



Ministry for the  
**Environment**  
*Manatū Mō Te Taiao*

# Building competitive cities

*Reform of the urban and infrastructure planning system*

→ A DISCUSSION DOCUMENT



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## Minister's Foreword

An important component of the Government's economic agenda is ensuring New Zealand cities are internationally competitive. This means cities that enable their citizens to enjoy a great lifestyle and affordable housing; cities that are efficient for business, encourage investment and jobs; cities that are attractive for visitors to support New Zealand's increasingly important tourism industry. It is particularly important our cities compare well with Australia where people and capital can move so freely.



The Resource Management Act is not working well in the built environment to achieve this goal. There is a mismatch between the purpose of the Act that barely mentions urban issues and the reality of the vast bulk of consents relating to subdivision, infrastructure and building limits. The complex system of multiple policy statements and plans is cumbersome and inefficient. It takes so many years to consult and resolve appeals that plans are out of date by the time they take effect. There has been a lack of coordination between central and local government over getting the right infrastructure in place at the right time. Poor quality decisions over land planning have contributed to excessive section prices and adversely affected housing affordability. Reform is overdue.

In January, the Government appointed two Technical Advisory Groups to review policy around urban design and infrastructure. They concluded that we need to strengthen the recognition of urban issues under the Resource Management Act, consolidate the number of plans that are required and better coordinate central and local government decision making around infrastructure. They also made 85 recommendations on improvements to deliver better urban environments and the infrastructure we need. Officials have refined these proposals into this discussion paper to enable public input prior to Government decisions.

These reforms need to be considered within the context of the Government's broader Bluegreen agenda of seeking to better integrate economic and environment policy. In 2009 we passed the Resource Management (Simplifying and Streamlining) Amendment Act and this year embarked on a second phase of reform of which these urban design and infrastructure issues are part. A common theme in these changes is providing stronger central government leadership, reducing unnecessary bureaucracy and replacing lengthy litigation with more collaborative processes. We are about making the Resource Management Act work better for New Zealand.

The future shape, style and success of our cities is at stake. We look forward to your input.

A handwritten signature in black ink, appearing to be 'N. Smith', written in a cursive style.

Hon Dr Nick Smith  
Minister for the Environment



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# Executive summary

The Government wants New Zealand's cities, towns and rural communities to effectively support our quality of life, growth aspirations and the integrity of our environment. All of these contribute to New Zealand's global competitiveness. To that end, the Government is looking at how our resource management regulations and processes could be improved to support our future needs.

While the reform programme is wide-ranging, the options in this discussion document focus on improving the planning system for New Zealand's urban areas and infrastructure. The discussion document seeks to:

- improve our knowledge and understanding of the issues facing planning, urban design and infrastructure development in New Zealand
- ensure that the options that have been identified address the right issues
- seek input and views on the options for reform and their likely impacts and effectiveness compared to the status quo.

The Government's final decisions will aim to achieve the following objectives:

- provide greater central government direction on resource management
- improve economic efficiency of implementation without compromising underlying environmental integrity



**Britomart Station, Auckland – courtesy of NZ History Online**

- avoid duplication of processes under the Resource Management Act 1991 (RMA) and other statutes
- achieve efficient and improved participation of Māori in resource management processes.<sup>1</sup>

While the options included in this discussion document are not specifically aimed at this objective, the extent to which they impact on Māori participation will be considered in final decisions. This objective is the subject of a separate, future discussion document.

The Government's objectives are discussed more fully in chapter 1.

## **Why is the Government so focused on improving urban planning and infrastructure?**

*The success of New Zealand cities is important to our competitiveness, economic performance and the well-being of all New Zealanders*

A country's international competitiveness relies more and more on the competitiveness of its major cities. Cities concentrate economic activity by bringing together sectors and businesses (including corporate headquarters), along with the universities and research institutions that support innovation, growth and the specialised skill sets needed for exporting goods and services.

Our towns and cities are also necessary for our well-being – about 85 per cent of New Zealanders live, work, relax and bring up our families in urban areas. Where urban areas

function well, the lifestyle attracts and retains large and skilled labour markets, and helps make New Zealand an attractive destination for highly-skilled migrants. Where they do not function well, this has real impacts for the people and businesses who live and operate there. For example, increased congestion can lower people's quality of life.

As New Zealand's largest city, Auckland plays a very special role in our economy – it has been estimated that Auckland's average productivity is 45 per cent greater relative to the productivity of the rest of New Zealand.<sup>2</sup>

*Infrastructure in the right place, at the right time, is needed to support our cities, rural areas and economy*

Infrastructure is the glue that allows our cities to function well – it is key to how effectively urban and rural areas develop, operate and link together. The *National Infrastructure Plan* (2010) recognises that: “*infrastructure fundamentally supports not only our productivity and economic competitiveness, but also our social and environmental well-being*”.<sup>3</sup> It is an enabler of economic and social development, and often encourages complementary investment, such as commercial or industrial activities.

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<sup>1</sup> The Cabinet paper is available on the MFE website: [www.mfe.govt.nz](http://www.mfe.govt.nz) (April 2009).

<sup>2</sup> Maré D. 2008. *Labour Productivity in Auckland Firms*. Motu Working Paper. pp14–15.

<sup>3</sup> Treasury. 2010. *National Infrastructure Plan*. New Zealand Government, page 10.



Infrastructure does this by:

- building connections physically, through transport connections, and virtually through telecommunications:
  - a) it links farms and rural communities to towns and cities and, through them, to world markets
  - b) it moves international visitors about and lets our business people travel domestically and abroad to develop and expand their business
  - c) it links businesses to supply chains, to research and development, and to customers
  - d) it allows goods and people travel to where they are needed via highways, railways, airports and ports
  - e) and it links New Zealanders to jobs, to social services and recreational opportunities
- providing the water and energy we need for quality of life and to fuel economic success
- delivering public services, including universities, schools and hospitals, and our defence and corrections facilities.

New Zealand's infrastructure resources include 90,783 kilometres of roads<sup>4</sup>, 4000 kilometres of rail<sup>5</sup>, 14 ports<sup>6</sup>, 41 airports with paved runways<sup>7</sup> and 114 drinking water supplies (in 2000)<sup>8</sup>. The Government owns infrastructure assets valued at more than NZ\$110 billion, and has allocated NZ\$7.5 billion for new capital spending over five years<sup>9</sup>. The Crown is now spending more than NZ\$6 billion each year on maintaining, replacing or investing in new physical assets. Local government also spends extensive amounts on infrastructure, with local authorities planning to spend around NZ\$30 billion, mostly on infrastructure, over the next 10 years<sup>10</sup>. The private sector is also increasingly investing in infrastructure, often leveraging off the public sector investment. Most of this investment by these different providers is in urban areas, and the combined effects are greater than the sum of the individual projects.

## We need to improve

Analysis of how well the economy is doing shows we have under-invested in some infrastructure in New Zealand in the past, and that our infrastructure is now holding us back from improving our overall economic performance.<sup>11</sup>

Chapter 2 sets out the potential problems identified with the current regulations and processes we use to design, plan and deliver urban and infrastructure development. These are:

### *Planning and urban design*

1. **Inadequate recognition of the urban environment in the RMA:** the RMA focuses on environmental effects and protecting the natural environment, with no explicit recognition of the urban environment.

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<sup>4</sup> Ibid, page 76.

<sup>5</sup> Ibid, page 85.

<sup>6</sup> Ibid, page 89.

<sup>7</sup> Ibid, page 93.

<sup>8</sup> Ibid, page 115.

<sup>9</sup> Ibid, page 11.

<sup>10</sup> Ibid, page 11.

<sup>11</sup> Ibid, page 61.



**State Highway 1, Auckland to Orewa – Photo NZ**

2. **Complex planning system:** urban planning draws on several different Acts, each with its own timeframes and regulations, and there is little integration between strategies, regulations, expenditure and decision-making.
3. **Lack of consistency in decision-making:** the complexity of the planning system does not foster agreement between the multiple participants, or facilitate co-ordination and consistency.
4. **Ineffective implementation tools:** the urban planning tools we have are either inadequate or are not being used in ways that complement the broader urban planning system.

#### *Infrastructure approvals*

1. **Lack of national clarity and consistency of objectives, direction and standards:** this creates uncertainty and risk for infrastructure providers seeking to invest or operate infrastructure in different parts of the country.
2. **Mixed access to designations**<sup>12</sup>: designations under the RMA provide a wider range of powers and protections for infrastructure providers than is available under a resource consent. However, access to these powers and protections is inconsistent, there is a risk that it may be abused, and it may not reflect future infrastructure needs.

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<sup>12</sup> Appendix 2 provides a glossary of the technical terms used throughout this discussion document, such as 'designations'.

3. **Complex and inflexible approval processes:** infrastructure projects often involve significant investment costs, including complex and costly design. Current approval processes increase risk, uncertainty and cost for providers.
4. **Lack of robust and integrated decision-making:** current decision-making processes are not always perceived to be legitimate or fair, undermining public acceptance and confidence in both the decisions and their consequences.
5. **Inefficient and inadequate land acquisition processes:** the Public Works Act (PWA) provides a process for land to be acquired for public works. Potential problems have been identified with the adequacy of compensation and the efficiency of processes.

## The opportunities before us

For the Government to achieve its overall economic and environmental objectives, we need to understand the scale and magnitude of these problems and consider options to tackle them.

The Government is well aware that it can do much to improve the way we plan for, invest in and manage infrastructure, and is undertaking a range of actions to address this. These include measures to improve infrastructure investment decision-making, measures to get better ‘whole-of-life’ management of Crown assets, guidance on the use of alternative procurement methodologies for infrastructure, broad regulatory improvements, and the creation of the National Infrastructure Plan as the key vehicle for developing and communicating the Government’s infrastructure vision and approach in order to, amongst other things, facilitate greater private sector infrastructure investment.

There is always more that can be done however, especially in the resource management space. Integral to this is an efficient, effective and integrated resource management framework which allows us to plan in ways that drive productivity, enable better development, get value for money from infrastructure investment, manage planning blight<sup>13</sup> effectively, and deliver better quality of life in towns and cities; while also achieving high-quality social and environmental outcomes. We can do this without compromising environmental integrity.

To achieve this, and improve public sector productivity, central government needs to be clear about its priorities and objectives to make sure these are reflected in urban planning and infrastructure projects, and to provide clearer signals to local government and private sector investors.

It needs to provide the right tools and processes for public and private investors, and to allow for the flexible and efficient delivery of public services. It also needs to integrate urban and infrastructure planning – effective urban design blends infrastructure into cities, achieving a wide range of social and economic outcomes. This has the potential to lift New Zealand’s productivity and international competitiveness and deliver the long-term outcomes we want – more effective, liveable and productive patterns of growth and development in a high-quality physical environment. Our international competitors, including Australia, are already tackling this challenge.

A particular opportunity is spatial planning, already in place in Auckland as part of the local government reforms in that city. Spatial planning could also play an important role outside of Auckland – in other cities, towns and regions.

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<sup>13</sup> A definition of *planning blight* is provided in Appendix 2.

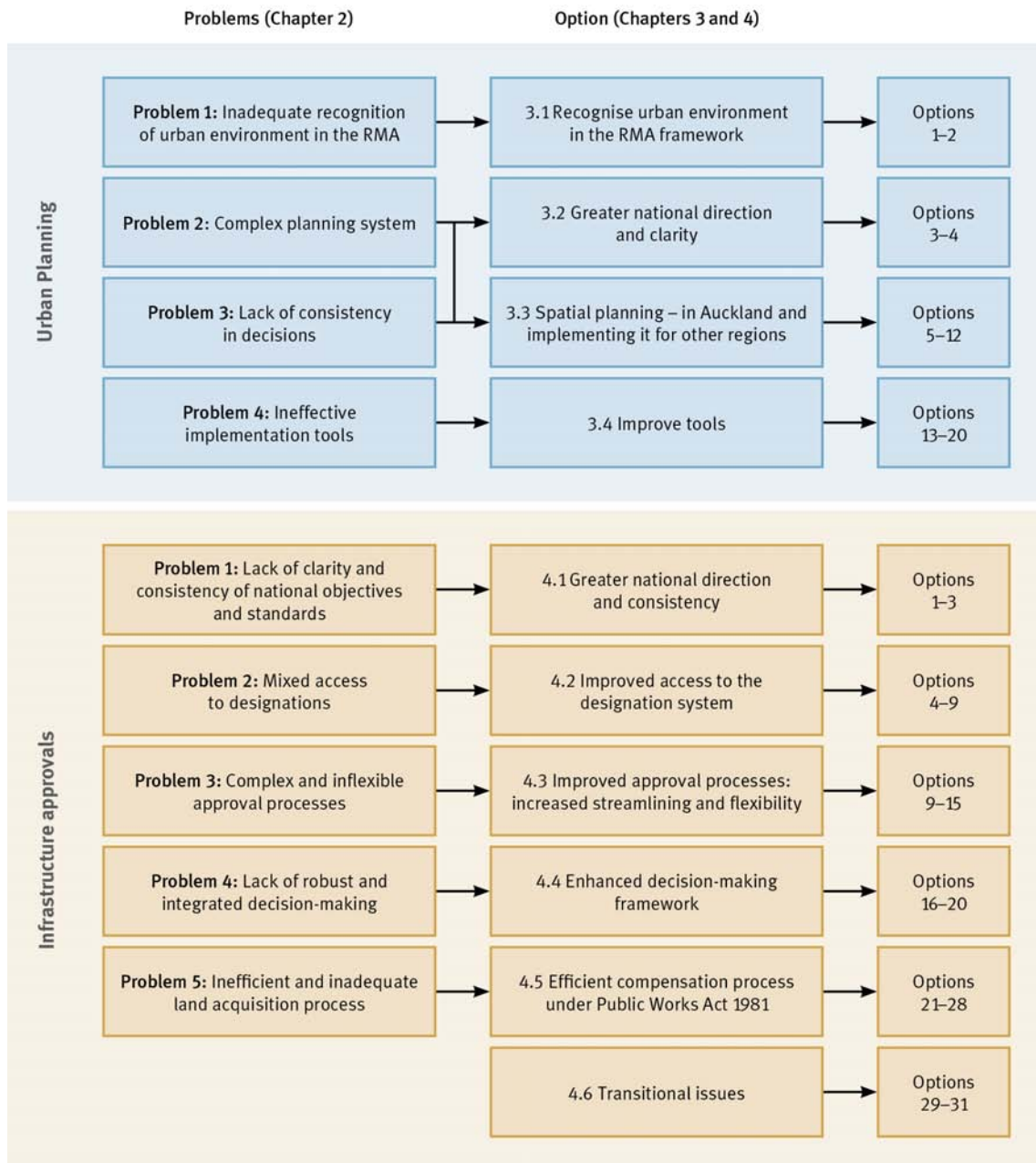
Lastly, we also need to plan ahead. Future infrastructure may need to be in particular places or follow particular routes, and this land may therefore need to be compulsorily acquired, or protected from incompatible development. While both of these can impact on the private property rights of existing landowners, preparing for the future is needed to provide increased certainty for those investing in and operating essential infrastructure. The impacts on affected property owners of acquisition must be recognised adequately through the compensation that they receive.

## **Options for improving the planning system**

Chapters 3 and 4 set out a range of options to improve the planning system for urban areas and infrastructure respectively. The options reflect the recommendations made by two independent advisory groups established by the Minister for the Environment in January 2010 – the Urban Technical Advisory Group (UTAG) and the Infrastructure Technical Advisory Group (ITAG). Their full sets of recommendations are in separate reports published alongside this discussion document. This discussion document also includes options identified by officials.

The options are presented under broad themes that broadly map onto the potential problems that have been identified. Figure ES 1 sets out the links between chapter 2 and the options in chapters 3 and 4.

**Figure ES 1: Links between chapter 2 and the options identified in chapters 3 and 4**



The technical working paper, published alongside this discussion document, includes further detail on the problem definitions, including their likely magnitude and scale. The Government has not yet identified its preferred package of options and seeks your feedback on the options, and whether any alternatives should also be considered. You are encouraged to consider how the options presented would operate together as a coherent system.



## **Making a submission**

Chapter 5 contains questions for you to consider in making your submission, which will help inform the Government's decisions on which options to take forward. Chapter 5 also provides information on how to make a submission, which should be sent to the Ministry for the Environment (MfE; the Ministry). The Ministry will evaluate submissions and may, where necessary, seek further comments. After this, recommendations will be developed for Ministers, and then Cabinet, to consider.

The closing date for submissions is **5:00pm on Friday 17 December 2010**.

# 1 Introduction

## 1.1 Purpose of this discussion document

The purpose of this discussion document is to:

- improve our knowledge and understanding of the issues facing planning and urban design and infrastructure development in New Zealand
- ensure that the options that have been identified address the right issues
- seek input and views on the options for reform and their likely impacts and effectiveness compared to the status quo.<sup>14</sup>

### Building on successful reforms to resource management

In December 2008, the newly elected Government initiated a significant programme of reform for resource management in New Zealand. The reform programme focused on the Resource Management Act 1991 (RMA; the Act), and also touched on related legislation for fisheries, forestry, local government and public works.



**The new Mangere Bridge in construction, Auckland. Photo credit: Benjamin Paul  
AucklandMotorways.co.nz**

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<sup>14</sup> Appendices 3 and 4 provide a summary of the current systems for urban and infrastructure planning and infrastructure approvals.

Phase One of the reform programme focused on streamlining and simplifying the Act and resulted in the 2009 RMA amendments. This met the Government's commitment to introduce legislation into the House of Representatives within 100 days of taking office.

Phase Two of the resource management reform programme (RMII), now under way, is about tackling more complex challenges and strengthening the role of environmental management in supporting competitiveness. It focuses on particular sectors' issues and the need for better interaction between the RMA and other statutes. Within that mix, this discussion document focuses on urban planning and infrastructure.

Phase Two of the reforms also includes the objective of achieving efficient and improved participation of Māori in natural resource management processes. This was considered in identifying the urban planning and infrastructure options. Specific options outside of urban planning and infrastructure to achieve this objective will be progressed through a separate discussion document, and integrated into final decisions with feedback from the urban planning and infrastructure discussion document.

A review of New Zealand's water management system and the establishment of an Environmental Protection Agency are also included in Phase Two of the reforms. Both of these are dealt with outside this discussion document.

## **1.2 Why urban planning and infrastructure?**

In July 2009, Cabinet adopted a medium-term economic agenda aimed at lifting New Zealand's long-term growth rate and reducing the vulnerability of the economy to further economic shocks. The agenda was centred around six policy drivers – regulatory environment for business; public sector; innovation / business support; skills / education; infrastructure; and tax.

As a contributor to this agenda, Phase Two of the Government's resource management reform focuses on the planning for urban areas and infrastructure in New Zealand, and the approval processes for the construction and operation of infrastructure. This focus reflects that:

- cities are important to our competitiveness, economic performance and the well-being of all New Zealanders
- infrastructure in the right place, at the right time, is needed to support our cities, regions and economy
- an efficient, effective and integrated planning system is needed to ensure that our cities, regions and infrastructure are fit for today and the future.

### **What the options are based on**

In January 2010, the Minister for the Environment announced the formation of two independent Technical Advisory Groups (TAGs) to investigate ways to improve New Zealand's regulatory regime for urban planning and infrastructure – the Urban Technical Advisory Group (UTAG) and the Infrastructure Technical Advisory Group (ITAG). The options set out in this discussion document reflect the TAGs' key recommendations to the Minister, and also include a wider range of options where officials have identified further issues. Options are also presented to address implementation and transition issues. Where an option specifically reflects the UTAG's or ITAG's recommendations, this is indicated in brackets after the description of the option.

The full reports and recommendations made by the TAGs to the Minister are published alongside this discussion document, along with a technical working paper. The latter sets out current evidence of the scope and size of the problems identified and the information gaps.

### **1.3 How urban planning and infrastructure fit into the Government's wider objectives for reform**

RMII is part of the Government's objectives to deliver more efficient and effective resource management regulation and processes. It builds on the streamlining reforms in Phase One, which delivered the Resource Management (Simplifying and Streamlining) Amendment Act 2009. This Act focused on improving the plan development process, improving the efficiency of decision-making, and establishing specific approval processes for proposals of national significance. These changes removed roadblocks and improved the processes to achieve decisions in a more timely way.

