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Submission on Better urban planning Issues Paper December 2015

Question 1: What is the appropriate scope of planning?

Question 1 is difficult to answer concisely as it relates to styles of governance and societal culture. Generally through the developed world, spatial planning pertains to both urban and regional matters, but with a larger emphasis on urban areas since in these the use of land and space is most intensive and it is where most people live, work and play. The regional component addresses the wider spatial context in which urban areas are located, planning in New Zealand being regulated primarily under the RMA (apart from the Auckland Plan which was prepared under an amendment to the Local Government Act and which itself speaks to the limitations of planning in NZ). Planning by its very nature is forward-looking, whereas under the RMA it is primarily oriented to regulating environmental effects/impacts and therefore tends to be backward-looking. When applied to regulating the development of towns and cities it provides a very poor framework - it can be a bit like trying to design a car by just looking at the exhaust emissions and misses the essential design component required in planning (see figure 1 below).

Figure 1 – Alternative approaches to regulating the urban environment

It could be argued that the most important plans in NZ are district plans, and yet these aren't actually plans at all but rather just development control 'rule books.' There is currently little if any real connection between any strategic vision and what you will find in most district plans or most modern built environments (see below).

When forward planning (structure plans) is done it is piecemeal, non-statutory and poorly implemented once it has been translated through the lengthy plan change process under the RMA.

As indicated in the Issues Paper, planning should be 'place- and vision-based' in the sense of enabling the creation of places people desire to be in. Like Mayor Brown's vision for Auckland being the 'world's most liveable city'. The starting point should be a community- supported vision for developing great urban places.

Question 2: What is the appropriate role for planning in controlling land use for design or aesthetic reasons.

While there is a great deal of subjectivity regarding aesthetics, people generally share a view on what makes for great places – think of cities from Vancouver to New York to London to Rome, Istanbul and Tokyo as well as many older smaller cities like Barcelona in Spain and Savannah in the US).

The issue with design in planning is less about the aesthetics of individual buildings and more about the layout and design of streets and the arrangement of buildings fronting onto streets and public spaces. It's also essentially about being people-oriented and providing for a rich mixture of activities. A well-designed urban layout of streets and blocks is both robust and flexible enough to enable urban areas to redevelop and intensify over time and still suit users and residents. Some of the principles used in the US form-based code system are relevant in this regard.

Experience in development suggests:

- Most residents, landowners and developers prefer predictability over discretion and review;
- Planning visions should be linked to regulations;
- Regulate the basics; and
- Promote a culture of design.

Question 3: Thinking beyond the current urban planning system, how could a new model best deal with the complex and dynamic nature of urban environments?

One of the current issues in urban planning is to how to allow for more mixed use in urban areas and move away from zoning based on a separation of land uses. Land use zoning is a system that underpins practically all district plans in New Zealand and leans more towards context-based planning which looks at regulating the form of the built environment more than what the land is being used for. Most land use zoning systems for larger urban areas has become hugely complex with a multiplicity of zones, precincts and policy overlays to try to separate and regulate urban areas that should support a rich diversity of land uses and activities.

The separation of residential from commercial in particular has resulted in many city and town centre areas being reserved for commercial uses which become empty places after work hours at night and weekends. Viewed differently, this is an extraordinarily wasteful use of highly valuable property in town centres.

Notwithstanding the limitations already imposed by the cumbersome unhelpful RMA effects-based framework, the planning regulation of larger urban areas has become ever more complicated while failing to create good urban environments.

Looking at urban residential options, we have ended up with a lot of driveable suburbia and little else aside from some apartment areas in larger city centres. Most of our urban areas require the use of cars to get anywhere, from places of residence to places of work or shops, services and recreation. One of the key missing categories of housing is the variety of medium density attached housing options that are generally found overseas (see figure 2 below)

Figure 2 Missing medium density housing options

There are some helpful examples in the US that we could be looking at as an alternative to our traditional 'land use separation zoning' system. As mentioned in the Issues paper, these examples use an alternative 'form based' approach. This alternative approach now has some 16 years of implementation and is being continually improved. It has been adopted by a variety of cities, towns and counties from Denver CO, Austin TA, Columbia OH to Arlington VA and Miami FL).

Land use zoning had its basis in the early twentieth century largely for controlling and separating out dirty industry in urban areas because of nuisance concerns. We now have very little dirty industry and it would be simple to control this without still basing all our planning on the fairly strict separation of land uses.

Another aspect we need to reintegrate into urban planning is our streets. For much of the twentieth century roads and streets have been handed over to traffic and road engineers to design and manage. In the process we have ended up with what were originally shared public spaces being given over to the movement of and parking of cars with little space for anything else. All other former uses such as pedestrians, cyclists and shoppers as well as the shop fronts themselves have been relegated to secondary consideration.

In the process we have lost the very essence of what makes for a successful urban environment. It's not about having great individually-designed houses and buildings but rather the way these collectively integrate along streets and the way streets provide the public space for people to move and interact to create the urban environments we enjoy being in.

In essence the role of planning in regulating development needs to focus on designing the framework and form of the built environment rather than on the effects of land use at lot level.

Another related failing in NZ urban planning is that most subdivision and land use development planning control are treated separately and focus at lot level on the management of development controls per proposed building while ignoring the implications of subdivision and land use at the collective block and neighbourhood level. The result is generally a most disjointed and poorly connected road network with residential neighbourhoods that are characterised by numerous cul-de-sacs and shared right of ways (see Figure 3 an aerial of a part of Howick, Auckland below).

Figure 3 - An aerial view of a part of the suburb of Howick which is typical of much of suburbia in Auckland and elsewhere in New Zealand urban areas.

Even recently developed residential areas still tend to have a convoluted road and lot layout that is not suited to walking (see Figure 4 below). Such designed development (when compared with using a more regular road and block layout design) will impede opportunities for incremental redevelopment in the medium term as the layout really only suits one form of development car based suburbia. Hence many new residential areas are not very robust, flexible or resilient in design.

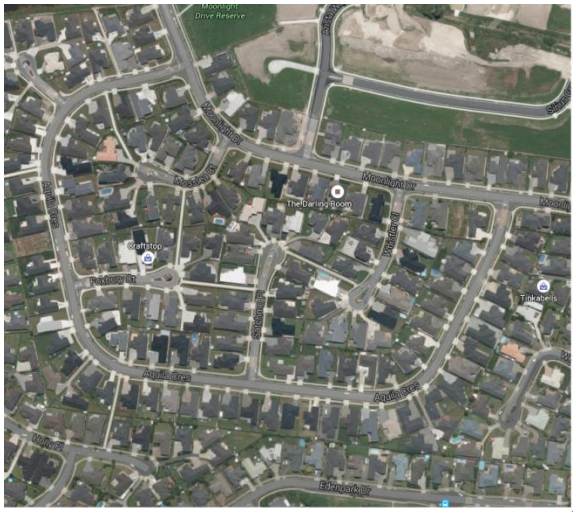

Figure 4 – An aerial view of a recently developed portion of Rototuna in Hamilton as an example of a convoluted subdivision and road lay-out.

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Question 4: Thinking beyond the existing planning system, how should diverse perspectives on the value of land be taken into account?

In the context of planning, land value usually, but not only, relates to its scarcity or location value and it is a question of balancing individual and collective interests as well as cultural perspectives. Good planning should be able to achieve a supported master or structure plan to guide the future development of urban areas. There are good examples from other countries we could look at.

Question 5: Thinking beyond the existing planning system, how should the property rights of landowners and public interests in the use of land be balanced?

The development of urban areas has been taking place for thousands of years and the balancing of collective and individual interests has long been a basis for the development of thriving great urban places, e.g. Rome and London. In the urban context it's not so much about the natural environment but rather the built environment. Collective public interest centres on the way individual private development collectively integrates with and reinforces the value of shared public spaces such as streets, parks and civic spaces in our urban areas.

