occurred in outer suburbs.
- New Zealanders in cities are living closer together. In particular, the populations of Auckland and Wellington have become significantly denser over the last 15 years. Both cities are among the densest in Australasia, although they are not very dense by international standards.
- Significant income and education disparities exist in New Zealand's largest cities. People who earn more and are more educated cluster in inner suburbs and suburbs with natural amenities, while those who earn less and who are less educated tend to live in the outer suburbs.
- Many New Zealand councils have policies aimed at creating a compact urban form for their cities, yet most have struggled to meet this goal. While cities have become denser overall, growth tends to be accommodated largely through developing land in outer suburbs, rather than through the sought-after intensification of inner-city areas. Barriers to densification include a lack of development capacity and community support for inner-city living.

A diagnosis of the current planning system

The Commission has reviewed the component parts of New Zealand's urban planning system and identified a number of institutional, legislative, regulatory and process deficiencies that hamper its performance and achievement of the above urban planning goals.

Institutions, legislation and processes

The starting point for reviewing New Zealand's urban planning system is the efficacy and workability of the three primary statutes – the RMA, the LGA, and the LTMA. The founders of the RMA envisaged it as an enabling statute that would produce “tightly targeted controls that have minimum side effects” (Upton, 1991). The RMA has failed to deliver on this goal. The carrying over of old traditions and institutions from the former Town and Country Planning Act 1977, capability gaps, and insufficient checks on regulatory quality contributed to this failure.

The debate about the meaning of core concepts within the RMA and LGA has been considerable. This debate has led to rising frustration with the performance of the RMA (particularly in handling growth pressures in urban areas) and successive legislative amendments. Repeated amendment to the planning statutes have increased their complexity and reduced their coherence.

Fundamentally, the planning system aims to deal with conflicts between competing demands for resources (eg, land, clean air, fresh water), competing citizen interests and competing values (eg, development, amenity, and environmental protection). Yet the current system makes the resolution of these conflicts harder than it should be.

An important conclusion of this inquiry is that the planning legislation lacks clarity and focus. Chapters 7 and 8 outline how ambiguous and broad language in the RMA and LGA has led to a regulatory overreach in urban areas, and a lack of stringency in the regulation of the natural environment. Overreach in urban areas has created unduly restrictive rules that obstruct development, unhelpful exercises of regulatory discretion and unnecessary conflicts and costs.

Setting clear priorities within the planning system is particularly difficult (with the exception of the land transport system). The broad framing of Part 2 of the RMA (which sets out the Act's purpose and principles) provides limited guidance on how to differentiate important from less-important natural environmental issues, and does not give prominence to urban issues. Central government has a number of tools it can use to emphasise particular issues or approaches (such as National Policy Statements (NPSs) and National Environment Standards (NESs)). Yet such instruments can sometimes be slow to prepare and translate into local plans and policies, and have no clear hierarchy. It is unclear, for example, what a council should do when it faces conflicts between different national instruments.

At the local level, as the Parliamentary Commissioner for the Environment has observed, the RMA provides little guidance as to which environmental effects councils should focus on when considering resource consent applications; all “are to be avoided, remedied or mitigated – regardless of their importance” (2014, p. 1)

Planning decisions have local and national impacts. A lack of central government presence in the urban planning system has meant that the planning system has not represented the national interest well for many years. This has led to unbalanced decisions. For example, decisions that suit some local concentrated interests, but have harmful wider effects, most notably rising land and housing costs.

Central government currently lacks the capability and systems needed to support well-informed, proportionate, and timely intervention and effective engagement with local authorities on planning issues. This limits the central government's ability to understand local planning issues and engage meaningfully with councils over the impact and suitability of their proposed land use rules and policies.

Finally, another important finding of this inquiry is that the planning system lacks responsiveness. The planning system is not well set-up to deal with the change and unpredictability inherent in growing cities. Decision-making processes to change land use rules are slow and uncertain, partly due to the multiple avenues open to relitigate them in the courts. Resistance to change from some local residents, an indiscriminating approach to avoiding adverse effects, and infrastructure funding tools that do not adequately reflect or recover costs or account for the risk placed on councils also inhibit the system's ability to respond promptly to growth pressures.

What changes are needed?

The Commission has identified a number of priority areas for change.

Clearer distinctions between the built and natural environment

The natural and built environments require different regulatory approaches. The natural environment needs a clear focus on setting standards that must be met, while the built environment requires assessments that recognise the benefits of urban development and allow change. Current statutes and practice blur the two environments, provide inadequate security about environmental protection and insufficient certainty about the ability to develop within urban areas. Rather than attempting to regulate these different issues through the same framework, a future planning system should clearly distinguish between the natural and built environments, and clearly outline how to manage the interrelationship between the two.

Greater prioritisation

A future system should be clearer about its priorities, especially at a national level and regarding land use regulation and infrastructure provision. New Zealand's system is unusual by international standards in that central government has relatively blunt tools with which to signal its priorities, and key legislation (ie, the RMA) provides little guidance. Early critics of the RMA charged that, in leaving so much indeterminacy in the Act's language, Parliament had abdicated its rule-making responsibilities, leaving the courts to resolve difficult issues (McLean, 1992; Harris, 1993). This reflects unresolved tensions within the RMA around the balancing of environmental and socio-economic interests. One area where the system adequately identifies priorities is land transport management. A future planning system would benefit from applying elements of this model more broadly.

More responsive infrastructure provision

A future planning system needs to be responsive in providing key infrastructure, especially where cities are facing high population growth. Infrastructure is a binding constraint on increases in the supply of development capacity, and on the ability to respond to growth pressures. A future planning system needs a clearer statutory framework for water services, funding mechanisms that better recover costs and reflect the risks involved, better procurement practices, and tools for councils to manage pressures on existing assets.

A more restrained approach to land use regulation

A future planning system should only apply rules where there is a clear net benefit, where the link to externalities is clear, and where alternative approaches are not feasible. This implies:

- broader zones that allow more uses,
- greater reliance on pricing and market-based tools rather than rules;
- less use of subjective and vague aesthetic rules and policies;
- greater use of local evidence to support land use rules, instead of relying on heuristics generated from overseas studies (eg, assumptions that higher-density urban areas necessarily result in their residents behaving more sustainably); and
- clearer and broader "development envelopes" within which low-risk development is either permitted or only subject to minimal controls.