RMII addresses more complex challenges, focusing on particular sectors' issues and better interaction between the RMA and other statutes. Cabinet agreed to overarching objectives for RMII which allowed good environmental outcomes to be delivered at the least cost. These objectives include:

- providing greater central government direction on resource management
- improving economic efficiency of implementation without compromising underlying environmental integrity
- avoiding duplication of processes under the RMA and other statutes
- achieving efficient and improved participation of Māori in resource management processes.

In investigating changes to urban planning, Cabinet also asked for improvements to:<sup>15</sup>

- links between housing affordability and land supply
- integrated growth management and infrastructure development
- the quality of outcomes delivered by urban design and urban planning.

When applied to social and economic infrastructure, the Cabinet's objectives translate to:

- efficient, timely and high-quality infrastructure that contributes to quality of life and economic productivity, and avoids, remedies or mitigates adverse effects on the environment
- a fair, equitable and efficient decision-making process that facilitates infrastructure development and promotes investment certainty.

The options presented for consultation in this discussion document aim to meet these objectives by focusing on:

- achieving an effective planning framework for New Zealand's urban areas and, in particular, Auckland, building on the current reform of Auckland local government.

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<sup>15</sup> [CAB Min (09) 34/6A refers].

Options are also presented that would introduce spatial planning more widely than Auckland alone

- ensuring that high-quality infrastructure in cities, urban and rural areas can be delivered in the right places at the right time, without compromising environmental integrity.

Phase Two of the resource management reform programme also includes the objective of achieved efficient and improved participation of Māori in resource management processes. While the options included in this discussion document are not specifically aimed at this objective, the extent to which they impact on Māori participation will be considered. This objective is the subject of a separate, future discussion document.

## **1.4 Finding your way through discussion document**

Chapter 2 sets out the potential problems with urban planning and infrastructure which the options in chapter 3 (urban planning) and chapter 4 (infrastructure) aim to address.

The questions in chapter 5 test the options and their likely impacts. Your views and feedback are welcomed to help inform the Government's decision-making, and should be received by the Ministry by 17 December 2010. Information on how to make a submission is also provided in chapter 5.

The Appendices provide background information to explain acronyms and technical terms, the current RMA processes and how the options for reform will be assessed. Appendix 5 provides a more in-depth look at how well the options identified may meet the Government's objectives.

- Appendix 1: Acronyms used in this document.
- Appendix 2: Glossary of terms used.
- Appendix 3: How the existing plans system in urban areas works.
- Appendix 4: How the existing approval processes for infrastructure work.



## 2 Problems with the planning system

Potential problems with the current legislative system with which we design, plan and deliver infrastructure and urban development have been identified. If the Government is to achieve its overall economic and environmental objectives, we need to understand the scale and size of these problems and consider options to tackle them.

Problems arising from urban planning are covered in 2.1, while 2.2 addresses those associated with infrastructure.

Questions in chapter 5, seek feedback on the problems described below, including any evidence you may have to support and/or challenge them, and whether there are other problems that we have not identified.

For those who want more detail, this is available in the technical working paper published alongside this discussion document.

### 2.1 Problems with urban planning

#### **Box 1: The urban planning system – a definition**

In this document, the 'urban planning system' is defined as the statutory and governance frameworks that incorporate decisions by councils, central government and the private sector about urban spaces.

The New Zealand urban planning system is complex. It is guided by three different pieces of legislation:<sup>16</sup>

- the Local Government Act 2002 (LGA)
- the Resource Management Act 1991 (RMA)
- the Land Transport Management Act 2003 (LTMA).

The Historic Places Act 1993 also plays a role in urban areas.

Each Act has different legal purposes, processes and criteria, which were not actively designed to work together. They each require different statutory plans, with different timeframes and relationships with other plans. Further detail is provided in Appendix 3.

Four potential problems create barriers to achieving successful towns and cities in New Zealand. They arise from both current legislation and practice, and how well or poorly these enable

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<sup>16</sup> Following from the Auckland governance reforms, the Minister for Local Government is initiating a first principles review of New Zealand's local government system – its purpose, structure, functions, status, funding, and relationships with central government, with the private and voluntary sectors, and with communities, citizens and ratepayers. The first key milestone will be the release of a public discussion document by 31 July 2011. This document will set out issues and questions about the system, and seek public feedback on those issues. .

beneficial urban design and planning, integrated decisions and a co-ordinated and consistent approach to planning New Zealand's towns and cities.

## **Problem one: Inadequate recognition of urban environment in the RMA**

Economic activity improves our quality of life and is needed for New Zealand to be internationally competitive.

Towns and cities are shaped by the patterns of economic, social and environmental activity that take place within their spaces. These change over time.

Effective planning needs to support the changing patterns of activity and be responsive to changing needs and values in urban areas.

If poorly managed, economic growth and our responses to it can have negative impacts. This poses a challenge for growing towns and cities: that is, how to enhance the positive outcomes that come from a high quality, liveable, economically productive natural and built urban environment, while mitigating or avoiding negative consequences, such as congestion or adverse impacts on the natural environment.

Good planning and urban design can play a significant role in delivering and maintaining the high quality urban services and amenities, including public space, which are crucial to cities' long-term attractiveness and competitiveness<sup>17</sup> and quality of life.

However, the environmental effects-based nature of the RMA, as the primary land-use planning legislation, does not easily allow this. In an urban context, the RMA has limited capacity to adequately consider the value created by urban development and good urban design compared to what already exists, or to support positive impacts of development on the built environment, beyond effects on amenity values.<sup>18</sup>

In particular, RMA practice emphasises the management of the effects on the natural environment. Creating and managing an urban environment which may not already exist, or is in the process of being created, is assessed in the same way as the existing natural environment. This tends to encourage a reactive, risk-averse approach that seeks to maintain the status quo, regardless of wider benefits which may be achieved from what is proposed. As such, the RMA does not effectively facilitate the achievement of long-term, efficient and integrated planning and urban design outcomes.

## **Problem two: Complex planning system**

New Zealand's urban planning system is made up of the RMA, Local Government Act (LGA) and Land Transport Management Act (LTMA). Figure 1 shows the relationship between different plans drawn up under these Acts which influence urban planning.

The lack of alignment and connection between the three statutes has created a complex regulatory environment, with little integration between strategies, regulation, expenditure and

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<sup>17</sup> Kamal-Chaoui, L, and AR (eds) 2009. *Competitive Cities and Climate Change, OECD Regional Development Working Papers N° 2*. OECD publishing.

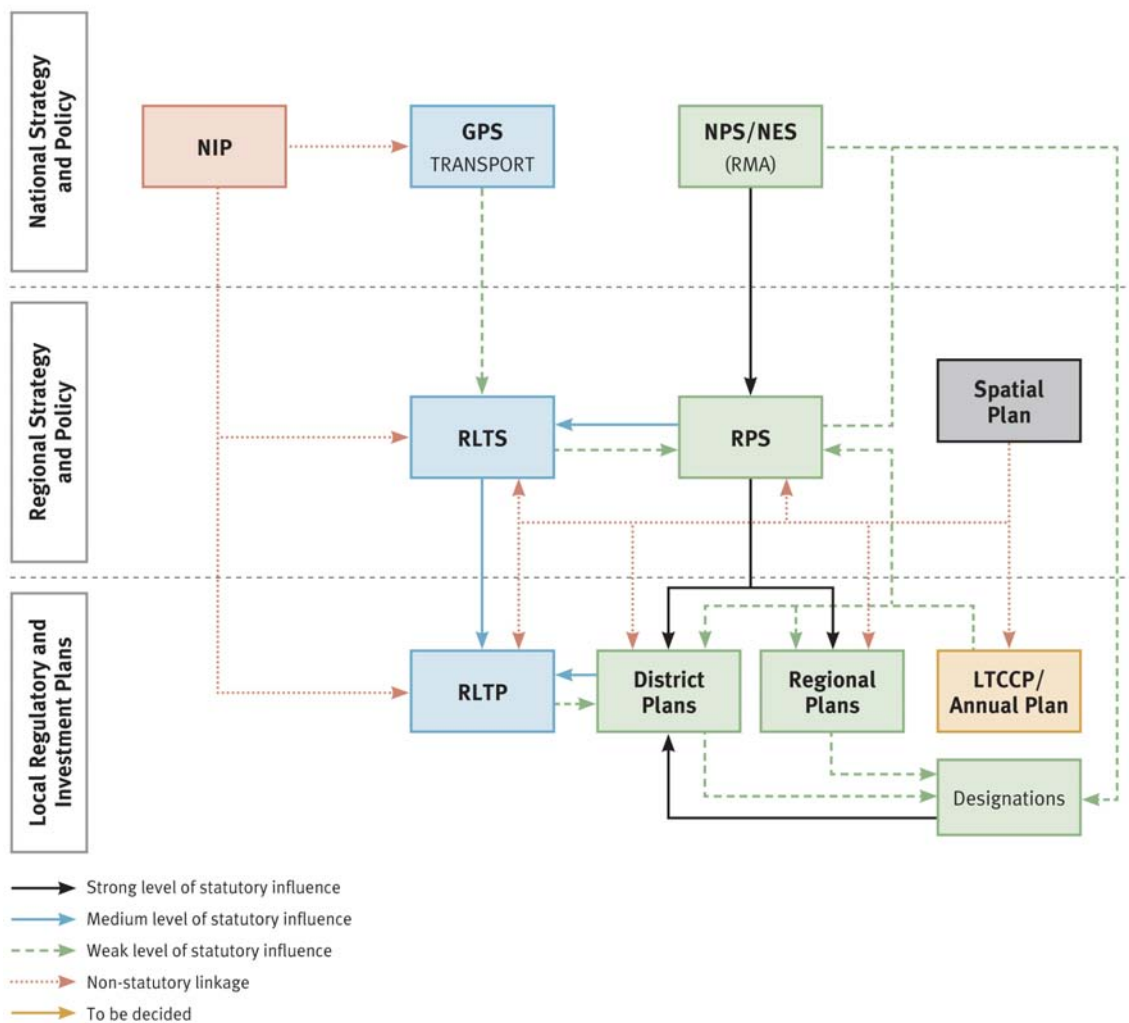
<sup>18</sup> 'Amenity values' is defined in Appendix 2.

decision-making. For example, plans under the different Acts all have their own timeframes, processes and consultation requirements, resulting in duplication and lack of clarity, and demanding considerable time and resources from all parties involved.

The lack of alignment is a disincentive for infrastructure providers and the private sector to engage effectively with the planning system. It also makes it difficult to provide sufficient certainty about what will happen, as each process may have a different outcome. It does not promote or encourage integrated decision-making to provide the right infrastructure in the right place at the right time. It therefore makes it difficult to achieve quality urban development.

**Figure 1: The current urban planning system: relationships between the plans and strategies of the RMA, LTMA and LGA**

(Acronyms used in figure 1 and throughout this discussion document are explained in Appendix 1.)





Cycleway in wetlands reserve, off Bluff highway – PhotoNZ

### **Problem three: Lack of consistency in decisions**

The current system of planning and decision-making is complex and does not readily foster agreement among multiple participants, or facilitate co-ordination and consistency. This problem is a symptom of the lack of alignment and connection between the planning statutes discussed in problem two above. A lack of clear direction from central government on cross-sectoral issues also contributes to the problem.

#### **Multiple participants and decision-makers**

Multiple parties are involved as actors and/or decision-makers in the urban planning system. The key participants are the private sector, local and central government, and infrastructure providers. Iwi/Māori, communities and non-government organisations are also important players.

There is no effective, single mechanism for facilitating engagement, securing agreement among participants and providing information for robust decision-making. Mechanisms are spread throughout the LGA, RMA, LTMA and other Acts,<sup>19</sup> and their use is limited to the purpose of each respective Act. This means that any agreement between participants also tends to be limited to the single elements of the urban environment covered by that Act, rather than being integrated. This leads to inconsistencies in decision-making and, as a consequence, creates uncertainty and increased risk for investors.

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<sup>19</sup> For example, Schedule 1 of the RMA, whereby, in some cases, agreement is ultimately reached through judicial decision-making.

It should be noted that, while the complex urban planning decision-making system does not actively encourage co-ordination and consistency in multi-party decision-making, neither does it actively prevent it. There are some good examples of planning practice by local authorities that has led to agreement and greater consistency in action by participants – for example, Wellington’s Regional Strategy, the Tauranga Smart Growth Strategy and the Greater Christchurch Urban Development Strategy.<sup>20</sup> However, such long-term regional strategies are not statutory documents and have limited weight in decision-making, unless adopted through a statutory process. This can result in difficulties in implementing them.

### **Box 2: CASE STUDY: The benefits of providing greater investment certainty – New Lynn rail trenching project**

Prolonged uncertainty over infrastructure investment or land-use planning decisions can delay investment in other development, or result in less than optimal outcomes. While developers may still buy land in anticipation, development often will not occur until there is certainty over infrastructure provision. This is particularly important in urban redevelopment projects, which depend on some form of ‘lead investment’ to act as a catalyst for others.

For example, developers have reportedly been keen to proceed with the kind of mixed-use development envisaged for Auckland’s Tāmaki area as a result of the Auckland Manukau Eastern Transport Initiative. However, holding costs associated with delays to this project have prompted developers to consider less optimal alternatives. These include types of development that do not depend on new infrastructure, and are less desirable for the creation of a town centre, such as ‘big box’ retail outlets with large car parking capacity, which may be unable to provide flexibility for a multitude of uses over time, and are often overly car-oriented and not at a human scale.

In contrast, the New Lynn rail trenching project demonstrates that certainty provided by a lead investment, combined with appropriate planning, can be a catalyst for development. Waitakere City Council officers report the project has been a catalyst for at least one major residential development, and has led to a “different kind of approach to decision-making” amongst other property developers.

Other positive influences also helped to create investor certainty including wider government investment in the Auckland rail network, greater certainty over the Western motorway ring route, structure planning and zoning changes for the New Lynn township, and council investment in public space and amenities.

## **Central government role**

Central government, through its various agencies, plays a particularly important role in urban areas as a policy maker, regulator, developer, investor and capability builder, and as a provider and operator of infrastructure and services.

Central government provides the bulk of public expenditure in urban areas across a range of portfolios – such as health, education and transport infrastructure. When compared to other countries, a much greater proportion of decisions on expenditure are made by central

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<sup>20</sup> These strategies have relied on the establishment of collaborative working and governance relationships to achieve their development and implementation.



government. In contrast, decisions on resource management are predominantly made by local government.<sup>21</sup>

In Auckland, total central government spend (including benefit payments and operating costs) outweighs local government spend by about 8:1. In the 2007 financial year, estimated total expenditure by central government in the city was NZ\$17.2 billion, or 32 per cent of its national expenditure.<sup>22</sup> This compares to NZ\$2.7 billion spent in the same period by Auckland local authorities.

NZIER estimates<sup>23</sup> show that the Government's infrastructure investments in Auckland are concentrated in a small number of portfolios: transport (\$705m), housing (\$474m), education (\$283m), health (\$125m) and law and order (\$98m). More than 40 per cent of central government's capital expenditure for transport, housing and education, is in Auckland.

Despite the level of its investment, traditionally central government has not been explicit about what it wants to achieve across its portfolios (eg, housing, transport, education, economic development, environment etc) for New Zealand's cities, towns and rural areas. The Government is considering mechanisms that will provide for more effective and co-ordinated engagement in planning and delivery where appropriate.

## **Problem four: Barriers to effective implementation**

Effective implementation relies on being able to access a full range of tools and assess which is best for the job in specific circumstances. The full range of tools covers a spectrum, including the use of plans to implement national objectives and standards, provision of information, using incentives and regulatory tools.

The use, flexibility and effectiveness of tools complement the broader planning system. This in turn affects the achievement of broader objectives, such as economic growth, integrated urban and infrastructure development, value for money from investment, and well-designed urban environments that create value.

The following potential barriers to effective implementation have been identified:

- *Inconsistent implementation of national objectives and standards in plans.*

Variability and inconsistency between plans' structure, format and the consent and expression of provisions can result in unclear expression of national direction. This can lead to:

- duplication of effort in resolving common issues, unnecessarily increasing the cost and time local authorities and submitters spend on the plan preparation and change process

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<sup>21</sup> Expenditure by central government accounts for 89 per cent of expenditure by all levels of government (ie, central and local) in New Zealand compared with an average 43.3 per cent of government expenditure across the Organisation for Economic Cooperation and Development (OECD) countries.

<sup>22</sup> Taken from a report prepared by the New Zealand Institute for Economic Research, for the Committee for Auckland. Most central government spend is on operating costs rather than capital expenditure, with the exception of transport. In absolute terms, social welfare expenditure was estimated to be the single largest area of central government spend in Auckland, at NZ\$5.1 billion (roughly 70 per cent of this in benefit payments). Health and education were the next two largest areas of estimated expenditure, at around NZ\$3 billion each. In 2007, transport spend was \$944 million, or 38 per cent of national funding.

<sup>23</sup> Ibid. 2009 figures.

- frustration amongst resource consent and designation applicants who have to deal with a number of different plans and having to tailor otherwise identical proposals to match those plans
  - national policy statements (NPSs) and national environmental standards (NESs) having to be drafted to cater for all possible variations in plan format and provisions. This can increase the complexity of NPS and NES while reducing their clarity and effectiveness.
- *Cost and time associated with preparing and changing plans*

The preparation and changing of RMA plans is expensive and time consuming for local authorities, communities, businesses and the environment. Delays in updating plans reduces certainty for investors and communities and reduce the ability of plans to provide effectively for changing circumstances.

- *Potential problems with tools in practice*

Some of the tools currently available for supporting effective urban development may be ineffective in practice because they may:

- be inadequate – eg, metropolitan urban limits; financing and funding mechanisms for infrastructure
- need to be complemented by new tools to be effective – eg, spatial plans
- not be used to their full potential – eg, urban design panels.

## 2.2 Problems for infrastructure project development in New Zealand

One of the key challenges for resource management in New Zealand is ensuring that the right infrastructure is in the right place at the right time, and that the approvals processes support the delivery of projects in ways that maximise the value of investment.

### **Box 3: Infrastructure approvals – a definition**

'Infrastructure approvals' for the purpose of this document is defined as the two key systems under the RMA that provide the approvals for developing and operating infrastructure projects: designations and resource consents. Appendix 4 summarises these systems. The acquisition powers under the Public Works Act 1981 (PWA) also play a role in infrastructure development and are also considered within the scope of this discussion document.

The potential problems already identified for urban planning are also relevant to urban infrastructure investment, planning and project delivery. In particular, the current planning system does not adequately provide for effective longer-term or integrated infrastructure planning. Inconsistencies in decision-making also fail to provide certainty for investment by infrastructure providers and other investors.

Five potential issues have been identified in how the planning system, both in urban and rural areas and throughout different regions, operates with respect to infrastructure projects.

#### **Box 4: CASE STUDY: Complex processes and long timeframes for infrastructure projects – inner city bypass, Wellington**

This project was a highly complex central city roading improvement. The proposal's stated key benefits were to provide a less congested, safer and more efficient route between the Terrace Tunnel and the Basin Reserve. The project aimed to separate cross-city and central business district traffic, and provide a safe route for pedestrians and cyclists. It had a benefit cost ratio of 3.8:1 (ie, for every \$1 spent, the project was estimated to deliver \$3.80 of benefit).

The project attracted significant public opposition. The primary local concerns were focused on heritage values, urban form, noise, traffic, access and air quality. Opposition also expressed concerns about greenhouse gas emissions, induced traffic, car promotion and the proposal's overall sustainability. The planning approval process took 10 years. Construction took two years.

