

Spatial Planning Options for the Auckland Council

Proactively released

Office of the Minister

Chair

Cabinet Implementation of Auckland Governance Reforms Committee

Proposal

1. This paper reports back to Cabinet with options for a spatial plan as a function of the Auckland Council. The paper has two purposes:
 - Outline the options for a spatial plan as a function of the Auckland Council (following Cabinet's agreement in principle to this being part of the Council's functions) [CAB Min (09) 12/7 refers]; and
 - To respond to Cabinet's directions to report back to AGR on a number of matters associated with planning and a spatial plan [AGR Min (09) 9/1 refers].

Executive summary

2. The paper proposes that Cabinet confirms its previous in principle decision that preparation of a spatial plan should be a function of the new Auckland Council.
3. It recommends a staged approach to establishing the spatial plan for Auckland that involves providing, in the first instance, for a spatial plan, without legislative links to other plans of the Council, in the third Bill on Auckland governance. Additional work could then be undertaken as part of the Phase Two resource management reform process to investigate longer term options that further simplify, streamline and make planning more effective (refer to appendix 1 for a diagram of the preferred interim and long term options).
4. A spatial plan will provide a clear strategic direction for the growth and development of the Auckland region. Internationally, spatial plans lay out a long-term, strategic direction for a region and its communities, including social, economic, cultural and environmental objectives and articulate the region's role in a country. This direction enables effective management of rapid growth in the region, and the integration of land use planning and infrastructure investment.
5. In the short term, a spatial plan for Auckland (in the third Bill on Auckland governance) that replaces the Auckland Regional Growth Strategy, would also give sufficient certainty for the Auckland Transition Agency (ATA) and existing councils to guide their preparatory work for the new Auckland Council. It would also address the risks associated with the new Council coming into an unclear planning environment.
6. By requiring in statute that the Auckland Council has a spatial plan and defining its role and scope, central government can be sure that there is a well

articulated strategic direction, with an appropriate scope, that includes and considers a full range of matters in planning for Auckland's growth and development (e.g. affordable housing, economic development, infrastructure provision).

7. The spatial plan requirement will also ensure that other parties (e.g. central government, the private sector, infrastructure providers, CCOs) have access to useful information about growth and development in the region (e.g. population trends, demographics) and the likely shape of future development. This will help to inform investment decisions. This will better enable engagement, co-ordination and agreement between parties, in particular local and central government, on what will be provided, when and where, for what purpose and effect, so that investment can be better targeted and outcomes more easily meet.

8. In the medium term, the paper proposes that related issues including considering whether a spatial plan should replace other existing strategic plans, legislative links among plans, appeal rights, and consultative procedures would be considered through Phase Two of the resource management reform process (urban work stream). This staged approach provides for proper consideration of how a spatial plan could further simplify and make the planning framework more effective in both the Auckland and national context.

Background

9. The Royal Commission identified the complexity of the planning framework and the lack of integration and alignment of plans as a major issue undermining the ability of the Auckland local government to achieve a single overarching vision and strategic direction for the Auckland Region.

10. The Commission recommended a regional spatial plan to address this problem. The introduction of this plan is aimed at simplifying and aligning responsibilities under the various planning Acts by enabling the spatial plan to give high level direction to all other Auckland Council plans, such as the district plan, investment plans, economic development plan, and transport plans, and to inform the plans of others.

Emerging shape of Auckland governance arrangements

11. The Auckland Council, with its significant role in infrastructure investment and planning, land use planning, and accommodating growth, will play a critical role in helping Auckland and New Zealand improve its productivity and economic growth. The Auckland Council's ability to work with central government and the private sector to agree an overarching direction, and have this direction implemented on the ground, will therefore be critical to the success of Auckland and the nation.

12. Decisions taken to date are shaping the Auckland Council to be primarily a strategic planning, regulatory and funding body. The Auckland Council will have council controlled organisations (CCOs) to undertake a substantial proportion of its operational functions (transport and water). Local Boards will have roles including

place shaping (e.g. decisions that affect the look and feel of a town centre) and community engagement.

13. Within the overall governance structure of Auckland, decisions on land use, development and the delivery of infrastructure and services will be made across:

- several different plans with different statutory obligations and timeframes;
- several layers of governance structures (e.g. the Auckland Transport Authority, the Watercare board);

and

- a range of actors (e.g. central government, infrastructure providers, private sector).