Stronger capabilities within councils and central government

A key lesson from the implementation of the RMA is that successfully introducing a new planning regime is not just about replacing legislation. It also requires changes to the underlying institutions – both formal and informal – and capability and culture. In particular, a future planning system would place greater emphasis on rigorous analysis of policy options and planning proposals. Councils will need to build their technical capability in areas such as environmental science and economics. Soft skills such as communication, mediation and facilitation skills will need strengthening, as well as an understanding of Māori worldviews.

Central government will also need to improve its urban planning capability and knowledge of the local government sector more generally (Chapter 12).

A future planning framework

This section sets out what a high-performing planning system would look like. As such, it provides a framework against which to judge current practice and potential reforms in resource management, planning and environmental management in urban planning.

A presumption that favours development in urban areas, subject to clear limits

The legislation governing urban planning would clearly specify that the primary purposes of the planning system are to:

- enable development and changes in land use;
- ensure the provision of sufficient development capacity to meet demand; and
- promote the mobility of people and goods to and through cities.

The legislation would also make clear that urban development would need to fit within biophysical limits (specified through the Government Policy Statement (GPS) on environmental sustainability, outlined below).

Clearer legislative purposes will provide better guidance to councils on the sorts of land use rules and policies that should be put in place. A permanent independent hearings panel (IHP) would then scrutinise these proposed rules against the legislative purposes (Chapter 7). Clearer purposes would also give councils greater scope to accept only private Plan changes that promoted the goals of flexibility, sufficient supply, mobility, or fitting urban development within biophysical limits.

Factors that should help to encourage more responsive infrastructure provisions in support of development include:

- the greater availability of value capture mechanisms (such as targeted rates that capture the uplift that arises from rezoning);
- more use of pricing for water and roads;
- clearer statutory arrangements for water infrastructure; and
- better aligned legislative planning requirements (Chapters 9 and 10).

Councils would be encouraged to adopt more sophisticated approaches to procuring infrastructure, and central government could provide greater advisory support to local authorities wishing to use such tools (eg, public-private partnerships).

A clearer set and hierarchy of priorities for the natural environment

In a future planning system, central government would issue a GPS on environmental sustainability that would have to be given effect to in local plans. This GPS would differ from the current NPSs and NESs in that it would lay out clear environmental priorities and articulate principles to help decision makers prioritise environmental issues when faced with scarce resources or conflicting objectives.

The aims of replacing NESs and NPSs with a single GPS on environmental priorities would be to:

- focus the efforts of the planning system on protecting aspects of the natural environment most at risk or under pressure;
- provide clearer guidance to councils on where to put their resources;
- encourage central government to regularly review the state of the environment and identify priority areas for action; and

- coordinate the environmental protection efforts of local government (through planning) and central government (through its regulatory and funding levers).

As it can take some time to change plans and implement new policies, the GPS will need to have some longevity.

Ideally, the development of each GPS would be informed by scientific advice on the state of the environment, and on the most significant threats to its health. Chapter 8 cited some criteria from the Parliamentary Commissioner for the Environment which could be used to guide advice on an environmental GPS.

More, and more robust, environmental management tools

Rather than relying primarily on rules and other command and control methods, councils would have access to a wider array of policies, including market-based tools. Under a future planning system, central and local government would work more closely to:

- develop standardised methods, data and assumptions to inform effective and locally tailored strategies for adapting to climate change; and
- remove barriers to the development and use of market-based instruments.

More effective management of cumulative effects is a priority for any future planning system. The existing “predict and control” approach struggles to cope with the complexity and uncertainty of natural systems. A greater emphasis on adaptive management is needed.

Infrastructure pricing and funding that more accurately reflects actual costs, use and impacts

The prices charged for installing and using infrastructure under a future planning system would better reflect the actual costs of providing and operating those assets, and the negative externalities created by overuse. This will help to encourage more efficient locational decisions by developers, ease congestion and discourage wasteful use of scarce resources. It would also help to avoid unnecessary investment and debt costs for councils. A clearer process for central and local government to identify, assess and agree on large-scale “city-shaping” infrastructure works should help projects with wider spillover benefits to emerge and succeed. There is also scope for local authorities to make greater use of innovative procurement models, such as public-private partnerships. A future planning framework should ensure councils have the capability to use such infrastructure delivery models (Chapters 9 and 10).

Rezoning and regulatory change that adapts more rapidly to circumstances

Instead of every change in Plan provisions and land use regulations going through the Schedule 1 process, under a future planning system a larger share of land use rules would change automatically in response to pre-identified, objective triggers. In urban areas, this could include land prices hitting certain thresholds or the installation of specified infrastructure. In rural areas, land use rules could be linked to predetermined environmental standards (eg, if nutrient levels in rivers increase beyond particular levels, more stringent controls could be “switched on”). This would provide a more responsive regulatory environment.

Similarly, where price differentials between land zoned for development and non-developable land at the fringe of cities exceed thresholds set by central government, local authorities will be obliged to provide more development capacity, either through “upzoning” within established areas or through rezoning and servicing new greenfields land (NZPC, 2015). Ensuring that the commitment to bring land price inflation under control is credible, and to act where the land price threshold is exceeded, will require the Crown to have the powers and capacity to ensure land is rezoned and serviced, if necessary.

A focus on those directly affected by change, not third parties

Notification requirements in a future planning system would be more squarely focused on those directly affected by a resource consent application or land use Plan change. This would better align the operation of

the system with its fundamental purpose of managing negative externalities. It would also reduce the opportunities for vexatious litigation, and increase the certainty and timeliness of decisions.

The general public would continue to be able to participate in the processes for reviewing land-use plans, but the ability to appeal council decisions on a Plan would be limited. Only those individuals or groups who could demonstrate that the changes in policy or rules would directly affect them would be able to appeal. Where the council accepted the recommendations of the permanent IHP on a change or review of a Plan, no individual or group could then appeal.

A different role for the Environment Court

The Environment Court would play a different role under the planning system proposed by the Commission. The introduction of a permanent IHP, narrower notification criteria, and more limited abilities to appeal council decisions on regulatory plans for land use, would reduce the Court's workload. This would help provide greater finality and certainty about regulatory decisions.

The Court would, however, still be needed to hear cases where:

- councils rejected recommendations from the IHP;
- directly affected parties wished to challenge a consent decision;
- applicants wanted to challenge resource consent decisions or conditions; or
- decisions of national importance were "called in".

