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Ministry for the Environment

Phase II Reform of the RMA

Notices of Requirements and Outline Plans - Analysis

June 2010



Contents

1.	Introduction	1
1.1	Background	1
1.2	Purpose of the Project	1
2.	Methodology	3
2.1	The survey	3
2.2	The interviews	4
3.	Key themes of the Survey	5
3.1	Territorial Authorities	5
3.2	Sample Territorial Authorities	9
3.3	Requiring Authorities	11
3.4	Lapse Periods	12
4.	Nature of Information Required for NoRs	13
4.1	Information requirements	13
4.2	New NoRs vs. Alterations to Designations	14
4.3	The information that is requested and how it is obtained	14
4.4	Regional Council Input	15
4.5	Feedback from RAs	16
5.	Outline Plans	17
5.1	The process	17
5.2	Further information requests	17
5.3	Outline Plan waivers	18
6.	Decisions and Conditions	19
6.1	Conditions imposed on NoRs by territorial authorities	19
6.2	Use of Management Plans	20
6.3	Rejection of recommended conditions	20
6.4	Appeals	21
7.	Lapse Periods	22
7.1	Lapse periods under s184	22
7.2	Extensions to lapse periods	22
7.3	The default lapse period	23



8. Observations

24

Appendices

- A Survey to all Local Authorities
- B Sample Territorial Authorities Questionnaire
- C Requiring Authority Questionnaire
- D Questions for Interviews



1. Introduction

1.1 Background

GHD Limited (GHD) has been engaged by the Ministry for the Environment to research and analyse information on recent Notices of Requirement (NoR) for designations and Outline Plan applications relating to existing designations. This research falls under the scope of the Phase II Resource Management Reforms, and more specifically under the Designations Workstream. This Workstream is focused on requiring authority eligibility and the decision making roles and powers of requiring authorities.

In order to contribute to the Designations Workstream, this study has compiled data around the use of Notices of Requirement and the Outline Plan process.

As a component of this research, a survey of territorial authorities and requiring authorities was undertaken to obtain information in relation to Notices of Requirement and Outline Plans of Work that have been processed within the last 5 years. These written surveys were followed up by interviews with a sample of 10 territorial authorities to provide a more in depth insight into the processes that each authority undertakes.

A sample group of 11 requiring authorities that regularly participate in the designation process was also identified. These authorities covered a broad spectrum of different industries and types of infrastructure. The questionnaire provided to this group focused on the specific issues of co-locating utilities and designation lapse periods.

GHD's brief was then to consolidate the above information into a report that identified key themes and trends that emerged from the research.

1.2 Purpose of the Project

The overall objective of the study is to supply information to assist the Infrastructure – Designations work stream of the Phase II RMA reforms. The primary purpose of the research is to provide clarity regarding concerns that have been expressed by some requiring authorities that in some cases designations are being treated by Councils like resource consents, with detailed information being sought and sometimes inflexible conditions being recommended.

To establish the validity of these concerns, the following matters have been investigated:

- *the extent to which territorial authorities adequately recognise and reflect the necessity of network utility operations in their recommendations on notices of requirements.*
- *the nature of the information requested by territorial authorities on notices of requirement and outline plans and whether there is any consistency between authorities in the type of information sought.*
- *the extent of any variability in the nature of the conditions recommended by territorial authorities on notices of requirement."*

The second aspect of the research regards the co-location of infrastructure. Currently designations are provided on a 'first come first served' basis, and this can be problematic to promoting an integrated and co-ordinated approach to the provision of infrastructure. While the RMA provides for multiple



designations to be applied to one site, it does not facilitate co-ordination between authorities. With this in mind the following issue has also been investigated:

- *the nature and extent to which co-location of utilities poses a particular problem for requiring authorities.*

The final aspect of this research relates to lapse periods for designations, and more particularly the extent to which the inclusion and confirmation of extended timeframes on notices of requirement pose a problem for requiring authorities.



2. Methodology

2.1 The survey

In order to carry out the research, three surveys were undertaken:

- a general census of all territorial authorities (Appendix A);
- a more detailed sample survey of 10 territorial authorities (Appendix B); and
- a targeted survey of 11 requiring authorities (Appendix C).

The purpose of these surveys was to develop a database of information in relation to the number of notices of requirement (s168 and s181), outline plans (s176A) and s184/184A extensions to lapse periods sought by requiring authorities.

The responses from the surveys were then collated into a spreadsheet and analysed to identify key themes and issues. This is further discussed in Section 3 of this report.

2.1.1 Territorial authorities

A basic survey was circulated to all territorial authorities (city and district) within New Zealand. The survey included questions relating to the number of notices of requirements, alterations to designations and outline plans that have been sought by requiring authorities over the past 5 years. Territorial authorities were also asked to provide details concerning the number of applications they had received under section 184 of the RMA to extend lapse periods.

The aim of this survey was to provide a broad overview of the subject matter and to indicate the number and types of applications that are being made.

34 completed basic surveys were received from the 62 territorial authorities that were contacted. An additional 9 in depth surveys were received from the sample group of territorial authorities, as outlined below. In total 43 surveys were received from a total of 72 territorial authorities that were contacted. The only territorial authority that was not contacted was the Chatham Islands Council.

2.1.2 Sample territorial authorities

A more in depth survey was circulated to a sample of 10 territorial authorities that represented a mixture of metropolitan, rural, large, small and unitary authorities. In addition to the questions that were posed to the main set of territorial authorities, further detail was sought on a number of matters including:

- the nature of the information provided to the Council in an application for a NoR;
- if any further information requests were made, the recommendation of the Council, the nature of conditions placed on the NoR; and
- the recommended lapse period, the decision of the requiring authority and whether there were any appeals made on the decision.

Similar information was requested for the Outline Plan process.

Responses were received from nine of the authorities, being Auckland City Council, Hastings District Council, Marlborough District Council, Palmerston North City Council, Porirua City Council, Queenstown



Lakes District Council, Rodney District Council, Waikato District Council and Wellington City Council. A completed written survey was not received from Waimakariri District Council. Further follow up interviews were held with eight of these local authorities to provide more targeted information on the Council processes.

2.1.3 Requiring authorities

A similar survey was also sent to a sample group of requiring authorities who regularly participate in designation processes. These organisations covered a broad spectrum of different industries and types of infrastructure and included infrastructure providers for rail, roads and airways, telecommunications, power, education, defence, corrections and a Council in its role as a requiring authority. As well as enquiring into the number of new NoRs that had been sought by each requiring authority in the past five years, the questionnaire also focused on the specific issue of co-locating utilities and designation lapse periods. The objective of this exercise was to determine the perception of requiring authorities in relation to these particular aspects of the designation process.

Responses were received from six of the 11 requiring authorities surveyed: NZTA, Transpower, Telecom, Wellington City Council, Kiwirail and the Ministry of Education.

2.2 The interviews

The survey that was circulated to the 10 sample territorial authorities was followed up by an interview in order to provide more in depth insight into the processes that each authority undertakes. The range of questions is included in

The interviews focused on three broad areas:

- the nature of information and detail required by the Council for the processing of both NoRs and Outline Plans;
- the nature of the conditions that the Council imposes on NoRs; and
- lapse periods for designations.

Interviews were undertaken with eight of the 10 sample territorial authorities surveyed: Auckland City Council, Marlborough District Council, Palmerston North City Council, Porirua City Council, Rodney District Council, Waikato District, Waimakariri District and Wellington City Council.



3. Key themes of the Survey

The following sections provide a break down the key themes that emerged from the survey information that was received from the territorial authorities, sample territorial authorities and sample requiring authorities identified in Section 2.

3.1 Territorial Authorities

Surveys were circulated to all territorial authorities (city and district) within New Zealand with questions covering the number of notices of requirements, alterations to designations and outline plans that have been sought by requiring authorities over the past 5 years. A total of 43 Councils responded to the survey. The results are summarised below.

3.1.1 Notice of requirement to territorial authority (s168 or 168A)

Territorial authorities were asked how many notices of requirement for new designations under section 168 or s168A of the Resource Management Act 1991 (RMA) they had processed in the last 5 years.

Of the 43 Councils that responded, 8 had not received any applications within the past five years. Those Council's are Kaikoura District Council, Carterton District Council, Otorohonga District Council, Whakatane District Council, Waitomo District Council, Gore District Council, Hauraki District Council, Porirua City Council.

Auckland City Council received the highest number of notices of requirement (26), followed by Waikato District Council (21), Queenstown Lakes District Council (16), Rotorua District Council (11), Tasman District Council (10) and Franklin District Council (9).