14. Much of the Auckland Council's effectiveness will therefore hinge on its ability to:

- agree and set a overarching strategic direction;
- implement that direction through its plans and funding;
- implement that direction through its subsidiary bodies (e.g. CCOs);
- agree with other actors (e.g. central government, infrastructure providers), what they will deliver, when and where; and
- ensure that all this happens in a coordinated way.

Royal Commission recommendation for a spatial plan

15. The Royal Commission on Auckland Governance proposed a spatial plan with statutory weight that:

- set an overarching strategic direction for the Auckland region;
- integrated and aligned all decision making and planning;
- would ensure implementation through the council's plans and CCOs; and
- facilitates the coordination of all actors involved in delivering the agreed strategic direction.

Previous Cabinet decisions

16. Cabinet has agreed in principle that the functions of the Auckland Council should include development of a spatial plan and regional infrastructure investment plan [CAB Min (09) 12/7 refers].

17. Subsequently on 30 July 2009, the Cabinet Committee on Implementation of Auckland Governance Reforms (AGR):

- invited me, in consultation with other relevant Ministers, to consider integrated planning, including a spatial plan and regional infrastructure investment plan as part of the Phase Two resource management reform process; and
- agreed to communicate this decision to local government in the Auckland region, together with key messages regarding the process and timeframe [AGR Min (09) 5/1 refers].

18. In addition, Cabinet has also invited the Ministers of Local Government and Maori Affairs to report back on options for mana whenua and Maori participation in the governance of Auckland [CAB Min (09) 30/9 refers].

19. Cabinet's AGR committee has since directed the Ministry for the Environment, in consultation with the Ministry of Transport and Department of Internal Affairs, to report back by 15 October 2009 on:

- what comparable jurisdictions overseas do for planning purposes;
- the number and status of the planning documents that the Auckland region has currently, and how they relate to each other;
- the appropriate legal status of a spatial plan and its relationship to, and implications for, the planning instruments outlined above; and
- an analysis of the various planning options, including possible timeframes, legislative vehicles for the options, and the implications for the Auckland Transition Agency [AGR Min (09) 9/1 refers].

20. This paper responds to that direction.

Comment

The problem

21. The overall problem is that the current system for planning for growth in Auckland lacks consistency between plans and is fragmented with multiple parties that plan and invest for growth (e.g. multiple councils, CCOs, central government, infrastructure providers). A reduction in the number of planning agencies through the amalgamation of the councils will help address the fragmentation.

22. However, because the planning framework comprises various pieces of legislation and is subject to various legal purposes, processes and criteria, there are no mechanisms to agree and then implement a consistent strategic direction across all plans and decision making. The problem is threefold.

23. First, no mechanism currently exists for agreeing a long-term, strategic direction for the region that takes account of the range of issues relevant to managing growth (e.g. affordable housing, infrastructure, supply and demand of business land) and integrates across broad objectives.

24. While the Auckland Council could voluntarily set an overarching strategic direction there would be no compulsion, or guarantee of what the scope of the direction would be.

25. Second, there is limited ability for the Auckland Council to implement a strategic direction consistently through its plans and decision making. This is because there are currently no legislative linkages between any agreed strategic direction and the council's plans.

26. Third, there is also no effective mechanism for engaging with and informing to give greater certainty to other parties (e.g. central government, the private sector, infrastructure providers) about the likely shape of future development. Therefore

there is no basis upon which to target and agree the type, scale, timing or location of investment decisions, so as to better coordinate activities that are critical for delivering the strategic direction.

Current planning in Auckland

27. Historically, Auckland has struggled to provide the infrastructure and planning needed to match its rapid growth. Auckland is predicted to take up to 60% of New Zealand's population growth over the next thirty years. Much of the struggle to accommodate growth has resulted from an inability to set a strategic direction that is consistently expressed through various regulatory, non-regulatory and investment plans, and decision making. While significant efforts have been made, there have also been difficulties in reaching agreement with other parties (private sector, central government, infrastructure providers) about what they will deliver when, where and how.

28. The existing framework for managing and providing for regional development in Auckland is principally under three Acts. Council provision of infrastructure and investment is undertaken under the Local Government Act 2002. The Resource Management Act 1991 has a role in identifying some spatial aspects through designations and in managing environmental effects. Transport strategy and planning sits under the Land Transport Management Act 2003.

