Greater Wellington Regional Council submission on:

‘Better Urban Planning’ a draft report from the New Zealand Productivity Commission

Submitted to:
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Opening statement

Thank you for the opportunity to comment on the draft report on Better Urban Planning (the Report). Greater Wellington Regional Council (GWRC) has some overarching comments to make which are followed by detailed responses to the questions and recommendations posed in the Report where applicable.

Issue 1 – Purpose of the Report

Presupposing the solution

The purpose of the Report 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'. GWRC agrees that looking at the fundamentals of our planning system and the issues rather than further amending existing legislation is timely. We are concerned however that the final conclusion of the Report is that the natural and built environments need to be treated separately.

The Report thoroughly and interestingly analyses the current state of planning for urban communities in NZ and processes (Chapter 6) which results in a summary of problem statements (pg 332) and then identifies the changes needed for better urban planning (chapters 7 and 13).

Section 13.7 then opens with the statement that: 'Setting the goal of having clearer distinctions between the natural and built environments raises the question of how to reflect this in legislation.'

While we agree with many of the changes needed, we would argue that setting this goal of 'having clearer distinctions' has been made without considering other options for addressing the issues identified. Instead the assumption is made that the urban planning regime needs to be separated from that for the natural environment and asks how this should be done. Given that the present regime may be fragmented and at times divisive between local authorities, a further artificial separation may not be the answer.

In particular, we submit that the option of better integration rather than a less integrated regime needs to be considered. In particular the potential role of spatial planning in achieving better resource management outcomes should be reinforced.

Community expectations

The assumption that the built environment and the natural environment need to be separated runs counter to GWRC's experience and understanding of our communities' expectations for planning, which is a desire for increased integration of the management of resources, supported by involvement in decision making. In particular:

- Management based on values and effect within catchments: strongly endorsed via GWRC's whaitua programme delivering on expectations for freshwater management
- Addressing cumulative effects: through the development of our Proposed Natural Resources Plan communities were clear that the principle of ki uta ki tai (from the mountains to the sea) is required to sustainably manage natural resources
- Iwi world view: clearly embedded in a holistic view of the natural and built environment and sustaining of the life force mauri of the world. This thinking needs to be embedded in planning in the post-Treaty Settlement environment and we believe the government is moving to institutionalise this
- Desire for collaborative processes and devolved decision making: communities increasingly expect to be engaged from the outset of planning processes.

Distinguishing the natural and built environment

Creating separate regimes is of particular concern and problematic as the boundary between the built environment and natural environment is not clear cut. We consider that the built environment is a part of the natural environment, and that a regulatory separation of the two may be both impractical and counterproductive.

The Report also does not elaborate on the management of the inter-relationship between these environments. Greenfield development on the fringe of urban areas is a particular focus for tension between the built and natural environments. Those who live in the built environment may rightly be concerned at changes in the natural environment which may increase their vulnerability to natural hazards, others beyond the built environment maybe concerned at the loss of otherwise productive land to houses.

When considering a more integrated option, we accept that the approach needed may be different for different issues. For provision of some infrastructure services, such as transport or telecommunications, a division of built and natural environment is potentially appropriate. For management of water quality in a catchment, consideration of both the built and natural environments needs to be integrated and managed for the cumulative effects on the resource.

GWRC has supported spatial planning as a mechanism to provide for better integration of resource development, water and transport infrastructure provision, community engagement and efficient local authority processes. We consider that a spatial planning framework needs to developed though engagement processes and implemented through statutory instruments (for more detail see our response to Qu 9.1).

Most analyses acknowledge that the present resource management regime has become complicated, costly and slow in its implementation so any options considered need to be combined with a realistic 'de-cluttering' of the processes that have built up. Clear government direction is also an essential component of future options. Lastly the purpose of the three key statutes ((RMA, Local Government Act 2002 and Land Transport Management Act 2003) may need re-alignment.

Recommendation

GWRC requests that there is a wider analysis of options, with consideration of more integrated models for planning in the built and natural environments including a spatial

planning framework, combined with a clear sited review of processes, re-alignment of the three key statutes and clear central government direction.