A total of 185 notices of requirement under s168 were lodged by requiring authorities to the 43 Councils. 4 applications were received in 2004, 13 in 2005, 24 in 2006, 49 in 2007, 42 in 2008, 36 in 2009 and 9 so far in 2010. It is not known when the remaining 8 applications were received. It is a possibility that the lower number of s168 applications that were received in 2004-2006 may reflect information not being provided as that time period was seen as outside of the scope of the research by various Councils, or could be due to information on older applications being harder for the Councils to obtain. These possibilities cannot be confirmed.

Approximately one third of the 185 notices of requirement were made under s168 by local authorities themselves (74). 27 applications were received by local authorities from various electricity providers, such as Transpower NZ Ltd, Vector Ltd, Top Energy Ltd and Counties Power Ltd. 16 notices of requirements were lodged by the Ministry of Education, refer Figure 1 below.

Of the 185 new notices of requirement processed by Councils over the past 5 years, 54 were given a 5 year lapse period, either with Council specifying the application of the default period or the Council specifying a period of 5 years. 73 of the applications did not state a lapse period, and therefore the default period of 5 years automatically applies. 26 applications were given a 10 year lapse period and relate to a variety of designations for the purposes of rail, roading, schools, electricity, water supply & treatment and sports fields. A further 5 notices of requirement were given a 15 year lapse period: two applications made by the Ministry of Education for schools in Waitakere City; one notice provided by Rotorua City Council for the Victoria Street arterial; one notice provided by Network Tasman Ltd for the

development of a substation in Nelson City; and one notice provided by Hastings District Council for service utilities.

Figure 1 Percentage breakdown of requiring authorities who provided NoRs under s168

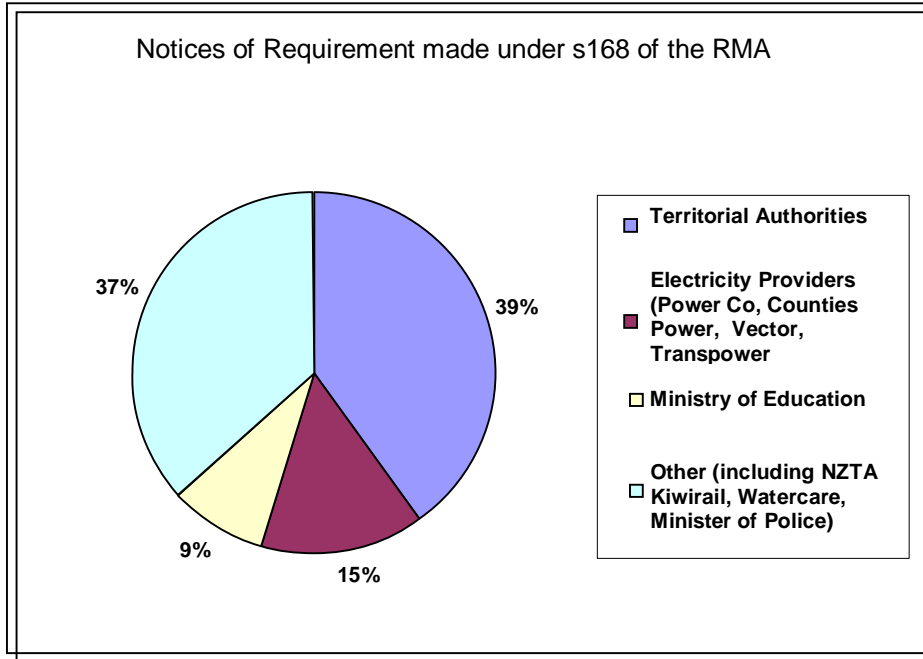
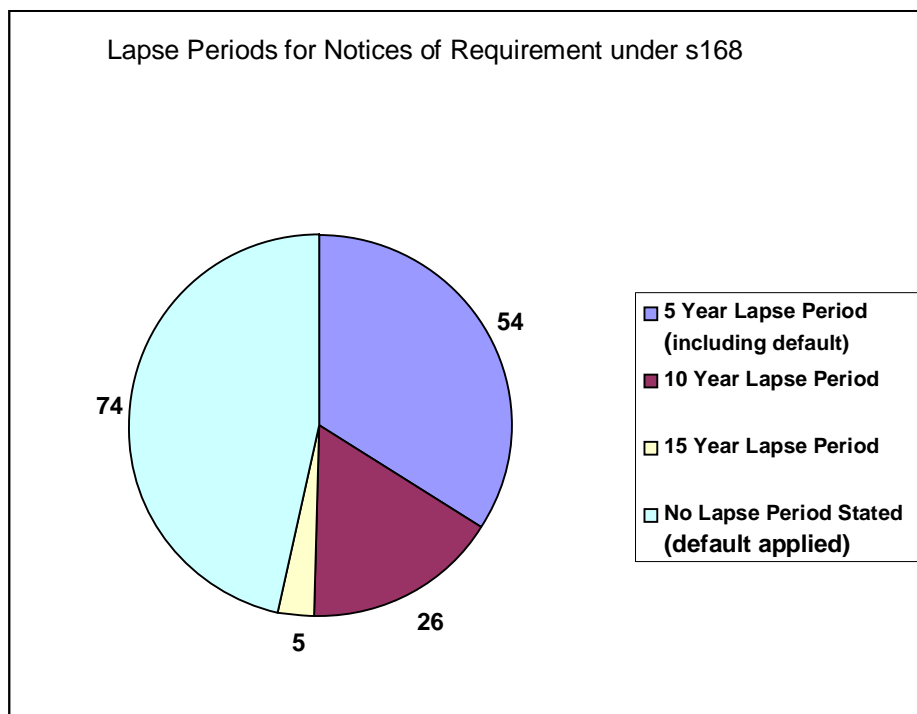


Figure 2 Lapse Periods for Designations under s168





3.1.2 Notice of Requirement for an Alteration of designation (s181)

Territorial authorities were asked how many notices of requirement to alter designations under s181 they had processed in the last 5 years.

Over the past 5 years a total of 274 notices of requirement for alteration of designation were processed by the 43 Councils that responded to the survey. Of the respondents, Queenstown Lakes District Council processed the highest number of s181 notices (26), followed by Waitakere City Council (21), Tasman District Council (20), Wanganui District Council (16) and Marlborough District Council (14). Overall, the highest number of s181 applications were made by NZTA with a total of 129 (almost half), the majority of these being for boundary modifications to allow for widening and intersection upgrades

The majority of the applications processed by Councils were for modifications to designation boundaries (157). 15 applications were made for changes in the purpose or definition of a designated site, which included applications made by the Ministry of Education and a number of local authorities (Marlborough District Council, Waikato District Council, Queenstown Lakes District Council). 13 applications were made for changes to conditions of designations which included 4 applications each made by NZTA and Queenstown Airport Corporation Ltd, 2 applications by Queenstown Lakes District Council and 1 application each by Vector Gas, Hauraki District Council, and the Ministry of Education. It is not known what the changes of conditions were in relation to.

Wairoa District Council and Gore District Council did not receive any s181 notices of requirement for alteration of a designation over the last 5 years.

3.1.3 Outline Plans (s176A)

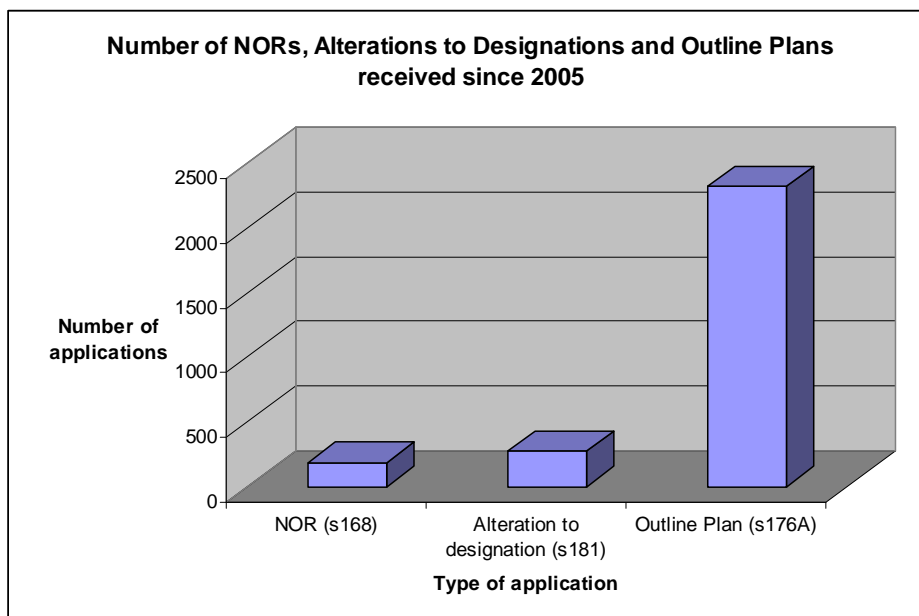
A total of 2319 Outline Plans were received by the 43 Councils.

