

15 A future planning system: key recommendations and benefits

The terms of reference for this inquiry invite the Commission to “review New Zealand’s urban planning system and to identify, from first principles, the most appropriate system for allocating land use through this system to support desirable social, economic, environmental and cultural outcomes”. In doing so, the Commission was asked to consider the “background, objectives, outcomes and learnings from the current urban planning system in New Zealand”.

The previous chapters of this report have assessed the performance of the current planning system in a number of areas – such as the built environment, the natural environment, infrastructure provision, the Treaty of Waitangi – and identified the changes required to make a future planning system work better. In this concluding short chapter, the Commission indicates what it considers are the most important of its recommendations – the ones that it believes will decisively improve New Zealand’s system of land use and resource management. The chapter also describes the large gains that the Commission believes its proposed future planning system would deliver for New Zealanders.

15.1 What changes in a future planning system are most important?

The four most important changes that a future planning system should contain are:

- clear statutory objectives and principles for the built and natural environments;
- a revamped set of regulatory plans for each region – plans that are built on the platform of a spatial strategy and clear environmental limits;
- timely, independent and systematic review of plans against the statutory objectives and principles; and
- new mechanisms and models to free up the supply of infrastructure-serviced land for development – particularly in high-growth cities.

Clearer statutory objectives and principles for the built and natural environments

The natural and built environments require different and distinctive regulatory approaches. The natural environment needs a clear focus on setting standards that must be met, while the built environment requires assessments that recognise the benefits of urban development and allow change. Current statutes and practice blur the two environments, and provide inadequate security about environmental protection and insufficient certainty about the ability to develop within urban areas. Rather than attempting to regulate these different issues through a single set of objectives and principles, a future planning system should clearly distinguish between the natural and built environments, and clearly outline how to manage the interrelationship between the two. To support an integrated approach, these sets of principles should sit within a single planning and resource-management Act.

The distinction between the built and natural environment will enable a future system to be clearer about its priorities, especially at a national level and in regard to land use and infrastructure. Clearer language in a new Act, and better use by central government of National Policy Statements (NPSs) and National Environmental Standards (NESs) will greatly reduce the indeterminacy that has troubled the current system and left the courts to resolve difficult issues. As discussed in Chapters 5 and 8, this problem reflects unresolved tensions within the Resource Management Act 1991 (RMA) around the balancing of environmental and socio-economic interests.

Clear principles in future planning legislation should guide decision makers on how to give effect to the statutory objectives in the content of plans, the conduct of planning processes and in decision making.

Processes should be efficient, fair, and transparent. Decisions should reflect the clearly defined and restrained statutory objectives and be proportionate to the matters being regulated or decided.

A revamped and cohesive set of regulatory plans for each region

Land-use plans and planning processes under the RMA have frequently demonstrated deficiencies that cause inadequate responses to growth pressures. In a future planning system, the Commission recommends substantially revamping plans, plan making, plan review and rights of appeal.

Regional councils should lead the production of regional spatial strategies (RSSs) that set out strategic land-use parameters stretching 30 to 50 years ahead in the case of high-growth regions. RSSs will define corridors that provide options for future infrastructure, future public open spaces, and areas of cultural significance and outstanding conservation value. Remaining land will be available for development. Territorial authorities, central government, iwi, developers and infrastructure providers will all participate in the RSS process.

RSSs will have a formal status. District and unitary plans, transport and other infrastructure plans will be obliged to pay serious attention to them.

In the future system, each region will have a set of regulatory plans for the built and natural environments. Those plans will be subject to the overall statute and to national policies and standards. The RSS will be the platform for the suite of District Plans within a region as well as for transport and other infrastructure investment planning under the Land Transport Management Act 2003 (LTMA) and the Local Government Act 2002 (LGA).

Alongside RSSs, regional councils will also take the lead in developing Regional Policy Statements for the Natural Environment (RPS-NEs). The RPS-NE will set the protective limits for the natural environment in a region. It will have to give effect to any relevant NPSs and NESs and the new Act. But it could set more stringent limits than called for in these documents according to regional needs and preferences.

Councils in a region will prepare and notify their plans, with inputs from local communities, experts, iwi, central government and other parties. They will jointly “own” the RSS and jointly have oversight of how well each District Plan fits with the RSS and with neighbouring District Plans.

All RSSs, RPS-NEs, and District Plans should include a chapter that recognises and provides for the active protection of Māori interests in land use and resource management.

Timely and systematic review of plans by Independent Hearings Panels

The Commission recommends that local Independent Hearings Panels (IHPs) are appointed, and that they review all plans and significant plan changes (Chapters 8 and 13). The IHP review is a crucial part of the Commission’s proposals for a future planning system. An IHP will:

- review notified plans or plan changes against matters raised in submissions and against the purpose, objectives and principles set out in statute and secondary regulation; and
- resolve conflicting and contested provisions to produce a final version of the plan on the merits.

Using an IHP review will remove the need for further appeals on merit, and provide a single-stage comprehensive review of the package of plans (the RSS, the RPS-NE and District Plans) in each region. Together, these review provisions will reduce the time taken for plans to become operational, provide for greater coherence among plans, provide greater certainty about the outcome of planning processes, and create steady pressure for improvements in the quality of plans and planning culture over time.

The output from an IHP would comprise a plan or plan change and reasons for any changes made to the notified version of the plan. This plan would be subject to appeal to the Environment Court on points of law and judicial review in the High Court. Councils will still have the power to initiate further plan changes if they consider such changes are required.

To fulfil the role of a credible body to make the final decision on merits of plans, IHPs will need to:

- be truly independent (appointed by an independent statutory agency that is at arm's length from central government);
- have the appropriate expertise to be able to consider scientific, engineering and other expert evidence;
- know and understand tikanga Māori – particularly as it applies in the local area;
- have a sound knowledge of local conditions; and
- have sufficient legal expertise available, and an understanding of fair processes that meet statutory requirements, but at the same time are accessible to a non-expert without legal representation.

New mechanisms and models to free up supply of infrastructure-serviced land for development

A clearer statute and clearer direction and expectations from central government will push councils in high-growth cities to do more to meet the demand for development capacity. The recently published National Policy Statement on Urban Development Capacity is a step in the right direction. But these councils will need more help to meet the challenge of their rapidly growing populations. That help should start with:

- clear legislative purposes and objectives for the natural and built environments;
- principles to guide plan making, planning processes and decision making; and
- systematic, independent and timely reviews of plans.