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Issue 2 – Impact of lack of central government direction

Overall, we consider that the Report has inadequately identified the negative impact that central government's lack of progress in producing National Policy Statements (NPSs) and National Environmental Standards (NESs) has had on urban planning and resource management and the resulting reliance on litigious processes.

GWRC would argue that an overriding problem with resource management planning is not the legislation or the planning profession itself, but the lack of central government support and guidance for what was the original innovative approach of the RMA. At the same time, a devolved local government structure increased the need for this guidance. Central government could have made submissions on plans, but chose not to.

The lack of direction created a vacuum which, over decades, has been filled by litigation and case law. Processes are increasingly clogged and made complex by the requirements of successive judgements and consequently plans have become unresponsive.

Clear direction at the outset could have minimised the problem and the resulting effects on planning which has become increasingly risk adverse in the face of the constant threat of costly judicial review and appeal processes. It is only in the last 5-7 years where guidance has been produced and this has not been well integrated or the interactions clearly defined which has again created reliance on litigation. The New Zealand Planning Institute quality planning website is the obvious vehicle for coordinating such guidance.

The solution to the problem has been to undertake numerous amendments to the legislation which add more process lines and further case law to attempt to order the resultant increasing complexity and decreased coherence. Added to this, the amendments of the three key pieces of legislation which need to work together (RMA, Local Government Act 2002 and Land Transport Management Act 2003) have led to a decreased alignment of the purposes of those key statutes.

While aware of the potential risks of further amendments, GWRC considers that as well as improved central government guidance aligning of the legislation is required. Clear and simple processes will reduce the potential for judicial review and refocus on meaningful community engagement (outlined in more detail in comments on R7.6 and Q 7.1).

Recommendation

GWRC recommends that regardless of whether the built environment is treated separately or not a mechanism for central government direction is essential. A Government Policy Statement may help as would well-articulated NPS and NES and spatial plans together with amendments to the three key existing laws to reduce ambiguity and encourage engagement.

Issue 3 – Scope of report

The report is chiefly concerned with land use planning in the urban and built environment, which is primarily the responsibility of city and district councils through their district plans. Yet in many of its recommendations there is no distinction drawn between regional and district planning with reference to the urban planning needs and 'plans, plan changes and private plan changes'.

Though there are common issues such as the prescriptive nature of the Schedule 1 process and a lack of responsiveness of plans to changing environments, solutions such as an independent hearing panel may not be appropriate or necessary for regional councils. As an example, regional councils generally use councillors who are qualified resource commissioners and include independent commissioners for hearings who can provide an overview.

Recommendation

GWRC asks that the Report clearly recognises the differences for planning between regional and district councils and their processes and adjusts the recommendations accordingly.

Responses to specific questions

Chapter 7 – Regulating the built environment-

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.

GWRC agrees that a major contributor to the unresponsiveness of the RMA system has been consultation requirements which have become increasingly onerous as a result of litigation and which arguably have not contributed to the quality of engagement or reduced subsequent litigation. As an example, for a minor regional policy statement change, the requirement to notify 'any person directly affected' now is interpreted to mean that a public notice is not sufficient and a letter drop is required at a significant cost.

Faced with the costs and uncertainty of existing processes, but the desire to involve our communities in resource management planning, local government is turning to

the use of collaborative tools for engagement with the community. One anticipated outcome of these types of processes is that there would be a reduction in the grounds for appeal which GWRC would support. However, a proposed collaborative process in the recent Resource Legislation Amendment Bill created such an onerous process that we would be unlikely to use it even to gain the reduced appeal rights. Therefore, it is unlikely to produce any meaningful improvements to the process.

The adoption of the recommendations contained in section 13 of the Report could result in the exclusion of some community organisations and run contrary to other comments in the Report about the need to better manage cumulative effects. This is because cumulative effects on some public goods (e.g. stream loss in urban areas) would not necessarily be readily identified by individuals deemed to be directly affected by specific local developments.

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?