- 1994 to 1996: Investigations.
- 1996 to 1999: Designation and resource consent process, including public council hearing. Submissions on the resource consent applications totalled 1500. Designation was approved. An appeal to the Environment Court was made and the designation was confirmed.
- 1999 to 2001: Detailed design and ancillary consents applied for.
- 2001 to 2004: Historic Places Act 1993 (HPA) approval process, including public hearing. Authorisations granted. Judicial review application to High Court on the Historical Places Trust's (HPT) decision. HPT decision upheld. A community group sought to appeal HPT authorisations to the Environment Court. The Environment Court struck out the appeal due to the group not being directly affected. High Court appeal on Environment Court decision struck out the decision. The High Court heard judicial review and appeal from strike out together. Environment Court's decision was upheld.
- 2004: Contract awarded following funding approval process under LTMA.

### **Problem one: Lack of clarity and consistency of national objectives and standards**

Infrastructure projects often cross regional and local boundaries, or provide services more widely than the local area in which they are physically located. Infrastructure providers themselves often operate in more than one region. For example, central government is a key funder, provider or operator of infrastructure across the country. These factors mean that clarity and consistency of national objectives, direction and standards is important in a decision-making framework, to reduce uncertainty and risks for infrastructure providers.

The RMA provides the Government with the ability to develop resource management tools that can articulate national priorities, provide national direction and facilitate consistency and

certainty in the way resource management issues will be addressed. Key tools include national policy statements (NPS) and national environmental standards (NES).<sup>24</sup>

The following issues have been identified with the current system:

- *Lack of clarity about national objectives and standards*
  - a) Insufficient central government direction about priorities for economic, social and environmental resource management leads to uncertainty for decision-makers and local government planning, and may mean Government outcomes for infrastructure are not achieved.
  - b) Lack of clarity reduces the ability of local government and private sector infrastructure providers to integrate their investment with central government investment. Complementary private sector investment may also be delayed or reduced in its effectiveness.
- *Inconsistent implementation of national objectives and standards*
  - a) It is possible that when NPSs and NESs are developed RMA plans across New Zealand will incorporate them in different ways. This would increase compliance costs and investment risk for infrastructure providers who provide networks and services across regional boundaries.



**Container wharf, Lyttelton Harbour – PhotoNZ**

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<sup>24</sup> National policy statements and national environmental standards are explained in Appendix 3.

## Problem two: Mixed access to designations

A ‘designation’ is a provision in a district plan which allows a public work to be developed without the need for a land-use resource consent from the territorial authority.<sup>25</sup> A designation also restricts others from doing anything in relation to the land that would prevent or hinder a public work.

A designation is put in place on the request of a ‘requiring authority’ – which is defined in the RMA as a Minister of the Crown, a local authority or an approved network utility operator.

Designations provide a wider range of powers and protections for infrastructure providers than is available under a resource consent. However, not all types of infrastructure are eligible for designations; only those that are set out in Section 166 of the RMA qualify. For example, a publicly-funded school is eligible, but a private school is not, although both provide educational services. Further explanation of how designations work and the role of requiring authorities is provided in Appendix 4.

The following potential issues have been identified with the current access to the designations process:

- *Definition of ‘requiring authority’ is inconsistent*
  - a) The definition does not capture all infrastructure projects that could benefit from the designation process. For example, airports are eligible but ports are not, even though New Zealand’s ports are essential to our economy, accounting for more than 99 per cent of merchandise exports and imports by volume.<sup>26</sup>
  - b) Some eligible infrastructure development uses the designation process when this range of powers is not necessary or proportionate to the development proposed, and an alternative RMA process may be more suitable.
- *Definition of ‘requiring authority’ may not reflect future infrastructure needs*
  - a) In the future, there is likely to be an increased desire by central and local government to develop and operate infrastructure by using innovative financing vehicles, such as public-private partnerships and private financing initiatives, and alternative procurement methods, such as ‘design and build’.<sup>27</sup> Furthermore, delivery models for social services are also likely to continue to evolve (eg, integrated services, such as co-location of health, education and social services; Māori-Government joint service providers; cooperative arrangements between voluntary and community providers; and private sector service delivery). Some of these approaches would not be entitled to access the designations system as those involved do not meet the current model’s definition of a ‘requiring authority’, and this may act as a barrier to efficient infrastructure development.

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<sup>25</sup> A ‘territorial authority’ can be a district or city council. Note that a ‘public work’ can be provided by the private sector.

<sup>26</sup> Treasury, 2010. *National Infrastructure Plan*. New Zealand Government. page 88.

<sup>27</sup> The ‘Design and build’ term is explained in the glossary in Appendix 2.

## Problem three: Complex and inflexible approval processes

Much infrastructure is characterised by significant investment costs and long asset lives. For example, Transpower's North Island Grid Upgrade Project is estimated to cost NZ\$824 million. Design of projects is also often highly complex and costly.

As set out in Appendix 4, there are a range of approval processes available to infrastructure providers. However, their complexity and inflexibility poses a range of potential issues:

- *Level of detail required in requirements for new designations*
  - a) Requiring authorities and territorial authorities have identified an increasing trend to require high levels of detailed information about the potential effects of a proposal at the 'notice of requirement' stage.<sup>28</sup> This means infrastructure providers have to make a significant upfront investment in detailed design, and this creates a barrier for longer-term infrastructure planning when detailed designs have not yet been developed. It may also increase the costs and reduce flexibility for innovative financing arrangements which allow for 'design and build' contracts with subcontractors.
- *Timeframes for validity of approvals for ongoing operation of infrastructure*
  - a) The usefulness of designations as a long-term planning tool can be undermined by the relatively short five-year lapse period.<sup>29</sup>
  - b) Much infrastructure requires resource consents for its operation – for example, hydropower stations and irrigation schemes require consents for water use and discharges. While the RMA provides a 35-year maximum duration for some consents, much infrastructure is designed and built to operate for longer periods. There is some uncertainty about the process for 're-consenting' the associated permits or consents when their terms expire. The need to 're-consent' activities creates risks for investment in long-term infrastructure.
- *Duplication and inconsistency of processes*
  - a) The current designation system requires a two-step process by which approval is required for a notice of requirement, followed by an assessment of the detailed design contained in an 'outline plan' of the work.<sup>30</sup> (Sometimes the need for an outline plan may be waived). Outline plans are also required for minor developments, or if changes are made to the original scope. The need for the outline plan step may be adding unnecessary compliance costs to maintenance and minor upgrade activities.
  - b) An outline plan is not subject to public participation. In many cases this lack of public input is consistent with other RMA processes, such as non-notified resource consents<sup>31</sup>. However, in some cases significant development is brought forward under an outline plan. In such a case, lack of public input is inconsistent. While these latter situations may be less common, the divergence from the expected opportunity for public input can be significant such as where effects on neighbours from the development are substantial. In addition, public participation can result in better outcomes, for both the infrastructure provider and the community.

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<sup>28</sup> 'Notice of requirement' is explained in the glossary in Appendix 2.

<sup>29</sup> A designation will 'lapse', that is, expire and no longer be valid, if it has not been given effect to within the specified period.

<sup>30</sup> 'Outline plans' are explained in the glossary in Appendix 2.

<sup>31</sup> A resource consent is 'non-notified' where the effects are minor or less and all written approvals have been obtained from affected parties.



- *Multiple approval processes and appeal routes*
  - a) The complex nature of infrastructure developments means that it is common for a proposal to require a range of approvals under separate regimes – eg, designations, land-use approvals, regional resource consents, authorisation to access acquisition or taking powers under the Public Works Act 1981 (PWA) and approvals under other statutes, such as the Conservation Act 1987 or Historic Places Act 1993 (HPA). There are also often multiple appeal routes available because of the range of legislative approvals required. The need to engage in multiple processes increases the complexity for obtaining necessary approvals, extends overall timeframes and increases risks and uncertainty for the infrastructure provider and affected communities.

## **Problem four: Lack of robust and integrated decision-making**

Legitimate and fair decision-making processes are crucial to ensure public acceptance and confidence in the decision-making system, and the consequences of those decisions. Different decision-making processes exist for designations and resource consents (summarised in Appendix 4), and are not always perceived as fair.

For example, decisions on most designations are made by the requiring authority, which is often also the infrastructure provider. Essentially, that means it is the applicant who decides whether to accept or reject the relevant territorial authorities' recommendations in part or in full – which means these are not independent decisions. The exception is where nationally significant projects are referred to a board of inquiry or the Environment Court.



**Electricity pylons**

In contrast, decisions on resource consent and plan processes are independent of the infrastructure provider; they are made by the relevant territorial authority, a board of inquiry or the Environment Court.

The following issues have been identified:

- *Legitimacy and fairness*
  - a) A requiring authority decides whether to accept or reject any of the territorial authority's recommendations on its notice of requirement or outline plan – which means this is not an independent decision. Only limited balance is provided through the territorial authority's or a submitter's right of appeal to the Environment Court.
  - b) In order to become a requiring authority, private infrastructure providers have to demonstrate that they will give proper regard to the interests of those affected and the environment.<sup>32</sup> However, this may conflict with their obligations and statutory duties to their shareholders. This tension is heightened by their position as decision-maker on the territorial authority's recommendations on designations. It is important to ensure adequate safeguards are in place to protect the interests of those affected and the interests of the environment.
- *Lack of integrated decision-making*
  - a) Decision-making on infrastructure development is, to an extent, separated from other planning decisions. Designations form a parallel system to plan development and resource consent processes. As discussed, the decision-maker for designations is the infrastructure provider, whereas for resource consent and plan processes, the decision-maker is independent of the applicant. This variation creates a barrier for co-ordinated and integrated planning.
  - b) The designation system does not promote an ethic of cooperation between infrastructure providers. Providers are not encouraged to work together to find least-cost, least-disruption solutions, such as creating integrated infrastructure corridors or to co-ordinate plans for upgrading existing infrastructure to minimise disruption.
  - c) The introduction of spatial planning to Auckland encourages co-ordinated planning for infrastructure investment to maximise the benefits. However, if decisions on designations for infrastructure remain with requiring authorities, there is little ability to ensure that the objectives of the spatial plan will be delivered or given appropriate weighting in decision-making on individual projects.

## **Problem five: Inefficient and inadequate land acquisition process**

The PWA provides a process for land to be acquired for public works. Potential problems have been identified with the adequacy of compensation and the efficiency of processes. The current compensation provisions could be viewed as being outdated and inadequate in some ways, because:

- they do not recognise how long a person has owned a property, or the emotional consequence of losing a property regardless of whether it contains a dwelling
- they fail to provide incentives for early agreement and settlement, extending the time required for infrastructure projects

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<sup>32</sup> Section 167 of the RMA.

- current valuation practices within New Zealand, which are used to determine ‘fair market value’, may not form a suitably objective and reliable basis for ‘willing purchaser, willing seller’ price discussions
- the process for acquisition is cumbersome and affected landowners may not understand their rights under it.

### 3 Options for change: Planning and urban design

The independent Urban Technical Advisory Group's (UTAG) report to the Minister for the Environment, published alongside this discussion document, identifies and analyses a number of issues with the urban planning system and recommends changes to address them.

The 20 options in this chapter reflect the UTAG's main recommendations, along with additional options to address the problems identified by officials (set out in chapter 2). A full list of the UTAG's recommendations is available in its report to the Minister.

The options for planning and urban design are grouped into four categories that broadly match the problem issues in chapter 2:

- 3.1 Recognise urban environment in the RMA framework
- 3.2 Greater national direction and clarity
- 3.3 Spatial planning – enhancing it for Auckland and implementing it for other regions
- 3.4 Improve tools.

The options are numbered consecutively, from 1 to 20. Where an option specifically reflects the UTAG's recommendations, this is indicated in brackets after the description of the option. Government has not yet identified its preferred option or package of options from the range presented in this discussion document. Your submissions will help inform this decision



Playground, Oriental Bay, Wellington – PhotoNZ

## 3.1 Recognise urban environment in the RMA framework

Two options have been identified to provide increased recognition for the urban environment within the RMA. These are:

1. Broaden definitions to include the urban environment to strengthen the ability of the RMA to adequately recognise the urban environment. Specific options include:
  - a) modifying the definition of ‘environment’ to specifically include the urban environment [UTAG recommendation]
  - b) extending the definition of ‘amenity values’ so that it addresses the quality of the urban environment to a greater extent [UTAG recommendation].
2. Amend the RMA to recognise the benefits of a quality urban environment by making specific reference to it in:
  - a) section 6 (matters of national importance to recognise and provide for) [UTAG recommendation] and/or
  - b) section 7 (other matters for which to have particular regard) [UTAG recommendation].

There is debate as to whether amending sections 6 or 7 is the most effective or appropriate way to ensure a stronger focus on the urban environment. Including reference to the quality of the urban environment in sections 6 or 7 would ensure explicit consideration was given to this. However, there are potential costs and limitations to this approach, including:

- adding to the long lists already contained in sections 6 and 7 may reduce the impact of being on the list
- an unclear intent for any amendment could attract litigation to interpret its meaning.

There is also some evidence from recent experience that inclusion in sections 6 or 7 is not sufficient by itself. An analysis of case law suggests that the recent addition of ‘renewable electricity generation’ to section 7 was not enough to improve consistency and certainty.<sup>33</sup> Therefore an NPS is now under development for renewable electricity generation in order to establish the national significance of benefits associated with it in decision-making under the RMA.

## 3.2 Greater national direction and clarity

Previous consideration has been given to providing greater national direction and clarity to the priority that central government places on the urban environment. In 2008, an NPS on Urban Design was proposed. Public feedback confirmed that an NPS would help ensure that the quality of the urban environment was recognised in RMA decision-making.<sup>34</sup>

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<sup>33</sup> Ministry for the Environment. 2008. *Proposed National Policy Statement for Renewable Electricity Generation Section 32 Evaluation Report*. Wellington. Ref. MF 889. p14.

<sup>34</sup> Ministry for the Environment. 2009. *Scope of a National Policy Statement on Urban Design: Report on submissions*. Wellington. This report states “Most submitters thought an NPS should cover all spatial scales”.

The feedback suggested that:

- the NPS include high-level principles of good planning and urban design that result in a quality urban environment and related benefits
- that those principles should apply to a range of scales of urban environment – ie, regional, metropolitan areas, cities, towns, neighbourhoods, individual spaces and buildings.

The UTAG supported the scope of such an NPS to complement the existing RMA focus on the natural environment. The UTAG also recommended that it include high-level issues, such as providing land supply and addressing housing affordability. It also considered that the NPS be renamed ‘built environment’, as the term ‘urban design’ is ambiguous, being both an outcome and an activity.

Based on those recommendations, the following options are put forward to rename and/or extend the scope of the proposed NPS to provide greater direction and clarity about the significance central government places on competitive and successful cities:

3. Provide for the scope of the NPS to:
  - a) include policies to require local authorities to provide an adequate supply of land to meet future urban growth demands – ie, at least a 20-year period [UTAG recommendation]
  - b) include policies requiring the consideration of housing affordability in decision-making, and regional and district plans under the RMA [UTAG recommendation].
4. Rename the NPS from ‘urban design’ to the ‘built’ or ‘urban environment’ [UTAG recommendation].

### **3.3 Spatial planning – enhancing it for Auckland and implementing it for other regions**

Government’s programme to further New Zealand’s economic objectives consists of six policy drivers including regulatory reform and investment in infrastructure. Government is interested in improving our planning system by reducing regulatory red tape, improving the use of incentives and getting better value for money from infrastructure investment. This involves looking at the ability to reduce the current levels of litigation, prescription, and long protracted processes; moving from a rules based and compliance heavy system to one that uses incentives to drive changes; more timely implementation; and improved co-ordination in decision-making.

#### **Background to spatial planning**

As part of its March 2009 report, the Royal Commission recommended that a new unitary council for the Auckland region — since called the Auckland Council – should develop a spatial plan to provide an overarching vision for Auckland, guide growth management, better align land-use and infrastructure investment, and simplify and streamline the regional and district planning framework.

The Government recognised that the spatial plan would be a key factor in realising a successful outcome from the governance reforms, and so confirmed it as part of its policy response to the Royal Commission’s recommendations. The subsequent Local Government (Auckland Council)





**Aerial view of Auckland city – PhotoNZ**

Amendment Act 2010 was drafted to both confirm the spatial plan requirement, and provide some high-level direction about what the Auckland spatial plan should contain.

Given the importance of Auckland's economy to New Zealand, and the potential of the spatial plan tool, it has been a key focus of the planning and urban design reform. The potential of the spatial plan tool to be applied more widely outside of Auckland is also being considered,

The Government recognised that a spatial plan is a tool that will help the Auckland Council deliver on its regional aspirations, and also help central government deliver on national objectives. More importantly, it is a tool that can help ensure that central and local government objectives are well aligned.

The Government is also keen to reduce the number of planning documents whilst avoiding a cumbersome, overly prescriptive process. Ensuring this occurs will require careful consideration of how the Auckland spatial plan fits in with, and relates to, New Zealand's broader planning and infrastructure investment framework. Matters that require future consideration include:

- whether the spatial plan should supplement or replace existing regional strategic planning instruments (such as the Regional Land Transport Strategy and Regional Policy Statement) to simplify the planning system
- the strength of the relationship between the spatial plan and other regulatory instruments (such as district plans) to make it more effective
- the relationship between the spatial plan and national-level planning and strategic documents (such as the National Infrastructure Plan (NIP), Transport Government Policy Statement (GPS), and national policy statements under the RMA) to provide clearer direction

- the role that central government will play in developing and implementing the spatial plan in Auckland to improve co-ordination between central and local government
- appeal rights on the spatial plan to reduce costly litigation and drawn out processes
- the applicability of spatial planning to other areas of New Zealand.

### **Box 5: Spatial planning – a generic definition**

**A spatial plan** is a high-level strategy for developing a region that relates to its geography, and seeks to achieve desired broad outcomes. Developed and implemented via collaboration between multiple parties, it provides a mechanism for agreeing joint priorities, actions and investment.

Spatial planning is:

- multi-party – a tool for collaboration between the key decision-makers.
- focused on the long-term development of cities and regions and improving investment certainty
- a guide to the location and timing of future infrastructure, services and investment that can be used to provide for the co-location of infrastructure where this is appropriate
- evidence based
- integrated across sectors – eg, transport, land use, housing, education, funding policy and regulatory policy – to achieve broad outcomes (economic, social, environmental, cultural)
- strategic – provides direction to regional funding policy, regulation and other implementation plans (eg, transport, economic development).

Spatial planning is not:

- prescriptive regulation
- only about land use.

The UTAG considered spatial planning and made specific recommendations for achieving an effective higher-level planning framework for New Zealand, with a focus on Auckland in the first instance.

Options for Auckland spatial planning are outlined below, followed by options for how spatial planning can apply to other regions.

## **Options for spatial planning in Auckland**

Seven options have been identified to enhance spatial planning in Auckland, including streamlining and simplifying the planning system:

5. Retain the current spatial planning legislation, which provides flexibility for the Auckland Council in developing and implementing the spatial plan.

Alternatively:

6. Simplify the planning framework for Auckland by:
  - a) using the Auckland spatial plan to incorporate either the:
    - i. the Regional Land Transport Strategy and Auckland Regional Policy Statement or
    - ii. the Regional Land Transport Strategy [UTAG recommendation]
  - b) replacing RMA plans (ie, regional policy statement, regional and district plans) for Auckland with a requirement for a single unitary plan [UTAG recommendation].
7. Improve the effectiveness of the Auckland Spatial Plan by giving it an appropriate level of statutory influence<sup>35</sup> on regional and local RMA,<sup>36</sup> LGA<sup>37</sup> and LTMA<sup>38</sup> plans by requiring these to either:
  - a) ‘give effect to’<sup>39</sup> the Auckland spatial plan or
  - b) be consistent with<sup>40</sup> the Auckland spatial plan [UTAG recommendation] or
  - c) ‘having regard for’<sup>41</sup> the Auckland spatial plan
  - d) consider the Auckland spatial plan on a voluntary basis.

Final decisions on the strength of influence that the spatial plan has on other plans and decisions will need to be taken into account in considering how to implement these options. These could include matters such as transaction and compliance costs, and the time frame for implementing any change.