In line with these objectives, principles and the reviews, plans should:

- have clearer and broader “development envelopes” within which low-risk and mixed development is either permitted or is only subject to minimal controls;
- only apply rules that offer a clear net benefit, where the link to externalities is clear, and where alternative approaches are not feasible;
- put greater reliance on pricing and market-based tools rather than rules;
- constrain attempts to force the creation of economic, social or environmental benefits through restrictive rules (eg, planning policies that attempt to promote density in the expectation that this will necessarily lead to higher productivity);
- recognise inherent limits exist to what land-use planning can achieve, and give greater room and respect to the decisions of individuals and firms;
- have broader zones that allow more uses;
- make less use of subjective and vague aesthetic rules and policies; and
- depend more on local evidence to support land use rules, instead of relying on heuristics generated from overseas studies (eg, assumptions that higher-density urban areas necessarily result in their residents behaving more sustainably).

To complement these improvements, a future planning system should:

- employ price-trigger mechanisms that credibly guarantee that councils will permit enough development capacity to meet demand at reasonable prices;
- deploy, where appropriate, urban development authorities to assemble and develop inner-city land at a scale sufficient to meet business, residential and mobility needs;
- enable councils to auction development rights as a way to achieve increased, but not excessive, inner-city density; and

- create competitive urban land markets that open opportunities for the private sector to invest in out-of-sequence community developments. These can sidestep land bankers' stranglehold on land supply and avoid additional burdens on councils for infrastructure.

The Commission has found that shortfalls in infrastructure provision are a binding constraint on the supply of development capacity, and on councils' ability to respond to growth pressures. It therefore recommends the following additional changes.

- Councils should have greater ability and willingness to impose user and congestion charges, so as to encourage efficient use, help recover costs, and manage pressures on existing assets.
- A more extensive taxation toolkit is needed for councils to better recover the cost of growth infrastructure without burdening current residents. As well as existing tools (user charges, general and targeted rates), councils should have the power to capture a portion of the value created by development – via targeted rates on the *increase* in the land values of property owners.
- Earlier recognition of national spillover benefits of major city infrastructure proposals and engagement between central and local governments is needed to explore constructive joint approaches (including cost sharing).
- A solution to Auckland's problem of a debt constraint and the threat of a credit downgrade is needed. Options include raising more revenue, putting additional debt on the balance sheets of others, and negotiating higher limits with credit rating agencies in exchange for assurances of creditworthiness and fiscal prudence.

The areas of change highlighted above are designed to be mutually reinforcing. Councils who write plans will have the guidance of clear legislative purposes, objectives and principles. Reinforcing this will be the discipline of review of the plans by IHPs. RSSs and RPS-NEs mirror the twin sets of statutory objectives and principles for the built and natural environments respectively. High-quality, enabling plans would be of little benefit without councils having the means to fund and finance adequate infrastructure to service the additional land needed to develop high-growth cities.

15.2 What benefits will a future planning system deliver?

The changes to the planning system that the Commission is recommending are substantive and far-reaching. Their impact would exceed the likely collective impact of the constant stream of piecemeal amendments to the RMA and the LGA that have occurred over the last 25 years. Yet, people who know the current system would recognise much in the future planning system (in its broad outline and philosophical intent) that the Commission is recommending.

The terms of reference specifically asked the Commission to take a "first principles" look at the planning system, and did not ask it to look at any transition from the present to a future system. Even so, one important question is whether the benefits would be worth the costs of making large legislative, organisational and operational changes? To help make that assessment, this section outlines the main benefits that the Commission believes a reformed planning system would deliver. Many of these benefits flow from the priority changes outlined above. But some flow from other recommendations of the Commission.

Development will be easier, less costly and the damaging land and house price escalation will end

Development capacity will steadily increase over time to match demand in high-growth cities. As it does, and probably beforehand in anticipation, land and house prices in those cities and across the country will stabilise (part of the correction could be a price drop). The increased capacity will provide a choice of housing types at different price points and densities to cater for a range of income levels and individual preferences. This is of critical importance to the effective functioning of the housing market, the economy and New Zealanders.

Demand-side factors such as net migration and the rules governing foreign buyers will also influence the correction in housing and land markets. The speed in realising these benefits will therefore depend on complementary measures in these areas and in the ability of the construction industry to grow its capacity. Following correction, speculation in houses and land will no longer be a significant factor driving demand. This in turn will help to “normalise” investment behaviour, saving behaviour, and monetary policy.

Yet evidence is strong (particularly based on cross-city research in the United States) that supply-side restrictions are pivotal to explaining rapid land and house price rises well in excess of construction costs. These big price rises just do not happen in locations where planning rules enable an adequate supply response to rising demand (Glaeser, Gyourko & Saks, 2005).

Cities will develop and function to their full potential

New Zealand cities will develop and function significantly better under the proposed future planning system. When cities function well, they provide greater access to and choices of housing, and better protection of the natural environment and cultural values. They also provide greater choices of employment and higher wages, a wider pool of labour for firms, and more opportunities for specialisation, innovation and easier transfer of ideas – the engine of economic prosperity. Work and commerce aside, well-functioning cities are attractive spaces where people consume goods and services, play, and are creative. Such cities have atmosphere and amenity. They also acknowledge the special relationship of Māori with the land on which cities are built.

New Zealand cities will develop in less predictable and more interesting ways that will be a function of evolving preferences, technologies, and social, economic and cultural opportunities as well as other emergent factors.

Quality infrastructure

A future planning system will better support the supply of quality infrastructure at the right time in the right place. This will apply particularly for the infrastructure normally supplied by councils – land transport and drinking, waste and storm water. Supply will be more responsive to demand and it will be better coordinated with land-use planning and regulation. This will stop the lack of infrastructure holding up construction and supply of thousands of desperately needed new dwellings. Better transport infrastructure will improve mobility, the decisions of firms and workers about where to locate, and job matching between firms and workers. Better pricing of infrastructure services will mean less congestion, more efficient decisions by developers about where to locate, and less wasteful use of scarce resources. It will also help councils avoid unnecessary investment and debt costs.

A clearer process for central and local government to identify, assess and agree on large-scale “city-shaping” infrastructure works will help projects with wider spillover benefits come to fruition. More scope will exist for local authorities to use innovative procurement models, such as Public-Private Partnerships (Chapters 10 and 11).