The current decision-making framework in the LGA 2002 could be used as a basis for developing a common decision-making process. The LGA 2002 framework would give councils more flexibility and ability to deal with minor amendments to land use rules in a timely manner and in a way commensurate to the significance of the amendment. An approach similar to that used for preparing (and varying) Regional Land Transport Plans under the Land Transport Management Act 2003 (LTMA) could work well. In particular, following the LTMA model for variations the assessed significance of the matter would determine the consultation required (see s18D). Such a significance policy could take into account the interest of the general public and the interest of specified parties (referred to in Q7.1 above).

There are two matters that would need to be considered if a more flexible, less prescriptive approach were taken. These are listed below:

<u>Subjectivity</u>

There is an element of subjectivity in determining significance and applying it to a decision-making process. Two organisations faced with the same issue might determine different levels of significance which would then impact on the consultation and decision-making process to be followed.

<u>Risk of challenge</u>

Decisions made after determining the level of significance could be judicially reviewed on the basis that the decision-making process set out in legislation has not been followed. The grounds for taking an appeal and the process that would be followed would need to be defined.

The challenge for councils is identifying effective ways to encourage participation by people in planning processes. Most councils are likely to welcome any suggestions by the NZPC and/or central government in how to achieve this.

Q7.2 *Should all Plan changes have to go before the permanent Independent Hearings Panel (IHP) for review, or should councils have the ability to choose?*

It is not clear whether the IHP is intended to hear only district plans with respect to land use rules or if this recommendation is intended to be extended to all RMA plans including regional plans and regional policy statements. All of the discussion in the Better Urban Planning document cites district planning examples, therefore implying the problems identified do not extend to regional plans.

GWRC, and many other regional councils, already use independent hearing panels made up of RMA accredited, politically independent experts who have technical expertise and expert judgement related to the complex analysis required for making decisions on regional plans. We believe that this approach of using an independent panel with local knowledge, is more effective than a single body operating nationally. Devolution of decision making to regional and local level has been purposeful by central government and supported by councils as being able to respond to the local issues and values. GWRC also questions the ability of a single panel to hear the vast number of plan changes occurring across the country at any one time.

We do not believe that an IHP is required to enable an "upfront, expert review of proposed plans, informed by public submissions". GWRC has been able to achieve this though a review of its regional plan by an independent expert, as well as inviting public submissions on a draft regional plan which informed the development of the proposed plan as notified.

The question of who pays for the IHP is not discussed in the Report. The cost of a panel of independent commissioners in particular a current or former judge, is likely to be unaffordable for many small, provincial councils. The question which should be considered further is whether this is really a problem in relation to the large metropolitan cities as opposed to small provincial New Zealand towns.

With regard to councils retaining the right to accept or reject recommendations of an IHP, we believe that if a council delegates full decision making authority to its independent hearing panel, as GWRC has done, then there are no legal grounds on which to overturn a decision of the hearing panel. The council will not have heard evidence or submissions and have no grounds to make an alternative decision.

GWRC has long supported the position of no appeal rights on plans and plan changes.

Q7.3 *Would the features proposed for the built environment in a future planning system (e.g. clearer legislative purposes, narrower appeal rights, greater oversight of*

land use regulation) be sufficient to discourage poor use of regulatory discretion?

On the basis that 'clearer legislative purposes' relates to setting out priorities with respect to growth, flexibility and mobility in planning, plans already have the ability to do this and there are many different policy approaches available. Determining limits and thresholds around development would not only assist with providing clarity around areas suitable for development, but also to assist in the management of cumulative effects (which is noted as another key area of the Report).

GWRC notes that any legislative change which determines priorities (and/or enables central government to direct the increase of supply of infrastructure to free up 'un-developable land'), needs to clearly identify of land which is simply not suitable for development such as areas with high natural values and areas of high hazard risk (such as subject to flooding, liquefaction etc.).

With respect to narrowing appeal rights, the critical question here is in determining who is 'highly likely' to be affected. The issue for councils is related to risks associated with legal challenge and judicial review. Unless central government can provide very clear criteria setting out the limitations to affected party status councils will always take a risk averse approach to this process: the costs associated with the risk of legal challenge are simply too great for most councils to bear.

As discussed above, GWRC does not consider there is a demonstrated need for a permanent IHP. There are existing opportunities within the current legislative framework for achieving the same outcomes sought by the recommendations of the Report.