There are related options to balance the rights of individuals and Māori and to ensure that the proposed spatial plan is robust, while reducing costly litigation and improving certainty for investors and the community. The strength of the legislative influence of the spatial plan on other plans and decisions is a core consideration for these safeguard options. The following options have been identified:

8. Reduce litigation and improve the certainty of decisions, while providing safeguards during development of the spatial plan by either:
  - a) providing for:
    - i. full appeal rights on the spatial plan or
    - i. limiting appeal rights to points of law

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<sup>35</sup> For clarity, the term “statutory influence” refers to the spectrum of legal strength of relationships between plans, which provides the legal basis for the spatial plan, and its strategic direction, to influence other plans. This spectrum spans a range of legal threshold tests from high (eg, recognise and provide; give effect), medium (eg, be inconsistent with), to low (eg, have regard; take into account; be informed by).

<sup>36</sup> Regional policy statement, regional plans, district plans.

<sup>37</sup> Long-term council community plans.

<sup>38</sup> Regional Land Transport Strategy, Regional Land Transport Programme.

<sup>39</sup> ‘Give effect’ has a high level of influence, and requires implementation plans to actively implement the spatial plan without any flexibility.

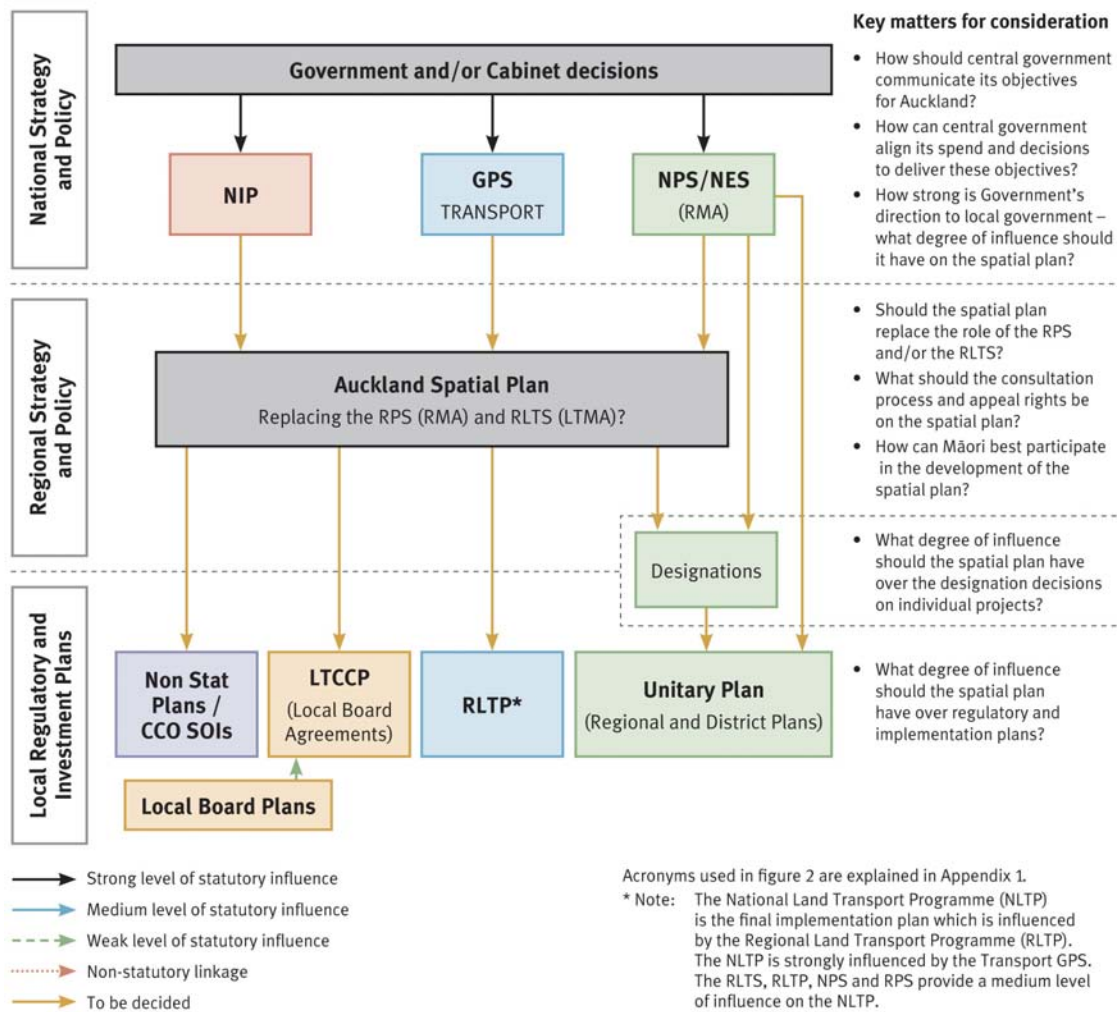
<sup>40</sup> ‘Be consistent with’ has a medium level of influence, and provides some flexibility on how implementation plans implement the spatial plan.

<sup>41</sup> ‘Having regard for’ has a low level of influence, and provides guidance on how implementation plans implement the spatial plan.

- b) and/or providing for a statutorily prescribed consultation process instead of the Special Consultative Procedure under the LGA, that:
    - i. ensures effective multi-party engagement in regional strategic direction-setting and/or
    - ii. improves iwi/Māori participation in resource management decision-making
  - c) and/or during the development of the spatial plan, requiring an independent specialist review of the spatial plan to test its evidence base, robustness, affordability and coherence, and provide recommendations to the Auckland Council. The Auckland Council to publicly report its response to the recommendations of the review before it adopts the spatial plan.
9. Provide for review of the spatial plan by:
- a) amending the Local Government (Auckland Council) Act to require the spatial plan to be reviewed every three years, with defined responsibilities for the Government and the Auckland Council in the review process. Neither party can force a review in between the three-year period [UTAG Recommendation]
  - b) amending the Local Government (Auckland Council) Act to require statutory linkage with the LTCCP and require the spatial plan to be adopted at the same time or up to 1 year prior to adoption of the LTCCP. [UTAG Recommendations].

Figure 2 (on the next page) illustrates a possible spatial planning model for Auckland with key matters for consideration at various levels.

**Figure 2: A possible spatial planning model for Auckland illustrating plans and the level of statutory influence each has on the other**



## Options to clarify central government’s role in Auckland’s planning

Urban planning is most often considered a local government issue. However, central government has a major impact on cities through policy making and regulatory and funding decisions. It and its agencies also act as developers, investors, capability builders and providers and operators of infrastructure and services.

The UTAG made a number of recommendations aimed at better co-ordinating local and central government decision-making. This involves central government being much clearer about Auckland’s role within the national and international context and what central government’s specific interests are. While the Government is keen to be clearer about its interests in planning, current budgetary decision-making criteria and process will still apply to both central and local government investments proposed in the spatial plan. Specific options include:

10. Mechanisms for central government to influence the Auckland spatial plan:
- a) a GPS that sets out the Crown (or national) objectives for Auckland [UTAG recommendation] and/or
  - b) require ministerial certification that the Auckland spatial plan complies with all GPSs, before final adoption by the Auckland Council [UTAG recommendation] and/or
  - c) make more effective use of existing mechanisms to express Government priorities and direction, including NPSs and NESs and/or
  - d) express central government priorities and objectives in a policy mechanism, such as the National Infrastructure Plan and/or
  - e) use the spatial plan as the mechanism for engagement between central government and the Auckland Council.
11. Central government using suitable and appropriate mechanisms to direct its entities, agencies and departments, and funding agencies to:
- a) give effect to a GPS for Auckland [UTAG recommendation] and/or
  - b) be consistent with the adopted Auckland spatial plan in decision-making [UTAG recommendation] and/or
  - c) have regard to the adopted Auckland spatial plan in decision-making and/or
  - d) reflect central government's priorities and objectives for Auckland in their statements of intent.

**Box 6: Background: Infrastructure policy and the National Infrastructure Plan (NIP)**

Infrastructure continues to be one of this Government's key priorities. It considers that effective investment in the right infrastructure and the efficient management of infrastructure assets over their whole life can make a major contribution to achieving New Zealand's economic growth aspirations.

The Government's approach to infrastructure has three parts:

- a step change in the level of Government investment, with expenditure targeted at key infrastructure priorities
- improving decision-making and management of the Government's infrastructure assets
- improving the regulatory environment to facilitate greater private sector investment in infrastructure.

To these ends, the Government is undertaking a range of actions, including the resource management-related policy and regulatory issues that are being explored by the Infrastructure TAG and Urban TAG. Other actions are being undertaken by the National Infrastructure Unit, with guidance from the National Infrastructure Advisory Board, and in capital-intensive agencies across the wider public sector.



The National Infrastructure Plan (NIP) has been established as the key vehicle for developing and communicating the Government's infrastructure vision and approach. A first edition was published in early 2010. The NIP signalled that 'urban form' and the performance of New Zealand's cities, and the level of alignment between central and local government infrastructure investment and planning, are important factors in realising the Government's infrastructure objectives and economic growth aspirations. The NIP points to ways that these longer-term issues might be addressed in the context of Government's infrastructure policy, and highlights the development of a spatial plan for Auckland as a key opportunity.

Over successive revisions, the aim of the National Infrastructure Plan is to create a nationally-consistent infrastructure planning and investment framework that clearly articulates the Government's objectives, and its overall strategic direction. The Plan will clearly communicate how central government agencies are expected to invest in and manage infrastructure, the decision-making processes involved (including how they are expected to work effectively with local government), and the constraints – fiscal or otherwise – that Government faces.

## Options to consider extending spatial planning with legislative influence to areas outside of Auckland

Various forms of spatial planning occur across New Zealand on a voluntary basis. There are a number of options for extending spatial planning with legislative influence<sup>42</sup> to areas outside of Auckland. As is the case with the Auckland region, any extension of spatial planning to other regions would apply to urban, rural and the coastal marine areas within that region.

### Box 7: CASE STUDY: Greater Christchurch Urban Development Strategy

In 2004 the Urban Development Strategy Partnership was formed on a voluntary basis by Christchurch City Council, Environment Canterbury, Waimakariri District Council, Selwyn District Council and Transit NZ (now NZTA). A memorandum of agreement bound the parties to support and endorse the strategy and its cooperative approach. The resulting strategy was designed to accommodate projected growth of 75,000 households to 2041 and address:

- dispersal of urban growth with disconnection between residential and employment centres
- loss of high quality open space
- increasing traffic and congestion
- loss of community identity and neighbourhood character
- threat to quality and quantity of groundwater from development
- infrastructure required to address profound aging of the population

<sup>42</sup> Legislative/statutory influence means the ability and the level of influence that a plan or decision has on other plans and decisions as set out in legislation. Typical phrases used to convey legislative influence include 'give effect', 'be consistent with', 'have regard to'.

For the parties involved in the strategy the voluntary approach provides flexibility, avoids prescriptive processes and enables the parties to tailor the strategy to their needs and preferences. However, there are significant time and monetary costs in maintaining relationships and reaching agreements between parties on a voluntary basis.

### **Implementation**

The strategy is being implemented through existing tools such as the Regional Policy Statement, Regional Land Transport Strategy, Long-term Council Community Plans, and district plans. Area plans are being developed in accordance with the Strategy, and the new chapter of the RPS is nearing Commissioners' recommendations to Environment Canterbury. Structure plans are underway in Selwyn and Waimakariri District Councils. These will accommodate the growth planned for these areas to 2041 and guide rezoning according to the strategy.

We are interested in feedback on how spatial planning with legislative influence could apply outside Auckland. The options are:

12. Regional spatial planning with legislative influence to be:

- a) limited to Auckland only or
- b) implemented on a voluntary basis by regions, but only available for those regions facing growth pressures and subject to significant levels of local and central government investment in infrastructure and services or
- c) mandatory in all regions facing growth pressures and subject to significant levels of local and central government investment in infrastructure and services or
- d) implemented on a voluntary basis by regions, for all regions or
- e) mandatory for all regions.

If spatial plans were to be extended outside of Auckland, the timing for adoption would need to take account of the timing of planned review of planning documents, such as regional policy statements and district plans, to minimise the disruption and additional costs.

## **3.4 Improve tools**

Seven options are identified to improve the effectiveness of the tools available to develop, support and maintain quality environments.

### **Options to improve plans**

13. Introduce a national template for local and regional plans.

This would be developed by central government. A standardised template would provide a common structure for plans, include a set of common definitions and enable national provisions set through NPSs and NESs to be clear and consistent. Because local government needs to remain responsive to local issues, the national plan template would only contain provisions for matters of national importance, where national direction is required, or where

it has been agreed that there is a need or benefit for national consistency; for example, providing for infrastructure.

New provisions could be incorporated into the RMA to allow a local authority to request an exemption from provisions in the NTP from the Minister for the Environment (or EPA) where provisions in the NTP are not applicable, unreasonable, or impractical in the jurisdiction of the local authority.

14. Stage the implementation of a national template plan for NPSs and NESs:

Stage one would be the consolidation of all relevant NPS and NES provisions into a new chapter at the beginning of each plan, with cross references to these national provisions within the plans. Stage one would take two years. Stage two would occur over a five-year period and would see a standardisation of plan structure. The order of chapters common to all plans would be set out and each chapter would include the relevant national direction.

15. Provide for the production of a combined NPS and NES as a single document to give greater certainty in the implementation of national direction and save cost and time for local authorities.

This would enable complete national policy and rules (standards) packages to be prepared on any given topic of national importance, or where national consistency is required, and provided to local authorities as a single document. The combined NPS and NES could be used as a way of developing complete provision sets for the national plan template or could function independently if the national template plan idea did not proceed.

## Options to improve the quality of urban design

16. Establish a National Urban Design Panel: This panel, possibly supported by regional panels, could work with territorial authorities and infrastructure agencies, including private infrastructure providers, to develop projects and strategic design proposals. The panel could also provide expert review of nationally and regionally significant policy, plans and projects as and where needed. [UTAG recommendation]

17. Establish a Government Architect: Government Architects are used in Australia at the state level (Victoria), and in the United States of America at the federal level. Their role in a New Zealand context could include:

- providing an advocacy role for good urban design and architecture
- providing expertise on regionally or nationally significant projects
- assisting with the outputs required of public private partnerships (PPPs) and their design component
- chairing a national urban design panel
- supporting the implementation of a NPS
- enabling Government to lead by example by requiring good quality design in the development and construction of its buildings and the buildings it leases.



Cafes in Chancery Lane, Auckland city – PhotoNZ

## Options to improve land assembly

The aim of these options is to create large areas of land and scales of economy to improve the viability of quality urban redevelopment. Creating large areas of land relies on a range of tools to assemble land.

Efficient land assembly aims to improve the urban environment for communities and businesses, and contribute to the improvement of land supply, housing choice and affordability. Internationally, a range of mechanisms are used to achieve land assembly, including the use of compulsory land acquisition in specific places that require regeneration. Options for improving land assembly include:

18. Relying on existing methods and processes to amalgamate land, including purchase, negotiation and joint ventures.
19. Extending the scope of the Public Works Act (PWA) to ensure that local authorities are able to compulsorily acquire and amalgamate land for major urban regeneration projects provided:
  - a) some form of central government oversight is required as a safeguard [UTAG recommendation] and/or
  - b) the power to compulsorily acquire land for urban redevelopment should be used as a tool of last resort [UTAG recommendation] and/or
  - c) power to compulsorily acquire land should be limited to specifically defined works and/or
  - d) Māori land is not able to be compulsorily acquired under any circumstances.

20. Develop new tools for land assembly, ie, development of comprehensive development plans to engage landowners previously uninterested, or unable, to develop their land; increasing the ways to share land while retaining freehold title; review of tenure options and land management models to increase methods for land-sharing.



## 4 Options for change: Social and economic infrastructure development

The independent Infrastructure Technical Advisory Group's (ITAG) report to the Minister for the Environment, published alongside this discussion document, identifies and analyses a number of infrastructure issues and recommends changes to address them.

The 31 options in this chapter reflect the ITAG's recommendations, along with additional options to address the problems identified by officials (set out in chapter 2). A full list of the ITAG's recommendations is available in its report to the Minister.

The full set of options is grouped into five categories that broadly match the problem issues identified in chapter 2:

- 4.1 Greater national direction and consistency
- 4.2 Improved access to the designation system
- 4.3 Improved approval processes: increased streamlining and flexibility
- 4.4 Enhanced decision-making framework
- 4.5 An efficient compensation process under the Public Works Act 1981 (PWA)
- 4.6 Transition issues.



**Wairakei Geothermal Power Station near Taupo – PhotoNZ**



The options are numbered consecutively, from 1 to 31. Where an option specifically reflects the ITAG's recommendations, this is indicated in brackets after the description of the option. As with the urban planning options, the Government has not yet identified its preferred option or package of options from the range presented in this discussion document. Your submissions will help inform this decision.

The Executive Summary sets out some of the ways infrastructure supports our national, regional and local economies. Because of its fundamental importance, the options in this chapter recognise that infrastructure projects need particular treatment under the planning process, and may require additional powers and protections beyond those offered to other types of development. Integrated decision-making is also important to maximise the value of the investment that is being made.

In determining the options, we have considered how they will work together as a coherent approval system. Figures 3 and 4 provide summary diagrams of how the options could fit together to provide for designations for projects at both a conceptual stage and once detailed design is available. Appendix 4 provides a summary of the current approval processes for infrastructure projects.

## **4.1 Greater national direction and consistency**

### **Options to prioritise nationally significant issues**

Any use of national instruments needs to be considered in the context of each specific case, balancing the arguments for national consistency on a particular issue with the potential benefits of local autonomy and discretion. The Minister of Local Government has recently announced a review of the function and structure of local government which will address the appropriate roles of local and central government.

Three options are put forward to improve the clarity and consistency of national objectives and standards for infrastructure, building on existing tools and mechanisms. These options could also play a role in the ongoing maintenance, operation and upgrading of infrastructure once built:

1. Using NPSs, NESs<sup>43</sup> and other forms of national standards in a more systematic way across Ministerial portfolios, focusing on the Government's priority areas of economic, social and environmental significance under the RMA. This could include:
  - a) developing an agenda of proposed NPSs and NESs to provide greater certainty to sectors and industries about the Government's objectives and the future regulatory environment they are likely to face
  - b) developing a greater number of nationally-consistent standards that decision-makers can refer to when approving the parameters for an infrastructure project. This could involve development of NESs as well as other standards such as those produced by Standards New Zealand
  - c) allowing certain aspects of infrastructure construction and operation to be conducted without the need to apply for approval, as long as it meets nationally-consistent standards

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<sup>43</sup> National policy statements (NPSs) and national environmental standards (NESs) are explained in Appendix 3.

- d) taking into account where ‘reverse sensitivity’<sup>44</sup> issues are, or could be, an issue [ITAG recommendation].
2. Making use of the options in Chapter 3 to support the efficient delivery of infrastructure:
  - a) enabling the development of combined NPS and NES documents to communicate national priorities, so councils can more easily incorporate national direction into plans
  - b) introducing a national template plan for local and regional plans.
3. Amending sections 6 or 7 of the RMA to explicitly refer to the importance of infrastructure and the benefits that derive from it [ITAG recommendation].

Some of the potential issues associated with amending sections 6 or 7 are set out in chapter 3.

## 4.2 Changed access to the designation system

### Options to change eligibility for ‘requiring authority’ status

The designation system,<sup>45</sup> and the powers to acquire land under the PWA, arose at a time when public organisations were exclusively responsible for infrastructure investment and operation. These powers were based on the view that infrastructure played a particular role in the economic and social life of New Zealand, which justified these extraordinary powers.

Since then, the private sector has played a greater role in providing infrastructure, reflected in the expanded eligibility to become a requiring authority. This has created some concern about whether the use of designations by requiring authorities is always consistent with the original intent for designations. At the same time, future trends in public sector delivery, such as innovative financing and ownership arrangements, suggest it is timely to consider whether the current system can meet the future needs of infrastructure provision.

Any changes to the system to accommodate a greater variety of infrastructure providers will need to consider the impacts on individual landowners’ rights and the transparency and clarity of the decision-making framework.