With a generally supported development regulation plan for an urban area that is clear about the intended form of development, there is likely to be greater certainty for all from the outset. This certainty informs property owners and developers as well as the wider community as to how an urban area will develop that is in keeping with a community-supported vision for that development. Of course, within this framework there is flexibility to be creative at lot level. Further leeway is often possible through a discretionary or special consent process.

Question 6: How does the allocation of responsibilities to local government influence land use regulation and urban planning? Thinking beyond the current planning system, what allocation of responsibilities to different levels of government would support better urban planning?

Since urban environments are largely transformed natural environments and mostly comprise a built environment the current regulation of development through a 'resource consent' process

tends to be rather a poor fit. It would be better to talk about either about a 'planning or development consent / application' process. Environmentally based resource consents should really be limited to large-scale 'greenfield' developments which require transforming either rural or natural areas into built urban environments.

Major city councils have the ability and competence to be responsible for most of what regional councils are currently responsible for within their areas of jurisdiction. Again, most of what are called 'plans' under the RMA aren't really plans at all but rather just regulation rule books.

Question 7: How can an urban planning system better integrate land use regulation and infrastructure planning?

If local government starts with preparing an overall long-term development strategy that sets some direction as to where growth is anticipated and where it is to be directed spatially, then at least there is some overall clarity about how the individual plans and strategies compiled under the Land Transport Management Act, Local Government Act and Resource Management Act can be better coordinated.

Of course, not even the best planning can always predict how much development there will be or exactly where and when it will occur, but we do need to have good information at hand and good mapping tools for ensuring that we are better informed and less surprised as to likely demographic and development trends to enable us to do better forward planning. Land use regulation should similarly be informed by a community-supported strategic vision of how we want to develop, live work and play. We require a mixture of flexibility, resilience and sustainability to respond well to change and thrive in the process.

Question 8: Are complicated rules needed to control complex social systems? What are the alternative approaches for dealing with complexity?

The same questions have been asked in US urban planning and it would be well worth having a look at an alternative development planning and regulation system. As mentioned earlier, a growing number of counties, cities and towns have or are adopting a 'formbased' zoning approach to development regulation instead of land use zoning (see Figure 5 below). Evidence suggests most communities have found the new system a lot more straight forward to grasp and a much more concise regulating tool. Former land use zoning codes were hugely complex regulations that typically took municipal planners years of experience to become adept at managing and which were totally opaque to developers and the public.

This alternative is demonstrably more understandable to planners, developers and the community. It also has the advantage of having been established through firstly a thorough technical analysis, secondly a consultative community vision and thirdly the compilation or assembly of a regulation zoning plan.

The change has replaced the 'opacity' of the former land use zoning-based regulation system with a much clearer regulation that better reflects a community-supported vision for how urban areas should develop. This clarity gives developers greater certainty as to outcomes and which

proposals will fit with the plan. Furthermore, while the parameters for building form within a particular zone are set there is considerable flexibility as to actual building design and style. The whole goal of the alternative system is to get back to 'place' and people-based urban planning.

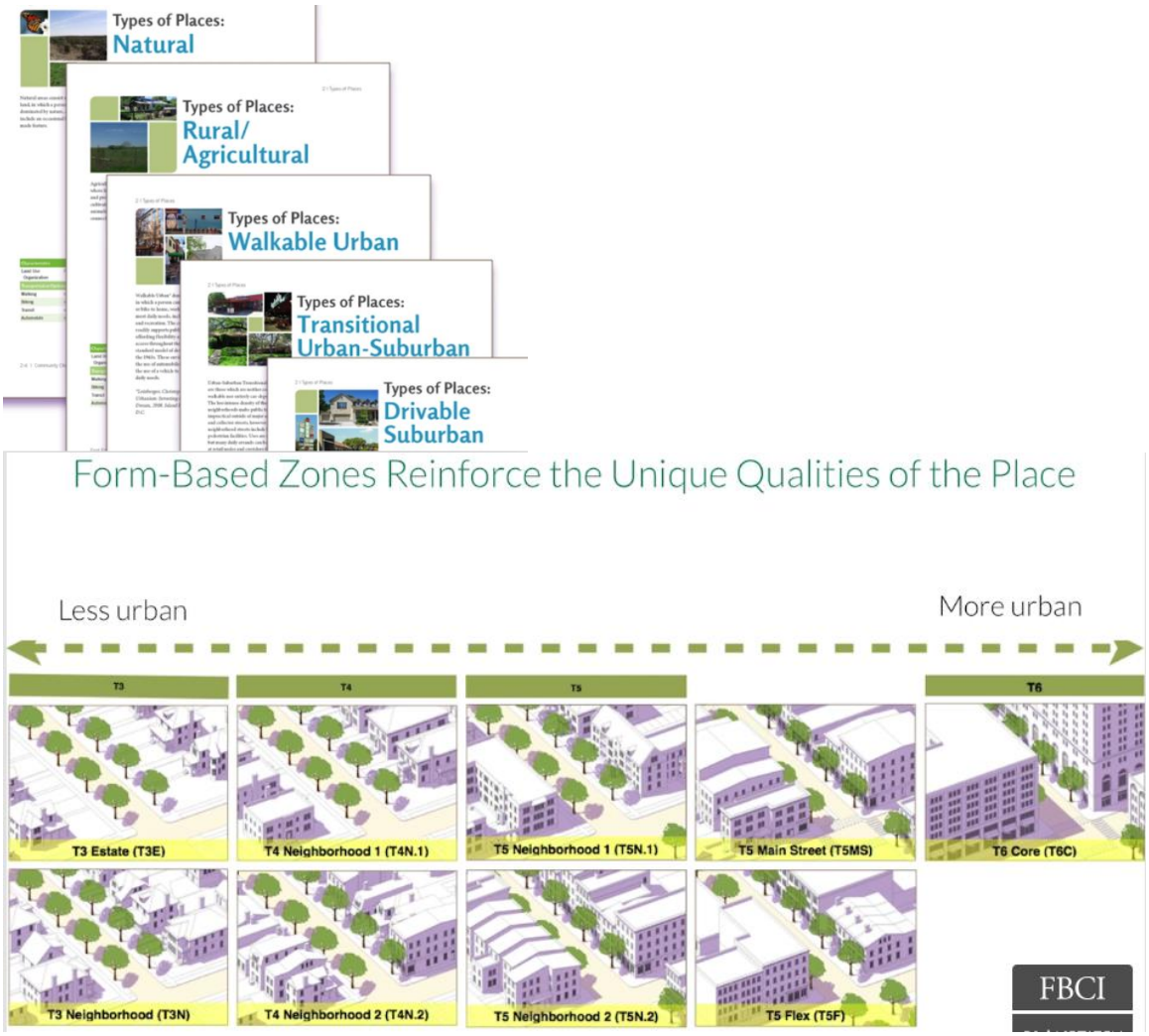

Figure 5 – Form based code – using a place based approach (images courtesy of reference material of the Form Based Code Institute in the USA)

Figure 6 – Form Based Code approach used in Denver (image courtesy of reference material of the Form Based Institute in the USA).

It is interesting to see how few zones were required to regulate the entire city of Denver using the form based code approach (see Figure 6 above) and despite having to carry over some special zones from the earlier land use zoning system.

Question 9: What principles around consultation and public participation should the Commission consider in the design of a new urban planning system?
It is really important to gain and retain the public trust and confidence with the process as you could well be changing fundamental property rights in the process of rewriting the regulations. In addition to GIS, Google Maps and Street View are really amazing tools and helpful to this process, particularly in explaining how a new system is likely to impact people and places.