The Environment Court would also continue to have roles and functions under other statutes.

More representative, less rigid consultation

Consultation processes about land use rules would be less regimented under a future planning system, and councils would face higher expectations. They would actively seek to:

- encourage and enable participation by people affected, or likely to be affected, by a decision; and
- understand the perspectives and interests of the full range of the community, not just those who take part in formal consultation processes.

Instead of having to use the prescriptive and rigid approach laid out in Schedule 1 of the RMA, councils would have more flexibility to select the consultation or engagement tool most appropriate to the issue under consideration (Chapter 7).

Continued recognition and protection of Māori interests

Māori have a broad range of interests in both urban development and the protection of the natural environment (Chapter 11). So there should continue to be an expectation under a future planning system that councils will engage with Māori/iwi early on in the development and review of Plans, and clear provisions to ensure that engagement. This should include the tools that currently exist in planning and other related statutes (eg, devolution and joint management arrangements), and in current planning practices (eg, the identification and protection of sites of significance to Māori and the use of cultural impact assessments).

Spatial planning as a core, and fully integrated, component

Spatial plans should be a standard and mandatory part of the planning hierarchy in a future system. New and expanded infrastructure increases the supply of development capacity and can improve the mobility of people and goods. Signalling the future location and timing of infrastructure investment is therefore important for the efficient and effective operation of land markets, and for the achievement of the goals of a future planning system. Ensuring that sufficient land (for public streets, other infrastructure networks and public open spaces) has been secured and planned ahead of development is also important for the efficient future growth and operation of cities.

In recent years a number of local authorities have recognised these benefits and adopted spatial plans that lay out their long-term vision for urban development and help to align land-use planning and the provision of infrastructure. Yet these spatial plans have no official status under the RMA, which leads to frustrating duplication of process.

Making spatial plans a formal and mandatory part of the planning system risks adding to the system’s overall cost and complexity. Given the focus of spatial plans on infrastructure and transport planning, there would seem to be opportunities to partially or fully replace the infrastructure strategy requirements of the LGA and regional land transport plan requirements of the LTMA with a properly defined spatial plan. Removing some other elements of the current planning hierarchy may also be possible.

To ensure that spatial plans are sufficiently flexible to cope with the uncertain growth and evolution of urban areas over time, councils should use real-options analysis when preparing them.

Central government as a more active partner in the planning process

Central government would more clearly signal the national interests in planning decisions, and would monitor the overall performance of the planning system in meeting national goals (ie, flexibility, sufficient development capacity and accessibility) and environmental priorities.

Because poor local planning decisions can create wider social costs and residual risks for the government, central government will continue to need intervention powers. These would include the ability to override local plans in a limited set of circumstances, to co-ordinate or require common land use regulatory approaches to specific issues (eg, the installation of utilities), and to direct council infrastructure units or providers where there is a need to ensure a credible commitment to reducing land prices.

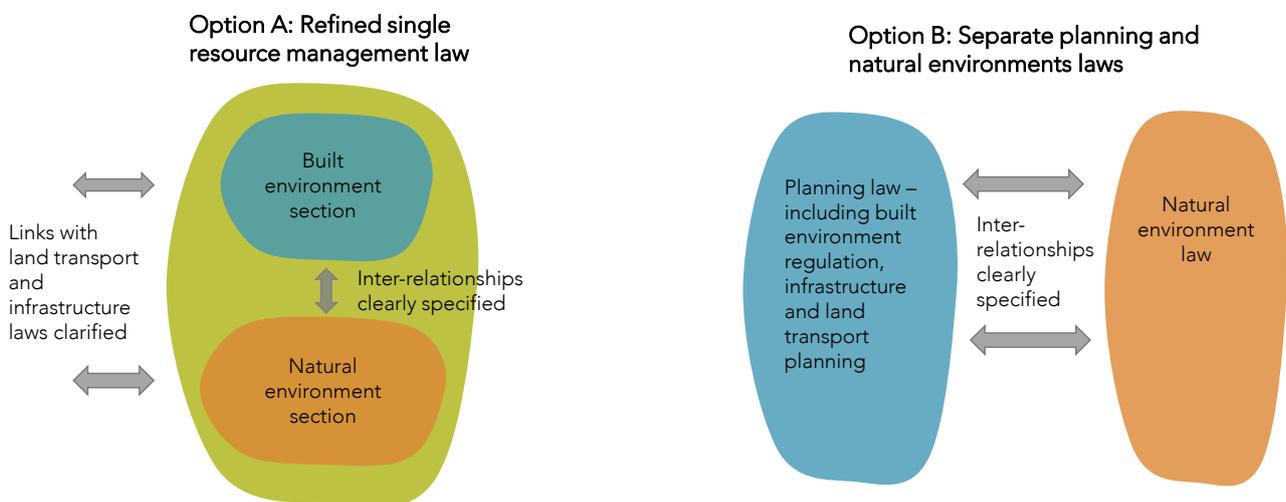
Issues still to be resolved

The Commission is seeking feedback on two issues still to be resolved

Legislative separation of planning and environmental protection?

Setting the goal of having clearer distinctions between the natural and built environments raises the question of how to reflect this in legislation. The Commission has considered two approaches – retention of a single resource management law, but with clearly separated natural and built environment sections; and establishment of two laws, which regulate the built and natural environment separately (Figure 1). Under either approach, the Commission envisages land use legislation having separate purposes and definitions for the natural and built environments. Feedback is sought on which approach would work better.

Figure 1 Two possible future legislative models



Centralisation of environmental enforcement, or greater oversight of regional councils?

Making progress on environmental priorities will require more robust monitoring and enforcement. Performance by regional councils on this front has been disappointing. Monitoring efforts are often under-resourced and enforcement decisions show evidence of some political interference (Chapter 6). This raises the question of whether different institutional arrangements would lead to better performance.

One option is to expand the Environmental Protection Authority's (EPA) role to take over national environmental regulation, enforced and monitored through a network of regional offices. A less radical alternative would be to increase oversight of council monitoring and enforcement activities. For example, the EPA or Environment Ministry could be explicitly given responsibilities to audit and report publicly on the monitoring and compliance performance of regional councils.

Feedback is sought on which of these two options would be the most effective in monitoring and enforcing environmental regulation.