Five options have been identified to change access to the designations system to ensure it is available for projects that may benefit from the additional protections and powers it provides, while providing the appropriate safeguards to use of the system that is not consistent with the original intention. It is important to consider whether any of these options should make a distinction between public and private financing, ownership, operating and construction models. Where PWA powers are sought by the infrastructure provider, appropriate safeguards already exist to protect the interests of the original landowner, such as caveats on the underlying land title that require return of the land should the planned works not go ahead.

4. Extend eligibility for designations to a broader range of infrastructure types, particularly to providers of ports and electricity generation [ITAG recommendation].

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<sup>44</sup> ‘Reverse sensitivity’ arises where a new activity sets up near an existing, lawfully established activity, and the new activity objects to the effects generated by the existing activity, thereby threatening the latter’s continued operation. Options to manage reverse sensitivity can impose additional costs on projects.

<sup>45</sup> How ‘designations’ work is explained in Appendix 4. Note that they predate the RMA.

5. Define eligibility based on the ‘nature of development’ rather than the type of infrastructure. The operational requirements of infrastructure generally dictate a particular location and/or shape of development. Criteria could include: being part of a non-divisible network (such as electricity transmission, or a broadband network); requiring development next to existing infrastructure (eg, to provide for expansion of existing ports or airports facilities or existing school or defence facilities) and/or requiring access to a particular natural resource (eg, renewable energy resources such as wind or water). Note that it is possible that not all developments currently eligible for designations would remain so under this option.
6. Narrow eligibility for full ‘requiring authority’ status<sup>46</sup> and establish a new status of “limited requiring authority”
  - a) eligibility: a ‘limited requiring authority’ would make more of a distinction between public and private benefit of the infrastructure and/or whether the ownership or financing is publicly or privately provided
  - b) approval process: approve ‘limited requiring authority’ status on a project-specific basis only, to reflect the purposes of each particular project [building on ITAG recommendation]
  - c) powers: a ‘limited requiring authority’ would have access to a lesser range of powers than available to a full requiring authority. Limits could be applied on one or more of access to compulsory acquisition; protection against incompatible development; and removal of decision-making rights.<sup>47</sup>

Two options have been identified to improve consistency to the treatment of infrastructure and requiring authorities under the RMA:

7. Change all references in the RMA from ‘network utility operator’ to ‘infrastructure provider’ to better reflect the range of development that is eligible for designations [ITAG recommendation].
8. Amend the definition of ‘infrastructure’ in the RMA so that it reflects the full range of eligibility for requiring authority status [builds on an ITAG recommendation].

### 4.3 Improved approval processes: Increased streamlining and flexibility

Complex and lengthy approval processes for projects lead to increased uncertainty, risk and cost for infrastructure providers. They also extend the period of uncertainty for local communities and private landowners. Delay in delivering infrastructure projects means a delay in realising their potential benefits and services, such as reduced congestion, improved security of supply, or greater capacity in public services such as extra classrooms. This means continued problems and costs for businesses and individuals who could otherwise benefit.

#### Options to support longer-term infrastructure planning

Long lead-in times for some infrastructure development can cause issues around secure access to land and finances, as set out in chapter 2. These problems can spill over into increased risks and costs for other investors, where their investments depend on upgraded infrastructure.

<sup>46</sup> ‘Requiring authorities’ are explained in Appendix 4.

<sup>47</sup> Also see options in Section 4.4 Enhanced decision-making framework

To address these potential problems, the ITAG recommended introducing a new optional ‘concept designation’ process into the RMA, to provide an alternative process that:

- catered for projected infrastructure demands by enabling corridors and sites to be protected for future development (‘concepts’), even where funding and final designs are still far off being finalised
- supported greater innovation in how infrastructure is financed and delivered, because concept designations are compatible with using a ‘design and build’ approach.

Formal pre-application consultation requirements and public hearings would apply.

The ITAG’s option draws on the original use of ‘notices of requirement’ to approve a concept, with the ‘outline plan’ process providing for the detailed design of a project.<sup>48</sup> Chapter 2 sets out how, in practice, the distinction in the level of detail required for a notice of requirement and an outline plan has become increasingly blurred, which creates additional costs and, in some cases, may act as a barrier to strategic investments.

There are several dimensions to ‘concept designations’ – including what projects would be eligible; what level of detail would be required; and what they offer the infrastructure provider. These can be addressed in several ways, and some of these are described in options 9–11 – some are discrete; and in some circumstances more than one option could be chosen.

9. Eligibility for concept designations: Either:

- a) all infrastructure projects eligible for designations should be able to make use of concept designations or
- b) only a subset of projects eligible for designations should be able to make use of concept designations. They should be limited to nationally significant projects only and/or
- c) concept designation status should be conferred on any future infrastructure identified in a statutory spatial plan.

10. Level of detail required with application: Either:

- a) sufficient detail is required to identify a comprehensive envelope of future impacts. This will allow ‘controlled activity’ status<sup>49</sup> to automatically apply to any subsequent resource consent applications [ITAG recommendation] or
- b) sufficient detail is required to identify high-level impacts only. A further application would be required at the detailed design or project stage, when detailed impacts can be identified and options to avoid, mitigate or remedy can be considered. Later decisions on specific approval would seek to give effect to the concept.

11. Powers, protections and obligations provided to infrastructure providers:

- a) infrastructure providers would have the full range of powers currently provided through notices of requirement, including access to Public Works Act powers or
- b) infrastructure providers would have a more limited range of powers currently provided through notices of requirement, given the lower level of detail identifiable in proposals.

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<sup>48</sup> See Appendix 4 for a description of the current system, including these terms.

<sup>49</sup> Controlled activity status means a decision-maker may impose conditions on a resource consent, but may not decline the application.

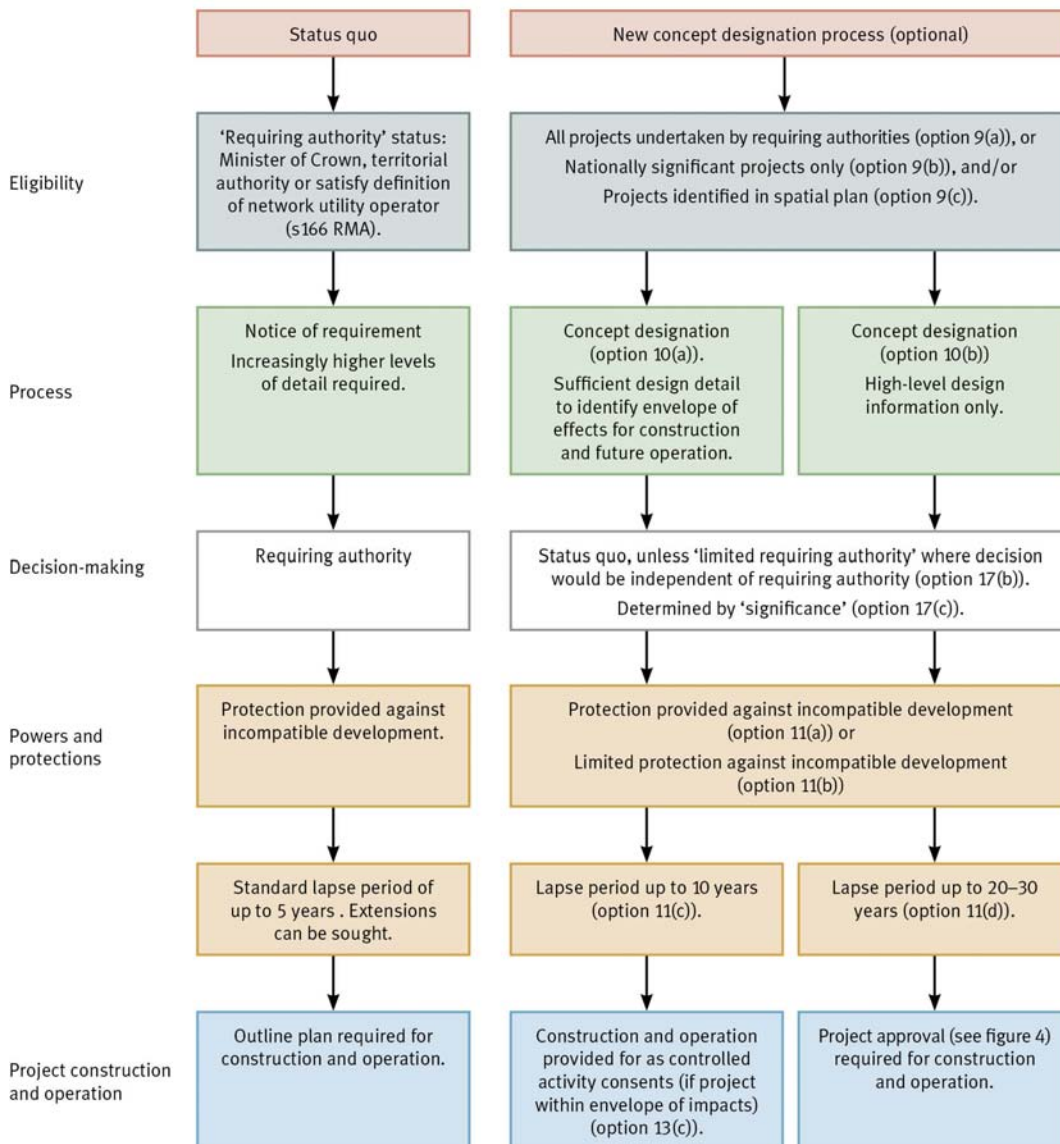
This could include restricting access to PWA powers, except where a potentially affected landowner wished to require the purchase of their property and/or

- c) a maximum lapse period<sup>50</sup> of 10 years would apply [ITAG recommendation] or
- d) a longer maximum lapse period, such as 20 to 30 years, would apply to align with the timeframes for regional land transport strategies and the Auckland spatial plan.

Figure 3 provides a summary of how the options could fit together to provide for designations for a project at the conceptual stage.

**Figure 3: Concept designations: Providing for future strategic priorities**

In the option identified, this would be an optional process for an infrastructure provider. Under some options, a further application for a project designation would also be required (see figure 4). Note that this diagram does not cover the PWA process, except for eligibility.



<sup>50</sup> A designation will expire unless it is acted on within the specified lapse period.



**Dowse Interchange during construction, Hutt Valley – PhotoNZ**

## **Options to streamline approval processes**

Four main themes have been identified for options to address the problems identified with the duplication and inconsistency of existing approval processes. These aim to reduce uncertainty and risk for infrastructure providers and reduce the time for approvals to be granted. Some of the options work within the existing system. Other options would involve more significant reform.

12. Integrate current multiple approval processes into a single process. Create a single approval process for a nationally significant infrastructure project which provides all the necessary approvals under the RMA and other statutes, and a single point of appeal (a ‘project designation’). This would replace separate requirements to apply for: a designation; access to compulsory acquisition powers under the PWA; and any other necessary consents and approvals under the RMA and other statutes. [This option is derived from the ITAG recommendation for a new approval process called a ‘project consent’].
13. Remove duplicated processes:
  - a) provide for designations to be automatically ‘rolled over’ into updated district plans when provided for in a spatial plan<sup>51</sup> and/or
  - b) remove the current two-stage process (‘notice of requirement’ and ‘outline plan’) for approving development. Instead, establish the development’s limits when the initial designation is approved. These would be applied and managed by referring to relevant

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<sup>51</sup> ‘Spatial plan’ in this context means a spatial plan adopted through the types of options set out in chapter 3.



rules in a district or regional plan, as well as conditions on the designation (including conditions to comply with management plans) and/or

- c) where a concept designation is in place, ‘controlled activity’ consent status<sup>52</sup> would automatically apply to any subsequent resource consent applications [ITAG recommendation].

14. Establish consistent processes:

- a) require clearer and earlier notification for individual landowners who may be affected by a compulsory acquisition, specifying the amount and location of their land likely to be affected to the extent that this is known; and the type of interest to be acquired and/or
- b) introduce pre-application consultation requirements for concept and project designations and/or
- c) require public hearings for any concept designation and/or
- d) provide non-statutory guidance to inform ‘notice of requirement’ and ‘outline plan’ processes [ITAG recommendation] and/or
- e) apply consistent statutory timeframes to all project designations.

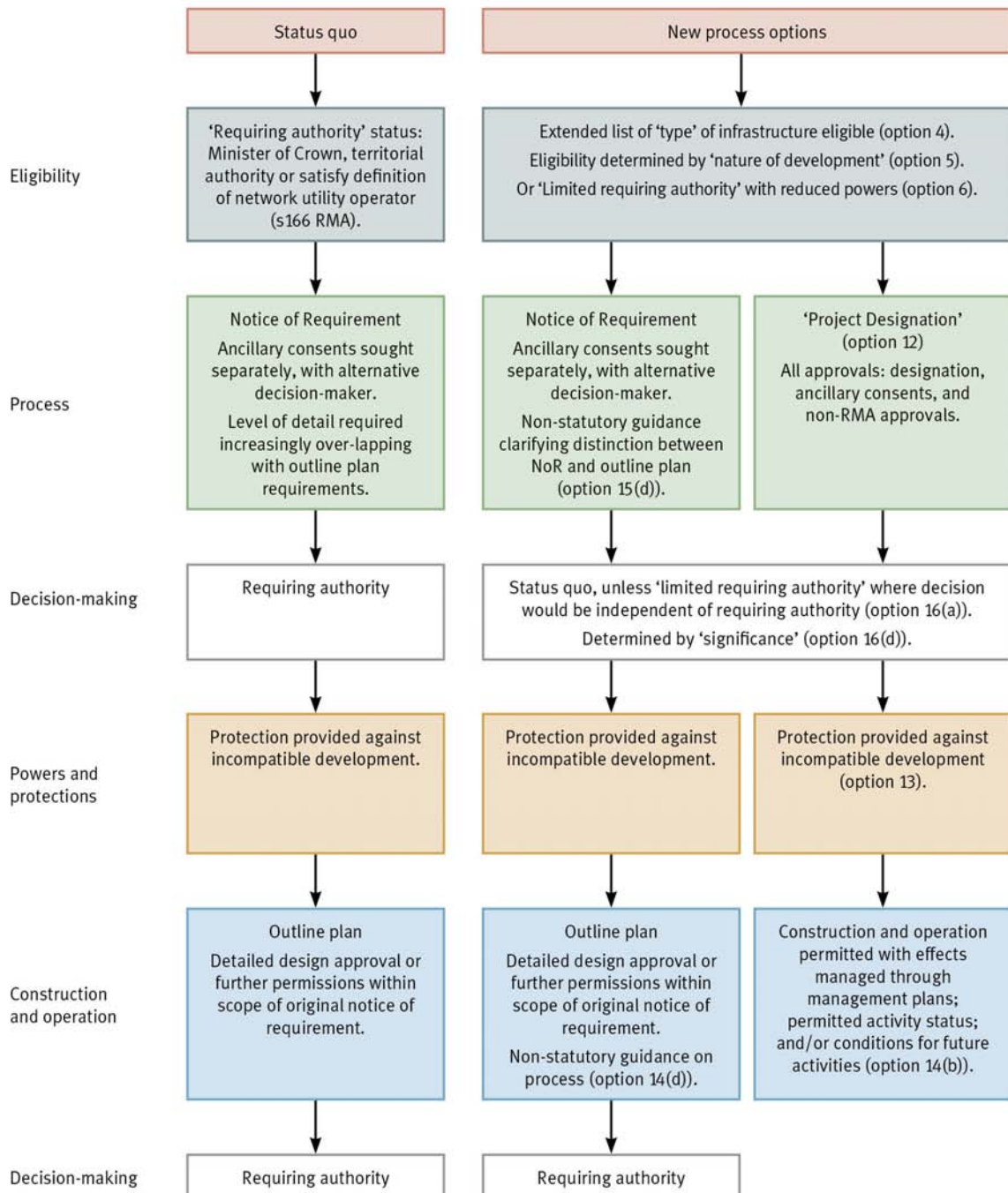
Figure 4 provides a summary of how the options could fit together to provide for designations for a project at a detailed design stage, and how this could fit with the concept approval set out above (options 9 to 11) and summarised in figure 3.

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<sup>52</sup> ‘Controlled activity status’ means a decision-maker may impose conditions on a resource consent, but may not decline the application.

**Figure 4: Project approvals: Providing for a specific project’s construction and operation**

Under the options identified, projects would have to seek approval through one of these routes. The only exception would be where they have had a ‘concept designation’ approved under option 10(a) (see figure 3). Note that this diagram does not cover the PWA process.



The fourth option to streamline approval processes focuses on improving the application of resource consents. This would impact on the regional resource consents that are required for infrastructure, such as water take or discharge.

15. Improve investment certainty for resource consents:

- a) Introduce a new process for re-consenting with the following features [ITAG recommendation]:
  - i. confer rights to apply for an existing consent holder
  - ii. expressly allow renewal applications well within the existing consent term
  - iii. provide for the consented scale of activity to continue while the re-consenting application is being processed
  - iv. limit the scope of the new consent to the existing scale of activity within the same ‘effects envelope’<sup>53</sup>, where practical
  - v. constrain the information required in an application to the effects of the existing operation, emerging/new effects, or emerging values or expectations. Applicants would not be required to provide information about the effects of the existence of a physical structure, such as the existence of a dam occupying a river bed
  - vi. constrain notification and consultation requirements to directly affected parties, rather than the public at large.
  - vii. take account of Treaty settlement issues where they are relevant.



Roxburgh hydro dam – PhotoNZ

<sup>53</sup> ‘Effects envelope’ refers to the type and magnitude of effects from an activity.

- b) When deciding on re-consenting applications, consider either:
  - i. requiring consent authorities to confine their concerns to the effects of the existing operation, emerging/new effects, or emerging values or expectations. Consent authorities would not be permitted to consider the effects of the existence of a physical structure, such as the existence of a dam occupying a river bed [ITAG recommendation] or
  - ii. allowing a consent authority to consider any matter it considers relevant and reasonably necessary to determine the application.

## 4.4 Enhanced decision-making framework

### Options to reform the decision-making framework

The options in chapter 3 to improve the planning system for urban areas would also affect the planning for infrastructure projects.

Five options have been identified to help make decision-making more independent, transparent and integrated. These options seek to provide greater clarity around what issues should be taken into account by decision-makers and to ensure that decisions support the integration sought by planning documents, such as spatial plans and growth strategies.

### Independent decision-making for designations

Under the current system, decisions on most designations are made by the requiring authority.<sup>54</sup> In these cases, they are also the infrastructure provider. This means that decisions on different infrastructure projects are made by different decision-makers in isolation from each other. It also means that, in many cases, both public and privately owned infrastructure providers are decision-makers with respect to their projects. This system does not promote the consideration of integrated infrastructure corridors (such as shared land space for compatible development, eg, water pipes and underground cables) that could provide less disruption in construction or ongoing operation and maintenance.

- 16. For “limited requiring authorities”<sup>55</sup> only require a decision-maker for designations to be independent of the infrastructure provider:
  - a) for notices of requirement, remove the decision-making role from requiring authorities to make the decision-maker independent from the infrastructure provider [building on an ITAG recommendation]
  - b) if the option to remove the outline plan stage is not adopted (option 13), consider retaining decision-making for outline plans with the infrastructure provider [building on an ITAG recommendation] and
  - c) the decision-maker for concept designations, if sought by limited requiring authorities would also be independent of the infrastructure provider and
  - d) the significance of the project should determine the most appropriate decision-maker. Nationally significant projects would be considered using existing processes available

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<sup>54</sup> Appendix 4 sets out the current decision-making process, including appeal rights.

<sup>55</sup> For an explanation of a “limited requiring authority” see Section 4.2

under the RMA; for example, by a board of inquiry. Non-nationally significant projects would be determined by a territorial authority, or through existing RMA processes, including the ability to request independent commissioners or direct referral to the Environment Court.

This option would not affect the decision-making role of a current requiring authority, except where they were classified as a “limited” requiring authority.

### **Establish a clear decision-making framework**

A clear decision-making framework for designations adds transparency and increases certainty for investors and communities. This is relevant whether the decision-maker is the requiring authority, as under the status quo, or if an independent decision-maker were to be introduced for “limited requiring authorities”.