With respect to the determination of pre-determined and objective triggers for rezoning, GWRC notes that while this is not regional council business the concept appears to have merit at face value. In terms of the extent of responsiveness however it is highly likely that determining these triggers and inserting them in district plans is likely to be a fraught and highly contested process in and of itself; unless central government provides high level guidance or criteria which cannot be challenged by submitters.

The recommendation to enable central government to override local plans seems completely at odds with recommendation R7.6 – where a future planning system should encourage and enable participation by affected people. To suggest that the outcome of this participation would then be overridden by central government would make a mockery of any such future planning system.

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?*

There is no clear evaluation of the issue or definition of the problem with respect to this question. This would seem a very blunt tool and focused on the end of the process, which is not particularly efficient for either councils or applicants. If applicants/ developers can be encouraged to talk to councils early, many of these

issues could be resolved even in advance of applications for consent being lodged. The added benefit of this approach is that quality applications with appropriate mitigation included in the proposal are more likely to fit within the threshold to be processed on a non-notified or limited-notified basis.

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?*

The RMA's purpose (section 5) and the MfE's "A Generation from Now- Our long-term goals"1 (Generation from Now) could be built on. The contents detailed below could be followed:

- The definition of sustainable management contained in section 5 of the RMA could be used as a starting point and amended so that the term "environmental sustainability" is better defined.
- Vision statements for each of the natural and physical resources as in Generation from Now could be used to describe their future desired state.
- Long-term outcomes and long-term goals (perhaps out to 2050) could sit under each resource's vision statement.
- Intermediate outcomes and goals for five to ten year periods acknowledging the lag before environmental changes are obvious.
- Central Government agencies responsible for delivering the actions required to meet the long-term and intermediate outcomes and goals are identified.

Central Government agencies would be responsible for ensuring that District, Unitary and Regional Plans are linked to the relevant long-term and intermediate goals.

Local government would need to be involved in the development of such a GPS and throughout the consultative process.

What challenges would developing a GPS present and how could these challenges be overcome?

Some of the challenges in developing a GPS are well set out in paragraphs one and two on page 208, Chapter 8 of the Report. We identify some challenges below with potential solutions, some of which respond to statements made in the report (page 207) regarding other purposes of the GPS. GWRC would welcome further discussion on this matter with the Productivity Commission.

[1] http://www.mfe.govt.nz/sites/default/files/media/About/generation-from-now-outcomes.pdf

Development challenges	Solutions
Challenge A: Maintaining the long-term durability of the GPS' purpose and vision statements, long-term outcomes and targets as government direction changes	Give effect to the actions (paragraphs one and two, page 208 of the Report) describing the need for a national conversation about the GPS' development
Challenge B: Defining exactly what environmental sustainability means. Within chapter 8 of the Report the term sustainable development is used somewhat interchangeably with environmental sustainability	Use the term sustainable management as defined in section 5 of the RMA, as this concept is wider and more inclusive than environmental sustainability and/or sustainable development
Challenge C: Reconciling the varying definitions of environmental sustainability in existing statutes	To ensure consistency, amend the LGA 2002 and other relevant legislation so that only sustainable management is referred to
Challenge D: Development challenges-getting an informed national and local discussion, setting the principles to guide conflicts in priority setting between resources, integrating a GPS with existing case law	A dialogue delivered by central, regional and local government to their respective communities about the GPS' development to engage the community, use of independent panels
Challenge E: Lag between changes to the GPS and the inclusion in plans	Use similar RMA processes which describe how local authorities must recognise national standards and national policy statements (sections 44A and 55 respectively)

Is a GPS on environmental sustainability the right national tool for a future planning system?

A Government Policy Statement (GPS) on environmental sustainability is proposed as a solution to provide clearer priorities, particularly at a national level, regarding land use regulation.

Land transport management is identified in the draft report as an area where the system currently adequately identifies priorities. However we submit that this is a very different concept. The GPS on land transport sets out the government's strategic goals and priorities for what it wants to achieve from investment in the transport system over a 3 year period (with a 10 year overall outlook). It directs funding to particular transport initiatives that government considers to be a priority and includes funding allocation ranges for different types of transport activities (state highways, local roads, maintenance, public transport, cycling, etc) over three years. While a GPS on land transport is required to be issued by the Minister of Transport at least once every six years, in reality it is re-issued every three years, with major changes usually occurring when there is a change of government.