Good consultation entails being genuinely engaged and open with people and if this occurs, should result in a generally supported development plan for an urban area. The issue currently faced in NZ is that in the planning context, this form of open consultative engagement tends to only happen up-front with the preparation of non-statutory instruments such as 'structure plans' or 'master plans.'

When there is an attempt to carry what are usually community-endorsed plans through the RMA process to implement them, there is a second phase of legislated 'consultation' through submissions, further submissions and appeals. It is often during this second process that what started as a generally-supported development plan may well get twisted by the actions of a few well-resourced interest parties to the extent that the eventual outcome is decided through a court process and is quite different from the initial non-statutory plan that the community supported and which entered the RMA process. It is little wonder that we all get disillusioned and jaundiced once we have been through the process more than once.

The RMA process is by nature a very adversarial and legally-constraining process that plays to specific interests.

Supported development regulation plans are examples of better, more streamlined, understandable and transparent ways of engaging communities and stakeholders in a constructive (even preparation of the Long Term Plan under the LGA by local authorities is a better process). Local development regulation plans should not be going through to an 'Environment Court' for final judgement. Appeals on development plans and plan changes to these should be being managed more locally and regionally by appointed planning boards.

In the first instance, once development regulation plans have been drafted and publically commented on they should be approved by local authorities and given effect to. The emphasis should be less on trying to get a 'perfect' plan (which we never do) and more on having a robust plan that can be amended and updated more readily to suit changing circumstances without another protracted RMA process.

Question 10: Thinking beyond the existing planning system, what should be the appropriate level of consultation in making land use rules or taking planning decisions?
(see above answer to Question 9)

Question 11: How could a new planning system provide recognition and protection of Maori interests?

Recognition and protection of Maaori interests is probably better served in the first instance through political dispensations and managed through their involvement in local authority decision making processes. At a planning system level, it is probably a secondary consideration that relates similarly to having a special role in planning decision making and having their interests addressed through provisions pertaining to Maaori land and cultural interests in the land and natural resources. Particular interests focus on marae and papakainga, cultural history as well as access to and use of natural resources. Our view is that our council already regard Maaori as a partner and would involve them specifically and integrally in any strategic vision forming exercise as well as in the subsequent drafting of any new regulating plan.

Question 12: What design features of a new urban planning system are needed for the Crown to meet its duties and obligations under the Treaty of Waitangi?
The two greatest interests that Māori have expressed are firstly in the care of the natural and cultural environment and the resourcesI In particular in our district there is a focus on protecting and restoring twater quality in our waterways and surface water bodies, as well as safeguarding our remnant natural areas and the coast. Their second identified area of interest is how they may develop their land areas and the development of papakainga housing and marae areas.

A new urban planning system needs to explicitly integrate Māori interests through the whole planning process, from the vision building right through to the way we regulate development. What we as planners must do is ensure a robust, fair and flexible process that honours Māori interests and achieves a regulating plan that has both their support as well as that of the rest of our increasingly diverse community.

Question 13: Thinking beyond the current urban system, how should a new model be designed so as to avoid unnecessary administrative, economic and compliance costs?
We should start with first principles. Most people live and work in built urban environments in which the natural environment plays a secondary role, particularly in regard to land use and development. We need a development management system that is founded on this reality.

We also need a development management system that is clear and easily understood (and ideally guided by an overall development plan that is aspirational, strategic, community-endorsed and goal-oriented).

The regulation principles and details should be both straightforward and provide landowners and developers with a great deal of certainty – be clear about what is meant in provisions. Instead of pages and pages of discussion and cross-referencing, our regulation plans should be based on straightforward, easily understood sketch graphics and tables that contain the majority of key development controls for both subdivision and land use. This collective presentation of development controls enables a ready grasp of both what is intended / sought at an overall block or neighbourhood level and for an individual lot. Done this way, it should be possible to have a development control document that is trim and clear. (An example of this is given below – taken from the Beaufort County in South Carolina USA website.)

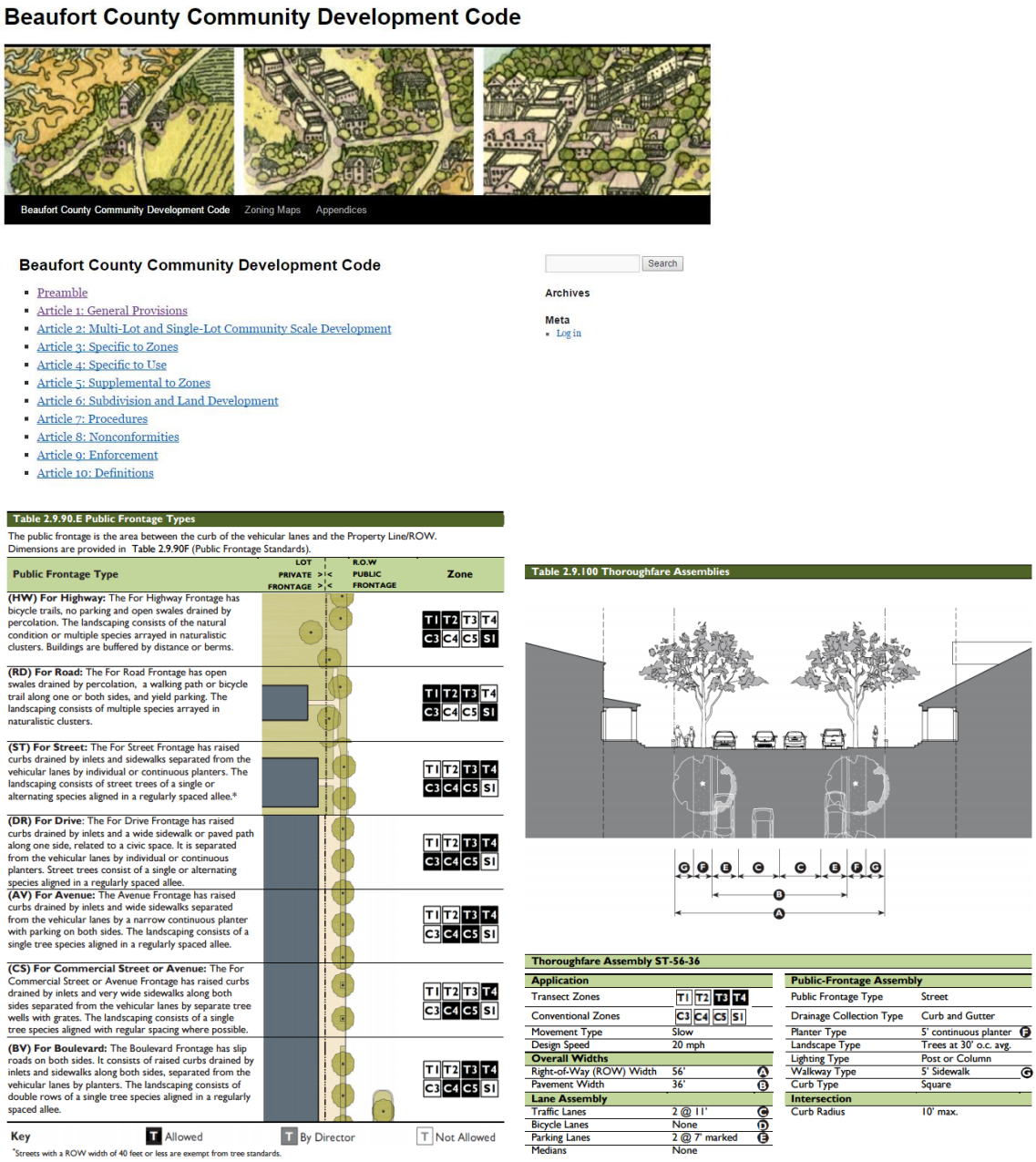

Figure 7 – An example of how regulations can be better portrayed and understood using a more graphic design (the example is Beaufort County a rural county in the south eastern USA)

The development regulation document should contain all the administrative and compliance procedures to be followed (see Figure 7 above). This makes it clear for council planners administering the regulations and the landowners, developers and infrastructure providers.