Conclusion

High-performing cities have planning arrangements that enable them to succeed in a complex and dynamic environment with unpredictable long-term outcomes. Well-designed urban planning systems can contribute to greater wellbeing by helping to manage the inherent conflicts between competing citizen interests, competing values, and competing demands for resources. By providing the necessary institutional and regulatory architecture for people to make choices about their future, planning systems help to maximise the considerable benefits of living and working in cities while minimising the costs.

However, while urban planning has a legitimate and important role in addressing distinct problems of urban development, there are limits to what planning can achieve. Overly intrusive and restrictive planning will sap the dynamism of cities and erode the benefits from living and working in cities.

A review of the component parts of New Zealand's urban planning system has identified a number of deficiencies that are discussed in this report. The Commission has found that the current planning system is slow to adapt and is risk averse. Processes for updating land use rules are slow and uncertain. There is too much unnecessary, poorly-targeted regulation. Many councils have sought to manage or direct the evolution of cities in highly-detailed and prescriptive ways. Resistance to change from local residents and barriers to funding new infrastructure also inhibit a city's ability to grow and respond to change.

The system's problems have their roots in both its design and implementation. Ambiguous and broad language in current planning laws has led to overly restrictive rules in urban areas, 'scope creep', and an under-emphasis on the natural environment. The relevant primary legislation does not give prominence to urban issues, and it is difficult to set clear priorities for the natural environment. The lack of central government guidance has led to decisions that suit local interests, but which have negative wider impacts such as rising land and housing prices.

A future planning system should be forward-looking, responsive and adaptive. This means a more restrained approach to land use regulation, infrastructure that is delivered at the right time and at the right place, and infrastructure pricing and funding that more accurately reflects actual costs, use and impacts.

A new system should also make a clearer distinction between the built and natural environment and unambiguously state the important priorities, especially at the national level. This would provide the necessary guidance to councils on how to apply the law and where to put council resources.

Finally, and importantly, any future planning system will not be successful unless there are stronger professional capabilities at both the local and central government level, along with an organisational culture that is fit for purpose to meet the new demands of a future planning system. The absence of these aspects is perhaps the most important lesson and legacy from implementing the RMA.

In a future planning system, a different relationship between both levels of government will be required, one that is based on mutual understanding, collegiality and effective interactions, as both are mutually dependent on each other for their success.

As Ed Glaeser, the eminent Harvard economist says in his book, *Triumph of the cities* (2011); 'cities are humanity's greatest invention, they make us richer, smarter, greener, healthier, and happier'. To realise the potential of our greatest invention requires the best urban planning framework that we can devise. This draft report sets out what such a framework would look like and seeks feedback from interested parties on this.

Summary of questions

Chapter 7 – Regulating the built environment

Q7.1

Would it be worth moving to common consultation and decision-making processes and principles for decisions on land use rules, transport and infrastructure provision? How could such processes and principles be designed to reflect both:

- the interest of the general public in participating in decisions about local authority expenditure and revenue; and
- the particular interest of property owners and other parties affected by changes to land use controls?

Do the consultation and decision-making processes and principles in the Local Government Act adequately reflect these interests?

Q7.2

Should all Plan changes have to go before the permanent Independent Hearings Panel for review, or should councils have the ability to choose?

Q7.3

Would the features proposed for the built environment in a future planning system (eg, clearer legislative purposes, narrower appeal rights, greater oversight of land use regulation) be sufficient to discourage poor use of regulatory discretion?

Q7.4

Would allowing or requiring the Environment Court to award a higher proportion of costs for successful appeals against unreasonable resource consent conditions be sufficient to encourage better behaviour by councils? What would be the disadvantages of this approach?

Q7.5

Would it be worthwhile requiring councils to pay for some, or all, costs associated with their visual amenity objectives for private property owners? Should councils only rely on financial tools for visual amenity objectives, or should they be combined with regulatory powers?

Chapter 8 – Urban planning and the natural environment

Q8.1

What should be the process for developing a Government Policy Statement (GPS) on Environmental Sustainability? What challenges would developing a GPS present? How could these challenges be overcome?

Q8.2

Would a greater emphasis on adaptive management assist in managing cumulative environmental effects in urban areas? What are the obstacles to using adaptive management? How could adaptive management work in practice?

Chapter 9 – Urban planning and infrastructure

Q9.1

Which components of the current planning system could spatial plans replace? Where would the greatest benefits lie in formalising spatial plans?

Chapter 10 – Infrastructure: funding & procurement

Q10.1

Is there other evidence that either supports or challenges the view that “growth does not pay for growth”?

Q10.2

Would there be benefit in introducing a legislative expectation that councils should recover the capital and operating costs of new infrastructure from beneficiaries, except where this is impracticable?

Q10.3

Would alternative funding systems for local authorities (such as local taxes) improve the ability to provide infrastructure to accommodate growth? Which funding systems are worth considering? Why?

Q10.4

Would there be benefit in allowing councils to auction and sell a certain quantity of development rights above the standard controls set in a District Plan? How should such a system be designed?

Q10.5

Should a requirement to consider public-private partnerships apply to all significant local government infrastructure projects, not just those seeking Crown funding?

Chapter 11 – Urban planning and the Treaty of Waitangi

Q11.1

What policies and provisions in district plans are required to facilitate development of papakāinga?

Q11.2

How can processes involving both the Te Ture Whenua Act 1993 and the Resource Management Act 1991 be better streamlined?

Q11.3

Do councils commonly use cultural impact assessments to identify the potential impact of developments on sites and resources of significance to Māori? How do councils set the thresholds for requiring a cultural impact assessment? Who sets the fees for a cultural impact assessment and on what basis? What are the barriers to cultural impact assessments being completed in good time and how can those barriers best be addressed?

Q11.4

What sort of guidance, if any, should central government provide to councils on implementing legislative requirements to recognise and protect Māori interests in planning? How should such guidance be provided?

Q11.5

In what way, if any, and through what sort of instrument, should legislative provisions for Māori participation in land-use planning decisions be strengthened?

Chapter 13 – A future planning framework

Q13.1

What are the strengths and weaknesses of these two approaches to land use legislation? Specifically:

- What are the strengths and weaknesses in keeping a single resource management law, with clearly-separated built and natural environment sections?
- What are the strengths and weaknesses in establishing two laws, which regulate the built and natural environment separately?