A clear framework will ensure that the public benefits of infrastructure and the wider economic and social needs that it provides for are recognised. It also provides an opportunity to recognise that imposing conditions on a project to mitigate either the impacts of construction or the operation of the infrastructure can add significant costs and may undermine achieving the project’s objectives. Any decision-making framework also needs to integrate with the spatial planning options in chapter 3 to achieve the benefits of greater co-ordination.

To these ends, the following options have been identified:

17. Ensure the objectives of infrastructure investment are appropriately recognised: Decisions on designations (both concept and project) should be based around the following considerations:
  - a) whether the project is consistent with the purpose and principles of the RMA
  - b) the extent to which the project is consistent with any relevant NPSs, NESs, regulations and/or other nationally consistent standards
  - c) the extent to which the infrastructure provider’s objectives are delivered by the project – guidance on these matters could be provided by relevant NPSs
  - d) the extent to which any adverse effects of the option have been avoided, remedied or mitigated
  - e) the benefits of the project
  - f) the impacts of any conditions that are imposed on the delivery of the objectives of the project
  - g) the extent to which the proposal is consistent with other planning documents such as a spatial plan, regional policy statement, national infrastructure plan, growth strategy, etc, and the need for consistency in approach across council boundaries
  - h) the extent to which realistic options for co-location of infrastructure could be appropriate and have been considered.
18. Ensure that national consistency is achieved where appropriate by making use of the identified options to provide greater national direction on the objectives and standards set out above.
19. Amend the RMA in relation to projects called-in by the Minister, to give greater status to the reasons for ministerial call-in. [UTAG recommendation]

Decision makers on projects subject to call-in by the Minister for the Environment are required to “*have regard to*” the Minister’s reasons for calling it in. The UTAG has identified that the expression “*have regard to*” is a very “low weight” term in law, having limited influence. They consider that the present terminology does not serve to accord central government policy objectives any primacy or priority.

20. Support integration with spatial planning:

- a) decisions about individual project or consent designations should seek to ‘give effect’ to infrastructure that is consistent with an existing spatial plan, where the effects of the development are reasonable given the scale of the project
- b) any applications for designations that are not consistent with an existing spatial plan would need to provide additional justification.

## 4.5 An efficient compensation process under the Public Works Act 1981

The Infrastructure TAG report recommended changes to the levels of compensation to improve the timeliness of infrastructure investment and to better reflect the impact of acquisition on private property owners. It also recommended changes to improve the acquisition process.

Any changes to increase compensation provisions may lead to financial implications for infrastructure providers, including local and central government.

### Options to provide for adequate compensation

The following options seek to provide adequate compensation for land acquired under the PWA to address the potential problems identified in chapter 2:

21. Increase the current solatium<sup>56</sup> of NZ\$2000 [ITAG recommendation].
22. Link the value of the solatium to the length of time an affected landowner has owned the property [ITAG recommendation].
23. Widen the solatium provision to provide for a discretionary payment when acquiring land that does not include a dwelling used as a private residence.
24. Introduce a hardship payment mechanism that provides for a discretionary payment to enable landowners vacating low-value dwellings to, where possible, buy a home that is of a similar standard and in a similar location.
25. Undertake further research into the accuracy, objectivity and reliability of current New Zealand valuation practices used to determine ‘fair market value’ based on the average ‘willing purchaser, willing seller’ price settlement [ITAG recommendation].
26. Authorise requiring authorities to pay a premium of up to 10 per cent where there is demonstrable benefit to the requiring authority in securing early settlement. The percentage premium paid and the required time limits for early settlement would be at the discretion of the requiring authority taking account of the urgency and immediacy of the infrastructure project. [ITAG recommendation].

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<sup>56</sup> A solatium is paid as compensation for emotional loss when acquired land contains a dwelling used as a private residence. It is in addition to compensation for loss of value.



Any findings from research carried out into current valuation practices (option 25) would also be relevant to option 26.

## Options to improve the acquisition process

The following options have been identified to address the potential process problems identified with the PWA acquisition process in chapter 2.

27. Allow a requiring authority to take early possession of a property by paying an affected owner the amount specified in the valuation it obtained. Any shortfall between this initial payment and the value subsequently determined by the Land Valuation Tribunal should be paid, along with any interest [ITAG recommendation].
28. Require the requiring authority to obtain a further valuation on the affected landowner's behalf if the affected landowner has not done so after a reasonable period. This would be in addition to the valuation obtained by the requiring authority, and would enable compensation to be based on more than one valuation.

## 4.6 Transitional issues

There are a large number of existing designations and plans in place throughout New Zealand. These vary in the level of detail provided and the extent to which conditions on development are attached. Any changes to the existing process should therefore carefully consider what transitional provisions may be needed to manage the change, and to ensure that investment in existing infrastructure is maintained and continued, where appropriate. It also needs to recognise that changes to requirements for district plans could, in the short term, impose significant costs on local authorities, while minimising the costs of transition where possible.

The following options have been identified to manage some of the risks around transition:

29. Introduce a sunset clause on existing designations that have not yet been used.
30. 'Grandfather' existing designations into any new system for minor improvements or maintenance.
31. Recognise existing sunk costs of infrastructure investment by ensuring that the next generation of district plans give due account to existing designations, where development and investment has taken place in accordance with the designation.

At this stage, no preferred option has been identified, and further input through this consultation exercise is welcome.

## 5 Consultation process

The Ministry for the Environment has prepared this discussion document in conjunction with other government officials and agencies. A technical working paper has also been published which provides greater detail on the problems, including an assessment of their likely scale and magnitude. Feedback on that can also be provided by submitters.

Hard copies of the discussion document are available, on request, by using the contact details provided below. The document is also available electronically on the Ministry's website: [www.mfe.govt.nz](http://www.mfe.govt.nz)

### 5.1 How to make a submission

The Government welcomes your feedback on this discussion document. A series of questions are provided in this chapter to guide your feedback on the main options. However, broader comments are also welcomed. You may also choose to raise other issues and/or only respond to some of the issues or questions. To ensure your point of view is clearly understood and also to provide more evidence to support the Government's final decisions, you should provide reasons for your answers or in support of your position.

To make a submission, you can either complete the online submission form (by downloading a writable version from [www.mfe.govt.nz](http://www.mfe.govt.nz) and then emailing it back to us) or prepare your submission in a separate document. The Ministry asks that submissions sent in hard copy also be provided in electronic form (Adobe Acrobat, Microsoft Word (2003 or later version) or a compatible format).

The closing time and date for submissions is **5:00pm on Friday 17 December 2010**.

After receiving submissions, the Ministry will evaluate them and may, where necessary, seek further comments. After this, recommendations will be developed for Ministers, and then Cabinet, to consider.

### 5.2 Contact for queries and submissions

Please direct all submissions and any queries to:

**Freephone:** 0800 RMREFORM (0800 767 336) **STD:** +64 4 439 7794  
**Facsimile:** +64 4 439 7700  
**Email:** [rmreform@mfe.govt.nz](mailto:rmreform@mfe.govt.nz)  
**Postal:** RM Reform, PO Box 10362, Wellington 6143

### 5.3 Publishing and releasing submissions

The Ministry may publish all or part of any written submission on its website, [www.mfe.govt.nz](http://www.mfe.govt.nz). Unless you clearly specify otherwise in your submission, the Ministry will consider that you have consented to website posting.

In any case, contents of submissions provided to the Ministry will likely have to be released to the public under the Official Information Act 1982 following requests to the Ministry (including via email). Please advise if you have any objection to the release of any information contained in a submission, and, in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. The Ministry will take into account all such objections when responding to requests for copies of, and information on, submissions to this document under the Official Information Act 1982.

The Privacy Act 1993 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies, including the Ministry. It governs access by individuals to information about themselves held by agencies. Any personal information you supply to the Ministry in the course of making a submission will be used by the Ministry only in conjunction with the matters covered by this document. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that the Ministry may publish.

## 5.4 Feedback form

### Submitter details

I am responding as (please tick one):

An individual

Name:  
 Email:  
 Address:

On behalf of a group or organisation

Name of group or organisation:  
 Email:  
 Address:

### Chapter 2: Problems with the planning system

#### 1. Do you agree/disagree with the list of potential problems identified in the discussion document?

	Agree	Disagree
<i>Urban planning system</i>		
1. Inadequate recognition of urban environment in the RMA.	<input type="checkbox"/>	<input type="checkbox"/>
2. Complex planning system.	<input type="checkbox"/>	<input type="checkbox"/>
3. Lack of consistency in decisions.	<input type="checkbox"/>	<input type="checkbox"/>
4. Barriers to effective implementation.	<input type="checkbox"/>	<input type="checkbox"/>

Agree

Disagree

***Infrastructure development***

- |  |                          |                          |
|--|--------------------------|--------------------------|
| 1. Lack of clarity and consistency of national objectives and standards. | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. Mixed access to designations.   | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Complex and inflexible approval processes.                            | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Lack of robust and integrated decision-making.                        | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Inefficient and inadequate land acquisition process.                  | <input type="checkbox"/> | <input type="checkbox"/> |

Comment:

**2. Can you provide any evidence that supports or questions the assessment of the problems identified?**

Comment:

**3. Are there any other problems that you think need to be considered?**

Comment:

## Chapter 3: Options for change: Planning and urban design

### 3.1 Recognise urban environment in the RMA framework

#### 4. Do you agree/disagree with Options 1 and 2 to more adequately recognise the urban environment in the RMA framework?

- |  | Agree                    | Disagree                 |
|--|--------------------------|--------------------------|
| • Option 1: Broaden definitions to include the urban environment by  |                          |                          |
| a) modifying the definition of ‘environment’ to specifically include the urban environment                                     | <input type="checkbox"/> | <input type="checkbox"/> |
| b) extending the definition of ‘amenity values’ so that it addresses the quality of the urban environment to a greater extent. | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 2: Amend the RMA to recognise the benefits of a quality urban environment by making specific reference to it in:      |                          |                          |
| a) section 6 (matters of national importance to recognise and provide for) and/or  | <input type="checkbox"/> | <input type="checkbox"/> |
| b) section 7 (other matters for which to have particular regard).  | <input type="checkbox"/> | <input type="checkbox"/> |

Comment:

### 3.2 Greater national direction and clarity

#### 5. Do you agree/disagree with Options 3 and 4 to give greater national direction and clarity on the urban environment?

- |   | Agree                    | Disagree                 |
|---|--------------------------|--------------------------|
| • Option 3: Provide for the scope of the NPS to:  |                          |                          |
| a) include policies to require local authorities to provide an adequate supply of land to meet future urban growth demands                  | <input type="checkbox"/> | <input type="checkbox"/> |
| b) include policies requiring the consideration of housing affordability in decision-making, and regional and district plans under the RMA. | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 4: Rename the NPS from ‘urban design’ to the ‘built’ or ‘urban environment’  | <input type="checkbox"/> | <input type="checkbox"/> |

Comment:

### 3.3 Spatial planning – enhancing it for Auckland and implementing it for other regions

## 6. Do you agree/disagree with Options 5 to 9 for spatial planning in Auckland?

	Agree	Disagree
<ul style="list-style-type: none"> <li>• Option 5: Retain the current spatial planning legislation, which provides flexibility for the Auckland Council in developing and implementing the spatial plan.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Option 6: Simplify the planning framework for Auckland by:               <ul style="list-style-type: none"> <li>a) using the Auckland spatial plan to incorporate either the:                   <ul style="list-style-type: none"> <li>i. the Regional Land Transport Strategy and Auckland Regional Policy Statement or</li> <li>ii. the Regional Land Transport Strategy</li> </ul> </li> <li>b) replacing RMA plans (ie, regional policy statement, regional and district plans) for Auckland with a requirement for a single unitary plan.</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Option 7: Improve the effectiveness of the Auckland Spatial Plan by giving it an appropriate level of statutory influence on the RMA,<sup>57</sup> LGA<sup>58</sup> and LTMA<sup>59</sup> Plans by either:               <ul style="list-style-type: none"> <li>i. ‘giving effect to’<sup>60</sup> the Auckland spatial plan or</li> <li>ii. ‘being consistent with’<sup>61</sup> the Auckland spatial plan or</li> <li>iii. ‘having regard for’<sup>62</sup> the Auckland spatial plan</li> <li>iv. considering the Auckland spatial plan on a voluntary basis.</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>57</sup> Regional policy statement, regional plans, district plans.

<sup>58</sup> Long-term council community plans.

<sup>59</sup> Regional Land Transport Strategy, Regional Land Transport Programme.

<sup>60</sup> ‘Give effect’ has a high level of influence, and requires implementation plans to actively implement the spatial plan without any flexibility.

<sup>61</sup> ‘Be consistent with’ has a medium level of influence, and provides some flexibility on how implementation plans implement the spatial plan.

<sup>62</sup> ‘Having regard for’ has a low level of influence, and provides guidance on how implementation plans implement the spatial plan.



- Option 8: Reduce litigation and improve the certainty of decisions, while providing safeguards during development of the spatial plan by either

Agree                  Disagree

- a) providing for:
  - i. full appeal rights on the spatial plan or  Agree  Disagree
  - ii. limiting appeal rights to points of law  Agree  Disagree
- b) and/or providing for a statutorily prescribed consultation process instead of the Special Consultative Procedure under the LGA, that:
  - i. ensures effective multi-party engagement in regional strategic direction-setting and/or  Agree  Disagree
  - ii. improves iwi/Māori participation in resource management decision-making  Agree  Disagree
- c) and/or during the development of the spatial plan, requiring an independent specialist review of the spatial plan to test its evidence base, robustness, affordability and coherence, and provide recommendations to the Auckland Council. The Auckland Council to publicly report its response to the recommendations of the review before it adopts the spatial plan.  Agree  Disagree

- Option 9: Provide for review of the spatial plan by

- a) amending the Local Government (Auckland Council) Act to require the spatial plan to be reviewed every three years, with defined responsibilities for the Government and the Auckland Council in the review process. Neither party can force a review in between the three-year period  Agree  Disagree
- b) amending the Local Government (Auckland Council) Act to require statutory linkage with the LTCCP and require the spatial plan to be adopted at the same time or up to one year prior to adoption of the LTCCP.  Agree  Disagree

Comment:

**7. Do you agree/disagree with Options 10 and 11 to clarify central government’s role in Auckland’s planning?**

Agree      Disagree

- Option 10: Mechanisms for central government to influence the Auckland spatial plan:
  - a) a GPS that sets out the Crown (or national) objectives for Auckland and/or  Agree       Disagree
  - b) require ministerial certification that the Auckland spatial plan complies with all GPSs, before final adoption by the Auckland Council and/or  Agree       Disagree
  - c) make more effective use of existing mechanisms to express Government priorities and direction, including NPSs and NESs and/or  Agree       Disagree
  - d) express central government priorities and objectives in a policy mechanism, such as the National Infrastructure Plan and/or  Agree       Disagree
  - e) use the spatial plan as the mechanism for engagement between central government and the Auckland Council.  Agree       Disagree
  
- Option 11: Central government using suitable and appropriate mechanisms to direct its entities, agencies and departments, and funding agencies to
  - a) give effect to a GPS for Auckland and/or  Agree       Disagree
  - b) be consistent with the adopted Auckland spatial plan in decision-making and/or  Agree       Disagree
  - c) have regard to the adopted Auckland spatial plan in decision-making and/or  Agree       Disagree
  - d) reflect central government’s priorities and objectives for Auckland in their statements of intent.  Agree       Disagree

Comment:

**8. Do you agree/disagree with the range of options set out in Option 12 to consider extending spatial planning with legislative influence to areas outside of Auckland?**

- |   | Agree                    | Disagree                 |
|---|--------------------------|--------------------------|
| • Option 12: Regional spatial planning with legislative influence to be:  |                          |                          |
| a) limited to Auckland only or  | <input type="checkbox"/> | <input type="checkbox"/> |
| b) implemented on a voluntary basis by regions, but only available for those regions facing growth pressures and subject to significant levels of local and central government investment in infrastructure and services or | <input type="checkbox"/> | <input type="checkbox"/> |
| c) mandatory in all regions facing growth pressures and subject to significant levels of local and central government investment in infrastructure and services or  | <input type="checkbox"/> | <input type="checkbox"/> |
| d) implemented on a voluntary basis by regions, for all regions or  | <input type="checkbox"/> | <input type="checkbox"/> |
| e) mandatory for all regions.   | <input type="checkbox"/> | <input type="checkbox"/> |

Comment:

**3.4 Improve tools**

**9. Do you agree/disagree with Options 13–20 that aim to improve the delivery of quality urban environments through effective implementation tools?**

- |   | Agree                    | Disagree                 |
|---|--------------------------|--------------------------|
| • Option 13: Introduce a national template for local and regional plans.                | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 14: Stage the implementation of a national template plan for NPSs and NESs.    | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 15: Provide for the production of a combined NPS and NES as a single document. | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 16: Establish a National Urban Design Panel.                                   | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 17: Establish a Government Architect.  | <input type="checkbox"/> | <input type="checkbox"/> |

- Option 18: Rely on existing methods and processes to amalgamate land, including purchase, negotiation and joint ventures.
- Option 19: Extend the scope of the Public Works Act to ensure that local authorities are able to compulsorily acquire and amalgamate land for major urban regeneration projects provided:
  - a) some form of central government oversight is required as a safeguard and/or
  - b) the power to compulsorily acquire land for urban redevelopment should be used as a tool of last resort and/or
  - c) power to compulsorily acquire land should be limited to specifically defined works and/or
  - d) Māori land is not able to be compulsorily acquired under any circumstances.
- Option 20: Develop new tools for land assembly.

Comment:

**10. Are there any other options for planning and urban design that you think need to be considered to address any of the problems identified in chapter 2 or any alternative problems you have identified?**

Comment:

**11. When decisions are taken to adopt a set of preferred options they will need to work together as a coherent approval system. Do you think your feedback helps to maintain a coherent system for planning, especially in urban areas?**

Comment:

**12. Can you provide any data or other information to support the views you have expressed in this section?**

Comment:

## Chapter 4: Options for change: Social and economic infrastructure development

### 4.1 Greater national direction and consistency

#### 13. Do you agree/disagree with Options 1–3 that will improve the clarity and consistency of national objectives for infrastructure?

- |  | Agree | Disagree |
|--|-------|----------|
| <ul style="list-style-type: none"><li>Option 1: Using NPSs, NESs<sup>63</sup> and other forms of national standards in a more systematic way through<ul style="list-style-type: none"><li>a) developing an agenda of proposed NPSs and NESs <input type="checkbox"/> <input type="checkbox"/></li><li>b) developing a greater number of nationally-consistent standards <input type="checkbox"/> <input type="checkbox"/></li><li>c) allowing certain aspects of infrastructure construction and operation to be conducted without the need to apply for approval, as long as it meets nationally-consistent standards <input type="checkbox"/> <input type="checkbox"/></li><li>d) taking into account where ‘reverse sensitivity’<sup>64</sup> issues are, or could be, an issue. <input type="checkbox"/> <input type="checkbox"/></li></ul></li><li>Option 2: Making use of the options in Chapter 3 to support the efficient delivery of infrastructure:<ul style="list-style-type: none"><li>a) enabling the development of combined NPS and NES documents to communicate national priorities, so councils can more easily incorporate national direction into plans <input type="checkbox"/> <input type="checkbox"/></li><li>b) introducing a national template plan for local and regional plans. <input type="checkbox"/> <input type="checkbox"/></li></ul></li><li>Option 3: Amending sections 6 or 7 of the RMA to explicitly refer to importance of infrastructure and the benefits that derive from it. <input type="checkbox"/> <input type="checkbox"/></li></ul> |       |          |

Comment:

<sup>63</sup> National policy statements (NPS) and national environmental standards (NES) are explained in Appendix 3.

<sup>64</sup> ‘Reverse sensitivity’ arises where a new activity sets up near an existing, lawfully established activity, and the new activity objects to the effects generated by the existing activity, thereby threatening the latter’s continued operation. Options to manage reverse sensitivity can impose additional costs on projects.