The development control document needs to be able to be updated and amended without the current overly cumbersome and rigid statutory requirements of the RMA.

Question 14: Thinking beyond the current planning system, how should national interests in planning outcomes be recognised and taken into account? What are the national interests that should be recognised?

Much as they should be in most countries. All local regulating plans and documents will have to take into account national policy and strategy. However, this is a normal cascade of authority and doesn't warrant the lengthy tedious repetition of statutes and referencing currently found in RMA-based planning documents and which mostly go unread by users of the document.

As indicated in the issues paper, responsibility for issues and decision-making needs to be placed where it best fits.

What are the national interests that should be recognised? These could include the following but should only be included and referenced where relevant and where they affect development regulation.

- National infrastructure and facilities: national roads, railway lines, bulk power generation and supply, telecommunications, shipping
- National resources: biodiversity and conservation of nationally significant natural areas, fisheries, water, air, the coast, the sea and marine environment
- National strategic interests: defence, trade, equity and justice, wide-scale natural and human error disasters

Question 15: What difference has the planning system made to environmental outcomes over the past 20 years.

The way our environmental and development regulations work under the RMA is acknowledged to be overly cumbersome, bureaucratic, uncertain and expensive, and interestingly the environmental outcomes achieved over the last twenty five year are arguably no better than if we hadn't had the RMA (note the deterioration in fresh water quality). Certainly the built environment outcomes leave much to be desired. Most of the environmental improvements that have been achieved would probably have occurred in any event, as indicated in the Issues paper, due to technological advances and other policies.

Until recently most RMA-based regulation documents have focused on applying a consent application process that considers a case-by-case assessment of 'environmental effects', rather than being guided by an overall agreed aspirational (and community-supported) environmental vision that gets translated into strategic long term goals and achievable objectives (targets), and against which regulations are compiled and monitoring can occur that determines whether the regulations being applied are effective or not.

To my view, and when compared to the environmental regulations used in many other OECD countries, the RMA offers no obvious advantages in terms of its procedures or its environmental outcomes. When considering the administrative and compliance costs indicated in Figure 8 of

the Issues paper the question is why we haven't already replaced the RMA with new more appropriate and relevant legislation for planning and environmental management.

Question 16: What difference has the planning system made to urban outcomes over the last 20 years?

It is probably safe to say that during the last 25 years the planning system under the RMA has gone backwards in NZ. Any individual improvements achieved are more attributable to collectively-supported good non-statutory planning processes and they have usually achieved good outcomes despite the RMA and certainly not because of it.

Very little true spatial planning has gone into most of the country's development control plans, to the extent that the majority of these of regulating documents 'plans' are really 'a-spatial' rule based regulations and only have maps to show land use zones as hang over from the former planning scheme era. These are more maps than plans.

Our current planning, as reflected in our regulating 'district plans' or 'regional plans', tend to be a collection of piecemeal development regulations that reflect cumbersome and lengthy appeal driven district plan reviews and the ongoing compilation of plan changes. Added to which, local authorities are often running proposed and operative plans simultaneously with the result being a cumbersome weighting applied on an application-by-application basis with little or no sense of any overall plan or outcome in mind.

Local authorities tend to respond to the push and pull of private developers, with probably the biggest overall concern 'to restrict urban sprawl and increase housing densities ' without thinking overly about poor urban outcomes often being achieved.

As with our environmental aspects, development of the urban environment under the RMA has not been guided by any aspirational vision for improving the urban environment or seeking to achieve certain goals. Under the RMA regulations are 'negative' issue based and tend to be couched in the RMA language of 'avoid, remedy or mitigate' (see Figure 8 below). Often these issues are more tied back to the natural environment than in seeking to achieve a desirable built environment or one based on a community-supported vision. In this sense planning under the RMA is very different to planning under the LGA.

Figure 8 - Issues in the Waikato District Plan pertaining to the built environment
Issue – Scattered Development Development that is disconnected or scattered may reduce open space, increase land use conflicts, reduce the range of possible land uses, and increase the cost of providing public facilities and utilities. **Issue - Location and Scale of Utilities** Utilities are important for community wellbeing and provide significant health, safety, social and economic benefits to the community, while in some instances their location and scale can degrade the natural and

physical qualities and characteristics of environments.

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Provision of Utilities Avoids Adverse Effects

Land uses and land use intensification, including subdivision, can have adverse effects on the environment if wastewater and stormwater disposal, water supply, energy supply and telecommunications are not adequately provided for or managed.

Question 17: What information about environmental outcomes and other urban outcomes would a decision maker need to make good urban planning decisions?

Look at what aspects people think are important in determining what makes an urban place a desirable place to live, (see what was done in Austin Texas in Figures 9 & 10 below).

Austin Texas did an exercise called 'Community character in a box' which enabled the 106 different communities in Austin to go out and, using an agreed template, compile photo documents and work with council staff to do some mapping analysis. Below is a summary of the photo compilations for North West Hills Character Analysis along with the mapping analysis done of each of the 106 communities in the city.

Figure 9- Austin Texas USA – example of a community based contribution in the planning process.

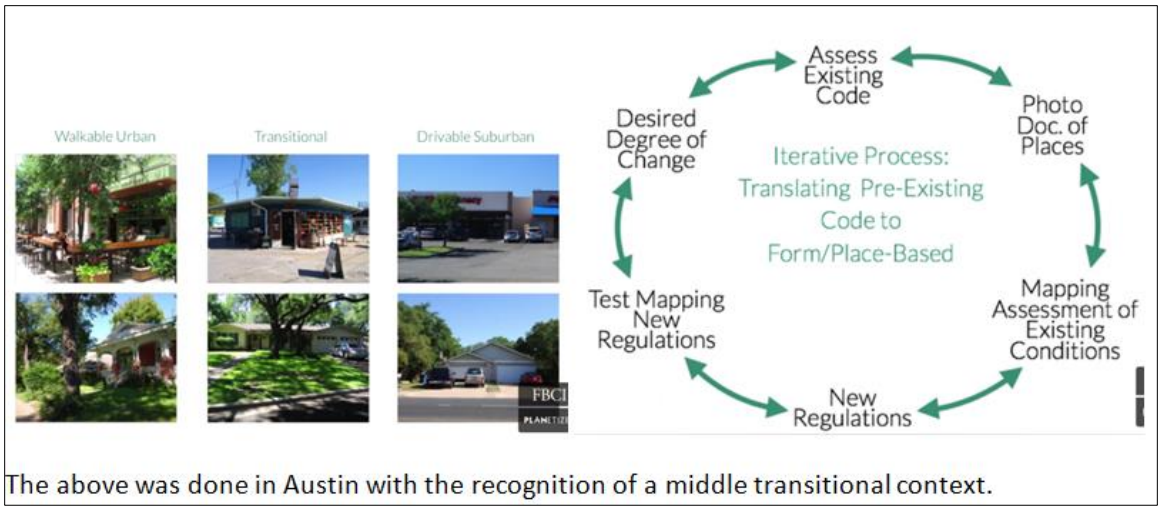


Figure 10 - A future planning system has to be better suited to the needs and aspirations of urban communities and environments.

Question 18: Why did the RMA not deliver on its original objectives?
A number of factors are mentioned in the Issues paper that are considered valid, but probably another key aspect is that adopting an effects-based and reactive approach to development regulation is in principle a denial of planning.