Of the 43 Councils, Christchurch City Council processed the highest number of applications (321), with 190 of these being for education purposes provided by the Ministry of Education. Auckland City Council processed the second highest number of s176A applications with 277¹, followed by Waitakere City Council with 267.

Of the 2319 Outline Plans, 1112 Outline Plans were from by the Minister of Education (almost half). 112 Outline Plans were received from Telecom (including Telecom Mobile) and 94 were made by the various District and City Councils.

¹ The information provided by Auckland City Council did not specify the names of requiring authorities that Outline Plans were received from.

Figure 3 Number of NoRs, Alterations to Designations and Outline Plans received since 2005



3.1.4 Lapsing of designations (s184)

Territorial authorities were asked whether they had received any applications to extend the lapse period for designations within the last 5 years.

Of the 43 Council's that returned the survey, only 6 received applications to extend lapse periods. Franklin District Council, Grey District Council, Nelson City Council and Rotorua City Council each received one application, while Palmerston North City Council received 9 and Queenstown Lakes District Council received 2 applications. A summary of these applications is provided below:

- ▀ Franklin District Council – an application by Counties Power was received on 15/04/2010. This application is currently awaiting a decision.
- ▀ Grey District Council – an application was made by the Council itself on 18/03/2010 for a sewage disposal activity. This application is currently awaiting a decision.
- ▀ Nelson City Council – an application was received from NZTA regarding the realignment of State Highway 6. The application was received on 3/07/2009 and was approved.
- ▀ Rotorua District Council - an application was received from NZTA regarding the proposed eastern arterial route. The application was received on 27/03/2006 and was approved.
- ▀ Queenstown Lakes District Council– received two applications; one from the Ministry of Education for a school site (approved on 06/08/2008);and one from Queenstown Lakes District Council for a site designated for water supply and storage purposes (approved on 05/08/2008).
- ▀ Palmerston North City Council – 9 applications provided by Palmerston North City Council for designations relating to roading and reserve purposes, all approved on 28/09/2005.

It is not known what the nature of these extensions were, except for those made to Palmerston North City Council where 5 year extensions were approved.



3.2 Sample Territorial Authorities

A more in depth survey was provided to the 10 sample territorial authorities and these were followed up where possible with interviews. At the time of writing, completed surveys had been received from nine of the Councils.

3.2.1 Notice of requirement to territorial authority (s168 or 168A)

The figures supplied by the sample Territorial Authorities are incorporated into section 3.1 above. For these councils a total of 91 notices of requirement for new designations under section 168 or 168A were processed by Auckland City Council (26), Waikato District Council (21), Queenstown Lakes District Council (16), Palmerston North City Council (10), Hastings District Council (6) Marlborough District Council (6), Rodney District Council (4) and Wellington City Council (2) over the past 5 years. Porirua City Council did not receive any applications.

Of the 91 applications that were received, 34 (37%) were received from the Councils themselves in their capacity as a requiring authority. This provides a similar figure to the findings from the national survey, where 40% of the NoR applications were made by the Council's themselves. Electricity purposes accounted for a further nine applications, with notices also being sought by the Minister of Education, NZTA, the NZ Refining Company, Watercare Services, the Minister of Police, Queenstown Airport Corporation and Palmerston North International Airport. The requiring authorities for the remaining applications were not specified.

The majority of applications that were made to Auckland City Council included AEE's, while Marlborough District Council indicated that the three applications it received included no information at all. Detail of the information has been included within applications made to Rodney and Waikato District Council was not provided.

19 applications drew requests for further information (only 20%): Three requests were made by Marlborough District Council, 11 by Queenstown Lakes District Council, eight by Palmerston North City Council and one request each by Rodney District Council, Waikato District Council and Hastings District Council. These requests sought a variety of information ranging from a more detailed AEE or affected party approvals to much more specific requirements such as a copy of an archaeological survey and details of a tapu lifting ceremony.

Information regarding the recommendation of the Council was provided in relation to 48 of the 91 applications processed. Of these, 34 were recommended for approval subject to modifications or conditions being imposed. Two were confirmed without the request for modification or the imposition of conditions, with there being only one instance where a hearing panel recommended that an application be withdrawn. In 11 instances the application was approved however it is not known whether any modifications or conditions were recommended. The majority of the recommendations were accepted by the requiring authorities without any changes being made.

The conditions placed on the applications were generally rather detailed. For example, the Waikato District Council recommended approval for Transpower NZ Ltd's new Ohinewai Switching Station and included conditions relating to height, landscaping, lighting, noise, earthworks, geotechnical matters, stormwater management, archaeological matters, roading, traffic, health and safety and hazardous substances. Management plans were also imposed on some of the applications, including management plans for construction, traffic and earthworks.



28 designations were given the default 5 year lapse period, with these applying to a variety of activities. It is unclear from the information that was provided by the Council's whether the 5 year period was purposely specified for these designations or whether no period was specified and the default timeframe was instead used. 4 applications within the Auckland City Council area and 1 in Hastings District were given a 10 year lapse period. This included: two notices of requirement made by the Minister of Education for new schools; one notice of requirement by Vector Gas Ltd for a new gas pipeline; one by Auckland City Council for open space and sports fields; and one by Hastings District Council for extension of a road. Two designations received a 15 year lapse period; one for local roading purposes within the Waikato District; and one for the construction operation and maintenance of service utilities made by Hastings District Council. The lapse period for the other designations was not provided and it is assumed that the default period of 5 years was applied to these designations.

Of the 91 NoR applications that were received, 23 NoRs (25%) were appealed. 18 out of the 26 notices of requirement within the Auckland City Council area were subject to appeals (70%), with 11 of these relating to notices of requirement made by Auckland City Council as the requiring authority for areas surrounding the waterfront. 3 out of 10 notices of requirement within Palmerston North were subject to appeals, with two of these related to Palmerston North International Airport Ltd's designation. One appeal was lodged in Hastings out of 6 and one in Queenstown Lakes District out of 16.

3.2.2 Notice of Requirement for an Alteration of designation (s181)

A total of 94 applications to alter a designation were received: Queenstown Lakes District Council (26), Marlborough District Council (14), Waikato District Council (13), Auckland City Council (12), Hastings District Council (12), Rodney District Council (10), Porirua City Council (3), Wellington City Council (3), and Palmerston North City Council (1).

30 applications (30%) were made by NZTA (one of which was made jointly with Queenstown Lakes District Council), with a further 27 (29%) being made by Council's in their capacity as requiring authorities. In comparison, the national survey found NZTA to have made 46% of all s181 applications (two of which were made jointly with Council's), with Council's having made 21%.

The remaining applications were made by Queenstown Airport Corporation (7), the Minister of Education (6), Kiwirail (4) and one each from Telecom NZ Ltd, Wellington International Airport, Vector Gas Ltd, the Minister for Police and the Minister of Courts. It was unclear who the requiring authority was for a further 15 applications that were made to Waikato District Council (13) and Queenstown Lakes District Council (2).

Of the 94 applications it appears that 36 were for the purpose of boundary modification, being either to include additional land or to exclude land that has been found to be surplus to requirements. These applications were generally made by NZTA or by the Minister of Education. A number of applications made by Marlborough District Council in its capacity as a requiring authority were for the purpose of amending the wording of designations.

3.2.3 Outline Plans (s176A)

905 Outline Plan applications were received by the nine Councils that provided a response to the survey. Of these, 277 were received by Auckland City Council, 146 by Rodney District Council, 137 by Wellington City Council, 72 by Waikato District Council, 69 by Queenstown Lakes District Council, 55 by



Marlborough District Council, 53 by Hastings District Council, 33 by Palmerston North City Council, and 30 by Porirua City Council.

In terms of applications received: 298 (33%) were from the Minister of Education, 53 (6%) were made by territorial authorities in their capacity as requiring authorities, 47 (5%) were made by Telecom, 42 (5%) were from various electricity providers, including Transpower, Vector and United Networks Ltd, and 19 (2%) were made by NZTA.

In comparison, the national survey found the Minister of Education to have made 48% of all Outline Plan applications, with Council's having made 4%. Telecom, including Telecom Mobile, made 5% of the Outline Plan applications. 4% of applications were made by various electricity providers and 3% were made by NZTA.

Information regarding the recommendation of the Council was provided for 278 of the applications. Of these applications, 241 (87%) were accepted with no recommended changes or conditions. Conditions were recommended for 34 of the Outline Plans (12%), with the RA rejecting the conditions in just one instance. One Outline Plan was rejected by Wellington City Council with resource consent instead being required for the proposal. Two applications were withdrawn for unspecified reasons. Auckland City Council² stated that the amount of information provided with outline plans varied according to the nature and complexity of the proposals but indicated, however, that in all cases the information that was supplied was sufficient.