It is difficult to see how this model which has a deliberately short term outlook, is used to implement current government policy and is funding and investment focused could be used for a GPS on Environmental Sustainability which is intended to assist with short-to medium-term priority setting to achieve long term outcomes.

A national level document to help guide land use planning decisions by providing clear hierarchy and priorities needs to have some longevity and stability, and not be constantly changing with changes in government policy. We query whether a GPS is the right document to do this based on the existing example mentioned above. For some time, local government has been advocating for a national transport strategy to provide national objectives and policy direction for transport that provides a long term outlook and longevity that other non-statutory documents (e.g. Connecting NZ) and the statutory documents such as the GPS on land transport have not done.

The Transport Agency must give effect to the GPS on land transport. It does this through issue of an Investment Assessment Framework, and subsequent funding decisions made within that framework. We query whether a proposed requirement for councils to give effect to a GPS on environmental sustainability through local and regional plans and policy statements would be realistic if the GPS were updated frequently, given the time involved in land use plan change processes and the limited ability to respond quickly.

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?*

GWRC's proposed Natural Resources Plan contains some examples of policies and methods which are designed to manage cumulative effects and which we believe to be effective and efficient, i.e. a water allocation framework. The use of a limits /threshold framework is one way to manage cumulative effects.

GWRC also uses adaptive management effectively for example through the use of management plans associated with large scale earthworks (often associated with greenfield urban development).

One of the main obstacles to the use of an adaptive management approach is uncertainty for submitters/potentially affected parties, which can be difficult to manage if there is a low trust relationship between the Council and these parties. It can also be technically challenging to determine the triggers associated with an adaptive management approach.

The greatest challenge to managing all effects, including cumulative effects of urban development is on the urban boundary with greenfield developments. In this environment both district plans and regional plans are at their peak in terms of implementation and resource management. Critical to natural resources managed by regional councils through regional plans is the cumulative loss of streams and their ecosystem services and discharges of sediment to freshwater (also managed under the NPS-FM) arising from earthworks required for greenfield development.

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?*

GWRC notes that the current system for planning for growth and development in the Wellington region involves multiple plans (e.g. RMA statutory plans, growth management plans) and multiple parties (e.g. nine councils, council controlled organisations, central government, infrastructure providers etc.). GWRC has consistently supported the development of a spatial plan to simplify and align spatial planning responsibilities across the region under the various pieces of relevant legislation. A spatial plan would provide high level direction to all council plans (such as district plans, investment and infrastructure plans, economic development plans, and transport plans), which would lead to more coherent and coordinated decision making about how resources – particularly land use patterns and infrastructure - are provided across the region.

We believe that the statutory terms of reference adopted for the preparation of the Auckland Spatial Plan (Section 79 Spatial plan for Auckland: (Local Government (Auckland Council) Act 2009) provide a good starting point for spatial planning in general. The Local Government Act could be a suitable vehicle for spatial planning as the local government process is inclusive but less prescriptive than the RMA. The document would not necessarily replace any of the current statutory documents, though consideration needs to be given to the links with the Regional Policy Statement and whether or not both documents are necessary. It would however, mean that the range of other non-statutory documents would be unnecessary.

We believe that the benefits lie not so much in replacing statutory documents, but in providing a consistent direction, agreed to and integrated between local authorities for development in a region. To achieve the benefits though there must be some sort of statutory requirement for implementation of the spatial plan through the other plans.

The benefits of a spatial plan are many and encourage exactly the integrated and long term development framework required.

A regional spatial planning process:

- assists in developing regionally consistent growth forecasts e.g. population, employment, and housing needs. Currently it is difficult for various parties to even agree on the basic assumptions and information inputs required to determine the best growth scenarios and urban form for the region

- promotes engagement with, and promotes leverage between parties to both help achieve a common vision and work more effectively together on other joint initiatives.