Planning by nature should be forward-looking, and based on a spatial, collectively-supported vision for the future. All planning-based regulation seeks to carefully regulate collective or 'public' interests with 'private' property owner/developer interests against an agreed spatial plan and set of development controls.

The RMA a case-by-case judgement of development proposals, assessing them in terms their anticipated 'effects' on the environment rather than on how they fit with any overall planned outcome.

The RMA process has become an increasingly cumbersome, overly complex, lengthy and inflexible basis for development regulation which is out of date and should be replaced.

Question 19: Does a goal of limiting the scope of land use regulation to managing effects, based around nationally –established environmental bottom lines remain a valid objective?
No. An effects based approach is taken from 'environmental impact assessment' procedure as exercised in various ways throughout the developed world. Such a procedure is usually only a part of making a development or planning application, and in the urban context might be negligible, given that most development in a transformed urban environment would be exempt from any environmental impact considerations. The rest of the planning or development application (if not already permitted in terms of the planning and development regulations) would require making a case for 'need and desirability' and be measured more against a city's or town's aspirational development goals.

Making a consideration of effects the sole basis for regulating land use development is retaining a very reactive and incremental approach to development regulation. It only has a place if we don't support the need for planning or zoning, as indicated in the Issues paper (page 42 in the quotations from Sir Geoffrey Palmer and Hon Simon Upton and as noted by Perkins and Thorns).

One of key drawbacks of using the effectsbased approach is that it places a great deal of discretion on the development application process and intentionally provides little up-front certainty for developers. While this might be considered a noble intention, the truth is most developers and landowners prefer dealing with more certainty from the outset. Good forward planning can and should inform the compilation of straightforward, clear development regulations that are easy to understand and follow for both developers and planners administering the development control process in councils. The example cited in the Issues paper regarding Queensland's Integrated Planning Act of 1997 is valid in this regard.

Question 20: Which aspects of the existing planning system would be worth keeping in a new system?

As was mentioned in Issues paper, the first generation planning regulation documents compiled under the RMA brought over the previous zoning system from the Town and Country Planning Act. This earlier land use zoning system has by and large, survived through the second generation documents and serve to underpin the need for some sort of spatial technique for basing development regulation on.

Zoning is also the key element in determining the set of development control provisions that pertain to any given property. Clearly, this spatial zoning system should be retained in a new system, such as moving to a 'form' based approach rather than 'land use', even if we do explore better ways of using it such as moving to a 'form' based approach rather than 'land use'. American planning regulation has demonstrated that you can transition quite easily or have both systems side-by-side in fact.

Building on this zoning and road framework, much of the existing rule-based regulation can be reviewed and streamlined and still applied in a more rational, clear framework. Most of the actual lot-based development control rules are very similar to those found in the majority of planning-based development control systemsTable 1 below provides a possible approach for managing the process of transition.

	Current System		Future System
Aspect	Measure	**Aspect**	Measure
Substantive	**Unsatisfactory Development Outcomes**	**Substantive**	**Will the new regulations clearly implement the adopted policy and vision?**
Procedural	**Unpredictable permitting/ consenting process**	**Procedural**	**Will the change streamline the permitting/ consenting process?**
Format	**Regulation complexity, navigation and/ or accessibility difficulty**	**Format**	**Will the change improve navigation and usability?**

Table 1 – a possible approach for managing a transition (courtesy of the Form Based Institute reference material)

Question 21: Would there be benefits in a future planning system making more provision for private lawsuits and bargaining to resolve disputes over land use? In what circumstances would lawsuites and bargaining be beneficial?
The question is, where is the evidence that a planning system based more on the application of common 'tort' law does provide clear benefits and advantages over a zoning plan based system? Such a system would be similar to the present 'effects-based' approach of the RMA and surely would suffer the same weaknesses and poor built environment outcomes.

Such a system would provide little certainty for both landowners and developers (but would benefit lawyers, as does the RMA!)

Question 22: Should more decisions about land use rules be made by property owners privately (for example through covenants)?
Not on a case-by-case basis, as such a system would make for considerable uncertainty and could well result in a hugely complex urban environment of micro regulation.

It would be better to have a participative process of public involvement in the plan-making process that resulted in the compilation of the land use rules being used. Employing a regular performance review process would similarly enable these rules to be amended from time to time to suit changing circumstances and needs.

Question 23: Would there be benefit in tradable development rights, tradable permits and environmental offsets playing a stronger role in a future urban planning system? In what circumstances?
There is evidence that tradable development rights (TDR) can work in certain circumstances, however there should be clear benefits in considering a TDR system, as it can be demanding to administer. One caution would be that the transfer should happen within the same administrative area of jurisdiction and not be across a local authority boundary (e.g. between Waikato district and Auckland city). The same would apply to tradable permits and environmental offsets. There is certainly merit in giving these mechanisms consideration in

certain circumstances where there are clear benefits to be gained, be they land use or environmental aspects.

Question 24: Are there opportunities to make greater use of economic tools such as prices, fines and user charges in a future planning system? Where do these opportunities lie? What changes would be required to facilitate their use?

There are opportunities to make greater use of economic tools than has been the case in NZ e.g. congestion tolls on motorways and arterials into the larger cities of Auckland, Wellington and Christchurch. These would mostly be considered as an adjunct to the planning system rather than an integral part of it. Auckland is already raising the costs of car parking in the central city to discourage car use.

In smaller urban areas careful consideration has to be given to the burdens imposed by using such mechanism. The focus, wherever possible, should be on doing better planning in the first instance (robust and flexible).

Question 25: What international approaches to planning and environmental protection should the Commission consider?

We should be looking for an adaption of 'good fit' alternatives (countries broadly similar in profile to NZ such as Australia) that strive to balance a robust 'goal-based' spatial zoning plan and set of regulations (that provide a good deal of certainty for landowners, developers and planning and development control administrators) that achieve good urban environment outcomes, lower administrative and compliance costs whilst retaining a good level of resilience and flexibility to adjust to changing circumstances and needs.

Question 26: Should New Zealand continue to have a unitary regulatory framework for environmental and land use regulation? What are the advantages and disadvantages?

Advantages and Disadvantages of a unitary regulatory framework

The most obvious advantage in principle (and one lauded at the time of passing the RMA) is a single 'resource consent' process to address both environmental and planning aspects. To anyone working with a two tier procedure that separates environmental and planning control aspects, a single control system has an obvious attraction.

One key disadvantage that has become increasingly apparent when working with the RMA is that it focuses on managing environmental 'effects' incrementally as assessed against an environmental sustainability paradigm and lacks any strategic forward looking or 'vision'-based dimension. Expressed more bluntly, the RMA is a denial of the need for planning.

The RMA provides a particularly poor regulatory framework in the urban environment context because of this absence of a forward spatial planning dimension.

Recommendation
Based on the experience of working under the RMA, it would appear that there would be merit in separating out the environmental from the spatial development planning aspects.

The former is essentially backward looking (assessing effects), whilst the latter is forward looking (the very essence of planning - whether it is for building a piece of furniture, a house or a city - is the need for plan beforehand). While it is possible to build without a plan, the process is ad-hoc, uncertain and usually wasteful in time and resources. Global experience is that regulating development (land use) against a plan provides clear advantages.

In the urban environment in particular, giving land use development regulation over to an 'environmental effects'-based framework makes little sense.

We should have a separate spatial planning-based framework for regulating land use and development in New Zealand and take that aspect out of the RMA. The land use regulation matters could be set nationally and guidelines provided (like Australia, where states provide for local government) and devolved to local government to formulate spatially-based plans and a land use regulating system.