Q13.2

Which of these two options would better ensure effective monitoring and enforcement of environmental regulation?

- Move environmental regulatory responsibilities to a national organisation (such as the Environmental Protection Authority).
- Increase external audit and oversight of regional council performance.

Findings and recommendations

The full set of findings and recommendations from the report are below.

Chapter 2 – High-performing cities

Findings

F2.1

The benefits of agglomeration result from innumerable decisions of people and firms to locate in cities. Planners do not have the information on personal preferences, capabilities, production technologies and business relationships that would enable them to engineer agglomeration benefits. Policy and planning that facilitate people and firms making location choices based on their own information and judgement are likely to produce the greatest benefits.

F2.2

City form evolves largely as the result of complex interactions of individual choices about where and how to live and conduct business. Over the longer run, the outcome of these choices, in terms of where and how a city will grow, is unpredictable.

F2.3

Well-performing cities provide an effective coordinated transport infrastructure that enables residents to get to work at a wide range of locations, at reasonable cost and in a reasonable time.

F2.4

As cities grow bigger, spatial inequalities (the segregation of people across space by income) emerge. Well-performing cities can ameliorate this tendency and its effects, through good planning and infrastructure provision that limit land price increases. Higher land prices force low-income people to live in suburbs with long travel times to available jobs and desirable amenities.

F2.5

A well-performing city uses formal and informal institutions at a sub-metropolitan level that build trust and enable residents to engage constructively in working through contested development plans and policies.

F2.6

Well-performing cities provide benefits to residents and to the wider economy through the delivery of an adequate supply of development capacity for housing. Reasonably priced housing makes it easier for workers to move to locations and jobs where they can best use their skills; and to access other amenities that make cities attractive.

Chapter 3 – A rationale for planning

Findings

F3.1

The three main and well-founded rationales for urban planning are to:

- regulate negative spillovers when people build structures, work and live near each other;
- make decisions about the provision and funding of local public goods to best meet the needs of residents; and
- invest in and run local and regional infrastructure to provide essential services for local residents and businesses; and to coordinate different infrastructure investments with land development.

F3.2

Land-use plans and planning systems vary on dimensions such as:

- whether plans focus more on outcomes than on prescriptive, detailed rules;
- whether land use regulations use directive, place-specific rules; or rules that simply prohibit types of effects on other property owners;
- the distribution of responsibilities and powers between the central government and local communities;
- the balance struck between local and national interests; and
- the extent that plans are integrated (vertically and horizontally).

F3.3

Cities present a challenge for urban planning, given that it is not possible to predict or control in a fine-grained manner their development paths. An overly directive approach to regulating land use in cities risks suppressing the diversity, creativity and entrepreneurship that successful cities display.

One response to the complex, adaptive nature of cities, is for planners to use a relatively few, simple rules that prohibit certain types of harmful spillover effects. Planners would otherwise leave households and businesses free to develop private land as they wish.

Another logical response is a collaborative, participative approach to city development in which local communities, within envelopes set by higher levels of government, work out their own provisional and adaptive solutions to emergent opportunities and threats that arise as cities develop.

Hybrids of these approaches are possible and may be optimal.

Chapter 4 – Urban trends

Findings

F4.1

The extent of New Zealand's urbanisation depends very much on the definition used. The commonly cited figure that 86% of New Zealanders live in urban areas is based on a New Zealand-specific definition. Other definitions indicate lower levels of urbanisation.

F4.2

Low-growth cities have older populations and tend to experience a greater decline in the share of their young adult population compared with faster-growing cities. As this age group makes up a large proportion of a city's working age population, population decline is likely to have a negative impact on average income growth.

F4.3

The populations of Auckland and Wellington have become significantly denser over the last fifteen years. Both cities are among the densest in Australasia, although they are not very dense by international standards.

F4.4

New Zealand cities tend to grow out rather than up. Except in Wellington, recent urban growth has largely occurred in outer suburbs.

F4.5

Spatial inequalities in levels of income and education exist in New Zealand's largest cities. Residents who earn more and are more educated tend to cluster in the inner suburbs and in suburbs with desirable natural attributes. By contrast, residents who earn less and are less educated tend to cluster in the outer suburbs.

F4.6

Many New Zealand councils have policies aimed at creating a compact urban form for their cities. Yet most have struggled to achieve this goal, particularly in densifying their inner-city suburbs.

Chapter 5 – The urban planning system in New Zealand

Findings

F5.1

There has been considerable debate about the purpose of the Resource Management Act 1991, and the practical implications of "sustainable management" for council plans and rules. Confusion about the purpose of the RMA in its early years made it harder for councils to develop and implement land use plans.

F5.2

The differing purposes of the three planning Acts create internal tensions, duplication, complexity and costs.

F5.3

The founders of the Resource Management Act envisaged it as an enabling statute that would produce "tightly targeted controls that have minimum side effects". The RMA has failed to deliver on this goal. Critics charge the RMA with creating excess costs, complexity and poor regulation, while many councils have struggled to make "effects-based" plans work.

F5.4

Appeal rights in New Zealand are broader than in other comparable jurisdictions. The ability to appeal provisions of Plans is particularly unusual.

F5.5

The carrying over of old traditions and institutions from the former Town and Country Planning Act, capability gaps, and local government restructuring, contributed to the Resource Management Act failing to achieve its potential.

F5.6

Although local authorities are required to ensure that their plans, policies and regulations are necessary, efficient and effective, these checks and balances have had disappointing effects.

F5.7

Apart from land transport, central government has, until very recently, played a relatively weak role in leading and managing the planning system.

F5.8

After decades of greater devolution of planning powers to local government, recent developments have seen a trend towards central control.

- Amendments to the Local Government Act have narrowed the purpose of local government, introduced more planning requirements, imposed standardised reporting obligations on councils, and given central government more powers to intervene.
- Amendments to the Resource Management Act have increased Ministerial powers to direct changes to plans, removed some decisions from councils, and increased the expectations for regulatory analysis.

F5.9

A notable recent trend has been legislative exceptions to the main planning system to meet the governance needs or challenges of particular areas (Auckland, Waikato and Canterbury), as central government has promoted national goals over local interests.

F5.10

Continual reform of the planning statutes has increased their complexity, reduced the coherence of the legislative frameworks, and made it harder for councils to implement the planning system and for the general public to participate in it.