From the information that was provided, 98 applications were lodged with only plans or diagrams and were processed without any requests for further information. However, overall little, if any, detail was provided by the respondents regarding the nature of the information that was provided to the Council.

3.2.4 Lapsing of designations (s184)

Of the eight Council's, six did not receive any applications under section 184 in the past five years. Of the two that did, Palmerston North City Council received nine and Queenstown Lakes District Council received two, the details of which are included in Section 3.1.4.

3.3 Requiring Authorities

A sample of 11 requiring authorities were asked to provide details in relation to designation lapse periods and the co-location of utilities. Only 6 surveys have been received to date, these being from Transpower, Telecom, Wellington City Council, Kiwi Rail, the NZTA and the Ministry of Education.

3.3.1 Notices of Requirement to Territorial Authority (s168 or 168A of the RMA)

A total of 247 notices of requirement were provided by the 5 requiring authorities over the past 5 years. NZTA provided the most s168 notices (220, 90%), with these being lodged with a range of Council's throughout New Zealand. The Ministry of Education provided 16 notices under s168, with the majority of these being for new schools in the Auckland region (10). Telecom provided 5 new notices over the past 5 years, while Transpower provided 4, Kiwi Rail provided 2 and Wellington City Council provided none.

² The information provided by Auckland City Council did not specify the names of requiring authorities that Outline Plans were received from



3.3.2 Co-location of Public Works

Requiring authorities were asked to comment on the issue of co-location of utilities, identifying instances where the requiring authority has co-located its public works with another requiring authority's. Telecom identified 37 situations where co-location has been sought, 34 being with Telecom Mobile as Telecom Mobile is a requiring authority in its own right as well as being part of Telecom NZ. Telecom also sought co-location with NZ Police in Hastings District, with Team Talk Radio in Mackenzie District and with the Maritime Safety Authority in Westland District.

Kiwi Rail identified 1 instance where a rail designation has been combined with a motorway designation with NZTA. Transpower identified 4 instances of co-location, being with Airways Corporation, WEL Networks, Vector and Auckland City Council.

The Ministry of Education and the Wellington City Council have not sought co-location with other network utilities.

NZTA identified three specific instances where co-location has been sought; two of these were with rail organisations (Ontrack & NZ Railways); and one was with Greater Wellington Regional Council and concerned flood protection works on the SH2 Motorway corridor. NZTA made the comment that co-location is encouraged by both Regional and District Council policies as well as by NZTA themselves; although due to the nature of NZTA's works it is generally other requiring authorities seeking to co-locate within NZTA's designations.

None of the RAs identified that they had encountered any problems when wishing to co-locate. NZTA did however note that 'over-crowding' of utilities does have the potential to occur should a large number of utilities be located in the same area. This could then lead to difficulties for maintenance works.

3.4 Lapse Periods

NZTA sought 3 extensions to lapse periods over the past 5 years. One of the extensions was made to tidy up mistakes within a District Plan, while the other two were made as part of District Plan rollover processes.³

None of the other 5 requiring authorities that responded to the survey had sought an extension to a lapse period for an existing designation under section 184 of the RMA within the last 5 years.

³ A rolled-over designation is a designation that was in the Operative District Plan that the requiring authority requests to have included (rolled over) into a Proposed District Plan.



4. Nature of Information Required for NoRs

The following sections provide a discussion of the points that were raised by the sample territorial authorities during the interview process identified in Section 2.

4.1 Information requirements

The sample of territorial authorities were asked to comment on the information requirements in relation to NoRs provided by requiring authorities under section 168 and section 181 of the RMA. General feedback received from the sample territorial authorities indicated a preference for as much information as possible being provided at the NoR stage of a project. Many of the territorial authorities made the comment that the level of detail required for a NoR would be similar to that required for a resource consent for a similar scale project.

The driver for requiring this “in depth” level of detail appears to relate to the degree of certainty that can be gained by both the Council and the general public concerning what is to be built on a site or route and what the potential effects of that development may be. An additional reason is that once the process gets to the Outline Plan stage, the decision making ability of a Council is restricted to requesting changes of the requiring authority. As such in order to influence development outcomes, as much detail as possible is sought at the NoR stage. As noted by Palmerston North City, a much greater level of detail is being sought than 5 or 10 years ago as Council's become more risk adverse and the level of public scrutiny increases.

As an example, Marlborough District and Palmerston North City both stated that the information that they require at the NoR stage is much more significant than that required for the Outline Plan. Depending on the project, the information required for the NoR could include traffic, landscape, ecological, heritage and visual assessments. In contrast, the Outline Plan application is likely to be as simple as a sketch, or a descriptive letter and in some instances can be waived altogether if enough detail is provided at the NoR stage or the effects are internal to the site. Outline Plans are discussed in more detail below.

There is, however, a general understanding by territorial authorities that in some instances not all the details in relation to a development are available at the NoR stage. This is particularly the case for sites being designated for “education purposes” or other instances where the requirement has been identified but the details have not yet been confirmed. In these instances a variety of methods are used by Council's to address uncertainties. These include:

- The provision of sufficient AEE's to determine the level of effects that could reasonably be expected
- The imposition of conditions to address any gaps in information
- The use of management plans and adaptive management
- The provision of indicative plans.

These methods are discussed in further detail later on in this report.



4.2 New NoRs vs. Alterations to Designations

A difference of opinion and process is evident among the sample territorial authorities in regards to the level of detail that is provided for a new NoR as opposed to an alteration to an existing designation under section 181 of the Act.

A number of Councils are of the view that when assessing an alteration to a designation only the cumulative effects of the change should be addressed, not the designation in its entirety. The extent of the alteration will therefore dictate the amount of information that is required.

This is contrasted by other Councils who request as much information as possible upfront, regardless of whether it's a new designation or an alteration. Rodney District Council, for example, stated that the reason for requesting as much information as possible is that the NoR process is a public process usually involving hearings, although recognising that there has been a non-notified route for alterations to designations for some time and that this route is now available to new NoRs. They also observed that if commissioners were not satisfied with the level of detail this could cause delays to the project. Waimakariri District Council stated that while every application is assessed on a case by case basis, there is generally no difference in the level of information they would require to assess as new NoR and an alteration to a designation.

Another complicating factor is that the general public do not understand the NoR process and how it differs from zonings or resource consents. Because of this there can be a wide gap in the information that the Council seeks and what the public think should be provided, particularly for alterations to designations.

4.3 The information that is requested and how it is obtained

In most instances it appears that NoR applications are comprehensive in the information that they contain, a matter which is probably due to the pre-lodgement meetings that a number of Council's take part in with RAs. However, Palmerston North City Council notes that while the required reports may be included with an application, they may not always provide the level of detail that the Council requires. In particular, further information requests are often made by a number of Councils, for example, regarding the level of detail that has been provided in the traffic and noise reports. Queenstown Lakes District Council noted that of the RAs that it deals with, it is the Council itself acting in its capacity as an RA that tends to provide the least satisfactory level of information.

A lack of consultation having been carried out is another area that was highlighted by Wellington City Council as often requiring further information. The interviewee noted that once an RA has been asked to consult further that in most cases they are generally cooperative and carry out the consultation so that the overall process can then be continued.

Waimakariri also commented on difficulties due to the Council and the RA not agreeing on who are the directly affected parties during the NoR process. The interviewee noted an instance of a Mainpower NoR where the Council considered "directly affected" in terms of s181 to go beyond the landowner whose property was subject to the designation, to all those that had rights over a shared accessway; a point which was disputed by the RA. However, it was noted that the identification of who is an affected party is a normal debate that often occurs with an applicant be it for a NoR or for a resource consent.

In general Council's freely admit that they would rather ask for too much information than too little in order to assist them to make an informed recommendation.



When seeking further information, the majority of the Council's spoken to prefer to work with the RAs in order to obtain the level of information required to process NoRs. This is done through a combination of pre and post lodgement meetings, joint site visits and the use of draft reports and conditions. This collaborative approach is seen by the Councils as being more productive than written requests for information and it is the Council's view that RAs are more cooperative through the use of this process as well.

Marlborough District compared the process of obtaining further information to that of obtaining further information for a resource consent, only on a larger scale. As with a resource consent, some Councils are of the view that when information is not forthcoming conditions can be written in order to address areas where detail is insufficient.