- aids alignment between local and central government plans

- enables better decisions to be made about the priority, location and funding of future major upgrades to physical infrastructure and networks and major social

infrastructure

- provides for the integrated management of land, water and the coast and better providing for the effect of land use on surface and ground water quality and quantity.

- allows for a common understanding of the constraints and opportunities for development: resource depletion; biodiversity and landscape protection and enhancement; catchment management and an improved ability to use land in a way which reduces the risks posed by natural hazards especially coastal erosion and floods.

- manages growth and land use but in the context of wider aspects of wellbeing such as health, education and poverty.

The Plan should give emphasis to providing for the ideal use of land and infrastructure to enable sustainable growth to occur in the region, rather than focusing on promoting 'growth' or resolving wicked issues such as deprivation or youth unemployment.

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"?*

Infrastructure services, such as transport, water supply, waste water and stormwater disposal, lie in the zone between private and pure public good. Like public goods, some form of co-ordination (and perhaps requirement) is needed to ensure the delivery of infrastructure services, but like private goods, there is an element of exclusivity in the consumption of infrastructure services.

A pricing system that optimises public use of infrastructure services will typically not be sufficient to meet all of the long run costs for providing the service. This result reflects that, at heart infrastructure services are public goods (albeit impure ones) and so require some form of public funding to ensure both long run provision and optimal utilisation.

The implication is that a trade-off results between the twin objectives of optimising the social wellbeing generated by the infrastructure and meeting long term total financing requirements.

Therefore, GWRC believes that growth will never pay for growth given the public good nature of infrastructure.

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?*

The Productivity Commission's recommendation is that user charges should increase to a point that the charges meet the longer term total cost of infrastructure services. If these services could be categorised as having purely private goods then this would appear to be an optimal solution. However, the provision of infrastructure is not a purely private good as it provides value to the broader public.

Roads or wastewater treatment are good examples of a quasi-public good. All infrastructure is ultimately built for the benefit of the public. As more of the public uses the infrastructure, it leads to, for example, roading congestion or exceeded capacity for sewage treatment. Beyond this point the benefit to both private and public is diminished implying that the value gained from using the service no longer meets its longer-term cost of provision.

Given the nature of the provision of infrastructure, we submit that the current arrangements under general and targeted rates are entirely appropriate. In fact, increasing central government funding may be more appropriate given that the beneficiary pool is so broad.

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?*

The Report communicates a clear preference for less use of rules and a greater use of other mechanisms, such as market-based instruments.

Regarding the proposed greater reliance on pricing and market-based tools, we consider that the use of such tools should be underpinned by appropriately robust processes. They should also be integrated with regulation to ensure good practices are followed.

Though not always market-based, an example of such an approach is the application of biodiversity offsetting, which is increasingly used to address the residual adverse effects of activities on biodiversity values. The use of this tool should follow national and international guidance[2] and be integrated with the mitigation hierarchy for managing adverse environmental effects. Using a robust approach that is backed up in legislation reduces the likelihood of perverse outcomes that could arise, such as poor quality offsets and lack of compliance.

Generally speaking land based tax systems are relatively sound basis for general revenue purposes. Rate-based systems:

- have a low ability for tax avoidance
- meet ability to pay requirements as land values typically incorporate local economic performance
- have a low impact on economic decision making and so will have minimal impact on economic efficiency.

The Wellington Public Transport Spine Study looked at alternative funding options

[2] http://www.doc.govt.nz/about-us/our-policies-and-plans/guidance-on-biodiversity-offsetting/ and http://bbop.forest-trends.org/pages/biodiversity_offsets,

(Hill Young Cooper, 2013) for any new public transport spine infrastructure. This included an assessment of general and targeted rates – including an annual levy (city only), a targeted transport rate (regional), and area-based targeted rate (city only). These were shown to be effective tools, however in terms of publically acceptability, an area-based targeted rate was recommended as the rate charged would be more directed at who benefits – although this approach would generate less revenue than others. Affordability was an overall concern under any of these rating approaches.