The RMA could be replaced with an environmental statute that is more aspirational in character – "What is the natural environment that we want to have in NZ?" From this should be some clear goals that drive achievable objectives and from which an environmental impact assessment regulating system is devolved. The environmental regulations can largely be managed at a local level and integrated as an aspect of land use regulation. There are good examples of how this works globally. The weight given to natural environmental aspects will vary, depending on the context, e.g. minor for incremental development within an urban environment that is accordance with the overall plan for the development of the urban area, more important for large scale 'greenfield' developments and large projects or projects with considerable environmental effects in rural environments, e.g. large intensive farming projects, large road infrastructure projects, large storage dams. Most countries have schedules of listed activities that classify them into different classes of environmental assessment - permitted, scoping assessment, full environmental impact assessments etc.

One of the aspects of the RMA that is particularly poorly addressed is the involvement of civil society in the whole development management process (resource consents, plan reviews and plan changes). Adopting a less legalistic and adversarial process and using something similar to that followed under the LGA would be a huge improvement.

Question 27: Should regulating land use and/ or environmental effects in an urban context be separated from resource management legislation that applies in non-urban areas? What are the advantages and disadvantages?
See the answer to Q26 above in the first instance. Although it may be attractive as a stop-gap to remove just urban areas from the jurisdiction of the RMA, there will undoubtedly be unexpected

complications from such an approach. It doesn't address some fundamental flaws in the RMA and will result in a very contrastingly-focused system for urban and rural areas.

Good planning is required not just for urban areas but for the surrounding regions too in which urban areas are imbedded and with which they have an integral relationship. This relationship is manifest through the development and management of bulk infrastructure and services from transport to water, energy and telecommunications. It is also important in the management of hazards, biodiversity and the wider natural environment. The RMA does not address planning for any of these aspects well under its 'effects'-based approach.

Question 28: Should provisions relating to infrastructure planning and funding be integrated in a planning statute? What are the advantages and disadvantages?
There is a clear need for good linkages between the land use planning and infrastructure planning. Evidence from overseas would be helpful in determining to what extent this should be taken into account in a new planning statute. Probably as with the environmental aspects, these could well be managed under separate subject statutes (as they are currently) and integrated through a good local and regional-level strategic and regulatory planning process.

Advantages and Disadvantages
Looking at the evidence we have locally and globally (a good Dutch example is given in the Issues paper pg 62), it is again about getting the balance right between good high level strategic planning alignment and efficient and effective local level land use regulation. Clearly one of the principles to get right is between high level strategic direction-setting and guidance and local level decision-making and regulation. The short political election cycle of 3 years is one of the issues for more strategic decisionmaking at the national and local level.

Question 29: Are there provisions (for example the Conservation or Reserves Act) that should be integrated into a new statutory framework for urban planning? What reforms are needed to these frameworks?
Please refer to the answer to Question 28 - the same principle should be applied.

Question 30: How could the planning system be designed to provide a sufficient supply of industrial and commercial land? Are there particular tools that could be used to ensure an adequate supply?
Our planning system should tie our regulating plans to an endorsed strategic spatial development plan that provides direction as to what development is wanted and where this development is wanted. Much like the infrastructure strategies now required under the Local Government Act, this strategic plan should be regularly reviewed and updated to accommodate changing needs circumstances (e.g. growth spurts, declining population, changing demographic structure, changes in technology etc).

Such a plan should be based on good evidence and analysis and should be able to anticipate the suitable provision of land for industrial and commercial purposes. Current zoning plans tend to be hugely inflexible and haven't changed much in decades, despite changes in the way business

and work is done. We often have a lot of industrially-zoned land that is either poorly located now or not serviced adequately to be attractive to industry. For commercial interests there are often tensions between retaining or reviving the roles of town centres (and protecting the interests of businesses already established there) and car-based decentralised new commercial developments on the periphery of urban areas. A more strategic approach is required that enables better flexibility and balancing of interests to occur.

Most of the strategic spatial plans that we currently have are non-statutory, apart from the Auckland Plan.

Question 31: How much discretions should be built into an urban planning system? Are there examples of urban planning systems in other countries that successfully manage the tension between certainty and discretion?

Mention is made in the Issues paper of the Dutch system that is land use rule-based, provides a great deal of certainty, but which also has an 'exemption' ability that in reality provides considerable flexibility.

Probably some of the principles used in the form-based code approach adopted by many counties and cities (e.g.Miami and Denver in the US) would be worth looking at since they are prescriptive about form parameters but more flexible about use aspects than a traditional land use zoning system and actively support a more mixed-use approach. They also distinguish between using form-based approaches used in 'walkable urban areas' and more traditional land use rules for 'drivable suburbs'.

One of the key attractions of the form-based approach is that even though more work goes into the plan preparation, it is fundamentally simpler for everyone to grasp and a far more compact regulating document. It is also more reflective of a 21st century planning technique than conventional land use separation zones-based regulation. It is outcomes-based and doesn't require the increasingly complex regulations for dealing with mixed use found in most planning documents. It also appears from evidence, that the number of discretionary applications required by developers is less than that under former conventional land use zoning regulation.

For instance, in terms of what to fix, we now know that regardless of the form of movement or type of development applied, a regular 'grid like' layout of roads and blocks works best in the urban context. While very robust, it provides a great deal of flexibility for different uses and developments and is likely to suit urban areas through many cycles of redevelopment. A more dendritic 'snakes and lollipops' cul-de-sac layout of roads tends to support a single dwelling car-based residential use that tends to be inaccessible for public transport or pedestrians and is going to be difficult to adapt for different uses, including even medium density housing, because of the restrictive street and block space arrangements.

Question 32: How could a planning system be designed to consider the benefits to consumers that may arise from greater competition?

Planning usually strives to balance the broader interests of a community with individual interests in housing and commerce and industry. Often planning systems deliberately restrict an individual activity in the interests of promoting a wider interest. Regular review and strategic appraisal is required to determine what the best fit is with plans – what to keep fixed and what to be more flexible on.

The difficulty with the built environment is that it endures a long time and generally tends to change only incrementally over time (apart from greenfield areas on the periphery). The important part is to get the fundamental 'road and block' layout framework for urban areas as robust as possible as these, once developed, tend to last. On more detailed aspects we can afford to be more flexible, even if occasionally mistakes are undoubtedly made. If we focus more on the form of urban spaces and less on what the detailed uses are there is probably going to greater flexibility to provide for commercial interests and achieve the competition sought at a strategic level.

Question 33 How could a future planning system be designed to reflect the different circumstances and needs of New Zealand cities? Are new or different planning and funding tools needed?

A good planning system should be able to accommodate urban areas dealing with growth as well as those dealing with little growth or those with a declining population (as will happen throughout most of regional New Zealand soon unless an as yet unforeseen future event brings in a lot of migrants!).

The urban environment is seldom static, in as much the people living and working in it are changing and responding to changes at a wider level (population migration, population ageing etc). Change is a healthy part of urban areas and has to be provided for in a new planning system.

What is clear is that no one planning framework is going to get all the details right. There has to be acceptance that a good legal planning framework will provide for the ability to adapt mechanisms and tools to suit the changing needs that arise.

One key area where new approaches are required is our current way of trying to limit urban sprawl by imposing urban limits and blanket residential density requirements in planning regulations. Evidence locally and from overseas from Australia and the US indicates that outcomes have not been good in the poor living quality of built environment or in the cost of housing. Both countries have realised that developers don't necessarily change and introduce more medium density housing as regulatory planners presupposed, but continue developing single houses on ever smaller lots or put in occasional apartment buildings.

A move away from using density itself as a control regulation is required as it does not work. There has been some success achieved overseas using new approaches that should be looked at in New Zealand. There are some Australian useful guidance models (New South Wales – housing diversity guide and Landcom guides) and US 'form based' examples in this regard.