Better protection of the natural environment

High-value parts of the natural environment will be better protected through clearer principles, objectives and priorities, the use of a variety of instruments, and better monitoring of outcomes and enforcement of consents. The legislation will make clear that urban development needs to fit within these specified limits.

The clearer principles will help decision makers prioritise environmental issues when faced with scarce resources or conflicting objectives. For example, regulatory principles suggest that many policy levers to successfully *adapt* to climate change involve land use and are best tackled at district and regional levels (with national support and guidance), while effective policy levers to *mitigate* greenhouse gas emissions are likely to sit at the national level.

Better monitoring of the state of the environment, better central-government oversight of how well regional councils are discharging their regulatory responsibilities for the natural environment, as well as the greater use of science, economic instruments, and adaptive-management and real-options approaches will protect the parts of the natural environment most at risk from cumulative effects or other pressures. In contrast, the

existing “predict and control” approach struggles to cope with the complexity and uncertainty of natural systems. The greater emphasis on adaptive management will yield clear benefits for the natural environment.

More efficient and effective plan making

Clearer statutory objectives and principles will guide councils to make better plans. The new approach with IHPs conducting a single-stage review of regulatory plans in a region as a *package* will produce better plans faster. Councils will also face the discipline of knowing that the IHP will test the joint coherence of their plans and the quality of each plan. The formal status of the RSS in the planning hierarchy, and the effect of the IHP review as a quality and consistency check across a whole suite of plans in a region, has the potential to reduce duplication, enhance certainty and cut costs across many dimensions and for many players.

The general public will continue to be able to participate in creating and reviewing land-use plans, but the ability to appeal the substance of those plans will be limited. Only appeals to the Environment Court on points of law will be permitted. The benefit of this change is to concentrate the review of plans to a single stage in the hands of a competent IHP. The IHP will make skilful use of experts and run collaborative processes to resolve conflicts.

Yet residents of regions and districts will benefit from improved opportunities to participate in plan making. Councils will be obliged to conduct more balanced and representative consultation on plans and understand the perspectives and interests of the full range of the community.

Mutual benefits to Māori and Pākehā from promoting Treaty principles in planning

In some areas of the country, councils and mana whenua work in constructive partnership on matters of the natural and built environments – in line with Treaty principles of partnership and respect between settlers and tangata whenua. It has produced some innovative and mutually beneficial arrangements such as the Waikato River Authority, albeit this emerged from a series of Treaty settlements with iwi associated with the river.

The changes recommended for a future planning system (a new Treaty NPS and a Māori Advisory Board), as well as improved capabilities in councils and iwi, will lead to more benefits of this kind. Māori will feel more understood and respected, and gain opportunities to influence features in the built and natural environments that they value. Pākehā gain from the greater cultural and physical diversity in their environment and from growth in the strengths and achievements of their Treaty partners.

Greater planning capability and skills, and effective regulatory stewardship

Learning from the mistakes of the introduction of the RMA, the implementers of a future planning system will take those involved in planning with them by providing training in:

- the principles of the new Act;
- the hierarchy of plans, including spatial planning, and
- the new processes for plan making, consultation, and partnership.

Planning practitioners will better understand the role of planning, how it can productively orchestrate the variety of other disciplines, business interests and community interests that go into the planning mix. Their skill in knowing which instruments work best in different situations and for different objectives will deliver outcomes closer to those desired and intended.

The better understanding of the planning workforce of how their decisions on urban planning can make a difference to important problems (such as housing affordability and attracting skilled labour) will help to meet those challenges. In the Commission’s survey of councils on the planning system, only about 20% of respondents felt that planning could positively influence either of these objectives.

Benefits will come from having the variety of central government agencies with an interest in planning and the environment organised much more effectively to exercise regulatory stewardship. Clear and capable leadership on the built and natural environments and their interactions will emerge. Stewardship will involve greater data collection, monitoring of outcomes and how well councils are performing their regulation duties over the built and natural environments. Central government will participate in planning in timely and constructive ways when local opportunities and threats have national impacts. It will keep an eye on what is working and what is not, foster innovation and disseminate guidance on best practice.

15.3 Will the recommended changes be worthwhile?

The inquiry's substantial and far-reaching recommendations for a future land-use planning and resource-management system might appear daunting. Yet the Commission believes that the potential gains far outweigh the costs of not confronting the current weaknesses. The potential gains are very large. Few of the many participants in the inquiry were happy with the current system. Many were strongly critical, believing the RMA had not worked out as intended, or needed a substantial overhaul. Regulation of the built and natural environments touches all our lives. It affects the places we live and work, the recreational spaces we love to play in, and the special parts of New Zealand's natural environment we wish to protect. Getting a planning and resource management system that is fit for purpose has the potential to deliver affordable housing and well-paying jobs, in vibrant, dynamic and liveable cities, and in a country where the natural environment is cherished and protected.

As Harvard economist Ed Glaeser says in his book *Triumph of the cities* (2011): "[C]ities are humanity's greatest invention, they make us richer, smarter, greener, healthier, and happier". To realise the potential of our greatest invention requires the best planning framework that we can devise. This report sets out the Commission's proposals on what such a framework would look like.

Findings and recommendations

Chapter 2 - High-performing cities

Findings

F2.1

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

F2.2

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

F2.3

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

F2.4

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

F2.5

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

F2.6

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

Chapter 3 – A rationale for planning

Findings

F3.1

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

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

F3.2

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

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

F3.3

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

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

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

Hybrids of these approaches are possible and may be optimal.

Chapter 4 – Urban trends

Findings

F4.1

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

F4.2

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

F4.3

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

F4.4

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

F4.5

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

F4.6

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

Chapter 5 – The urban planning system in New Zealand

Findings

F5.1

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

F5.2

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

F5.3

The Resource Management Act provides no clear indication of how the development of urban areas should be handled, and tends to focus on negative impacts only rather than on weighing up the potential benefits of development against those impacts.

F5.4

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

F5.5

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

F5.6

Although local authorities are required to ensure that their plans, policies and regulations are necessary, efficient and effective, their use of these checks and balances has been disappointing.

F5.7

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

F5.8

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

F5.9

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

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

F5.10

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

F5.11

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

Chapter 6 – Outcomes from the current system

Findings

F6.1

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

F6.2

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

F6.3

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

F6.4

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

F6.5

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

F6.6

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

F6.7

Urban New Zealanders currently have good access to green space.

