

**SUBMISSION BY PORTS OF AUCKLAND LIMITED
ON THE
BETTER URBAN PLANNING DRAFT REPORT**

1.0 Summary

- 1.1 Ports of Auckland Limited [**“POAL”**] is a port company established under the Port Companies Act 1988. POAL has over 500 employees and currently operates two seaports in Auckland, and three ‘inland freight hubs’ at Wiri in South Auckland, Mt. Maunganui in the Bay of Plenty, and Longburn, near Palmerston North.
- 1.2 In addition, POAL has announced plans to establish an ‘inland freight hub’ on 33ha of land at the Horotiu Industrial Park, near Hamilton.
- 1.3 POAL’s activities form part of urban transport infrastructure, and are an essential component in improving business efficiency, innovation, competition and trade, and facilitating a mobile, connected and flexible labour force.
- 1.4 The demand for port infrastructure is location specific, whether within the coastal environment for seaport activities, or in locations with good connections to road and rail infrastructure for inland freight hub activities. The capital intensive nature of port infrastructure, and the expense involved to relocate it, is such that long-term planning for investment is required over a horizon of at least 30 years.
- 1.5 POAL supports an alternative approach to the urban planning system, and considers that any future planning legislation must:
- (a) provide a more flexible, responsive, and adaptive planning system that enables infrastructure to keep pace with demand;
 - (b) prioritise “national” infrastructure through clear planning principles that set out the outcomes that are to be delivered (whether measurable or immeasurable) by the planning system; and
 - (c) require local authorities to plan and provide for all types of transport infrastructure over a horizon of at least 30 years.

2.0 General Submission

- 2.1 The New Zealand Productivity Commission (**“Commission”**) has considered two approaches in setting the goal of having clear distinctions between the natural and

built environment reflected in legislation. POAL's submission in respect of the Better Urban Planning Draft report is that:

- (a) integrated infrastructure and transport planning is critical to urban development, and can often span both the built and natural environments;
- (b) it would be a backwards step if infrastructure that has a functional need to operate across the built and natural environments is required to be subject to two separate pieces of legislation with different regimes and environmental outcomes; and
- (c) the built and natural environments should therefore be managed within a refined, single resource management law that clearly specifies the interrelationships between the built environment (which includes infrastructure and land transport planning), and the natural environment.

2.2 POAL's reasons for supporting a single resource law rather than separate planning and natural laws are that it will:

- (a) assist with consistency and transparency, providing an overarching set of principles governing both 'built' and 'natural' resource law;
- (b) assist oversight and transparency in the monitoring and enforcement of regulation;
- (c) ensure consistency in the application of the law, and future amendments to the law; and
- (d) reduce the overall complexity of the planning system, and consequently reduce the potential for unintended consequences.

2.3 Any future planning system should be all-encompassing to ensure that all forms of infrastructure are integrated with land use planning, and takes a long term view (30 to 50 years).

2.4 The Independent Hearings Panel addressed this issue within their recommendations on the regional policy statement provisions of the Proposed Auckland Unitary Plan ("PAUP") in respect of infrastructure, where it was recommended that they should be "recast... to create a statement of issues, objectives, policies, explanation and principal reasons in one place that can be read as an integrated whole",¹ and should "recognise that to be effective and efficient infrastructure may need to be located in (including traversing) sensitive areas where there is a functional or operational need for it to do so".²

¹ Pg.2; Auckland Unitary Plan Independent Hearings Panel. (July 2016). Report to Auckland Council Hearing topic 012 Infrastructure, energy and transport.

² Ibid.

- 2.5 As a consequence, the PAUP recognises the importance of “infrastructure” in enabling other activities to occur, and that infrastructure is an essential component of urban growth and development, and needs to be planned for in an integrated manner.
- 2.6 POAL supports the approach of the Independent Hearings Panel in respect of infrastructure and land use planning, and considers that it should form the basis of any future planning system.

3.0 Submission

- Urban planning and infrastructure
- 3.1 The acknowledgement of rail and ports as part of urban transport infrastructure is supported.³ POAL’s operations, and those of other port operators, are of national and regional significance to the economy, and form part of a wider national network of transport infrastructure that enables urban development to be achieved throughout the Country. Without an efficient and inter-connected network of ports and associated freight distribution networks, the ability for the regions, districts and cities to realise their urban development potential will be compromised.
- 3.2 Port infrastructure requires long term certainty that berthage, channel, land, and connecting transport infrastructure capacity will be planned for and provided as and when it is needed. In doing so, port infrastructure providers integrate their investments and developments not only with road and rail infrastructure, but also with other port infrastructure (for example, POAL has a network of regional freight hubs that allow customers to drop off their exports locally, and has developed a number of partnerships, including with KiwiRail and the Port of Napier).
- 3.3 Port infrastructure is therefore location specific, and requires substantial long-term capital investment and integration with other transport infrastructure to ensure that freight demands can be serviced. As a consequence, once transport infrastructure supply is committed, the capital investment is difficult to retrieve.
- 3.4 POAL is concerned that a lack of coordinated long term urban planning creates uncertainty for all those who invest in transport infrastructure (port, road, and rail infrastructure providers, together with importers, exporters, and manufacturers), and has resulted in a lack of foresight to protect future shipping, road, and rail routes to cater for increased capacity. Route protection is particularly important in growing cities such as Auckland, where a lack of coordinated planning foresight closes off practical ‘corridor’ options leading to complex, time-consuming, and costly processes to acquire land in the future.