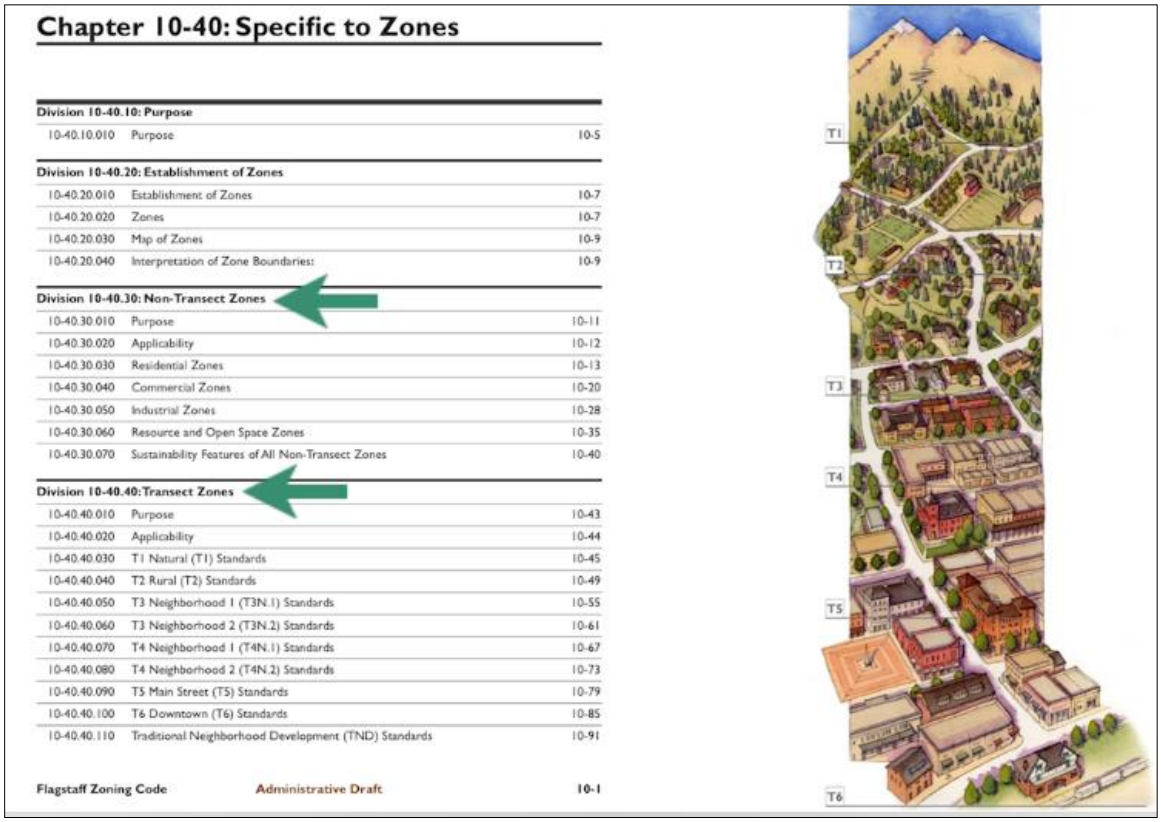
Question 34: Thinking beyond the existing planning system, how should a new model manage the risk of natural hazards? Who should bear the risk of building in areas where natural hazards may occur?

Isn't it a case of being sensible and applying the knowledge we have wisely? There is the ability to grade the risk posed by hazards to determine what an appropriate planning response should be. It would be a case of planning around what we know and being more flexible about what we don't know.

Question 35: Where will technological change put the most pressure on the planning system? How could the system be designed to be flexible enough to respond to technological change?
In the planning context, most current technological change is happening around the speed and way in which information can be shared as well as in the way we can consult on planning issues. What is obvious too though is that there is no replacement for face-to-face engagement as the most important aspect of consultation.

It also has enabled a much greater amount of information to be shared and communities, interest groups and stakeholders to be much better informed on planning matters and technical issues than ever before. The compiling of publically accessible and enquiry-based electronic versions of our regulatory documents is revolutionising public access.

What technology could also be doing but isn't really yet, is in the design and layout of our planning and regulatory documents. The electronic enquiry versions are showing up some of the unnecessary complexity of many regulations and needs to be taken further to inform the logic and design of the regulations. Some of best example documents to consider in this regard are the form-based documents being developed in the US. They make immediate sense at an overall level and down through to the neighbourhood and local levels, containing a great deal of information in useable maps, graphics and tables, with a minimum of explanatory text (see figure 11 below for examples of better design and layout in planning regulatory documents from the US).



Chapter 10-40: Specific to Zones

Division 10-40.10: Purpose		
10-40.10.010	Purpose	10-5
Division 10-40.20: Establishment of Zones		
10-40.20.010	Establishment of Zones	10-7
10-40.20.020	Zones	10-7
10-40.20.030	Map of Zones	10-9
10-40.20.040	Interpretation of Zone Boundaries:	10-9
Division 10-40.30: Non-Transect Zones		
10-40.30.010	Purpose	10-11
10-40.30.020	Applicability	10-12
10-40.30.030	Residential Zones	10-13
10-40.30.040	Commercial Zones	10-20
10-40.30.050	Industrial Zones	10-28
10-40.30.060	Resource and Open Space Zones	10-35
10-40.30.070	Sustainability Features of All Non-Transect Zones	10-40
Division 10-40.40: Transect Zones		
10-40.40.010	Purpose	10-43
10-40.40.020	Applicability	10-44
10-40.40.030	T1 Natural (T1) Standards	10-45
10-40.40.040	T2 Rural (T2) Standards	10-49
10-40.40.050	T3 Neighborhood 1 (T3N.1) Standards	10-55
10-40.40.060	T3 Neighborhood 2 (T3N.2) Standards	10-61
10-40.40.070	T4 Neighborhood 1 (T4N.1) Standards	10-67
10-40.40.080	T4 Neighborhood 2 (T4N.2) Standards	10-73
10-40.40.090	T5 Main Street (T5) Standards	10-79
10-40.40.100	T6 Downtown (T6) Standards	10-85
10-40.40.110	Traditional Neighborhood Development (TND) Standards	10-91