4.2 Changing access to the designation system

**14. Do you agree/disagree with Options 4–8 that seek to change access to the designations system?**

	Agree	Disagree
• Option 4: Extend eligibility to a broader range of infrastructure types, particularly to ports and electricity generation.	<input type="checkbox"/>	<input type="checkbox"/>
• Option 5: Define eligibility based on the ‘nature of development’ rather than the type of infrastructure.	<input type="checkbox"/>	<input type="checkbox"/>
• Option 6: Narrow eligibility for full ‘requiring authority’ status <sup>65</sup> and establish a new status of “limited requiring authority”:		
a) eligibility: a ‘limited requiring authority’ would make more of a distinction between public and private benefit of the infrastructure and/or whether the ownership or financing is publicly or privately provided	<input type="checkbox"/>	<input type="checkbox"/>
b) approval process: approve ‘limited requiring authority’ status on a project-specific basis only, to reflect the purposes of each particular project	<input type="checkbox"/>	<input type="checkbox"/>
c) powers: a ‘limited requiring authority’ would have access to a lesser range of powers than available to a full requiring authority. Limits could be applied on one or more of access to compulsory acquisition; protection against incompatible development; and removal of decision-making rights.	<input type="checkbox"/>	<input type="checkbox"/>
• Option 7: Change all references in RMA from ‘network utility operator’ to ‘infrastructure provider’.	<input type="checkbox"/>	<input type="checkbox"/>
• Option 8: Amend definition of ‘infrastructure’ in the RMA so it reflects the full range of eligibility for requiring authority status.	<input type="checkbox"/>	<input type="checkbox"/>

Comment:

<sup>65</sup> ‘Requiring authorities’ are explained in Appendix 4.



4.3 Improved approval processes: increased streamlining and flexibility

**15. Do you agree/disagree with Options 9–11 to introduce ‘concept designations’ as a way to support longer-term infrastructure planning?**

- |   | Agree                    | Disagree                 |
|---|--------------------------|--------------------------|
| • Option 9: Eligibility for concept designations. Either:   |                          |                          |
| a) all infrastructure projects eligible for designations should be able to make use of concept designations or  | <input type="checkbox"/> | <input type="checkbox"/> |
| b) only a subset of projects eligible for designations should be able to make use of concept designations and/or  | <input type="checkbox"/> | <input type="checkbox"/> |
| c) concept designation status should be conferred on any future infrastructure identified in a statutory spatial plan.                                  | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 10: Level of detail required with application. Either:   |                          |                          |
| a) sufficient detail is required to identify a comprehensive envelope of future impacts or  | <input type="checkbox"/> | <input type="checkbox"/> |
| b) sufficient detail is required to identify high-level impacts only.   | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 11: Powers, protections and obligations provided to infrastructure providers:  |                          |                          |
| a) infrastructure providers would have the full range of powers currently provided through notices of requirement including access to PWA powers or     | <input type="checkbox"/> | <input type="checkbox"/> |
| b) infrastructure providers would have more limited range of powers than currently provided under notices of requirement, and limited PWA powers and/or | <input type="checkbox"/> | <input type="checkbox"/> |
| c) a maximum lapse period of 10 years would apply or  | <input type="checkbox"/> | <input type="checkbox"/> |
| d) a longer maximum lapse period, such as 20–30 years would apply.  | <input type="checkbox"/> | <input type="checkbox"/> |

Comment:

## 16. Do you agree/disagree with Options 12 to 15 that seek to streamline approval processes?

	Agree	Disagree
<ul style="list-style-type: none"> <li>• Option 12: Integrate multiple approval processes into a single approval process for a nationally significant infrastructure project.</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Option 13: Remove duplicated processes through:               <ul style="list-style-type: none"> <li>a) providing for designations to be automatically ‘rolled over’ into updated district plans when provided for in a spatial plan<sup>66</sup> and/or</li> <li>b) removing the current two-stage process (‘notice of requirement’ and ‘outline plan’) for approving development by establishing the development’s limits when the initial designation is approved and/or</li> <li>c) providing that where a concept designation is in place, ‘controlled activity’ consent status<sup>67</sup> would automatically apply to any subsequent resource consent applications.</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Option 14: Establish consistent processes by:               <ul style="list-style-type: none"> <li>a) requiring clearer and earlier notification for individual landowners who may be affected by a compulsory acquisition, specifying the amount and location of their land likely to be affected to the extent that this is known; and the type of interest to be acquired and/or</li> <li>b) introducing pre-application consultation requirements for concept and project designations and/or</li> <li>c) requiring public hearings for any concept designation and/or</li> <li>d) providing non-statutory guidance to inform ‘notice of requirement’ and ‘outline plan’ processes and/or</li> <li>e) applying consistent statutory timeframes to all project designations.</li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>• Option 15: Improve investment certainty for resource consents.               <ul style="list-style-type: none"> <li>a) introduce a new process for re-consenting with the following features:                   <ul style="list-style-type: none"> <li>i. confer rights to apply for an existing consent holder</li> <li>ii. expressly allow renewal applications well within the existing consent term</li> <li>iii. provide for the consented scale of activity to continue while the re-consenting application is being processed</li> </ul> </li> </ul> </li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>

<sup>66</sup> ‘Spatial plan’ in this context means a spatial plan adopted through the types of options set out in chapter 3.

<sup>67</sup> ‘Controlled activity status’ means a decision-maker may impose conditions on a resource consent, but may not decline the application.

- |  | Agree                    | Disagree                 |
|--|--------------------------|--------------------------|
| iv. limit the scope of the new consent to the existing scale of activity within the same ‘effects envelope’ <sup>68</sup> , where practical  | <input type="checkbox"/> | <input type="checkbox"/> |
| v. constrain the information required in an application to the effects of the existing operation, emerging/new effects, or emerging values or expectations. Applicants would not be required to provide information about the effects of the existence of a physical structure, such as the existence of a dam occupying a river bed | <input type="checkbox"/> | <input type="checkbox"/> |
| vi. constrain notification and consultation requirements to directly affected parties, rather than the public at large   | <input type="checkbox"/> | <input type="checkbox"/> |
| vii. take account of Treaty settlement issues where they are relevant.   | <input type="checkbox"/> | <input type="checkbox"/> |
| b) When deciding on re-consenting applications, consider either:   |                          |                          |
| i. requiring consent authorities to confine their concerns to the effects of the existing operation, emerging/new effects, or emerging values or expectations. Consent authorities would not be permitted to consider the effects of the existence of a physical structure or  | <input type="checkbox"/> | <input type="checkbox"/> |
| ii. allowing a consent authority to consider any matter it considers relevant and reasonably necessary to determine the application.   | <input type="checkbox"/> | <input type="checkbox"/> |

Comment:

#### 4.4 Enhanced decision-making framework

### 17. Do you agree/disagree with Options 16–19 to enhance decision-making for designations?

- |  | Agree                    | Disagree                 |
|--|--------------------------|--------------------------|
| <ul style="list-style-type: none"> <li>• Option 16: For “limited requiring authorities” only require a decision-maker for designations to be independent of the infrastructure provider:               <ul style="list-style-type: none"> <li>a) for notices of requirement, remove the decision-making role from requiring authorities to make the decision-maker independent from the infrastructure provider and</li> </ul> </li> </ul> | <input type="checkbox"/> | <input type="checkbox"/> |

<sup>68</sup> ‘Effects envelope’ refers to the type and magnitude of effects from an activity.

- |  |                          |                          |
|--|--------------------------|--------------------------|
| b) if the option to remove the outline plan stage is not adopted (option 13b), consider retaining decision-making for outline plans with the infrastructure provider and | <input type="checkbox"/> | <input type="checkbox"/> |
| c) the decision-maker for concept designations, if sought by limited requiring authorities, would also be independent of the infrastructure provider and                 | <input type="checkbox"/> | <input type="checkbox"/> |
| d) the significance of the project should determine the most appropriate decision-maker.   | <input type="checkbox"/> | <input type="checkbox"/> |

<p>Comment:</p>          
---

- Option 17: Ensure the objectives of infrastructure investment are appropriately recognised. Decisions on designations (both concept and project) should be based around the following considerations:

- |   | Agree                    | Disagree                 |
|---|--------------------------|--------------------------|
| a) whether the project is consistent with the purpose and principles of the RMA   | <input type="checkbox"/> | <input type="checkbox"/> |
| b) the extent to which the project is consistent with any relevant NPSs, NESs, regulations and/or other nationally consistent standards   | <input type="checkbox"/> | <input type="checkbox"/> |
| c) the extent to which the infrastructure provider's objectives are delivered by the project – guidance on these matters could be provided by relevant NPSs   | <input type="checkbox"/> | <input type="checkbox"/> |
| d) the extent to which any adverse effects of the option have been avoided, remedied or mitigated   | <input type="checkbox"/> | <input type="checkbox"/> |
| e) the benefits of the project  | <input type="checkbox"/> | <input type="checkbox"/> |
| f) the impacts of any conditions that are imposed on the delivery of the objectives of the project  | <input type="checkbox"/> | <input type="checkbox"/> |
| g) the extent to which the proposal is consistent with other planning documents such as a spatial plan, regional policy statement, national infrastructure plan, growth strategy, etc, and the need for consistency in approach across council boundaries | <input type="checkbox"/> | <input type="checkbox"/> |
| h) the extent to which realistic options for co-location of infrastructure could be appropriate and have been considered.   | <input type="checkbox"/> | <input type="checkbox"/> |

- Option 18: Ensure that national consistency is achieved where appropriate by making use of the identified options (1 to 3) to provide greater national direction on objectives and standards.
- Option 19: Amend the RMA in relation to projects called-in by the Minister, to give greater status to the reasons for ministerial call-in.
- Option 20: Support integration with spatial planning
  - a) decisions about individual project or consent designations should seek to ‘give effect’ to infrastructure that is consistent with an existing spatial plan, where the effects of the development are reasonable given the scale of the project
  - b) any applications for designations that are not consistent with an existing spatial plan would need to provide additional justification.

Comment:

*4.5 An efficient compensation process under the Public Works Act 1981*

**18. Do you agree/disagree with Options 21–26 that seek to provide adequate compensation under the PWA?**

- |   | Agree                    | Disagree                 |
|---|--------------------------|--------------------------|
| • Option 21: Increase the current solatium <sup>69</sup> of NZ\$2000.   | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 22: Link the value of the solatium to the length of time an affected landowner has owned the property.   | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 23: Widen the solatium provision to provide for a discretionary payment when acquiring land that does not include a dwelling used as a private residence.  | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 24: Introduce a hardship payment mechanism.  | <input type="checkbox"/> | <input type="checkbox"/> |
| • Option 25: Undertake further research into the accuracy, objectivity and reliability of current New Zealand valuation practices used to determine ‘fair market value’ based on the average ‘willing purchaser willing seller’ price settlement. | <input type="checkbox"/> | <input type="checkbox"/> |

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<sup>69</sup> A solatium is paid as compensation for emotional loss when acquired land contains a dwelling used as a private residence. It is in addition to compensation for loss of value.

- Option 26: Authorise requiring authorities to pay a premium of up to 10 per cent where there is demonstrable benefit to the requiring authority in securing early settlement.

Comment:

### 19. Do you agree/disagree with Options 27–28 that seek to improve the acquisition process under the PWA?

- Option 27: Allow a requiring authority to take early possession of a property by paying an affected owner the amount specified in the valuation it obtained.
- Option 28: Require the requiring authority to obtain a further valuation on the affected landowner’s behalf if the affected landowner has not done so after a reasonable period.

Agree      Disagree

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

Comment:

#### 4.6 Transitional issues

### 20. Do you agree/disagree with Options 29–31 for managing the transition of adopting any of the options?

- Option 29: Introduce a sunset clause on existing designations that have not yet been used.
- Option 30: ‘Grandfather’ existing designations into any new system for minor improvements or maintenance.
- Option 31: Ensure that the next generation of district plans give due account to existing designations, where development and investment has taken place in accordance with the designation.

Agree      Disagree

<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

Comment:

**21. Are there any other options for infrastructure that you think need to be considered to address any of the problems identified in chapter 2 or any alternative problems you have identified?**

Comment:

**22. When decisions are taken to adopt a set of preferred options they will need to work together as a coherent approval system. Do you think your feedback helps to maintain a coherent system for infrastructure approvals?**

Comment:



**23. Can you provide any data or other information to support the views you have expressed in this section?**

Comment:

**Privacy Act 1993 and Official Information Act 1982 (OIA) declarations**

- a) Please indicate whether you want to have your name on your submission when it is released.
- Yes. I give permission for my name to remain on my submission when it is released.
- No. Please remove my name from my submission before it is released and record my submission as 'anonymous' in any summary of submissions.
- b) Please outline if this submission contains commercially sensitive information that has been included to support your submission, but which you feel should be withheld under the OIA.

Comments:

# Appendix 1: Abbreviations used in this document

EPA	Environmental Protection Authority
GPS	Government Policy Statement
HPA	Historic Places Act 1993
ITAG	Infrastructure Technical Advisory Group
LGA	Local Government Act 2002
LTCCP	Long-term council community plan
LTMA	Land Transport Management Act 2003
MfE	Ministry for the Environment
NES	National environmental standard
NIP	National infrastructure plan
NLTP	National Land Transport Programme
NPS	National policy statement
PWA	Public Works Act 1981
RLTS	Regional Land Transport Strategy
RLTP	Regional Land Transport Programme
RMA	Resource Management Act 1991
RMII	Resource Management Act Phase II Reforms
RPS	Regional policy statement
TAG	Technical advisory group – groups appointed by the Government in December 2008 (Phase One), July 2009 (Aquaculture) and January 2010 (RMII, Infrastructure and Urban) to provide independent advice on resource management reform.
The Act	The Resource Management Act 1991
The Ministry	The Ministry for the Environment
UTAG	Urban Technical Advisory Group

## Appendix 2: Glossary

**Disclaimer:** These definitions provide a basic understanding of key concepts used in this document. They do not constitute legal advice and should not be relied upon as being the interpretation the Courts will apply in any given case.

Words in *italics* indicate that a separate glossary definition is provided for that word or phrase.

<b>Amenity values</b>	The natural or physical qualities and characteristics of an area or place that make it pleasant and attractive. Amenity values also include qualities or characteristics that help people appreciate the cultural value or significance of an area, or its attractiveness and usefulness for recreation.
<b>Board of inquiry</b>	A panel of experts, normally chaired by a current or retired judge, appointed by the Minister for the Environment to consider and make decisions on <i>resource consent</i> , <i>plan change</i> , or <i>notice of requirement</i> applications concerning projects or matters of <i>national significance</i> .
<b>Call in</b>	The process in which the Minister for the Environment determines if a matter or proposal is of <i>national significance</i> and the body which should make a decision on it.
<b>Compulsory acquisition</b>	A process under the Public Works Act 1981 for acquiring land for a government or public work when the landowner is not willing to sell. The landowner is entitled to compensation based on the current <i>fair market value</i> of the land, and may be eligible for compensation to cover moving costs, mortgage repayments and loss of business.
<b>Consent authority</b>	A <i>regional council</i> , <i>territorial authority</i> , <i>unitary authority</i> , or other bodies who make decisions on resource consent applications.
<b>Controlled activity</b>	Activities that require a <i>resource consent</i> but where consent cannot (generally) be declined by the <i>consent authority</i> . A plan sets out a range of matters over which ‘control’ is retained and conditions can only be imposed for those matters.
<b>Design and build (design-build)</b>	An approach to delivering a project where both designing and building the project are combined into a single contract, as opposed to having separate tender and contracts processes for design and construction.
<b>Designation</b>	A provision in a <i>district plan</i> that signals the intent and ability of a <i>requiring authority</i> to use land for a particular work or project whether the district plan normally permits that use or not. It also prevents others from doing anything in relation to the land that would prevent or hinder the work. How designations work is more fully explained in Appendix 4.

<b>District plan</b>	A plan prepared by a <i>territorial authority</i> or <i>unitary authority</i> to help manage the environmental effects of the use, subdivision and development of land. Rules in district plans determine whether a <i>resource consent</i> is required.
<b>Economic infrastructure</b>	Facilities and assets that enable or improve economic and social activity (both business and domestic) and productivity. Examples include telecommunication networks, transport and freight networks, financial institutions and energy supply systems.
<b>Environment Court</b>	A specialist court, similar in status to the District Court, that decides appeals against decisions on resource consents, plans and plan changes, designations, and a range of other matters related to the environment.
<b>Environmental Protection Authority (EPA)</b>	A government agency that will receive and administer applications for <i>resource consents</i> , <i>plan changes</i> , and <i>notices of requirement</i> related to projects of <i>national significance</i> . The EPA will not make final decisions on applications, but provides support services to the <i>board of inquiry</i> or the <i>Environment Court</i> who do. It is expected to be operating by 1 July 2011.
<b>Fair market value</b>	The price that would have been agreed on had there been a willing buyer and a willing seller for land (or some other product or service).
<b>Government Policy Statement on Transport (GPS)</b>	A policy document that sets out the Government's priorities for expenditure for transport over the next 10 years, including how activities such as road safety, state highways, local roading and public transport are to be funded.
<b>Grandfathering</b>	Use of a legal clause that allows pre-existing powers or processes to continue until they naturally expire, despite a law change that prevents further new uses of that power or process.
<b>Incompatible development</b>	Developments that should not be sited together because the effects of one activity are not appropriate in the context of the other. For example, the location of an outdoor jet engine testing facility next to a hospital.
<b>Infrastructure</b>	See definitions for <i>economic infrastructure</i> and <i>social infrastructure</i> .
<b>Local authority</b>	A term used to refer to all types of councils (regional, city and district).
<b>Macroeconomic</b>	Economic factors and processes at a large or general scale.
<b>National environmental standard (NES)</b>	A type of environmental regulation that is set by the Government and which everyone must comply with. National environmental standards operate a bit like rules that prohibit or allow activities, or require a person to obtain a <i>resource consent</i> . A NES may set limits on a particular activity (for example, the discharge of particles into air) or specify that a particular method be used (for example, to measure water flows).

<b>National infrastructure plan (NIP)</b>	A plan that outlines the Government’s infrastructure priorities and planned investment in infrastructure, and which provides an overview of current public and private infrastructure assets, operations and proposals. The first edition was released by Treasury in early 2010.
<b>National policy statement (NPS)</b>	A form of mandatory guideline that is produced by the Government, and that all <i>local authorities</i> must follow when making decisions under the RMA. Local authorities must amend their plans so the provisions contained in them implement the direction contained in the NPS.
<b>National significance</b>	Something is deemed to be nationally significant under the RMA if the Minister of the Environment decides it to be so. The Minister makes the decision having regard to a range of factors including: whether the matter has aroused widespread public concern; impacts on international obligations; whether significant and irreversible adverse effects on the environment will occur; impact in regard to Treaty of Waitangi obligations; and whether it assists the Crown (Government) in fulfilling its public health, welfare, security or safety obligations and functions.
<b>Natural and physical resources</b>	Land, water, air, soil, minerals, energy, all forms of plants and animals (whether native to New Zealand or not) and structures (for example, buildings and physical infrastructure).
<b>Non-notified application</b>	An application for a <i>resource consent</i> where effects are considered to be minor and no person is considered to be adversely affected (or those persons have provided their written permission to the application).
<b>Notice of requirement</b>	A formal request to a <i>territorial authority</i> or <i>unitary authority</i> by a <i>requiring authority</i> that a <i>designation</i> be included in the council’s <i>district plan</i> so that a particular use can be made of the land regardless of what district plan provisions may otherwise allow.
<b>Operative</b>	In relation to a <i>regional policy statement</i> , <i>regional plan</i> , or <i>district plan</i> (or any part of these), ‘operative’ means all outstanding challenges ( <i>submissions</i> and appeals) have been dealt with or resolved, and the date the <i>local authority</i> has <i>publically notified</i> for the plan being operative has passed. When a plan is made operative, any previous plan it replaced no longer needs to be complied with.
<b>Outline plan of works</b>	A plan provided to a <i>local authority</i> by a <i>requiring authority</i> that provides details as to the scale, location and shape of a particular work or project covered by a <i>designation</i> , as well as any landscaping, earthworks, vehicle access and environmental effect management measures that are proposed. Outline plans are not required if this information was already included in the <i>notice of requirement</i> . Outline plans are not <i>publically notified</i> .
<b>Permitted activity</b>	Use or development of land or a <i>natural or physical resource</i> that can be undertaken without a <i>resource consent</i> .