F6.8

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

F6.9

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

F6.10

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

Chapter 7 – Urban Planning and the Treaty of Waitangi

Findings

F7.1

Māori have a broad range of interests in urban development arising from connections with ancestral lands, a desire to live in spaces identifiably Māori, their individual and collective ownership and development of urban land, and their desire for prosperity and wellbeing. Some of these interests require policies that go beyond urban land-use planning.

F7.2

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

F7.3

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

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

F7.4

Strengthening the current broad framework for recognition and active protection of Māori interests in land-use planning has broad support and aligns with the Crown's Treaty of Waitangi obligations.

Recommendations

R7.1

In a future planning system, the government should (through the proposed National Policy Statement on Planning and the Treaty of Waitangi) provide guidance to local authorities on planning provisions for papakāinga and other kaupapa Māori residential and non-residential developments, whether situated on Māori land or elsewhere.

Because there are differences in local tikanga and preferences, guidance should encourage local authorities to reach agreement with mana whenua and other local Māori communities in their district on planning for kaupapa Māori developments.

R7.2

In a future planning system, the government should provide clear guidance (through the proposed National Policy Statement on Planning and the Treaty of Waitangi) to local authorities on how to work with mana whenua to identify and protect sites and environmental features of significance to mana whenua.

Guidance should cover processes to reach agreement with mana whenua on the threshold for, the conduct of, and fee setting for cultural impact assessments for proposed developments that may impact on such sites and features.

R7.3

A future planning system should carry forward and build on current regulatory provisions to give effect to the Crown's Treaty of Waitangi obligations by enabling the expression and active protection of Māori interests in the built and natural environments.

R7.4

In a future planning system, the government should, with the advice of the proposed National Māori Advisory Board on Planning and the Treaty of Waitangi, and after consulting collaboratively with Māori communities more generally, provide clear guidance to local authorities through a mandatory National Policy Statement (NPS) on Planning and the Treaty of Waitangi. The NPS should set out the Crown's expectations on recognising and actively protecting Māori Treaty interests in the natural and built environments.

That NPS should respect and provide scope for local differences in tikanga, environmental and planning issues and community preferences.

R7.5

In a future planning system, central agencies with stewardship responsibilities for the system should, with the advice of the proposed National Māori Advisory Board on Planning and the Treaty of Waitangi, establish policies and methods to help mana whenua develop the capability to participate effectively in planning processes.

Policies and methods should include training; secondments of staff between mana whenua, central government and local government agencies; assistance with technical issues; and grants.

The Government should provide clear guidance (through the proposed National Policy Statement on Planning and the Treaty of Waitangi) to local authorities on their responsibilities to help mana whenua develop the capability to participate effectively in planning processes. The National Māori Advisory Board should review local authority initiatives to develop mana whenua capability as part of its triennial Treaty of Waitangi audit.

R7.6

In a future planning system, the government should provide clear guidance (through the proposed National Policy Statement on Planning and the Treaty of Waitangi) to local authorities on identifying opportunities for, and putting into place agreements with, mana whenua for the co-governance and joint management of sites and environmental features of significance to mana whenua.

The guidance should set out the circumstances that favour such agreements; and the practices that make them successful.

Chapter 8 – Regulating land use in the built environment

Findings

F8.1

The planning system suffers from risk aversion and bias towards the status quo, reflecting:

- the incentives on property owners to oppose changes they perceive may put the value of their assets or character of their neighbourhood at risk, and the avenues open to them to pursue their interests;
- inadequate representation of the interests of new and prospective residents and businesses in planning decisions;
- the pressure placed on councils not to set rules and policies that enable development; and
- an overemphasis in the implementation of the Resource Management Act on managing or avoiding adverse effects on existing elements in the built environment, and insufficient attention to the positive effects of development, which does not sit well with the dynamic nature of urban environments.

F8.2

Councils overuse land-use rules in part because:

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

F8.3

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

F8.4

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

F8.5

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

F8.6

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

F8.7

The planning system has too many plans within regions, with too much unnecessary variation across plans in content, layout and presentation.

F8.8

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

F8.9

In trying to protect existing city and town centres, some New Zealand urban local authorities have sought to shield retail and commercial enterprises in the centres from potential competitors in other locations.

F8.10

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

F8.11

Council requirements on some developments to undergo urban design assessments sometimes lead to poor exercises of regulatory discretion. Urban design criteria can lack clarity and precision, and design advice to resource consent applicants can lack perspective, consistency, or a sense of their cost or economic implications. Judgements and practice on urban design vary considerably across councils.

F8.12

Urban design assessments can be a valuable tool for enhancing the amenity of public spaces if they:

- involve developers and designers in a collaborative process to find the best solution;
- are proportionate in scope to the public amenity being considered;
- take proper account of costs and benefits of alternative design proposals; and
- produce realistic and practical outcomes.

F8.13

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

F8.14

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

F8.15

Limiting notification of plan changes affecting a particular site to those directly affected, and limiting appeal rights to people directly affected by proposed plan provisions or rules, is likely to be difficult to implement in practice because:

- councils will find it hard to determine with any certainty all those who are “directly affected”; and
- litigation will shift from substantive issues to questions of whether appellants have standing.

A timely and systematic single-stage merit review of plans and plan changes by an Independent Hearings Panel is a better way to avoid the costs and delays involved in hearing appeals to the Environment Court on plans and plan changes.

F8.16

Consultation requirements under the RMA are both too prescriptive and too narrow. They require councils to seek two sets of submissions no matter the size and complexity of the issue under consideration, and require submissions to be made in a prescribed, written form. Yet the requirements place no onus on councils to ensure that the interests of all potentially affected parties are considered. Typically, significant population groups, such as women; young people; and Māori, Pacific and Asian peoples are underrepresented in planning processes.

F8.17

Compared to current statutory provisions, further restricting notification of consent applications is likely to

- increase the difficulty for councils of identifying who is directly affected; and
- increase the focus on whether or not a potential appellant has standing and therefore should have been notified.

Recommendations

R8.1

A future urban planning system should make specific provision for responding to growth pressures, providing land-use flexibility, and supporting the ability of residents to easily move through their city.

R8.2

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

R8.3

In a future planning system, central government should establish thresholds (specific to particular urban areas) for the price difference beyond developable and non-developable land. A future planning system should provide a process involving the relevant council to bring forward the release of additional greenfield land where relative land prices exceed the threshold set.