4.4 Regional Council Input

The sample territorial authorities were questioned as to whether the projects that they process usually require regional council resource consent in addition to the territorial authority designation process. Each of the sample territorial authorities had experience with designations also requiring regional council consent with all of the authorities expressing concerns over the process in terms of efficiency and effectiveness. Multiple examples, particularly regarding roading projects where earthworks are necessary, were raised by the interviewed Council's where the largest hurdle to the project itself is not necessarily the NoR but potentially obtaining regional council consent.

Waimakariri District Council was the only territorial authority who did not express concern regarding the regional council process; stating that Waimakariri rarely deals with NoRs that overlap with regional council issues. It was noted that should the dealings of the two authorities overlap that Waimakariri would seek to have a joint process to consider an application.

It was suggested that the territorial authority process for NoRs is more efficient than the regional council process as there is often an infrastructure focus within the objectives and policies of the District Plan which can support the reasoning behind many NoRs. This infrastructure focus is not as evident within Regional Plans which tend to concentrate more on the effects on the natural environment. An example of this was given by Porirua City Council, one of the Council's involved with Transmission Gully. Porirua City observed that the matters that they themselves, and Greater Wellington Regional Council (GWRC), are each concerned with are generally quite different from one another. While Porirua City might see merit in the project and the wider benefits that might accrue to the area, and can use the objectives and policies in its district plan to support the project, the regional council's concerns revolve around the natural environment and its plan does not have the same level of policy support for the establishment of infrastructure, thereby making the hurdles for the regional council to grant resource consent higher.

These difficulties were reiterated by Wellington City which is another of the Council's that are involved with Transmission Gully. Wellington City noted that they consider that it is appropriate for GWRC to make arguments regarding the environmental effects of Transmission Gully in order to get the best, and least disruptive, alignment for the natural environment through providing input into the city council's NoR process. However once this is agreed upon, under the current system the regional council would then be able to reassess the project through their own regional resource consents and argue about whether the environmental effects are acceptable or not. This doubling up of regional council input and assessment not only provides time delays to the project, but can create uncertainty in that the regional council may be



seen to change their mind on something which the territorial authority or RA already thought had been agreed upon.

As such there is merit in the suggestion made by Marlborough District Council, which is a Unitary Authority, that the regional and district processes that go into considering works that fall under an NoR should usually be brought together so that the issues can be considered as a comprehensive whole. While it is likely that this would require that a greater level of detail is provided upfront by the RA, it would allow all of the issues to be discussed in one forum and could potentially result in a more efficient and less time consuming process.

4.5 Feedback from RAs

None of the interviewees highlighted any major issues that had been raised by requiring authorities. It was noted that pre-lodgement meetings are frequently held to discuss any issues and the level of detail that will be required by the Council. Interviewees also expressed the sentiment that RAs now expect that a significant level of detail is going to be required by Council's and are now more prepared for this.

5. Outline Plans

5.1 The process

As discussed above in section 3.2.3, the Outline Plan process is generally straight forward with only basic information, such as plans or a descriptive letter, tending to be provided. The process is generally seen by Council's as being efficient and no major concerns were discussed. It is not known if this opinion regarding the efficiency of Outline Plan's is shared by RAs as no questions were asked through the RAs survey regarding s176A applications.

The nature of the Outline Plan process provides a useful insight into why the level of information sought for NoRs increasing. Rodney District Council noted that as there is no opportunity for a Council to decline a proposal or enforce conditions at the Outline Plan stage that this could basically be seen as nothing more than a consultative exercise. The Council further suggested that as the decision making power rests heavily on requiring authorities that a good working relationship between a RA and Council is critical to Council recommendations being taken on board by RAs.

Waimakariri District Council commented on the lack of public consultation at the Outline Plan stage and cited an example of a s176 application that the Council processed for the Minister of Justice for a secure parking compound adjacent to a heritage listed courthouse. The site had a high profile within the district and there was public angst regarding the proposal. Given that the RA holds the decision making power the Council was not able to achieve all the mitigation measures and alterations that it considered appropriate.

It was noted by some Councils that problems can arise at the Outline Plan stage when there is little or no detail in the designation. For example the designation may be for "Rail purposes" or "Defence purposes". Given the broad definition it is possible for the RA to argue that any number of activities can be carried out on the site as of right. This, in turn, has the potential to lead to development that the Council may see as inappropriate in an area or that may impact on adjoining properties in a way that was not expected.

5.2 Further information requests

In general, further information requests are seldom made by Council's when considering Outline Plans. For example, of the 53 Outline Plans that Hastings District Council has processed over the past 5 years, only four further information requests were made. However, this is not always the case, with Porirua City requesting further information for 13 of the 30 Outline Plans that they had received.

The information that was requested by the Council's ranged widely. In their simplest form, the requests were regarding issues such as clarification in terms of dimensions not being clearly demonstrated on plans and whether student numbers would increase at schools. Or, as has been requested by Rodney, Marlborough and Porirua, the requirement for lodgement of the relevant Building Consent and Project Information Memoranda (PIMs) for the works. At the other extent, detailed reports and management strategies were requested.

An example of a more extensive information request came from Porirua City Council when dealing with an Outline Plan from Kiwirail for an upgrade to the train platforms at Kenepuru and Pukerua Bay train stations. The initial Outline Plan application included plans, a cover letter and an AEE. Additional information was then sought by the Council regarding:



- ▶ Confirmation on how long the works would take and the proposed construction hours.
- ▶ Confirmation of whether the stations would close or access arrangements if the stations were to remain open during works.
- ▶ Clarification of potential noise levels, particularly at night, and an acoustic assessment.
- ▶ Information on discussions that Kiwirail had had with Wellington City Council regarding resource consents to access the Kenepuru site (over WCC land).
- ▶ Earthworks plans including silt and sediment control measures.
- ▶ The type of machinery to be used and what noise mitigation measures are proposed for those machines.
- ▶ What methods are to be used to inform the public of the work.

Other similarly detailed requests were made by Porirua City Council to both the Minister of Education and NZTA.

Marlborough District Council was of the view that good information should be provided to the Council at the NoR stage and that there shouldn't be a second chance to provide this detail through the Outline Plan. Because of this, the Outline Plans that were submitted consisted of plans only. In just eight of the 55 s176A applications that the Council received was clarification sought on matters. This tended to be directed towards such matters as whether building consent had been sought, details of car parking numbers or boundary setbacks.

5.3 Outline Plan waivers

No specific data was sought regarding the use of Outline Plan waivers by the territorial authorities although some Councils observed that they often waive the requirement for outline plans when there is sufficient information at the NoR stage or there are minimal anticipated effects.

6. Decisions and Conditions

The sample of territorial authorities were asked to comment on the main themes of conditions that the Council's generally apply to NoRs under section 168 and section 181 of the RMA. Also discussed was whether any situations had arisen where the requiring authority has rejected the recommended conditions, either in whole or in part.

6.1 Conditions imposed on NoRs by territorial authorities

Rodney District Council stated that they generally apply similar conditions to a NoR as for a resource consent as regardless of whether it was public work or not the environmental effects still need to be taken into account. This appears to be the trend among the majority of Councils. Porirua City Council, for example, noted that although they recommend one off type conditions that are specific to a NoR, that a number of standard conditions, such as sediment control for earthworks, are also recommended. Of interest was their further comment that standard conditions are less likely to cause problems with the RAs than one off conditions as compliance with standards is often well known to RAs. Such circumstances reinforce the importance of having a good working relationship with RAs or, as is done by Palmerston North City Council and Queenstown Lakes District Council, to set conditions in liaison with them.

Wellington City noted that along with written conditions, indicative plans were sometimes included as conditions of consent. While these plans could be subject to change when it came time to construct, having an overall concept plan was considered helpful in providing a level of certainty, particularly to neighbouring property owners and occupiers. For example, an indicative plan for a school could generally identify which areas of the site were likely to be used for parking, playgrounds and buildings. While not an enforceable condition as such, indicative plans can help to appease residents whilst still providing a degree of flexibility to the requiring authority.

Marlborough District Council does not generally recommend many conditions for NoRs, however it was suggested that this may be because the majority of NoRs that are received are for relatively small projects. While the conditions that are recommended by Marlborough are generally standard, controlling regional issues such as water take and sediment control, the respondent was of the opinion that conditions could be used to a greater degree by the Council to provide more certainty around specific works.

As outlined in section 4.1, Councils are now likely to request detailed information at the NoR stage. Wellington City noted that while this can provide much more certainty it can also be hard to distil the large amount of information down into conditions which are suitable to be placed in the District Plan. The interviewee also noted that conditions imposed on resource consents do not become part of the District Plan, and as such questioned whether it was necessary to include NoR conditions in the Plan or whether stand alone decisions would be sufficient, as is the case with resource consents.

Conversely, Rodney District Council noted that insufficient detail at the NoR stage can make recommending appropriate conditions difficult. This is important as Council's have limited powers to influence outcomes at the Outline Plan stage.