³ Pg.223; New Zealand Productivity Commission. (2016). Better Urban Planning Draft Report.

- 3.5 POAL therefore agrees that current infrastructure planning and provisions are insufficiently responsive, do not always align infrastructure supply and land use rules, and lack tools for the provision of city-shaping assets⁴. The fact that transport infrastructure planning is spread over three separate pieces of legislation, each with their own core concepts, consultation and decision making processes, and appeal rights, can result in significant additional costs and complexities to the planning system, and serve to exacerbate constraints on urban development.
- 3.6 For example, while the government released the Thirty Year New Zealand Infrastructure Plan 2015 (which will inform the 2018 Government Policy Statement on Land Transport), the fragmented nature of infrastructure planning is such that a wide range of entities (with varying degrees of statutory authority) are responsible for its implementation. This includes a wide range of central government departments, government agencies, local government, and professional institutes.
- 3.7 This fragmented system, spread between the RMA, LGA, and LTMA, results in time-prolonged meetings and frequent re-litigation in developing projects, sometimes adding years to the process, considerable cost, and resulting in a loss of productivity.
- 3.8 A prevalence of localism at the plan making and consenting levels of local government further constrains the ability of transport infrastructure supply to respond to demand over a given plan period. For these reasons, it is difficult to achieve integration between transport infrastructure planning and land use policy, particularly over the timeframes that are required to plan, fund, and deliver such infrastructure in an effective manner (which can exceed 30 years).
- 3.9 Certainty is therefore required across the board; international shipping requires certainty that port infrastructure has capacity to accommodate their ships. Importers and exporters (including manufacturers) require certainty that their investments can be serviced by reliable freight networks. Port and freight networks require certainty that resilient and efficient transport infrastructure is planned for and can be provided in a timely and responsive manner.
- 3.10 POAL therefore supports the use of spatial plans as a standard and mandatory part of the planning hierarchy in any future planning system.⁵ In doing so, it is essential that a future spatial planning system is established to specifically “give effect to” clear and coordinated central government policy that prioritises the provision of “national” infrastructure, and:
- (a) encompasses all forms of transport infrastructure that supports urban development, including infrastructure for seaports, road, and rail;

⁴ F9.2; New Zealand Productivity Commission. (2016). Better Urban Planning Draft Report.

⁵ R.9.1; Ibid.

- (b) recognises that transport infrastructure is an essential component of urban growth and development, and needs to be planned for in an integrated manner;
 - (c) delivers effective urban development in the short, medium, and long-term through evidence-based, quantitative and qualitative analysis of market demands to establish the transport infrastructure needs for all foreseeable types of urban development over a period of at least 30 years;
 - (d) has a formal place in the planning hierarchy to be given effect to at the district plan and regional plan coastal levels;
 - (e) kept up to date, with a more streamlined process available to local authorities in respect of in respect of consultation requirements and appeal rights in respect of this matter;
 - (f) ensures sufficient across-the-board focus, for example not just focusing on ‘liveability’ or residential matters, but equally focusing on transport infrastructure and the efficient movement of freight; and
 - (g) leads to a streamlined “designation process” which provides certainty for all who invest in transport infrastructure and associated developments.
- 3.11 In order to reduce the complexity, time, and cost of transport infrastructure planning, and to improve its integration with land use rules, it is appropriate to require spatial plans be prepared solely under planning legislation, thereby replacing the requirements of the LGA and the Regional Land Transport Plan requirements of the LTMA
- 3.12 By doing so, the issues, objectives, policies, explanation and principles underpinning transport infrastructure planning will be able to be found in one place, and integrated with planning policy for the built and natural environments. This will ensure that the benefits of transport infrastructure to enabling economic growth, protecting the quality of the natural environment, and providing for the efficient movement of people and goods are appropriately recognised within any future planning legislation.
- 3.13 In order to be effective within the planning system, spatial planning would also replace those aspects of a regional policy statement that deal with infrastructure. This will enable a more responsive planning system to be delivered, integrating the provision of infrastructure with urban growth in a manner that is resilient, efficient, and effective.
- Regulating the built environment
- 3.14 Facilities for the loading or unloading of cargo or passengers transported on land by any means, and facilities for the loading or unloading of cargo or passengers carried by sea, including a port related commercial undertaking as defined in

section 2(1) of the Port Companies Act 1988 are “infrastructure” for the purposes of the RMA alongside airports, and other “network utility operators”.