R8.4

A future planning system should provide a process for ensuring that greenfield land brought forward for development as a result of the price threshold being exceeded is serviced with necessary bulk infrastructure, to allow land to be developed. Local authorities should continue to bear their usual responsibilities for supplying bulk infrastructure.

R8.5

In a future planning system, the government should use a national planning template to reduce unnecessary variation across plans in content, layout and presentation.

R8.6

In a future planning system, local Independent Hearings Panels (IHPs) should be established (when required) to consider and review new Plans, significant Plan variations and private Plan changes across the country, with the features listed below.

- An independent statutory agency should be responsible for appointing IHP members, developing a pool of qualified members across the country, and supporting the operation of local IHPs through guidance on processes and through administrative services.
- IHP members should reflect a range of skills and knowledge (including technical and legal expertise, familiarity with local circumstances, and with tikanga Māori).
- The number and composition of panel members and the hearings processes should reflect the scale and significance of the Plan, Plan variations and Plan changes being reviewed in each case.
- An IHP should be empowered to review together one or more Plans and other statutory land-use planning instruments applying to a region.
- An IHP should make final decisions on merits for Plans, Plan variations and private Plan changes, with appeal rights limited to points of law.
- Appeals on points of law should be to the Environment Court.
- Councils and central government should share the costs of operating the IHP.

R8.7

Consultation and engagement requirements in a future planning system should:

- give councils flexibility to select the most appropriate tool for the issue at hand;
- 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.

R8.8

In a future planning system, councils should engage with communities in areas facing significant land-use changes, to agree ways to offset any amenity losses. This could include providing targeted infrastructure or services investment (eg, the expansion of green spaces or upgrades to existing community facilities) for areas facing significant change.

Chapter 9 – Urban planning and the national environment

Findings

F9.1

An important purpose of environmental regulation is to manage the impact of the built environment on the natural environment. The challenge for environmental regulation is that the built environment and the natural environment display the characteristics of complex, adaptive systems.

F9.2

The characteristics of complex, adaptive systems mean that regulators can find it hard to accurately predict the impact of the built environment on the natural environment and take action to mitigate the impact.

F9.3

Environmental law is part of the complex system of human behaviour with respect to the natural environment. Regulators are only one influence and may have only partial oversight or control over regulated parties.

F9.4

“Sustainability” and “sustainable development” are core concepts in the Resource Management Act. Yet ambiguity over the meaning of these concepts has led to difficulties in managing the impact of the built environment on the natural environment.

F9.5

The planning system has struggled to adequately manage cumulative effects on the natural environment. The system does not generate the level of information and analysis required for adaptive decision making, and oversight of environmental outcomes is insufficient.

F9.6

The rationale for giving local government primary responsibility for setting climate change mitigation policies and standards is limited. Should central government decide a role for planning in climate change mitigation is needed, this role is best articulated through the use of a National Policy Statement and/or a National Environmental Standard.

F9.7

Achieving greenhouse-house (GHG) reductions through policies that change urban form takes a long time. Other policy measures are likely to be more effective and less costly in reducing emissions to meet New Zealand’s emissions reduction targets. It will be important for government to consider the relative effectiveness and the distributional (equity) impacts of alternative ways to reduce GHG emissions in New Zealand.

Recommendations

R9.1

The overarching purpose of planning legislation should reflect the positive benefits from the built environment that meet the social, cultural and economic needs of New Zealanders, while safeguarding the natural environment.

R9.2

Future planning regulation should set clear limits and standards within which development can occur, to ensure the integrity of natural systems (ecosystem sustainability), maintain standards of environmental quality (ecosystem services), and recognise community preferences (including Māori interests).

If developments breach community standards for the natural environment, then decision makers should balance the benefits of development against the impacts on the natural environment.

Where these limits and standards are not breached, and within the rules for the built environment, developments should be able to proceed with minimal oversight.

Legislation should provide clear objectives and principles to guide how limits and standards are determined.

R9.3

Central government should work with local government to determine what key environmental outcomes are measured and work with regional regulators to set up information systems that provide timely information about outcomes.

R9.4

A future planning system would include a well-articulated and stable approach for deciding when to set environmental standards and policies nationally and when to leave standard setting to local decision makers.

R9.5

A future planning system should retain the use of national instruments such as National Policy Statements and National Environmental Standards.

R9.6

In a future planning system, regional councils should prepare a Regional Policy Statement for the Natural Environment. That policy statement would:

- describe the ecologically sustainable limits that must not be breached;
- replace existing regional policy statements and regional plans to the extent that they deal with standards and limits for the natural environment;
- give appropriate recognition to, and provide for, mana whenua kaitiaki relationships with the natural environment; and
- give effect to national policy instruments and allow regional councils to set limits and standards above national levels in line with regional preferences.

R9.7

When regulating urban spillovers affecting the natural environment, a future planning system should ensure regulators have access to the full range of instruments (including market-based tools).

R9.8

A future planning system should encourage the use of adaptive management for dealing with cumulative or uncertain effects, where information can be collected and outcomes monitored, and where limits or standards can be adjusted.

R9.9

To support the use of adaptive management, central government should produce comprehensive guidance on when and how the approach should be used, and provide councils with technical support to help build capacity within the planning system.

Chapter 10 – Urban planning and infrastructure

Findings

F10.1

Infrastructure assets:

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

Providers of infrastructure are exposed to risks, including that demand may be less than expected. This leads to underuse and possible stranding of their assets. This puts a premium on effective planning, procurement, funding, managing and monitoring of infrastructure assets.

F10.2

The current infrastructure planning and provision systems are insufficiently responsive to demand pressures, do not always align infrastructure supply and land-use rules, and lack tools for the provision of city-shaping assets that underpin the mobility of people and freight.

F10.3

Current legislative provisions do not encourage integrated land-use and infrastructure planning. Barriers include different timescales, consultation requirements and decision-making processes. While some links and common processes exist across the Resource Management Act, the Local Government Act and the Land Transport Management Act, improving on these in a future planning system is possible.

F10.4

Local government political pressures, legal restrictions on supply arrangements, and fragmented and monopoly provision of “three waters” infrastructure act against responsive supply.

F10.5

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

F10.6

In New Zealand the case for merging networks, and running a competitive model of urban water supply with a network regulator, is weak. This is due to the fragmented and small-scale water networks, the high cost of transporting water, the uncertain net benefits of mergers, and the high costs of setting up alternative institutions.