Road pricing was another funding tool investigated as part of the Spine Study, and is a concept supported in the Wellington Regional Land Transport Plan. However, no legislative mandate currently exists to enable consideration of this tool by local authorities. Road pricing can be used to raise revenue (to fund new transport infrastructure) and/or as a method of managing travel demand. It allows pricing to more fairly reflect the true cost of the use of a particular mode of transport, at a particular time of day or week, and on particular routes. We strongly support the consideration of this tool, to support future funding of transport infrastructure and to manage travel demand.

Development contributions are currently limited to territorial local authorities, but could be broaden to allow regional councils and other infrastructure providers to access funding for new infrastructure such as public transport services or state highway interchange upgrades. A risk around increasing developer contributions along key growth corridors however, is the development being stymied in those areas and going in other areas that are less desirable from an efficient urban form perspective.

Q10.5 *Should a requirement to consider public-private partnerships apply to all significant local government infrastructure projects, not just those seeking Crown funding?*

A Public Private Partnership (PPP) is a procurement and financing approach that can be used to make public finances go further. Greater Wellington considers that the appropriateness of a PPP will vary from project to project.

"A Public Private Partnership approach can reduce risks for public agencies of cost overruns during construction, and remove significant cash flow demands from public accounts during construction of major projects; while they also allow for a range of pay-as-you-go and debt funding tools to be used over the lifespan of the project. There may also be a greater incentive for the private operator to ensure planned services and infrastructure better meets user demands so as to increase revenue, compared to a traditional public service procurement model. In the case of a public transport service which will not cover all of its costs from users, the PPP model does involve service payments from council / government and this creates a liability to make regular payments over the life of the project" (Hill Young Cooper, 2013).

The benefits and risks of a PPP approach need to be considered on a case by case basis and the final decision will be a political one. Making their consideration a requirement for all significant local government infrastructure projects seems unnecessarily onerous.

Chapter 11 – Urban planning and the Treaty of Waitangi

Overall, we consider that the Productivity Commission has provided a useful description of the context and drivers of mana whenua and mātāwaka in the Maori cultural landscape.

We suggest the proposed key outcome (refer italicised text) might be more achievable if the word "collectively" is deleted so the focus is softened. It will be very challenging to secure a collective, evidence based Maori view as suggested. "…cities are able to sustain a way of life that collectively Maori have reason to value.

We support the Te Aranga principles with the priority focus on establishing Treaty based relationships; building on Matauranga Maori knowledge and the development of Maori evaluation tools and methodologies

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?*

Yes, cultural impact assessments (CIA) are commonly used in this instance by GWRC. The need for a CIA is determined though the assessment of the application against the relevant statutory provisions. A CIA is seen as a technical report which forms part of an application and is assessed and given the same amount of weight as other technical reports.

Fees for CIA's are determined by the iwi completing the assessment in negotiation with the applicant.

A major barrier to a CIA being completed on time is whether or not the applicant has previously consulted with iwi and understands that a CIA is required. Another barrier is if the iwi is under resourced and cannot complete the CIA in a timely manner. Also if there are further information requirements derived from the findings within the CIA.

A shared understanding of what are the core principles/elements of a CIA would be useful for Councils and mana whenua, particularly when Council is the applicant in a resource consent process. Our Council is running a workshop with mana whenua partners to increase our mutual understanding of what baseline information might be shared among iwi and/or by Council that would be mutually beneficial to all and any unique discretionary information that iwi may choose to share.

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?*

Council attitudes to implementation of legislative requirements to recognise and

protect Māori interests in planning lack consistency. Māori planning perspectives are informed by mātauranga Māori (indigenous knowledge). The precepts that underpin mātauranga Māori are not widely understood by council planners and decision makers meaning that the inclusion of Māori perspectives in planning process is uncertain and often reactive. Of greatest concern are the lost opportunities resulting from lack of Māori involvement in processes, especially the opportunity to support the development of Māori planning and its contributions to urban design.

It is important that councils have an understanding of mātauranga Māori in order to provide for the inclusion of Māori perspectives throughout the planning cycle.

Disparity of resources between councils and Māori is another significant issue that limits their ability to participate in planning process. There are a number of ways issues of disparity can be addressed with the most important being a commitment by council to commit to an ongoing planning partnership with Māori.

Commitment to partnership enables improvement of engagement processes to ensure that these facilitate sustainable input of Māori over time.