Rodney District Council also noted that financial contributions need to be assessed at the NoR stage however there can be difficulties in determining these if the effects have not be sufficiently assessed.

6.2 Use of Management Plans

Discussions with the territorial authorities identified a shift in recent years to an increased emphasis on management plans at the Outline Plan stage of a project. This is particularly the case where project details are not fully available at the NoR stage. The management plan approach was raised by respondents as a means of ensuring that the required information was received by the Council without it being too onerous, or detail focussed where it wasn't required. This approach provides Council's with a level of certainty that the relevant effects will be addressed at the appropriate stage of a project

Auckland City Council and Marlborough District Council outlined the benefits of using an adaptive management approach to provide a level of flexibility during design, construction and operation. This is particularly important for large scale projects, where modifications/changes may be required through the lifetime of a project, and is highly reliant on requiring authorities working closely with the Council to identify and resolve issues as and when they arise. One recent project in which this approach was applied was the Victoria Park tunnel where Auckland City Council required the preparation of a number of different management plans to address the effects of the project on an ongoing basis. Marlborough District Council also raised the possibility that a Concept Plan be used, which is first approved at the NoR stage and followed by management plan (including conditions and outcomes) as an alternative to Outline Plans.

Auckland City Council and Rodney District Council both noted that while there is the requirement under the RMA for an Outline Plan to be prepared, requiring authorities will often seek to waive the Outline Plan on the basis that the effects will be considered as part of management plan preparation. Auckland City Council and Rodney District Council both indicated their support for this approach, for reasons of flexibility and ensuring ongoing liaison with the requiring authorities through the process.

Auckland City Council noted that the existing Outline Plan process under the RMA does not reference management plans. The suggestion was made that it may be suitable for the RMA to formally provide for such approaches to be applied as and when they are considered suitable. The management plan process allows for change during the design and construction phase as opposed to an Outline Plan which doesn't specially provide for change. This is an important aspect to be considered where projects are not static and progress is ongoing. The management approach allows Councils and requiring authorities to work together during this process.

6.3 Rejection of recommended conditions

The general consensus from the Councils that were interviewed is that RAs seldom reject or significantly alter the Council's recommended conditions. However, small alterations to recommended conditions are relatively frequent. The nature of these changes were often around providing more certainty to the requiring authority but was not discussed further in detail. Porirua City Council pointed to having a good working relationship and open discussions with the requiring authority as being key to gaining an outcome that is considered suitable to both parties to avoid conditions being rejected.

Auckland City Council identified the Manukau crossing project as an example of where Commissioners recommended to NZTA that it withdraw the NoR due, we understand, to the scale of adverse effects.. Instead NZTA continued with the project by altering the concept to one which could be constructed within the existing designation boundaries.

Porirua City cited an example of NZTA rejecting some conditions in part that had been recommended for the T2 Lanes (SH1 Paremata to Plimmerton), but the nature of these conditions and any ongoing



implications were not discussed. Another example of NZTA rejecting conditions was given by Rodney District Council in relation to a proposal for an overpass. Rodney District also noted an instance concerning an intersection upgrade where mediation was required following a recommendation by commissioners that a NoR be withdrawn.

On the other hand, Palmerston North City Council identified an instance where a requiring authority imposed an additional condition upon them beyond what the Council had recommended.

6.4 Appeals

Auckland City Council, Rodney District Council and Wellington City all voiced opinions that there is a big gap between not agreeing with a requiring authority's decision and actually lodging an appeal. Given this appeals were not likely to be pursued by the Councils. Neither the Wellington City nor Rodney District interviewees could remember an appeal ever having been lodged by the Council on a designation. However, we note that Rodney appealed a NoR from Vector Networks in 2006 on the grounds of consideration of alternatives and potential health effects. Auckland City noted that the relationship between the requiring authority and the Council was a key factor in influencing a decision and was a better method for trying to obtain a successful outcome than an appeal.



7. Lapse Periods

7.1 Lapse periods under s184

In general, each of the Councils noted that they impose the default period of five years unless it is requested otherwise by the requiring authority. It was noted that it was usually the RAs responsibility to consider the necessary lapse period at the NoR stage.

Porirua City stated that they are of the opinion that some flexibility is required regarding timeframes for larger projects as this is a better solution than having to repeat the NoR process should the default timeframes not be met. This is reflected in the Wellington City Council District Plan where lapse periods range from the 5 year default period up to 100 years in the case of the Council landfill. However it was also noted by Wellington City that some of the longer lapse periods that are specified may not be due to actual need, but rather uncertainty concerning how long a process will take.

Queenstown Lakes District Council was of the opinion that it is good for NoRs and resource consents to have consistent lapse periods, however this is dependent on the scale of the project.

Marlborough District Council suggested that the LTCCP or other longer term financial planning phase such as the National Land Transport Programme (NLTP) should have some weight in determining the length of the lapse period and that discussions regarding length should not have to be repeated at the NoR stage.

As discussed below, Palmerston North City Council has not received any requests for a lapse period of greater than five years and as such relies on rolling designations⁴ over if they have not been implemented.

None of the Council's identified that they had received adverse comments from requiring authorities regarding the lapse periods that were imposed on designations nor did the RAs that were surveyed.

7.2 Extensions to lapse periods

During the interview with Palmerston North City Council it was stated that the Council has not received any requests from requiring authorities for lapse periods of any longer than five years and that they expect to roll over the designations every five years where necessary. This response is illustrated by the fact that Palmerston North City Council has received nine s184 applications to extend timeframes over the past five years. Of the other Councils sampled, Queenstown Lakes District Council has received two applications with the remaining Council's either having received no s184 applications (five Councils) or the information was not provided (one Council).

Of the nine s184 applications that were dealt with by Palmerston North City Council, all were received from the Council itself in its capacity as a requiring authority and all applications were granted a lapse period of a further five years. Queenstown Lakes District Council received one s184 application from itself and one from the Minister of Education.

⁴ A rolled-over designation is a designation that was in the Operative District Plan that the requiring authority requests to have included (rolled over) into a Proposed District Plan.



It is unclear whether RAs in general prefer to rely on the extension provisions in s184 rather than identifying a longer lapse period at the NoR stage, however specific comment was provided by NZTA on their view of this matter.

NZTA stated that for the majority of their designations, any required extensions to the lapse period occur during the District Plan roll over. This process of extending the lapse period when the District Plan is being rolled over is seen as straightforward by NZTA, largely due to the relationship that NZTA has established with the local authorities. In only a few instances does NZTA require specific designations to be extended outside of the District Plan roll over. These tend to be for large scale works and NZTA stated that they have found that councils are typically unwilling to extend these designations more than once.

7.3 The default lapse period

Auckland City Council stated that the five year default lapse period has not been an issue within their jurisdiction as in general the requiring authorities wish to start work within the five year period. This sentiment was reiterated by Wellington City Council who did not raise any concerns regarding the default timeframe nor did the requiring authorities (with the exception of NZTA below) that responded. These two views are in contrast with that of Rodney District Council who stated that the five year lapse period may not be long enough for a significant infrastructure project. While no examples of specific instances or projects were given, the differing responses from Auckland and Wellington City and Rodney District may indicate the different types of NoRs that the three Councils have been receiving recently rather than directly opposing views on what does and doesn't work. Rodney District Council went on to comment further that although five years may not be sufficient, having a default lapse period is a way of providing certainty to both the Council and the community in terms of the timing of a project.

NZTA was the only RA to provide a comment on the default lapse period and the wider issue of timeframes. NZTA noted that some local authorities are beginning to plan upwards of 50 years out, meaning that to safeguard corridors or sites the RA needs to look at designating very early on. The current timing provisions, being a default lapse period of 5 years, restrict this somewhat. An example was given of Tauranga, where development pressures in the area have been modelled for the coming 50 years with infrastructure planning being based on this. However, if the required roading corridor is not safeguarded it can be compromised by future development, and in turn this compromises NZTA's ability to provide the infrastructure when it is eventually needed.

Both Auckland City Council and Wellington City Council raised concerns regarding the 'roll-over' of designations however each authority identified a different aspect of the process as the main problem. Auckland City saw the lack of detail provided by the requiring authority as the main problem, while Wellington City had concerns that the process has become somewhat hazy due to the removal of the requirement for 10 yearly full plan reviews in the recent suite of amendments to the RMA.