F10.7

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

F10.8

The Auckland Transport Alignment Project was an effective institutional innovation to enable the council of a major city and central government to work together and consider a central funding contribution for a major programme of urban infrastructure with national spillover benefits.

Recommendations**R10.1**

Fast-growing cities should plan realistically for the large land areas required to accommodate future growth. They should decide and signal its location two to four decades in advance, and secure infrastructure corridors, public open spaces and conservation areas.

R10.2

Spatial plans or strategies should be a standard and mandatory part of the planning hierarchy in a future system. They should:

- be region-wide, led by regional councils yet owned by all councils in a region;
- be high-level and directional, yet open and flexible about the details of future development;
- focus on issues closely related to land use, in particular the corridors for water and transport infrastructure, land for community facilities (eg, schools, hospitals, recreational spaces, and conservation areas), protection of high-value ecological and cultural sites, and natural hazard management;
- enable all key stakeholders to participate and share information, including iwi, central agencies, developers and infrastructure providers and operators; and
- be the platform for a suite of plans in a region covering both land use regulation (district and unitary plans) and operational and budgeting plans (eg, council long-term, annual and infrastructure plans).

R10.3

As part of the transition to a future planning system, central government should establish a centre of excellence or resource that councils could draw on for advice and training to conduct appropriate real-options analyses and cost benefit analysis in infrastructure and land-use planning.

R10.4

While the Commission sees little merit in a large-scale structural reform for urban water services, the Government and councils should seek improved performance in the delivery of water services. Initiatives to achieve this include:

- improving the clarity of the statutory and legal frameworks for water supply, wastewater and stormwater;
- acting to ensure that the council controlled organisation (CCO) model is fit for purpose;
- investing in common national standards for quality, data collection and analysis;
- greater transparency and benchmarking; and
- encouraging councils to collaborate through joint CCOs to achieve scale and specialist capability where doing so is cost effective

R10.5

In a future planning system central governments and city councils should work together through the regional spatial-strategy process and subsequently, to assess and agree on the design, benefits and funding of major programmes of urban infrastructure investment with wider spillover benefits.

Chapter 11 – Infrastructure, financing and procurement

Findings

F11.1

In providing infrastructure, councils should aim for efficient pricing and efficient investment. Efficient pricing may include congestion charging, multi-part tariffs, development contributions and connection charges. In some instances, rates revenue may supplement these sources of revenue so as to cover the full costs of infrastructure

F11.2

When a council faces population decline in the area it serves, the council's rating base also decreases. This means the council could face a struggle over time to maintain and renew essential services. This is especially true for smaller councils who lack economies of scale.

F11.3

Councils, particularly in high-growth areas, often invest too slowly or underinvest in infrastructure, even though the additional revenues from growth are likely to cover the costs over the lifetime of the asset. Reasons include the front-loaded costs of infrastructure relative to growth revenue, debt limits, reluctance to fully use existing funding tools, and political pressures to keep rates low and avoid debt. City-shaping infrastructure and securing land corridors and public open spaces for future expansion put additional demands on revenue sources.

F11.4

Legislative, political, funding and financing barriers are limiting the ability of local authorities to provide sufficient infrastructure for development despite the high social returns that investing in such infrastructure would deliver.

F11.5

Many councils have adopted rating systems based on capital value, owing to a common belief that capital value rating is best practice. Yet the arguments in favour of this approach are weak at best. Basing rates on capital values acts as a tax on improving land: this discourages development. National evidence indicates that capital value may be less fair in terms of ability to pay. A shift towards land-value rating would produce more efficient and fair outcomes in urban areas.

F11.6

Value capture is a fair way to recover a portion of infrastructure costs because it targets the windfall gains of property owners that arise from the infrastructure. Tools that capture these gains are used overseas to help fund large infrastructure projects.

F11.7

Where wider national benefits arise from investment in local infrastructure, a case exists for central government to contribute to its cost.

F11.8

The factors driving population decline in smaller centres are often very difficult to counter and are likely to result in funding shortfalls that affect a council's ability to provide basic infrastructure services.

F11.9

Local income and expenditure taxes are sometimes used in other countries as a revenue source for local governments. However, implementing such tools in New Zealand would be complex and difficult. Such taxes would also make it more difficult for councils in towns or regions with declining populations to maintain existing services.

F11.10

Internationally, many central governments share a portion of their tax revenue with local governments. This revenue typically helps to fund expensive services such as health, education and social welfare. Yet local governments do not provide such services in New Zealand. Further, allocating tax revenue to particular councils is a complex task.

F11.11

Barriers to high-growth councils taking on more debt are an important explanation of shortfalls in infrastructure investment that have high net social returns. The main barrier in Auckland's case is the threat of a credit-rating downgrade. Other potential barriers are opposition to higher debt from existing ratepayers, and overly conservative prudential debt limits and Local Government Funding Authority rules.

F11.12

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

F11.13

Existing specialist capability in the Treasury Public Private Partnership unit is available for councils to draw on. Examples such as the Waikato region's Local Authorities Shared Services Limited illustrate the advantages for councils from joint procurement, particularly when this is founded on a regional approach to planning for infrastructure that extends beyond the boundaries of individual territorial authorities.

Recommendations

R11.1

Growth should pay for itself. Councils' funding and financing tool kits should be expanded so councils can cover the costs of growth – infrastructure investment and securing land for future infrastructure corridors and public open spaces – adequately, efficiently and fairly.

R11.2

A future planning system should allow councils to:

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

R11.3

Development contributions (and developer agreements) should be part of a future planning system as an important means to fund council infrastructure needed for new development to go ahead, and which is mostly for the use of those benefiting from the development. In setting and implementing development contributions, councils should:

- be open and transparent;
- reflect the actual cost of the infrastructure in a particular location and avoid over and undercharging;
- follow the development contribution principles set out in section 197AB of the LGA;
- have processes that allow developers and others to challenge development contributions if considered excessive; and
- maintain an open dialogue with the developer community.

R11.4

Councils should continue to use targeted rates in a future planning system as a way to recover the costs of broader community infrastructure from the beneficiaries, to the extent it is neither practical nor efficient to do so from user charges. Councils should also be open to the use of targeted rates as a means of non-linear pricing of infrastructure services, and as an alternative or complement to development contributions to recover the costs of infrastructure specific to a new development.

R11.5

In a future planning system, councils should levy property rates on the unimproved value of land. Where this would involve a change from a different current base, the reform should provide for a reasonable transition period.