Flagstaff Zoning Code Administrative Draft 10-1

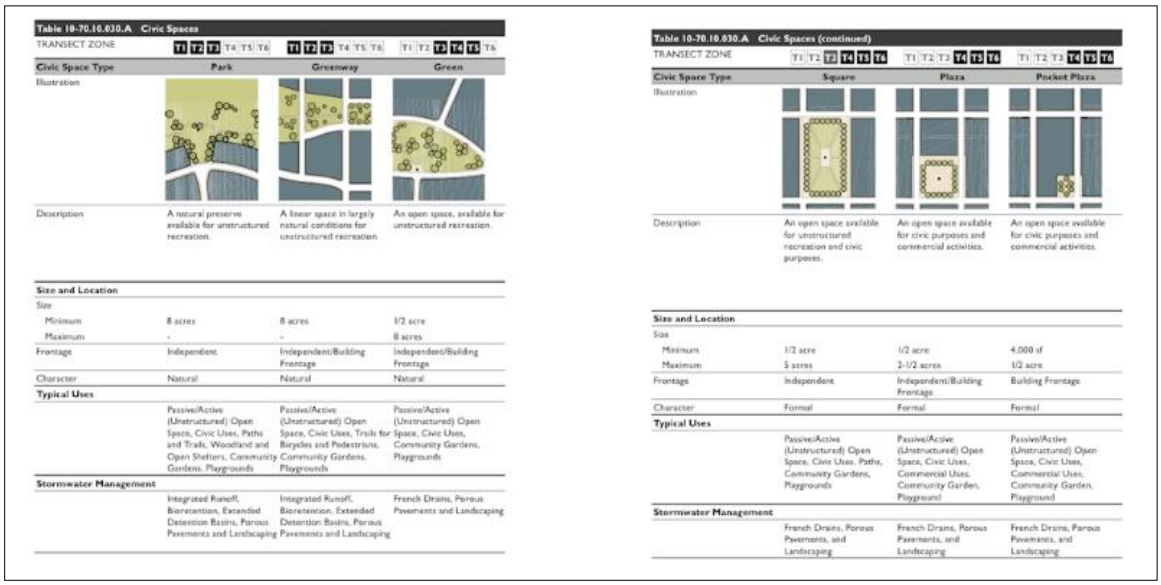


Table 10-70.10.030.A Civic Spaces

TRANSECT ZONE	T1 T2 T3 T4 T5 T6	T1 T2 T3 T4 T5 T6	T1 T2 T3 T4 T5 T6
Civic Space Type	**Park**	**Greenway**	**Green**
Illustration			
Description	A natural preserve available for unstructured recreation.	A linear space in largely natural conditions for unstructured recreation.	An open space, available for unstructured recreation.
Size and Location			
Size			
Minimum	8 acres	8 acres	1/2 acre
Maximum	-	-	8 acres
Frontage	Independent	Independent/Building Frontage	Independent/Building Frontage
Character	Natural	Natural	Natural
Typical Uses			
	Passive/Active (Unstructured) Open Space, Civic Uses, Paths and Trails, Woodland and Open Shelters, Community Gardens, Playgrounds	Passive/Active (Unstructured) Open Space, Civic Uses, Trails for Bicycles and Pedestrians, Community Gardens, Playgrounds	Passive/Active (Unstructured) Open Space, Civic Uses, Community Gardens, Playgrounds
Stormwater Management			
	Integrated Runoff, Bioretention, Extended Detention Basins, Porous Pavements and Landscaping	Integrated Runoff, Bioretention, Extended Detention Basins, Porous Pavements and Landscaping	French Drains, Porous Pavements and Landscaping

Table 10-70.10.030.A Civic Spaces (continued)

TRANSECT ZONE	T1 T2 T3 T4 T5 T6	T1 T2 T3 T4 T5 T6	T1 T2 T3 T4 T5 T6
Civic Space Type	**Square**	**Plaza**	**Pocket Plaza**
Illustration			
Description	An open space available for unstructured recreation and civic purposes.	An open space available for civic purposes and commercial activities.	An open space available for civic purposes and commercial activities.
Size and Location			
Size			
Minimum	1/2 acre	1/2 acre	4,000 sf
Maximum	5 acres	2-1/2 acres	1/2 acre
Frontage	Independent	Independent/Building Frontage	Building Frontage
Character	Formal	Formal	Formal
Typical Uses			
	Passive/Active (Unstructured) Open Space, Civic Uses, Paths, Community Gardens, Playgrounds	Passive/Active (Unstructured) Open Space, Civic Uses, Commercial Uses, Community Garden, Playground	Passive/Active (Unstructured) Open Space, Civic Uses, Commercial Uses, Community Garden, Playground
Stormwater Management			
	French Drains, Porous Pavements, and Landscaping	French Drains, Porous Pavements, and Landscaping	French Drains, Porous Pavements, and Landscaping

Figure 11 – Graphic layout of planning and development regulations from Flagstaff, Arizona in the USA

Computer-aided design enables you to do spatial analysis and design in a three dimensional format that is more immediately understood by everyone (see Figure 12 below) of an example used in).

Figure 12 -Portsmouth Virginia USA using computer aided design to show how an area may be transformed through good planning and partnership with developers and communities

Question 36: Is there a need for greater vertical or horizontal coordination in New Zealand's planning system? In which areas? How could such coordination be supported?

In the first instance we need a planning framework to be provided nationally. Currently, that provided under the RMA is a hollow system that, due to its effects-based management and laissez faire-based approach to development management, in reality is a denial of planning. The current 'planning regulation' provided for in the RMA needs to be removed, leaving it to focus on management of the natural environment.

In the design of a new national planning framework, careful thought will need to be given to aspects of vertical and horizontal coordination and the appropriate allocation and rationalisation of planning functions between national, regional and local levels, as well as the provision for unitary systems in certain circumstances (metropolitan entities such as Auckland, Wellington and possibly Christchurch?)

Certainly, as said before, horizontal coordination of the provision of bulk infrastructure networks is important. This is evident in the greater Auckland case where its northern and southern local neighbours are hugely influenced by the development of Auckland and its wider resources needs such as transport connections, bulk water, energy supply, communications, quarry material and solid waste disposal.

We have a good chance to learn from other countries with similar circumstances such as Australia as to what works well and what doesn't, as well as the benefits and costs.

Question 37 Would there be tension between a fundamentally different approach to urban planning, and the prevailing culture within organisations and professions involved in urban planning? How should tensions best be managed to provide for a successful transition?
Yes, there could well be tensions among some organisations and professions involved in the RMA and planning. However, there was life before the RMA and there will be life after the RMA, even though we have had the RMA for some time. Organisations should survive a change to a new planning paradigm. From a professional planning viewpoint, the change should be good in restoring planning's essential purpose. For RMA legal practitioners there will probably be greater adverse effects from removing a huge domain of work. However the legal profession is already diverse and should well be able to refocus on environmental aspects as provided for by an amended RMA or hopefully a replacement environmental management statute that moves away from just an effects-based approach to environmental management and includes a more visionary and goal-based aspect. Most other more environmentally-focused organisations should transition easily and positively, notwithstanding some nay saying.

Tertiary education institutions will need to adjust to the splitting out of development planning from environmental planning and regulation but mostly the change will be positive and should be good for planning and the country.

The qualms raised in the Issues paper on pg 72 are valid to a degree and should be taken into account, but aren't a reason not to do what is required. There is enough overseas and locally-trained planning expertise in New Zealand to enable the change-over to a new paradigm to occur successfully. Probably the biggest change within planning will be within consent processing, where there will be a mind shift around principles rather more than around the actual mechanics of vetting development applications. Better national guidance should and could be provided from the outset (it wasn't with the roll out of the RMA) and is not a hard task, as there are many good examples to draw on thanks to the internet, and which weren't available in 1991!

Geoffrey Palmer's criticism of not abolishing the then Planning Tribunal and replacing it with the Environment Court from the outset of introducing the RMA is noted. In this regard it should not be difficult to establish independent planning appeal bodies (drawing from existing planning expertise and establish these either regionally or nationally) to hear planning appeals in place of the existing Environment Court.

Question 38: Does capability exist within local and central government to implement a fundamentally different approach to urban planning? Where are gaps in capability likely to be?
Yes, it is believed that the capability and desire exists to successfully implement a new planning system. Overall, the adaption should be easier for central government than for local

government, as it should be a simpler process involving fewer people and less logistics. Most of the national policy statements that central government has formulated under the RMA would still stand. Most of the effects of the RMA are wrestled with at the local level.

Before the passage of a statute establishing a new planning framework, there will need to be some preparation and training provided to local government to enable a positive transition and the implementation of the new system.

The change is not going to be pain-free but it needs to be done in the best interests of the country, its cities, towns and people (and probably the natural environment too).

Probably the biggest question for the future is whether there is a role for regional-level planning (or government) or not?

Question 39: Are there leading practices from other countries about how a transition to a new urban planning system should be undertaken.
Probably one aspect to point out is that in most instances in other countries a planning system includes both rural areas and urban areas and does not have a separate system for each.

One advisory was to engage everyone affected and involved early on and keep them in the loop. You should be on the front foot not the back and keep a tight control on the scope of what you are embarking upon (avoid the 'while we are at it why don't we fix this and fix that'). Good political leadership is helpful.

Djt/djt February 2016