8. Observations

The Survey and One on One Discussions

- ▶ GHD would firstly like to thank those that contributed to the survey and who gave us time to express their views. For some this was onerous but much appreciated.
- ▶ One of the primary reasons for this research to be commissioned is that there was very little data held by Government of the frequency of use of the provisions of Part 8 of the RMA.
- ▶ While only 60% of councils responded there is a mix of large and small, metropolitan and provincial Councils for us to be able to have a comprehensive “snap shot” of the numbers of NoRs and Outline plans submitted to Councils.
- ▶ The general survey indicated that compared to resource consent applications the Part 8 Designation processes are in the minority compared to the volume of consents sought under Part 6 of the Act. In total, 2778 applications under Part 8 were received by the 43 Councils surveyed over the past 5 years, being an average of approximately 555 applications per year. In comparison, 27,947 resource consent applications were received by the same Councils under Part 6 of the Act between 1 July 2007 and 30 June 2008 alone (Ministry for the Environment. 2009. *Resource Management Act: Two-yearly Survey of Local Authorities 2007/2008*. Wellington: Ministry for the Environment).
- ▶ We were also able to get an indication about whether lapsing periods or the issue of collocation were problematical from the perspective of six requiring authorities.
- ▶ It was not part of our brief to look at issues such as s166 on what organisations can be a Requiring Authority although some individual comments were made about some of the irregularities in the system e.g. Police Stations but not fire stations, airports but not seaports, electricity transmission but not electricity generation.
- ▶ Similarly we did not consider the question of who makes the first round decision but have recorded some of the views expressed.

Section 168 – Notices of Requirement to Territorial Authority

- ▶ New NoRs range in size from a new electricity substation or a council reservoir through to large and complex linear facilities including roads and transmission lines.
- ▶ Councils are requiring the same level of effects assessment comprised of a full analysis and often detailed technical reports and demonstration of consultation outcomes for new NoRs as for resource consents.
- ▶ There seems to be very few longer term designations sought without at least a good indication of the detailed level of effects anticipated. Similarly there are few new designations sought that do not entail a high degree of effects analysis and considerable detail being provided.
- ▶ There is no greater or lesser degree of scrutiny of information by Councils or related frequency of requests for further information for NoRs compared to similar scale resource consent applications.



Conditions

- Conditions relate to effects and are often used so more detail can be provided through for example a management plan technique instead of leaving it to the Outline Process which have limited ability for Councils to be involved in analysis of detailed issues that may be of concern.
- Very few Council recommendations were rejected and (from the perspective of the councils where there were discussions held), the conditions that were imposed were generally accepted by the requiring authority although we have had limited comment from RAs on that matter. Where changes were made to recommended conditions these were generally acceptable to the Councils interviewed.
- There was concern from some Councils interviewed that Outline Plans “don’t have enough teeth”. The consistent view was that detailed conditions were imposed to ensure that the Councils had sufficient information submitted on matters where there was not enough detail at the NoR stage.

Section 181 Alteration of Designation

- It appears that alterations to designations are often made for linear infrastructure, while outline plans often relate to spot facilities such as schools and electricity substations.
- There was little comment on alterations. In terms of information requirements the Councils spoken to all had a clear understanding of the process and an understanding that the effects assessment relates to the alteration not to the existing designation.

Outline Plans

- Information requirements varied between full scale plans and supporting documents to short covering letters attaching construction plans.
- A number of Councils waive the requirement especially when sufficient detail is provided at the NoR stage. It is apparent from the interviews that this happens frequently usually relating to small projects within an existing designated site.
- Concern was expressed by a number of Councils (notably Wellington, Auckland and Rodney cities) that there was no ability for Councils to formally oppose the requiring authority’s plans at the outline plan stage short of lodging an appeal to the Environment Court.
- There was consensus from all Councils that early discussions and the appropriate level of information usually sorted out any ongoing issues.
- All Councils involved in the detailed survey appear to have a sound knowledge about the way Outline Plans operate.
- Rodney, Auckland and Wellington cities also considered that the statutory timeframe for consideration of complex Outline Plans is too short.

Regional Council Consents

- Many of the Council contacts where interviews were held agreed that it is often confusing to the public that regional consents may still be required where a designation is in place.
- There were some interesting views expressed by some particularly Wellington and Porirua about the imbalance that sometimes exists between the wider Districts objectives compared to the Regions own objectives expressed in some regional plans. Some method of consolidated framework for consideration of both Regional and District issues was considered useful.



- ▶ All the Councils interviewed agreed that it would be desirable for regional consents to be sought at the same time as a new designation.

Spot v Linear Designations

- ▶ There are three distinct types of designation. Those that relate to network utilities that are linear, those such as schools, prisons or defence facilities which relate to individual parcels of property and those around airports that control such matters as height planes.
- ▶ It is also noted that there are a number of ways that Councils provide for the local road network. Some designate their roads; others zone them while others have them permitted in most areas of the city subject to restrictions.

Lapse Periods

- ▶ The vast majority of designations in District Plans are for existing facilities where the designation has been given effect to so lapse periods don't apply.
- ▶ Most new NoRs and Alterations have the standard 5 year lapse period. Extending this timeframe did not appear to pose a problem where it could be clearly demonstrated by a requiring authority that a longer period was required.
- ▶ Very few Councils' received applications to extend existing designation timeframes under s184 or s184A of the RMA.

Co – location of Facilities

- ▶ The Requiring authority sample was small but the results on co- location indicate that it has occurred in the past and that there is a general willingness on the part of requiring authorities to work together if the circumstances permit.
- ▶ Instances of co-location occurring have been infrequent to date. Where it has occurred it largely appears to apply to telecommunications and electricity transmission related infrastructure co-locating on land that is designated for other purposes (e.g. roads).

Process

- ▶ Some of the most interesting aspects of the research relate to process issues and the effective collaboration between Requiring Authorities and Councils. There were numerous examples raised during the interviews about proposals and processes going well while others were cited as not going well. The key learning derived from this is that clear pre application discussions about information required and the extent of effects assessment is invaluable.
- ▶ All spoken with agree that ongoing dialogue is key. Further information requests and overall process delays can be minimised where early engagement is carried out.
- ▶ The introduction of the EPA was supported in principle for those projects of national significance regardless of whether the Part 6 or Part 8 process was used. An observation was made that some Councils are still unsure as to their role if a project is a candidate for either Call in or direct referral.



Appendix A

Survey to all Local Authorities



Territorial Authority Questionnaire – Recommending Authorities

Please provide the following information in relation to Notices of Requirement and Outline Plan of Works processed by your Council within the last 5 years (*from January 2005 to present*).

1 Notice of Requirement to Territorial Authority (s168 or 168A of the RMA)

1.1 How many Notices of Requirement for new designations (s168 or 168A of the RMA) were served on your Council within the last 5 years? _____

1.2 Please complete the table below with regards to any new Notice of Requirement (s168 or 168A of the RMA) served on your Council within the last 5 years.

Table 1 Notice of Requirement within last 5 years

<u>Designation Title/Purpose</u>	<u>Requiring Authority</u>	<u>Date served on Council</u>	<u>Date of Recommendation</u> Date recommendation of Council provided to requiring authority	<u>Lapse Period</u> Specify if the designation was given a specific lapse period, or the default 5 year lapse period. Please note the applicable lapse period

Note – please continue on a separate sheet if necessary.



2 Alteration of Designation (s181 of the RMA)

2.1 How many Notices of Requirement for Alterations to Designations (s181 of the RMA) were served on your Council within the last 5 years? _____

2.2 Please complete the table below with regards to any Notices of Requirement for an Alteration to Designations (s181 of the RMA) that were served on your Council within the last 5 years.

Table 2 Alteration to Designation received within last 5 years

<u>Designation Title/Purpose</u>	<u>Requiring Authority</u>	<u>Date served on Council</u>	<u>Nature of Alteration</u> Please specify the nature of the notice of requirement (eg, boundary modification/ change to conditions)	<u>Date of Recommendation</u> Date recommendation of Council provided to requiring authority

Note – please continue on a separate sheet if necessary.



3 Outline Plan (s176A of the RMA)

3.1 How many Outline Plan applications (s176A of the RMA) were processed by your Council in the last 5 years? _____

3.2 Please complete the table below with regards to any Outline Plan applications that your Council processed in the last 5 years.

Table 3 Outline Plan of Works within last 5 years

<u>Requiring Authority</u>	<u>Date application lodged with Council</u>	<u>Designation</u> Specify designation purpose	<u>Nature of Outline Plan</u> Specify nature of the works proposed in the Outline Plan	<u>Date of Recommendation</u> Date recommendation of Council provided to requiring authority

Note – please continue on a separate sheet if necessary.



4 Lapsing of Designations (s184 of the RMA)

4.1 Has the Council received any applications (s184 of the RMA) to extend the lapse period for designations within the last 5 years? _____

4.2 If yes to question 4.1 above, please complete the table below in respect of any applications received by Council within the last 5 years.