29. These three key planning Acts have provisions that recognise the Treaty of Waitangi and provide for Maori participation. These provisions would continue to apply to the implementation of a spatial plan through statutory plans under these three key planning Acts.

30. Each territorial council must have a:

- Long Term Council Community Plan (Local Government Act 2002); and
- District Plan (Resource Management Act 1991).

31. In addition, the Auckland Regional Council must have a:

- Auckland Regional Growth Strategy (Local Government Act 1974 and the Local Government (Auckland) Amendment Act 2004);
- Long Term Council Community Plan (Local Government Act 2002);
- Regional Policy Statement and Regional Plan(s) (Resource Management Act 1991); and
- Regional Land Transport Strategy (Land Transport Management Act 2003).

32. The councils of the Auckland region also have a range of non-statutory plans and strategies (e.g. economic development plans) that add to the complexity of the planning framework. These are shown diagrammatically in Appendix 1. Appendix 2 lists Resource Management Act plans of the current Auckland councils and their status.

33. The statutory plans each have their own requirements, processes and timelines, which are usually defined in legislation. These operate separately. There is no mechanism to support expression of a consistent strategic direction across them or to support implementation of such a direction across plans.

34. The Auckland region currently has a different statutory planning framework to the rest of New Zealand in order to help manage growth, through the requirement for an Auckland Regional Growth Strategy (ARGS) under the Local Government Act 1974.

35. The ARGS provides a concept for how growth will be managed, but it is not a spatial plan. It does not encompass the range of issues set out in spatial plans. For example, it does not analyse supply and demand for land for economic development, map existing and future infrastructure requirements, nor does state how its objectives will be achieved through a range of tools, including non-spatial.

36. Growth strategies elsewhere in New Zealand are not required under legislation but are being used by local authorities as a means of coordinating land use planning, infrastructure and financial needs associated with urban growth. The extent to which these are able to be implemented through other plans (statutory and non-statutory) varies.

37. In Auckland, there is only a weak legal relationship between the ARGS and other plans, including RMA plans, funding plans and other plans. As a result, implementation of the ARGS has been weak. The Royal Commission noted that in particular there has been a failure to align the land use side of growth management with the funding and provision of city-shaping infrastructure (roading, public transport, regional waste and wastewater networks and open space).

38. Planning and growth management in the Auckland region has also tended to focus on the region's physical development with less focus on achieving broader objectives and realising the opportunities provided by growth. It has also traditionally been solely focused within the Auckland boundaries and not tended to consider Auckland's role in New Zealand, its connectivity to other New Zealand regions, or to the global economy. Internationally, cities are increasingly driving national economic growth and competing globally for skilled workers, international and innovative companies, and high value economic activities. A number of successful OECD cities have benefited from targeted, place-based policies set out by central government.

International experience

39. Major successful city regions use a range of tools to manage development and many have some form of spatial plan. The specific approach taken in different places is shaped by its local circumstances and experience (including institutional and legal arrangements), meaning that there is no standard model or one right way.

40. While there are similarities between planning systems in other countries and New Zealand (e.g. environmental impact assessment), New Zealand remains unique in the planning system's focus on effects-based environmental management.

41. More recently, most successful city regions internationally have shifted away from "traditional" land use planning's regulation role to spatial plans that "set out a strategic framework to guide future development and policy interventions, whether or not these relate to formal land use planning control." They use spatial planning to drive productivity by agreeing a high level direction, investment, and other activities. This creates more certainty for business and the community, and can catalyse development for both private and public benefit.

42. A review of international planning practices has identified that spatial planning is being increasingly used as a high level planning mechanism that:

- articulates the long-term (20 - 30 years) vision / strategic direction for the region and its communities, including broad objectives;
- articulates the city region's role in a country;
- visually illustrates how the region may develop in the future, including the sequencing of growth and infrastructure provision;
- provides an evidence-base to support decision making, including trends, opportunities and constraints facing the city region;
- translates this strategic direction into a set of policies, priorities, programmes and land allocations together with resources to deliver them;
- sets out a development strategy for how broad policy goals, involving land use, transport, other infrastructure, and environmental management, can be achieved;
- involves effective participation (including community participation) leading to confidence in plans and decisions;
- identifies and guides the location of critical infrastructure services and associated investment (e.g. open space, water and wastewater services, transport, etc.);
- identifies the existing, and guides the future, location and mix of residential, business and industrial activities within specific geographic areas;
- identifies significant ecological areas of the region that should be protected from development;
- gives direction to and effectively aligns implementation, regulatory and funding plans of the council;
- has the capacity to integrate otherwise competing policy goals and provide opportunities for coherent and combined investment and regulation; and
- acts as an information and coordination mechanism between the spatial planning agency and other parties (e.g. central government, the private sector, infrastructure providers) that provide services, infrastructure, and other investment, to enable discussion and agreement on the timing, location and outcomes.