- 3.15 However, despite being integrated with, and entirely reliant upon, road and rail infrastructure, the RMA does not recognise the role of port infrastructure as a “network utility operator” in the same manner as it does with airports, the New Zealand Transport Agency, and KiwiRail. Therefore, port operators do not benefit from a requiring authority status and are solely reliant on zoning and the land and water use controls contained within district plans and regional coastal plans to deliver the necessary port infrastructure to support urban growth and development. This in turn frustrates the ability for a “whole network” approach to be taken in respect of transport infrastructure.
- 3.16 The current planning system is risk adverse and litigious, and as a consequence is either too slow, or unable to respond to market demand in a timely fashion. These issues are exacerbated through a lack of clear central government direction (through National Policy Statements), and the prevalence of localism at the plan making and consenting levels.
- 3.17 As acknowledged by the Productivity Commission, recent amendments to the Local Government Act in 2010 and 2012, and proposed amendments to the RMA, do not give much priority to the mobility and accessibility of residents and goods.⁶ Therefore, while POAL agrees that future urban planning legislation should clearly prioritise responding to growth pressures, and provide land use flexibility,⁷ it needs to provide for port infrastructure as a “network utility operator”, and take a “whole network” approach to the movement of goods and people (as opposed to just people) across both land and CMA.
- 3.18 In doing so, POAL supports the approach to enable more responsive rezoning, in which land use controls can be set in anticipation of predetermined and objective triggers,⁸ and considers that there is no reason why this approach cannot be extended to the coastal environment. In the context of port infrastructure, a flexible approach to land and water use controls can provide greater certainty to all parties as to where, how and when to provide for the efficient and safe operation of ports, the development of their capacity for shipping, and their connections with other transport modes.
- 3.19 Any future planning legislation in respect of the built environment must recognise that the coastal environment in urban areas is often developed and put to economic use. It would be a backwards step if activities that have a functional need to operate across land and CMA would be subject to two separate pieces of planning legislation with different management regimes and environmental outcomes (i.e. the built environment and the natural environment). It would also

⁶ Pg.181; New Zealand Productivity Commission. (2016). Better Urban Planning Draft Report.

⁷ R.7.1; Ibid.

⁸ R.7.3; Ibid.

add to the time, cost, and complexity associated with the planning of development proposals.

- 3.20 Key to implementing a responsive planning system, and reducing localism at the plan making and consenting stages, is ensuring that central government prioritises “national” infrastructure at a national level. While POAL supports the development of processes that will clearly signal the national interest in planning, and have protocols to work through the implementation of these national interests with local authorities,⁹ this needs to be achieved through a single set of high-level planning principles that clearly set out the outcomes that are to be delivered (whether measurable or immeasurable) by the planning system, and implemented through spatial planning.
- 3.21 POAL supports the Commission for the initiative to review New Zealand’s urban planning system. However, any future planning system will be ineffective if plans are unable to be implemented. To implement plans, governance and operational structures need to be aligned and resourced to deliver any future planning system. This is an area where POAL recommends that the Commission focuses on in taking this review forward.

4.0 Summary of key outcomes

- 4.1 The key outcomes that are sought by POAL in respect of any future planning legislation are summarised as follows:
- (a) the built and natural environments should be managed within a refined, single resource management law that clearly specifies the interrelationships between the built environment (which includes infrastructure and land transport planning), and the natural environment;
 - (b) any future reforms of the planning system should give priority to the mobility and accessibility of residents and goods within a single, integrated planning law;
 - (c) spatial plans for infrastructure are implemented as a standard and mandatory part of the planning hierarchy in a future planning system to replace the requirements of the Local Government Act and the Regional Land Transport Plan requirements of the Land Transport Management Act, and those aspects of the regional policy statement that address infrastructure;
 - (d) a “whole network” approach to the movement of goods and people across both land and CMA is required, including recognising port operators as “network utility operators” (in the same manner as airports, NZTA, and KiwiRail are currently provided for);

⁹ R7.9; New Zealand Productivity Commission. (2016). Better Urban Planning Draft Report.

- (e) a more responsive rezoning is required, in which land use controls can be set in anticipation of predetermined and objective triggers. In the context of port infrastructure, a flexible approach to land and water use controls can provide greater certainty to all parties as to where, how and when to provide for the efficient and safe operation of ports, the development of their capacity for shipping, and their connections with other transport modes;
- (f) central government prioritises “national” infrastructure at a national level through clear planning principles that set out the outcomes that are to be delivered (whether measurable or immeasurable) by the planning system, and implemented through spatial planning; and
- (g) governance and operational structures are aligned and resourced to deliver any future planning system.

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