Table 4 Applications to extend lapse period for designations within the last 5 years

<u>Requiring Authority</u>	<u>Date extension lodged with Council</u>	<u>Designation</u> Specify designation purpose	<u>Date of Decision</u> Date decision of Council provided to requiring authority	<u>Recommendation of Council (s184(2)(b))</u> Please specify if the request to extend the expiry period was approved or declined by Council

Note – please continue on a separate sheet if necessary.

Thank you for your assistance



Appendix B

Sample Territorial Authorities Questionnaire



Sample Territorial Authority Questionnaire – Recommending Authorities

Please provide the following information in relation to Notices of Requirement and Outline Plan of Works processed by your Council within the last 5 years (*from January 2005 to present*).

1 Notice of Requirement to Territorial Authority (s168 or 168A of the RMA)

1.1 How many Notices of Requirement for new designations (s168 or 168A of the RMA) were served on your Council within the last 5 years? _____

1.2 Please complete the table below with regards to any new Notice of Requirement (s168 or 168A of the RMA) served on your Council within the last 5 years.

Table 5 Notice of Requirement within last 5 years

<u>Designation Title/Purpose</u>	<u>Requiring Authority</u>	<u>Date served on Council</u>	<u>Nature of Information Provided to Council</u> List any supporting information provided with the Notice (eg, traffic report, arboricultural report, stormwater assessment).	<u>Further Information Requests</u> Summarise any additional information sought N/A – no information requests	<u>Recommendation of Council (s171(2))</u> Specify the <u>date</u> this was issued and if the recommendation of Council was to confirm, modify, impose conditions or withdrawal the designation) of the RMA	<u>Conditions and Lapse Period</u> Identify main themes of conditions on the notice (eg, landscaping, noise, construction management). Specify if the designation was given a specific lapse period, or the default 5 year lapse period. Please note the applicable lapse period.	<u>Decision of Requiring Authority (s172)</u> Specify whether the requiring authority accepted or rejected the Council recommendation in whole or in part. If recommendation rejected, specify the reasons why.	<u>Appeals</u> If there were any appeals, specify the appellants and reasons for the appeals. N/A = no appeals



Note – please continue on a separate sheet if necessary.

2 Alteration of Designation (s181 of the RMA)

2.1 How many Notices of Requirement for Alterations to Designations (s181 of the RMA) were served on your Council within the last 5 years? _____

2.2 Please complete the table below with regards to any Notices of Requirement for an Alteration to Designations (s181 of the RMA) that were served on your Council within the last 5 years.

Table 6 Alteration to Designation received within last 5 years

<u>Designation Title/Purpose</u>	<u>Requiring Authority</u>	<u>Date served on Council</u>	<u>Nature of Alteration</u> Please specify the nature of the notice of requirement (eg, boundary modification/ change to conditions)	<u>Date of Recommendation</u> Date recommendation of Council provided to requiring authority



Note – please continue on a separate sheet if necessary.

3 Outline Plan (s176A of the RMA)

3.1 How many Outline Plan applications (s176A of the RMA) were processed by your Council in the last 5 years? _____

3.2 Please complete the table below with regards to any Outline Plan applications that your Council processed in the last 5 years.



Table 7 Outline Plan of Works within last 5 years

<u>Requiring Authority</u>	<u>Date application lodged with Council</u>	<u>Designation & Nature of Outline Plan</u> Specify designation purpose and nature of Outline Plan	<u>Nature of Information Provided to Council</u> Specify nature of the information provided to Council (eg, plans only, AEE, technical reports) and whether this was adequate	<u>Date of Recommendation</u> Date recommendation of Council provided to requiring authority	<u>Nature of Recommendation to Requiring Authority</u> Please specify the nature of any changes and/or mitigation sought in relation to the outline plan

Note – please continue on a separate sheet if necessary.

4 Lapsing of Designations (s184 of the RMA)

- 4.1 Has the Council received any applications (s184 of the RMA) to extend the lapse period for designations within the last 5 years? _____
- 4.2 If yes to question 4.1 above, please complete the table below in respect of any applications received by Council within the last 5 years.



Table 8 Applications to extend lapse period for designations within the last 5 years

<u>Requiring Authority</u>	<u>Date extension lodged with Council</u>	<u>Designation</u> Specify designation purpose	<u>Date of Decision</u> Date decision of Council provided to requiring authority	<u>Recommendation of Council (s184(2)(b))</u> Please specify if the request to extend the expiry period was approved or declined by Council

Note – please continue on a separate sheet if necessary.

Thank you for your assistance



Appendix C

Requiring Authority Questionnaire



Requiring Authority Questionnaire

Please provide the following information in relation to Notices of Requirement provided to Territorial Authorities (TA) within the last 5 years (*from January 2005 to present*).

1 Notice of Requirement to Territorial Authority (s168 or 168A of the RMA)

1.1 How many Notices of Requirement for new designations (s168 or 168A of the RMA) did your organisation serve in the last 5 years? _____

1.2 Please complete the table below with regards to any new Notice of Requirement (s168 or 168A of the RMA) served by your organisation within the last 5 years.

Table 9 Notices of Requirement within last 5 years

<u>Territorial Authority</u>	<u>Designation Title/Purpose</u>	<u>Lapse Period</u> Specify the designation lapse period

Note – please continue on a separate sheet if necessary.



2 Extensions to designation lapse periods (s184 of the RMA)

- 2.1 How many extensions to lapse periods for existing designations (s184 of the RMA) has your organisation sought within the last 5 years? _____
- 2.2 Please complete the table below with regards to any designation extensions sought within the last 5 years.

Table 10 Extensions to designations within last 5 years

<u>Designation Title/Purpose</u>	<u>Territorial Authority</u>	<u>Original Designation Lapse Period (e.g. 5 years)</u>	<u>Additional Lapse Period Granted</u>	<u>Issues / Obstacles</u> Specify any issues / obstacles with the process

Note – please continue on a separate sheet if necessary.

3 Co-location of Public Works

- 3.1 Are there instances where your organisation co-locates public works with other requiring authorises? (i.e. different Requiring Authorities making use of the same parcel of land)??
- 3.2 If yes to 3.1 above, please provide details in relation to the instances where co-location has been sought.



Table 11 Co-location

<u>Designation Title / Nature of Work</u>	<u>Other Requiring Authority & Nature of Public Work / Utility</u>	<u>Territorial Authority</u> Specify Territorial Authority where co- location was sought	<u>Issues / Obstacles</u> Specify any issues / obstacles with the process and identify how these were addressed

Note – please continue on a separate sheet if necessary.

Thank you for your assistance



Appendix D

Questions for Interviews



Nature of Information Required

Can you describe the differences in terms of the level of detail required by your Council at the NoR (s168) stage of a project as opposed to an Outline Plan (s176A)?

At the NoR (s168) stage what level of detail does your Council require? Consider in terms of detailed design/concept design and assessment of effects (eg, arborist reports, visual assessment, heritage assessment).

Do you have any concerns with regards to the level of detail provided at the NoR stage for projects? Does your Council frequently have to request further information from requiring authorities during the processing of the NoR?

Have you received any comments from requiring authorities in relation to the level of detail required at NoR stage? If yes, please specify.

Do you consider there to be a difference in terms of the level of detail provided for a new notice of requirement as opposed to an alteration to designation under section 181 of the Act?



Do the projects your Council process usually require regional Council resource consent in addition to a designation/TA land use consent? Do you have any concerns or comments about the relationship between the two processes?

Do you have any concerns/comments for improvements that could be made to the designation process under the Act (consider both S168 and S181)?

Do you have any general comments/concerns regarding the Outline Plan process under the Act?



Nature of Conditions and Decision of Requiring Authorities

Describe main themes of conditions that your Council generally applies to conditions of NoRs.

Are you aware of any situations where the requiring authority has rejected Council's recommended conditions? If yes, please specify.

For situations where a requiring authority has rejected in whole or in part of Council's recommendation, can you make some general comments in relation to these situations (considering the reasons why the decisions were rejected).

Do you have any comments regarding conditions placed on NoRs?



Do you have any comments regarding decisions made by requiring authorities on designations?

Lapse Periods

Does your Council specify the lapse period for designations or do you generally apply the default period of 5 years? (s184 of the RMA)

On average how many extensions to lapse periods for designations has your Council received in the past 5 years? What type of projects are these extensions generally for.

Have you received any comments from requiring authorities regarding the lapse periods placed on designations?

Do you have any comments or concerns regarding the 5 year default lapse period for designations?

Thank you for your assistance



GHD Limited

Level 11, Guardian Trust House
15 Willeston Street, Wellington

T: 64 4 472 0799 F: 64 4 472 0833 E: wellington_mail@ghd.co.nz

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