Chapter 6 – Outcomes from the current system

Findings

F6.1

Air quality generally complies with national standards, is good by international levels, and has improved against some measures. However, air quality problems remain in some smaller New Zealand cities and towns.

F6.2

The proportion of New Zealanders serviced by safe drinking water is high and has marginally increased over time, reflecting tighter regulation, support from central government and increased investment from local authorities in water treatment. Compliance with drinking water standards is higher in more populous areas.

F6.3

Freshwater quality is generally lower in waterways that flow through predominantly urban areas. The sources of pollution in urban waterways typically include sewage leaks and stormwater run-off.

F6.4

Net and total greenhouse gas emissions increased from 1990 to 2014 by 54% and 23% respectively. Most of the increases were due to road transport activities, agriculture and reduced carbon dioxide absorption from forests.

F6.5

Housing affordability, as expressed as the portion of the community paying more than 30% of disposable income on housing, has deteriorated significantly over the past 25 years. People on lower incomes feel the burdens of this deterioration most heavily.

F6.6

Congestion levels in major New Zealand cities have been broadly steady for the past 10 years, and traffic-related accident and fatality rates have been falling since the 1970s. Despite recent improvements, New Zealand still has relatively high rates of traffic deaths by the standards of other developed countries

F6.7

Urban New Zealanders currently have good access to green space.

F6.8

New Zealand has low levels of public transport use by developed world standards, and rates of public transport use have been broadly stable since the early 2000s.

F6.9

A slightly higher proportion of New Zealanders live in dwellings connected to sewage treatment systems than OECD averages. Available comparative information suggests that New Zealand sewerage systems compare unfavourably against a number of international performance benchmarks.

F6.10

The absence of national standards and local or political resistance has limited the planning system's ability to manage pollution of fresh water or cumulative pollution.

Chapter 7 – Regulating the built environment

Findings

F7.1

The planning system shows considerable evidence of unnecessary, excessive and poorly-targeted land use regulations.

F7.2

Many local authorities in New Zealand discourage or prevent the development of commercial activity outside designated centres. Local and international experience with such policies suggests that they often fail to achieve their objectives and can act as barriers to competition and productivity growth.

F7.3

In trying to protect existing city and town centres, some New Zealand urban local authorities have sought to reduce retail and commercial competition from other locations.

F7.4

A number of councils apply very detailed controls on the types and sizes of businesses that can operate in particular zones. These controls are unlikely to be ideal, not least because such rules can take a long time to change and inevitably lag developments on the ground.

F7.5

Council requirements on some developments to undergo urban design assessments are leading to poor exercises of regulatory discretion. Urban design criteria can lack clarity and precision, and design advice to resource consent applicants can lack perspective, consistency, or a sense of their cost or economic implications.

F7.6

The planning system has struggled to provide adequate supplies of development capacity for residential and non-residential uses. A number of councils have tried to protect industrial-zoned land supplies, while the price of residential and commercial land has increased at much faster rates.

F7.7

The planning system has an inherent status quo bias and risk aversion, reflecting

- the incentives on property owners to oppose changes they perceive may put the value of their assets or character of their neighbourhood at risk, and the avenues open to them to pursue their interests;
- the pressure placed on councils not to set rules and policies that enable development; and
- an overemphasis in the implementation of the RMA on managing or avoiding adverse effects, which does not sit well with the dynamic nature of urban environments.

F7.8

The current planning system is too often blind to price signals, leading to poor responsiveness, and undersupply of development capacity, and misdirection of effort.

F7.9

Councils face procedural barriers in responding to changing circumstances and preferences through the planning system. The current processes for changing land use controls through the RMA can take considerable time to complete.

F7.10

Councils overuse land use rules in part because

- they lack some alternative tools (such as road congestion charges), and
- political barriers hinder the full use of existing alternative tools.

F7.11

The planning system lacks clear statutory limits. This has led the system to respond to a growing variety of social and other issues, without considering whether land use planning is the most effective and efficient mechanism for their resolution.

F7.12

Current institutional arrangements do not provide the level of scrutiny over land use regulation that they could. While the Environment Court plays an important role as a check on local authority regulation, it only has the opportunity to review those rules or provisions that have been appealed. As a result, only a limited proportion of a District Plan's rules are subject to thorough scrutiny.

F7.13

Central government lacks the capability and systems needed to support timely and well-informed intervention on issues of local land use regulation, or effective engagement with local authorities on planning issues.

Recommendations

R7.1

Future urban planning legislation should clearly prioritise responding to growth pressures, providing land use flexibility, and supporting the ability of residents to easily move through their city.

R7.2

Information about land price should be a central policy and monitoring tool in any future planning system, and should drive decisions on the release, servicing and rezoning of development capacity.

R7.3

A future planning system should allow for more responsive rezoning, in which land use controls can be set in anticipation of predetermined and objective triggers and activated once those triggers are reached.

R7.4

A future planning system should focus urban notification requirements (and any associated appeal rights) on those directly affected, or highly likely to be directly affected, by a proposed development. This would better align the planning system with the fundamental purpose of managing negative externalities.

R7.5

Any appeal rights on Plans in a future system should be limited to people or organisations directly affected by proposed plan provisions or rules.

R7.6

Consultation requirements under a future planning system should:

- give councils flexibility to select the most appropriate tool for the issue at hand;
- allow councils to notify only affected parties of Plan changes that are specific to a particular site;
- encourage and enable participation by people affected, or likely to be affected, by a decision; and
- encourage the use of tools that ensure the full spectrum of interests is understood in council decision-making processes, and that allow the public to understand the trade-offs involved in decisions.

R7.7

A permanent Independent Hearings Panel should be established to consider and review new Plans, Plan variations and private Plan changes across the country. As with the Auckland and Christchurch IHPs:

- councils should retain the rights to accept or reject recommendations from the permanent Independent Hearings Panel; and
- once a council accepts a recommendation from the permanent Independent Hearings Panel, appeal rights should be limited to points of law.

R7.8

A future planning system should enable councils to provide targeted infrastructure or services investment (eg, the expansion of green spaces or upgrades to existing community facilities) for areas facing significant change, to help offset any amenity losses.

R7.9

Central government should develop processes to more clearly signal the national interest in planning, and have protocols to work through the implications of these national interests with local authorities. It should also monitor the overall performance of the planning system in meeting national goals (ie, flexibility, sufficient development capacity and accessibility).