<b>Plan change</b>	The process through which <i>local authorities</i> amend or update <i>operative regional policy statements, regional plans, and district plans</i> . The process usually involves public <i>submissions</i> and hearings.
<b>Planning blight</b>	The negative impacts of plan provisions on a site or surrounding area, such as difficulty in selling or developing a site because it is subject to a <i>designation</i> for infrastructure development.
<b>Private plan change</b>	A <i>plan change</i> that is requested or initiated by a party other than the <i>local authority</i> responsible for a plan, and which the <i>local authority</i> has not adopted as its own.
<b>Prohibited activities</b>	Activities identified in a <i>regional plan</i> or <i>district plan</i> that cannot be carried out, and for which no <i>resource consent</i> can be applied for.
<b>Proposed plan</b>	A <i>regional</i> or <i>district plan</i> that has been <i>publicly notified</i> but which has not passed the stage where it is beyond challenge through <i>submissions</i> or appeals. It is therefore not yet <i>operative</i> .
<b>Public notification (publically notified)</b>	The process of alerting members of the wider community that a particular <i>resource consent</i> application, <i>notice of requirement, proposed plan</i> or <i>plan change</i> is available for viewing and that <i>submissions</i> can be made on it. The notice is usually in newspapers and on the local authority's website, and is sent in the mail to people the local authority thinks will be directly affected.
<b>Public-private partnership</b>	A contractual agreement between Government and business where the Government pays business to deliver infrastructure or services over a long period of time. A common model is for the responsibility for delivering the service or infrastructure to be retained by Government, but for financial responsibility for the condition and performance of the infrastructure or service to rest with the business partner.
<b>Roll-over</b>	When a new plan automatically includes provisions (such as <i>designations</i> ) from an old plan without having to redraft and consider the provisions as if they were completely new.
<b>Regional coastal plan</b>	A type of <i>regional plan</i> prepared by a <i>regional council</i> or <i>unitary authority</i> specific to managing the coastal environment. Regional coastal plans are the only regional plans that are mandatory.
<b>Regional council</b>	A council that is set up to (among other things) manage effects on the quality of air, water and soil of a region, maintain biodiversity, allocate <i>natural and physical resources</i> , and co-ordinate the provision of <i>infrastructure</i> with the use of land.
<b>Regional plan</b>	A plan prepared by a <i>regional council</i> to help it carry out its functions under the RMA, particularly in regard to managing environmental effects on water, air and soil. Rules in regional plans determine whether a <i>resource consent</i> is required for specific activities (for example, the discharge of contaminants or the taking, use, damming, draining or diversion of a waterway).

<b>Regional policy statement (RPS)</b>	A strategic-level document prepared by <i>regional councils</i> and <i>unitary authorities</i> under the RMA that identifies the resource management issues of the region and provides direction for the integrated management and resolution of those issues through objectives, policies and methods. A RPS contains no rules, but must be reflected and implemented through <i>regional</i> and <i>district plans</i> that do contain rules.
<b>Requiring authority</b>	A status given to a Government minister, <i>local authority</i> , or a Government-approved company that operates a network utility (for example, a railway or roading system, electricity transmission lines or gas pipeline). Requiring authorities are the only people or companies able to use <i>designations</i> . More information on how they work is provided in Appendix 4.
<b>Resource consent</b>	A formal permission from a <i>consent authority</i> to use or develop a <i>natural resource</i> or land in a way that is not permitted by the <i>regional</i> or <i>district plan</i> , or a <i>national environmental standard</i> .
<b>Reverse sensitivity</b>	A term used to describe the impact of a new land use setting up near an existing, lawfully established activity, and the new activity objecting to the effects generated by the existing activity, thereby threatening the latter's continued operation. For example, new housing being built close to an established quarry such that residents who move in are exposed to noise, dust and vibration from the quarry. Reverse sensitivity can result in the threat of, or actual, restrictions being placed on the existing land use, which can undermine its ongoing operation and may force it to close or move elsewhere.
<b>Social infrastructure</b>	Assets that accommodate social services such as health (hospitals), education (schools and universities), state housing, justice (police stations, courts and prisons) and community recreation (halls, sport stadiums and parks, for example).
<b>Solatium</b>	A payment made as compensation for grief or stress caused. In the context of this document it is used for the acquisition of land for a particular project, when that land has a person's private house on it.
<b>Spatial plan</b>	A 20–30 year strategy that sets the strategic direction for a community and which serves as the basis for the co-ordination of decision-making, infrastructure, services and investment. It is a means of aligning other council plans. A spatial plan provides a visual illustration of the intended future location and mix of residential, rural and business areas, along with the critical infrastructure required to service those areas and any relevant environmental constraints (for example, hazards or areas that need to be protected from development).
<b>Structure plan</b>	A plan that guides the development (or redevelopment) of a area by showing proposed future development and land-use patterns, areas of open space, the layout and nature of <i>infrastructure</i> (including transportation links), and other key features for managing the effects of development.



<b>Submission</b>	A written statement outlining support, opposition, and/or commenting on a particular proposal ( <i>resource consent, plan change or designation</i> , for example). They must follow a particular format, but can be lodged with a <i>consent authority, local authority, or board of inquiry</i> in paper or electronic form (email, for example).
<b>Sunset clause</b>	A provision under which a process, protocol, power, or agency is to be abolished after a specified period of time (or particular event has occurred).
<b>Territorial authority</b>	City and district councils with functions for controlling land use (ie, what activities can take place on land and where, and their scale) and subdivision of land (such as for future housing developments). Territorial authorities are normally smaller in area than regional councils, and there may be several territorial authorities in a single region.
<b>Unitary authority</b>	A single council that has the functions and roles of both a <i>regional council</i> and a <i>territorial authority</i> .
<b>Urban amenities</b>	Features, places or services in a town or city that are beneficial because of some useful purpose they provide or which add to the enjoyment of residents. Examples include, water treatment facilities, hospitals, libraries, schools, stadiums, public meeting areas and parks, theatres and other recreational facilities.
<b>Urban design</b>	The design of the buildings, places, spaces and networks that make up our towns and cities, and the ways people use them. It ranges in scale from a metropolitan region, city or town down to a street, public space or even a single building. Urban design is concerned not just with appearances and built form, but also with the environmental, economic, social and cultural consequences of design.

# Appendix 3: The existing planning system for urban areas

The New Zealand urban planning system is made up of various planning documents under three separate statutes: the Resource Management Act 1991 (RMA), the Local Government Act 2002 (LGA) and the Land Transport Management Act 2003 (LTMA). Further detail on planning documents under each of these statutes is set out below.

## Resource Management Act 1991

The RMA is the main piece of legislation for managing the environment in New Zealand. Its purpose is to promote the sustainable management of natural and physical resources. The RMA provides for the range of planning documents described below to manage the effects of activities on the environment.

### National environmental standards

National environmental standards (NESs) are regulations designed to achieve certainty and consistency in the way specific environmental matters are dealt with across the country. They may set the minimum requirements and thresholds that need to be applied when managing a resource; dictate that a specific methodology be used in measuring or managing a resource or both. A NES is a powerful tool in that it can override local council plan rules and bylaws and water conservation orders if the rule, bylaw, or water conservation order is less stringent than the NES. A NES also prevails over designations and resource consent applications made after the NES comes into force.

A NES can relate to the management of any environmental issues that is covered by the RMA, including land use and subdivision, noise, water take and use, use of the coastal marine area and discharges. They can also require monitoring, particularly if the standard is aimed at improving the environment.

### National policy statements

National policy statements (NPS) serve as a type of mandatory guide designed to ensure that RMA decision-makers, policy statements and plans give appropriate weighting to matters of national significance, and provide direction on how those matters of national significance are to be managed. As with NESs, a NPS can be a useful tool for promoting consistency in the management of natural and physical resources across New Zealand.

NPSs are prepared by the Minister for the Environment and outline objectives and policies for matters of national significance. Local authorities are required to incorporate NPSs as part of their policy statements and plans, and decision-makers under the RMA are required to have regard to any relevant NPS.

### Regional policy statements

Regional policy statements (RPS) are prepared by regional councils to provide an overview of the resource management issues of their region and the objectives, policies and methods to ensure those issues are managed in an integrated way.

Operating at a lower level than a NPS or NES, the RPS can be a useful tool for achieving regional consistency on issues common to several councils in a region, as both regional plans and district plans of all councils in the region must actively implement it. A RPS can be used to help a regional council carry out any of its RMA roles, including that of ensuring strategic infrastructure (such as major transport routes and water supply facilities) are co-ordinated and integrated with land use (new areas of housing or major business centres for example). In this way they have the potential to be more than a tool for providing direction on issues around air, water or soil.

## **Regional plans**

Regional plans are developed by regional councils to help them manage environmental issues, such as those associated with use of the coast, natural hazards, and air, water and soil quality. There may be one combined regional plan, or many regional plans dealing with particular resources or issues (depending on the approach taken by the regional council).

Objectives, policies and rules in regional plans can be used to govern the allocation of resources (such as water or space in coastal waters), manage pollution through controls on discharges to air, water, soil and coastal environment. Regional plans can also control the use of land for soil conservation and to manage water quality, hazards and maintenance of ecosystems and biodiversity (for example, protecting the habitat of native birds, insects, fish and plants, including those within urban areas).

It is the rules in regional plans that determine whether a particular activity requires a resource consent (so that its effects can be more closely considered), can take place without a resource consent, or is prohibited entirely. No provision in a regional plan can exist for longer than 10 years without review. However, any person can request a change be made to a regional plan before 10 years has passed.

## **District plans**

District plans are prepared by territorial authorities (district and city councils) to help them manage the use of land (such as the placement and size of buildings and other structures), subdivision and noise. They also have some overlap with regional plans for managing hazards, and maintaining biodiversity. Managing these matters is through objectives, policies and rules set out in the district plan.

As with regional plans, it is the rules in district plans that determine whether a particular activity requires a resource consent, can take place without a resource consent, or is prohibited entirely. As with regional plans, no provision in a district plan can exist for longer than 10 years without review. However, any person can request a change be made before 10 years has passed.

## **Combined RMA documents**

The RMA provides that a single document within a region can perform any combination of functions of a regional policy statement, regional plan and/or district plan. Some councils already have combined regional and district plan documents, and others having been working on combined RPS and regional plan documents.

## **Iwi management plans**

Iwi planning documents, more commonly known as iwi management plans (IMPs), are a plan prepared by an iwi, iwi authority, rūnanga or hapū, and recognised by the RMA.

The contents of an iwi management plan will depend on the priorities and preferences of the iwi/hapū preparing the plan. IMPs are often holistic documents that cover more than resource management issues under the Resource Management Act 1991 (RMA). Some IMPs will address economic, social, political and cultural issues in addition to environmental and resource management issues. Much like council plans, IMPs may include issues, objectives, policies and methods relating to ancestral taonga, such as rivers, lakes, seabed and foreshore, mountains, land, minerals, wāhi tapu, wildlife and biodiversity, and places of tribal significance. IMPs often detail how the iwi/hapū expect to be involved in the management, development and protection of resources, and outline expectations for engagement and participation in RMA processes.

The RMA states that when preparing or changing any regional plan (section 66) or territorial plan (section 74), councils shall have regard to any relevant planning document recognised by an iwi authority and lodged with that council, to the extent that its content has a bearing on resource management issues of that region or district.

## **Local Government Act 2002**

The LGA outlines the purpose, role and powers of local authorities. Its purpose is to provide for democratic and effective local government that recognises the diversity of New Zealand communities. The LGA provides for the development of long-term council community plans (LTCCPs) and annual plans to facilitate local government activities.

### **Long-term council community plans**

Every six years, local authorities are required to identify community outcomes for the immediate and long-term future of their district or region. The process enables parties such as local authorities, central government agencies and the community to determine what they consider important socially, economically, environmentally and culturally. The outcomes from this process form the basis on which local authorities develop their LTCCPs.

It is mandatory for every local authority to prepare a LTCCP which provides a long-term focus for decision-making and co-ordination of its resources, and describes the community outcomes sought. Such plans must cover a period of not less than 10 years.

Unlike regional and district plans under the RMA, the LTCCP contains no rules. Nonetheless, where there is sufficient buy-in, the LTCCP can be used to co-ordinate plans across a full range of council functions and co-ordinate the provision of services with parties outside of a council (such as providing housing or new transport infrastructure). Importantly, the financial component of the LTCCP provides direction and co-ordination for funding of strategic projects through the more detailed annual plan (which is focussed on shorter timeframes).

### **Annual plans**

Annual plans contain a statement of a local authority's proposed annual budget and funding impact for the financial year, and often lists the particular major projects or services for which funding is set aside. They also support the LTCCP in providing integrated decision-making and

coordinating the local authority's resources, as well as extending opportunities for participation by the public in decision-making processes.

## **Land Transport Management Act 2003**

The LTMA governs the planning and funding of land transport. Its purpose is to contribute to achieving an affordable, integrated, safe, responsive and sustainable land transport system. Regional councils, city and district councils, the New Zealand Transport Agency (NZTA) and other approved organisations under that Act can receive money from the National Land Transport Fund for the land transport activities they deliver, such as constructing and maintaining state highways, local roads and public transport services. The LTMA provides for a range of documents to facilitate planning and funding.

## **National Land Transport Strategy and New Zealand Transport Strategy**

The LTMA enables the Minister of Transport to prepare a national land transport strategy. However, no such strategy has yet been prepared. There is a non-statutory document called the New Zealand Transport Strategy, which is referred to in the Government Policy Statement on land transport funding.

## **Regional land transport strategies**

Regional councils are responsible for the preparation and review of regional land transport strategies (RLTS). These provide an overview of the current and future trends and pressures on a region's transportation systems, the outcomes sought, and options to achieve an integrated, safe, responsive and sustainable land transport system (along with the funding of those options). A RLTS cannot be inconsistent with the NZTS and the RPS that is in force for the region.

The RLTS is a long-term document prepared every six years, but covers issues and strategic options over the next 30 years. As such, the RLTS has a large role to play in ensuring that transport infrastructure is planned to meet the current and future needs of an urban area, and to provide certainty to those who make decisions to ensure the development of land and provision of infrastructure is co-ordinated and integrated.

## **Government policy statement**

The Government Policy Statement on Land Transport Funding (GPS) is the Government's main guiding document to focus the land transport funding system, generally over a 10-year period. The GPS is issued by the Minister of Transport and details the Government's desired outcomes and funding priorities for using the National Land Transport Fund to support activities in the land transport sector. The GPS covers what the Government wishes to achieve from its investment in land transport, how it will achieve this by funding certain activity classes, how much funding will be provided and how this funding will be raised.

## **National Land Transport Programme**

The New Zealand Transport Agency is responsible for developing the National Land Transport Programme, which gives effect to the GPS and is issued every 3 years with a 10-year outlook. It

lists transport activities/packages of activities expected to be considered for funding for the next three years.

## **Regional land transport programme**

Each local government region needs to develop a 10-year regional land transport programme (RLTP). A RLTP must be consistent with the GPS and be developed every three years with the ability to be adjusted annually. It lists and prioritises activities (excluding local road maintenance, renewals, minor capital works and expenditure on existing public transport operations) where funding will be sought in the next three years.

# Appendix 4: How existing processes for infrastructure work

The Resource Management Act 1991 (RMA) allows for areas of land to be designated for use as network utilities (such as roads and telecommunications facilities) or large public works (such as schools and prisons). These designated areas (or ‘**designations**’) are identified in district plans, usually in the maps.

## Eligibility

Under the RMA, land can be designated for public works or network utilities only by ‘requiring authorities’. These authorities can be:

- a Minister of the Crown
- a local authority
- a network utility operator approved under the RMA.

The requiring authority does not have to own the land, but in order to obtain requiring authority status has to demonstrate that they are able to likely undertake or complete the project, work or operation and can undertake any necessary responsibilities (such as financial responsibility). Ministers of the Crown and local authorities are automatically requiring authorities. Network utility operators (organisations that distribute gas, petroleum, geothermal energy, telecommunications, electricity, water and wastewater, or which construct or operate roads, railway lines and airports) have to apply for requiring authority status from the Minister for the Environment.<sup>70</sup>

## Process

A designation is like a ‘spot zoning’ over a site or route in a district or city plan. This spot zoning allows the requiring authority’s works or project to go ahead without the authority needing to get a land-use consent from the relevant district council.

Once the designation is put in place, the requiring authority may do anything allowed by the designation, and the usual provisions of the district plan do not apply to the designated site. The requiring authority will still need to get any resource consents required from the regional council.

If the requiring authority wants to use the land for something outside the scope of the designation, normal district plan provisions apply. In other words, the requiring authority would need a resource consent, unless the activity they propose is permitted in the district plan.

A designation also places restrictions on what anyone other than the requiring authority can do on the designated land without first getting the requiring authority’s permission and any necessary approvals from the relevant district or city council.

A network utility operator that is a requiring authority can apply to the Minister of Lands to have land required for a project compulsorily acquired under the Public Works Act 1981

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<sup>70</sup> Section 166 of the RMA defines who are network utility operators.

(PWA).<sup>71</sup> An actual designation is not required for such an application and the provision is used rarely.<sup>72</sup> An owner of land subject to a designation or requirement may also apply to the Environment Court to have the requiring authority purchase all or part of the land under the PWA.

## Decision-making

A ‘notice of requirement’ is the way a requiring authority gives notice to a council that it wants to designate land. Until it has been included in a district plan, a designation is referred to as a requirement.

A notice of requirement for a new designation must go through one of the following decision-making processes before it becomes a designation.

- The application may be heard by the local council, which makes a recommendation to the requiring authority whether it thinks the designation should be confirmed in the district plan (with or without modification and conditions) or withdrawn. The requiring authority decides whether to confirm or withdraw the notice (in other words, to accept or reject the council’s recommendation in part or full). The territorial authority concerned and any person who made a submission on the requirement can appeal the decision of the requiring authority to the Environment Court.
- The notice of requirement may be lodged with the Environmental Protection Authority (EPA) – if the Minister for the Environment considers it is part of a matter of national significance. Such applications are referred to a Board of Inquiry or the Environment Court, which will make a decision rather than making a recommendation to the requiring authority.
- It may be directly referred to the Environment Court if the requiring authority requests it and the council agrees. In these cases, the Environment Court makes a decision on the notice of requirement.

An outline plan provides the detail of the proposed work if this has not already been incorporated into the designation. It must be submitted by the requiring authority to the territorial authority before construction can begin. The outline plan must show the height, shape, bulk and location of the work on the site, and the finished contour. The territorial authority can waive the requirement for an outline plan.

## Resource consents

A requiring authority may also require resource consents from the regional council to undertake the work; for example, earthwork consents or discharge permits.

The proposal may also require that approvals are sought under other legislation, such as authorities under the Historic Places Act 1993, or a concession if the land affected is public conservation land administered under the Conservation Act 1987.

For more information on designations see *The Designation Process*, in the *Everyday Guide to the Resource Management Act series*, available on the Ministry for the Environment website.

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<sup>71</sup> Under s186 of the RMA.

<sup>72</sup> In the past 10 years, there have been only two applications under s186 of the RMA.



## Other processes available for infrastructure approval

There are two other approval processes that can be used for infrastructure projects, as alternatives to the designation process: the resource consent process and the plan change process.

The **resource consent** process provides an approval for a particular project. The approval is specific to the details provided in the application (changes generally trigger a new approval process). The decision on whether to grant the resource consent is made by the territorial authority.

The **plan change** process identifies the infrastructure site within the district plan, including the controls and standards that apply to any existing and future activities on the site. The decision on whether to allow the plan change is made by the territorial authority.

There is no eligibility restriction on the use of either of these processes. Both processes are therefore available to infrastructure providers who do not qualify as requiring authorities and are therefore excluded from the designation system (for example electricity generators). Both the resource consent and plan change processes are also open to an infrastructure provider who also qualifies as a requiring authority.