To respond to these issues Government should invest in programmes that educate council planners and decision makers on the importance of long term planning partnerships with Māori. This commitment will enable barriers to implementation of legislation to be addressed. A prerequisite of effective partnership is that the partners have an awareness and understanding of each other's values. To this end it is important that councils invest in educating themselves on mātauranga Māori.

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?*

In line with our understanding that our communities are interested in increasingly integrated approaches to planning and the difficulties in separating the urban and natural environment we have also looked at the strengths and weakness of providing for more integration in the present legislation.

Criteria	Option 1: more integrated key legislation(+ spatial planning)	Option 2: single RMA, clearly separated built and natural environment	Option 3: two new and separate laws
Ability to exercise regional council functions more	Yes. Especially if spatial planning is enacted.	Partially. Some clarity, potentially less conflict	No, boundary issues may intensify. Management of

effectively and efficiently			natural hazards especially problematic
Costs of making changes Costs of resulting regime	Medium cost Medium if complexity is reduced and de-cluttered	High cost Medium, if complexity is reduced and de-cluttered	Very high cost High – potential of multiple requirements under different leg (depends on design)
Community buy-in / acceptance / involvement	Very high – based on an integrated collaborative model	Medium Limited improvement over status quo. High risk of litigation. More conflictual.	Low Fragmented, unlikely to be supported by Iwi
Responsiveness development and env pressures and planning lag (agility, flexibility)	High. Designed to be inclusive and responsive.	Low. Potential for litigation history and case law	Medium … designed to be more responsive to development pressures
Ability to declutter	High	Low	High
Risk during period of uncertainty	Medium Some existing case law relevant	High. Existing case law provides certainty	Low. Case law will need to be established.
Implications for the natural environment	Positive. Working with natural processes. Catchment management of cumulative effects. Meets intent of Treaty settlements.	Little change to status quo. Some development tensions continue to exist. CM of cumulative effects still feasible but more difficult	Worse. Significant tensions between development and natural environment remain. Leg does not enable CM.
National direction	Mechanism for NPS and NES (and possibly GPS) still needed	Greater need for NPS and NES (and possibly GPS) and guidance on leg changes	Clear direction should be explicit in each new Act. Still need for implementation guidance.
Encourage innovation	Yes. Collaborative and integrated approaches designed to be innovative.	Partially. Some innovation possible, particularly if leg is de-cluttered	No. Reinforcement of silos will limit innovation
Implications for	Innovative urban design solutions are	Balanced. Very similar outcomes to	Focus on growth and

urban environment	increasingly possible. Spatial planning gives clarity resulting in better infrastructure provision for the long term.	status quo.	development. May lead to issues for long-term infrastructure provision (e.g. climate change and risk).
Non-regulatory policy tools	Regardless of legislative approach adopted, there should still be a place for policy tools such as education, guidance, incentives to influence the sustainable management of resources.		

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.*

Option two is the preferred option at this stage though it's not clear whether 'monitoring' means monitoring of the regulator or monitoring as in environmental sampling.

Better exposure or investigation of the issue is required in regard to regional councils. Achieving consistency of monitoring across the regions is critical to ensure robust monitoring and enforcement. This has been recognised and is happening through several national forums. The Strategic Compliance Framework was developed and endorsed by RMG – Regional Managers Group. This Compliance Special Interest Group meets twice a year to discuss best practice in the field of compliance. The group is made up of regional and unitary councils. A tool discussed and developed by some of the members of the group, is the newly introduced National Compliance Qualifications. This nationally recognised qualification is open to anyone interested in learning about compliance and best practice. A number of councils have already put staff through the program. While nationally recognised, this program should be actively encouraged by central government.

Over the last two years GWRC has identified that there was risk in trying to monitor every consent so we have developed a Compliance Strategy to target high risk compliance sites and therefore ensure better environmental outcomes.

We also engage external auditors to audit against organisational KPI's in relation to compliance and enforcement.

GWRC also contributes to the MfE National Monitoring System – this audit/survey tool has superseded the MfE biennial survey. Rather than introduce another compliance audit system, the reporting requirements relating to compliance could be

increased to demonstrate where compliance performance lies nationally.

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