R11.6

A future planning system should include a value-capture tool for councils' optional use to help fund infrastructure projects that benefit broad parts or the whole of a city. One way of applying value capture that would be feasible, efficient and fair is to enable councils to levy targeted rates on changes in land values. This would require a change in legislation.

R11.7

Central government should consider providing funding assistance and advice to councils in areas with declining populations to help meet infrastructure needs. This should be conditional on councils taking sensible steps to adapt to demographic change.

R11.8

Broad taxes based on local income and expenditure or revenue sharing between central and local government should not be part of a future planning system because they are complex, less efficient than rates based on land values, and should not be needed when councils use the full range of funding tools recommended by the Commission

R11.9

Councils such as Auckland that face a binding constraint on greater investment in infrastructure with high net social returns should tackle this serious problem by some combination of:

- raising more revenue so it can borrow more within prescribed debt-to-revenue limits;
- financing more infrastructure on the balance sheets of others, such as private homeowners and body-corporate entities in large new subdivisions; and
- working with central government and finance experts to make the case to credit-rating agencies to impose less stringent limits in return for assurances on creditworthiness and fiscal prudence.

Central government should consider capital grants or some form of debt guarantee, if that proves necessary to enable councils such as Auckland Council to invest in sufficient infrastructure for growth.

R11.10

Councils should consider public-private partnerships for all significant local government infrastructure projects, not just those seeking Crown funding

R11.11

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

Chapter 12 – Other development models

Findings

F12.1

The forces that restrict the supply of new urban land and cause its price to greatly exceed its marginal opportunity cost are well entrenched. To shift them may require another measure to supplement the Commission's other recommendations and the new National Policy Statement on Urban Development Capacity. Opening the supply of urban land and infrastructure to greater competition would likely be an effective additional measure.

F12.2

A continuum of possible arrangements exist to address the ownership, funding, financing, operational and succession issues that would arise for new communities constructed under the competitive urban-land-markets model. Legal clarity and other reassurance will be needed for developers, investors and prospective residents to have the confidence to proceed.

F12.3

Enabling private providers to develop Autonomous Community Developments beyond current city footprints and to invest in associated trunk infrastructure to support them would make land and infrastructure markets more competitive and likely yield high social returns through meeting demand for urban expansion and affordable housing.

F12.4

Urban development authorities are commonly used overseas and can play an important role in de-risking development, providing a demonstration effect for private sector developers to follow, and bringing land to market.

F12.5

New Zealand's largest cities have established local urban development authorities or are planning to establish them.

F12.6

The ability of local authorities to compulsorily acquire land for housing or urban regeneration is unclear.

F12.7

Auctioning development rights to higher-than-normal density limits would enable councils to regulate development density efficiently in some cases (eg, by restricting the number of multi-storey apartment blocks in an area) and raise revenue to help fund associated infrastructure needs, and/or provide additional amenities to "compensate" affected communities.

Recommendations

R12.1

The government should facilitate Competitive Urban Land Markets in a future urban planning system. This would include creating a policy and legal framework to support private developers and investors to build and finance trunk infrastructure and Autonomous Community Developments.

R12.2

A future planning system should include a legislated regime similar to Special Housing Areas, in which certain developments undertaken by local urban development authorities are designated by Order in Council as having the potential to deliver significant numbers of dwellings, and within which the urban development authority will operate with different powers and land use rules.

R12.3

A future planning system should provide for “designated developments” undertaken by local urban development authorities to allow higher height and storey limits than in the Special Housing Areas regime, and to allow non-residential uses that may be necessary for the development to be economically viable.

R12.4

A future planning system should provide compulsory acquisition powers to local urban development authorities for ‘designated developments’, subject to the normal processes, compensation and protections of the Public Works Act.

R12.5

The Government should adjust the “offer back” provisions of the Public Works Act for use by urban development authorities, so that they are not obliged to offer back land that has been significantly redeveloped.

R12.6

The Government should provide for “designated developments” undertaken by local urban development authorities to operate under streamlined planning and consenting processes. This should include restricting public notification.

R12.7

The Government should look at other opportunities to support the activity of local urban development authorities to deliver on cities’ goals for urban redevelopment, including through making Crown land available, partnering in specific projects, and ensuring that Housing New Zealand cooperates where relevant.

R12.8

In a future planning system councils should have the power to sell development rights as a means to achieve greater density in growing cities. They would use the power to efficiently regulate the number of structures that significantly exceed normal planning density rules. And they would spend the revenue raised on associated infrastructure costs and/or to provide additional amenities to affected communities.

Chapter 13 – Statutory framework, institutions and governance

Findings

F13.1

Departments as regulatory stewards have a duty to systematically and proactively monitor, review, and advise how to improve and get the best value out of the regulatory systems for which they are responsible. Responsibility for stewardship of the urban planning system is unclear and fragmented across a variety of agencies with an interest in planning and the environment, with no clear leader.

F13.2

Central government currently lacks sufficient capability and the systems needed to effectively undertake its regulatory stewardship responsibilities, including:

- monitoring the performance, condition and risks of the urban planning system;
- providing advice on improvements to the system; and
- supporting, if necessary, well-informed and timely intervention in that system.

Evidence also suggests that central government engagement with local authorities on planning issues is poor.

Recommendations

R13.1

A future planning system should:

- enable land use to be flexible and responsive to changing needs, preferences, technology and information;
- provide sufficient development capacity to meet demand;
- promote mobility of residents and goods to and through the city;
- safeguard the natural environment by defining the boundaries within which development and land-use activities must operate; and
- recognise and actively protect Māori Treaty interests in the built and natural environments.

R13.2

Future planning legislation should provide a clear statutory purpose covering the built and natural environments and their relationship; clear statutory objectives to guide regulation of activities impacting on each of the built and natural environments; and clear principles to guide decision makers on how to give effect to the statutory objectives.

R13.3

Future planning legislation should set out principles to guide the content of plans and the conduct of planning processes and decision making, so that planning is efficient, fair, transparent, focused on clearly defined and restrained statutory objectives and proportionate to the planning matters being regulated or decided.

R13.4

The primary statutory base for a future planning system should be a single piece of legislation covering land-use planning and resource management. The single piece of legislation should have clear and separate objectives for regulating the built and natural environments. There should continue to be separate legislation covering land transport management and the constitution and operation of local government.

R13.5

In a future planning system, regional councils should continue to have the primary responsibility for monitoring and enforcement of regulation for the natural environment in the regions.