R7.10

In a future planning system, central government should have the power to

- override local plans in a limited set of circumstances,
- co-ordinate or require common land use approaches to specific issues, and
- direct council infrastructure units or CCOs to increase their supply, where the differential between the price of developable and undevelopable land exceeds a pre-determined threshold.

Chapter 8 – Urban planning and the natural environment

Findings

F8.1

Efficient management of the natural environment in urban areas requires an understanding of links between the different components of the natural system, and of how decisions that affect one component of the system influence other parts of the system. This requires specialist scientific knowledge supported by reliable data.

F8.2

Philosophical tensions are at the core of the Resource Management Act. Successive governments have failed to find a way to efficiently represent different perspectives and reconcile these tensions.

F8.3

Sustainability and sustainable development are core principles of New Zealand's planning system. Yet the philosophical lens through which actors in the system should interpret these concepts has never been clear.

F8.4

Failure to provide clarity around the purpose of the RMA has resulted in:

- interpretations of the statute that seem inconsistent with the reported intent of the Act;
- inconsistency in how councils administer the law;
- reduced accountability for public decision makers who lack clear benchmarks against which their performance can be assessed;
- regulatory creep as councils bring an ever-increasing scope of issues under the banner of "sustainable management"; and
- a loss of focus in urban areas on maintaining the integrity of ecosystem services.

F8.5

The Environmental Reporting Act 2015 is a significant step forward in the development of sound environmental data. However, it is unclear how the data collected will link with monitoring the effectiveness of land use regulation.

F8.6

Recent steps to strengthen central government oversight of the Resource Management Act have focused predominately on process indicators (such as the time taken to process consents) rather than the environmental outcomes of planning decisions.

F8.7

The core functions of urban planning will play an important role in adapting to climate change. This role will need to be reflected in any future planning system.

F8.8

Adapting to a changing climate will require more than simply strengthening planning legislation. Improvements in other parts of the planning system will be required, including:

- standardising the methods, data and assumptions used as the basis for developing adaptation strategies;
- improving understanding of the costs and benefits of alternative adaptation strategies (both within local and central government and within affected communities);
- identifying people, places and infrastructure that are most vulnerable to the impacts of climate change and prioritise them accordingly; and
- improving understanding of the interaction between existing stresses on the environment and the impacts of climate change.

F8.9

Evidence shows that increasing residential density can reduce vehicle use in some situations. But also it shows that local factors (other than density) are at least as important in influencing travel behaviour.

F8.10

Evidence on the proposition that higher-density cities in New Zealand are more environmentally sustainable is ambiguous at best.

Recommendations

R8.1

A future planning system should include a Government Policy Statement (GPS) on environmental sustainability. The GPS should:

- set out a long-term vision and direction for environmental sustainability;
- establish quantifiable and measurable goals against which progress would be monitored and reported on; and
- establish principles to help decision makers prioritise environmental issues when faced with conflicting priorities or scarce resources.

R8.2

Before attempting to use urban planning as a means of reducing GHG emissions in New Zealand, a more robust empirical research base should be developed reflecting New Zealand circumstances. Specifically, research should aim to improve the government's understanding of local factors that shape urban GHG emissions in New Zealand, and the extent to which urban planning can influence these factors.

R8.3

Central and local government should develop an agreed set of principles to govern the development of national regulations that have implications for the local government sector. This should be along the lines of the 'Partners in Regulation' protocol recommended in the Commission's report *Towards Better Local Regulation* (2013).

R8.4

When regulating urban spillovers affecting the natural environment, a future planning system should provide government bodies access to the full suite of policy tools including market-based tools.

Chapter 9 – Urban planning and infrastructure

Findings

F9.1

Infrastructure assets:

- are long-lived;
- are lumpy;
- are highly place specific and inflexible;
- are irreversible;
- are typically part of a network;
- need to be coordinated often; and
- may require public funding.

Providers of infrastructure are exposed to many risks, including that demand may be less than expected and their assets are underused or stranded. This puts a premium on effective planning, procurement, monitoring and funding processes.

F9.2

The current infrastructure planning and provision systems are insufficiently responsive, do not always align infrastructure supply and land use rules, and lack tools for the provision of city-shaping assets.

F9.3

Institutional and governance arrangements for “three waters” infrastructure act against responsive supply.

F9.4

Real-options analysis is a useful tool for planners making decisions about infrastructure and land use because it builds in flexibility to cope with the uncertain evolution of urban spaces over time. It can help planners reduce the risk of worse-than-expected outcomes and take advantage of upside opportunities as they emerge.

F9.5

Fragmented and small-scale water networks in New Zealand, the uncertain net benefits of mergers, and the high costs of setting up alternative institutions mean that the Commission does not see merit in proposing large-scale structural reform for urban water services. However, there is considerable scope for improved performance in the delivery of water services.

F9.6

Facilitated discussions involving central government, local government and private sector organisations can be effective in developing a shared understanding of land-use demand and associated infrastructure needs, and in prompting desirable investments.

F9.7

The Auckland Transport Alignment Project is a promising institutional innovation to enable the council of a major city and central government to work together and consider a central funding contribution when a major programme of urban infrastructure has national spillover benefits.

Recommendations

R9.1

Spatial plans should be a standard and mandatory part of the planning hierarchy in a future system. Spatial plans should be tightly defined and focus on issues closely related to land use, in particular the provision of water and transport infrastructure and community facilities (eg, green space, reserves, conservation areas, and libraries), protection of high value ecological sites, and natural hazard management.

R9.2

As part of the transition to a future planning system, central government should establish a centre of excellence or resource that councils could draw on to conduct real-options analysis in the development of land use plans.

R9.3

A future planning system should include institutions or formal processes through which councils and central government can work together to assess major programmes of urban infrastructure investment with wider spillover benefits.

Chapter 10 – Infrastructure: funding & procurement

Findings

F10.1

An efficient infrastructure funding system would consider three important issues: peak load pricing, connection charges and marginal cost pricing.

F10.2

Financial modelling provides some support for arguments made by councils that it can take a long time to recover the costs of new infrastructure.

F10.3

Financial, legislative and political barriers are limiting the ability of local authorities to efficiently recover the costs of infrastructure.

F10.4

Regulatory barriers do not seem to prevent councils from using PPPs. Yet the small scale of many local government projects and a lack of experience with PPPs may make councils and the private sector reluctant to engage in them.