R13.6

In a future planning system, local authorities should be required by statute to include (in the Regional Spatial Strategy (RSS), the Regional Policy Statement for the Natural Environment (RPS-NE) and in district Plans) a chapter on measures to recognise and actively protect Māori Treaty interests in land-use and resource-management planning.

Local authorities should, in preparing an RSS, an RPS-NE, or a district Plan, be required by statute to:

- engage in good faith with mana whenua;
- have regard to relevant provisions of iwi management plans (or their equivalent) in their region; and
- endeavour to reach agreement with mana whenua on how the RSS, RPS-NE or Plan can give effect to relevant provisions of iwi management plans.

R13.7

A future land-use and resource management-planning statute should contain cross-references to land transport management and local government statutes that:

- enable joint consultation and engagement processes when developing plans under the different statutes, where this is practical and efficient; and
- require plans developed under one statute to take account of provisions in existing plans under the other statutes.

R13.8

To provide greater clarity and focus in decision making, future planning legislation should provide for specific purposes and criteria for granting different types of resource consents. These purposes and criteria should be based on the separate statutory objectives established for the built and natural environments.

R13.9

A future planning system should provide for an Independent Statutory Agency to:

- appoint and provide administrative support to Independent Hearings Panels (IHPs);
- provide guidance to IHPs on the processes and procedures required to fulfil their mandate;
- develop a pool of capable panel members with the required range of skills; and
- provide advice to government on measures to improve the efficiency and effectiveness of the planning system in achieving statutory objectives.

R13.10

A future planning system should have clear and capable leadership on the built and natural environments and their interactions, with regulatory stewardship obligations clearly assigned to an appropriate central government agency.

R13.11

A future planning system should be based on a constructive relationship and interface between central and local government through:

- both central and local government providing input (formally or informally) into each other's policymaking processes, under an agreed set of principles or protocol;
- meaningful engagement and effective dialogue with local government occurring early in the policy process;
- cooperative approaches to addressing potential issues with implementing new legislation, or urban planning and environmental standards;
- the creation of formal and informal feedback loops to identify problems in the urban planning system when they first appear; and

the spread of information through the system and the sharing of expertise and knowledge.

R13.12

In a future planning system, regulatory stewards need to work closely with regional councils and territorial authorities to develop information systems that provide up-to-date, granular information on outcomes in both the built and natural environments

R13.13

A future planning system should provide for a National Māori Advisory Board on Planning and the Treaty of Waitangi. The Board should be established under statute and:

- monitor how the planning system gives effect to the principles of the Treaty of Waitangi;
- advise central government agencies (with stewardship responsibilities for the planning system) on policies, regulations, processes and methods that will best give effect to the principles of the Treaty of Waitangi; and
- carry out a Treaty of Waitangi audit of the planning system every five years

R13.14

Stewards of a future planning system should collaborate with the proposed National Māori Advisory Board on Planning and the Treaty of Waitangi, and with Māori more generally, to develop ways to introduce tikanga Māori and mātauranga Māori into methods to monitor and assess the performance of the planning system at the national, regional and local levels.

Chapter 14 – Culture and Capability

Findings

F14.1

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

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

F14.2

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

F14.3

The planning profession in New Zealand has struggled to carve out a unique professional identity, and lacks some key elements of a professionalised regulatory workforce. In the absence of a strong professional identity founded on disciplinary knowledge, planners tend to fall back on legislation to define their role in the planning system. Friction and tension between subgroups within the planning profession also hinders the development of a clear professional identity.

F14.4

An emboldened planning culture has seen its perceived role and scope expanded in an attempt to solve a range of social and policy problems, despite:

- such issues being outside the control of local government, and beyond the scope of urban-planning and land-use regulation; and
- a lack of the necessary knowledge, capability and skills.

F14.5

Professional bodies provide an important source of cultural leadership for the planning profession. Cultural messages are transmitted through the accreditation of university courses, the direct provision of professional development opportunities, and by rewarding good practice.

F14.6

Planning practice is influenced by the organisational culture of councils, particularly in areas such as the relationship between planners and Māori, the level of organisational risk adopted, the influence of planners in council decision-making, and the general openness of councils to new and innovative approaches to planning tasks.

F14.7

The Resource Management Act (RMA) challenged existing planning culture and practice which led to resistance by planning practitioners and the carrying over of traditions, values and beliefs of the previous regime. The failure of the RMA to deliver on its goals highlights the importance of aligning and building culture and capability for successful reform.

F14.8

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

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

F14.9

Inquiry participants widely accept the need for increased technical capabilities in planning, particularly in environmental sciences, economic analysis, and policy analysis more generally. Capability gaps in these areas hinder the ability of councils to undertake rigorous policy analysis and evaluation when carrying out their planning functions and, importantly, exercising their coercive planning powers. Participants also identified Council engagement with the community as needing enhancement, particularly through more effective engagement with Māori.

F14.10

How capable and skilled central government officials are in urban planning is crucial to a well-functioning planning system and achieving urban planning goals. However, evidence shows that capability and knowledge of local government and urban planning is poor within central government. Likewise, engagement with local government on policy design and implementation generally, and urban planning specifically, is also poor. This impedes the ability of central government to successfully carry out its regulatory stewardship role in regard to the urban planning system.

F14.11

In a future urban planning system, those carrying out the planning task will require access to a wide range of skills and knowledge, covering multiple disciplines and processes. This requires strong capabilities in critical thinking, evaluation and policy analysis skills, mediation skills, a capacity to listen to and understand the knowledge, analysis and opinions of experts, and to articulate trade-offs among issues raised.

Recommendations

R14.1

A future planning system should place greater emphasis on rigorous analysis of policy options and planning proposals. This will require councils to build their technical capability and skill in areas such as environmental science, economic analysis, policy analysis and evaluation. It would also require strengthening their understanding of Māori worldviews and more effective community engagement including with Māori.

R14.2

In a future planning system, central government should substantially improve its understanding and knowledge of, and engagement with, the local government sector, who are important implementers of much legislation. A greater capability to engage on urban planning issues will help promote more productive interactions between central and local government and achievement of mutual goals.

R14.3

In a future urban planning system, councils should have access to a wide range of skills and knowledge, covering multiple disciplines and processes. This will require councils to build strong capabilities in critical thinking; evaluation and policy analysis; mediation; and articulating trade-offs among issues.