F10.5

Examples such as the Waikato region Local Authorities Shared Services Limited illustrate the advantages for councils from joint procurement, particularly when this is founded on a regional approach to planning for infrastructure that extends beyond the boundaries of individual councils.

Recommendations

R10.1

A future planning system should allow councils to:

- set volumetric charges for both drinking water and wastewater; and
- apply prices for the use of existing local roads where this would enable more efficient use of the road network.

R10.2

Councils should use targeted rates to help fund investments in local infrastructure, wherever the benefits generated can be well defined.

R10.3

A future planning system should enable councils to levy targeted rates on the basis of changes in land value, where this occurs as the result of public action (eg, installation of new infrastructure, upzoning).

R10.4

A future urban planning system should give councils the capability to use a wide range of innovative infrastructure delivery models, including public-private partnerships. Councils, either alone or through joint agencies, will need to develop the capabilities to operate such models successfully. Future arrangements could build on current regional shared-services initiatives that increase project scale and develop project commissioning expertise.

Chapter 11 – Urban planning and the Treaty of Waitangi

Findings

F11.1

Māori have a broad range of interests in urban development arising from connections with ancestral lands; a desire to live in spaces identifiably Māori; their individual and collective ownership and development of urban land; and their desire for prosperity and wellbeing. Some of these interests are more closely connected to urban land-use planning than others.

F11.2

Treaty settlements have often given iwi and hapū a significant role in the governance and management of environmental features and resources. At the same time, the settlement process has strengthened iwi and hapū capabilities and provided resources that enable stronger participation in environmental planning under the Resource Management Act.

F11.3

Māori engagement in urban land-use planning is growing as a result of improving capability in local authorities and Māori groups, experience from successful practice (often stimulated by Treaty settlements) and strengthening relationships. Yet the system's performance has proven uneven, due to factors such as:

- constraints on the capability of some councils and some iwi to engage with each other;
- lack of clarity about how to implement legislative requirements for Māori participation in planning; and
- varying expectations about the nature of council–Māori relationships.

F11.4

There is broad support for carrying forward into any new urban planning system the current general regulatory framework for recognition and protection of Māori interests and for Māori engagement in land-use planning.

Chapter 12 – Culture and capability

Findings

F12.1

A number of historical influences have shaped the planning culture in New Zealand:

- during the chaotic growth and widespread disease brought on by the Industrial Revolution, planning embraced the moral precept of doing good for society by bringing “order” and “certainty”;
- the traditions of the English Garden City movement and a belief that planning, and the shape of the physical environment, is vital for the health and wellbeing of the community;
- the legislative frameworks, planning models and traditions imported from Britain, along with a workforce of influential British planners;
- a belief that urban areas need to be contained to protect agricultural soils, and that this was important for New Zealand’s national identity; and
- the New Urbanism model of planning, that emerged from the United States in the early 1980s, and its belief in the role of design in achieving better cities and also shaping a better society.

F12.2

A “procedural” view of planning dominates the professional identity of the planning profession in New Zealand and overseas. This perspective of planning emphasises how planners can make planning processes work more effectively, rather than examining whether planning is the best tool for achieving a desired social outcome.

F12.3

Planning institutes see planning as making a positive contribution to a broad range of social outcomes. The profession appears to have developed a “cultural licence” to assert specialist knowledge in a wide range of socio-economic and environmental issues – often with little specialist training in the area.

F12.4

The New Zealand Planning Institute provides an important source of cultural leadership for the planning profession. Cultural messages are transmitted through the accreditation of university courses, the direct provision of professional development opportunities, and by rewarding good practice.

F12.5

The planning profession in New Zealand has struggled to carve out a unique professional identity. In the absence of a strong professional identity founded on disciplinary knowledge, planners tend to fall back on legislation to define their role in the planning system.

F12.6

Planning practices can be influenced by the organisational culture of councils, particularly in areas such as the relationship between planners and iwi/Māori and the openness of councils to new and innovative approaches to planning tasks.

F12.7

Good planning outcomes are more likely to be achieved when planning cultures:

- insist on robust, evidence-based, outcome-focused decision-making;
- value continuous learning and feedback (ie, learning cultures);
- empower staff to “speak-up” and challenge existing practice;
- stress the importance of being open, transparent and accountable;
- view facilitation and public education as important “planning tools”;
- value operational flexibility and adaption to changing socio-economic or environmental conditions;
- recognise the significance of the civic responsibility that comes with using the coercive powers of the state; and
- acknowledge and respect the boundaries of planning’s influence.

F12.8

A well-functioning planning system requires central and local government to have access to specialist technical knowledge such as engineering, economics, legal analysis and environmental science. Just as important are “soft skills” such as communication, mediations and facilitation skills and an understanding of Māori worldviews.

F12.9

No standard assessment of planning capability currently exists, and the available indicators have limitations. Even so, these indicators suggest:

- not all planners have planning related qualifications – around 20% to 30% have qualifications in other disciplines;
- many councils have difficulty finding qualified staff to fill planning positions – particularly for consent planners (NZPI members appear to have fewer problems attracting staff);
- the planning profession is used to ongoing professional training, and planners generally consider the standard of existing training to be high; and
- a high proportion of consent applications are completed within statutory timeframes (although speed is a poor indicator of capability).

F12.10

Many councils have capability gaps in technical areas such as economics and environmental science. These gaps hinder the ability of councils to undertake rigorous evaluation of the costs and benefits of alternative policy options and planning proposals. Some councils also lack the capability to engage effectively with iwi/Māori.

F12.11

Successful reform of the planning system will require central government to:

- develop a firm understanding of the institutional forces that act against change – that is, the sources of cultural inertia;
- recognise the importance of universities and professional bodies as agents of change (and engage with them accordingly);
- develop feedback loops that reward planning approaches that align with the objectives of the system (and that discourage behaviours that do not so align); and
- more tightly define the role of urban planning.

Recommendations

R12.1

A future planning system should place greater emphasis on rigorous analysis of policy options and planning proposals. This will require councils to build their technical capability in areas such as environmental science and economics. It would also require strengthening soft skills – particularly those needed to engage effectively with iwi/Māori.

R12.2

Central government should improve its understanding of urban planning and knowledge of the local government sector more generally. An improved understanding will help promote more productive interactions between central and local government.

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