43. In addition, commitment to international environmental obligations has led to growing interest from national governments in exploring spatial plans' potential as an instrument to deliver specific targets, including reduced greenhouse gas emissions and the proportion of electricity generated from renewables.

44. In New Zealand, spatial planning also needs to give specific consideration to the place of the Treaty of Waitangi, the role and concerns of Maori, and achieving effective Maori participation.

45. Further information on international examples and experience is provided in Appendix 3.

Why introduce a spatial plan for Auckland?

46. Decisions already taken regarding Auckland governance will simplify the planning framework by reducing the number of plans (seven district plans will over time become one; similarly eight Long Term Council Community Plans will become one).

47. However, this in itself will not necessarily produce a clear strategic direction for growth and development in the region, or address the issue of implementing such a

direction effectively. The following problems, identified by the Royal Commission, remain:

- setting a clear overarching direction with an appropriate scope;
- implementing that direction through all plans; and
- informing, guiding and giving greater certainty to other parties (e.g. central government) on the likely shape and timing of future development, and providing for engagement and coordination.

48. Currently the Resource Management Act 1991 (RMA) provides for some guidance about the location of development and infrastructure. However, as the Royal Commission noted, growth and development management do not fall entirely in the realm of resource management. Furthermore, the RMA focuses on the environmental effects and impacts of development rather than on its nature, scale and timing. This means that RMA plans and decisions are effects-based and reactive, and do not provide a clear development strategy and information on the full range of matters (e.g. affordable housing, economic development). RMA plans have generally not proven to be effective vehicles for engaging citizens in dialogue about desirable futures, beyond environmental issues. This is particularly problematic in large urban environments, where economic, social and environmental issues are closely interconnected and growth is rapid.

49. A spatial plan would provide high level, forward looking, regionally significant direction to other plans, while leaving the detail to be contained in lower level implementation plans (e.g. the District Plan). In particular, this direction would enable effective management of rapid growth in the region, and integrate and target land use planning and infrastructure investment, and sequence development and investment over time to maximise benefits.

50. The Council could decide to introduce a spatial plan on a voluntary basis, and could also reflect the direction of the spatial plan in the other plans that it prepares. However, there are significant risks in relying on a purely voluntary approach. These risks include delays to Auckland Council establishing its policy direction through existing instruments, and no guarantee of what the scope of a spatial plan and its strategic direction would be.

51. By requiring the Auckland Council to have a spatial plan in statute and defining its role and scope, central government can be sure that there is a well articulated strategic direction, with an appropriate scope, that includes and considers a full range of matters in planning for Auckland's growth and development (e.g. affordable housing, economic development, infrastructure provision).

52. Requiring the Auckland Council to have a spatial plan in statute will also ensure that other parties, (e.g. central government, the private sector, infrastructure providers, CCOs) have access to useful information about growth and development in the region (e.g. population trends, demographics) and the likely shape of future development, which can help inform investment decisions. This will better enable discussion and agreement between parties, in particular local and central government, on what will be provided, when and where for what purpose and effect, so that investment can be better targeted and outcomes more easily meet.

53. In this way, a spatial plan would facilitate engagement between local and central government. This is particularly relevant with the current development of central government's National Infrastructure Plan. This is discussed further in a separate section below.

54. A voluntary plan, or a statutory plan without effective legislative linkages, would not necessarily overcome the issues associated with implementing an overarching strategic direction through all council plans and decision making. However, the amalgamation to one Auckland Council will go a long way to ensuring that the council can deliver its overarching direction through all its plans. There is a remaining problem that plans under different statutes have different legal requirements and tests.

55. There are currently a number of different legal processes, with different timeframes under different pieces of legislation (notably the Resource Management Act 1991, Land Transport Management Act 2003 and Local Government Act 2002), involved in achieving regional outcomes through planning, funding and decision making. The result is that key elements of a common strategic direction are expressed in some key plans and receive little or no weight in other decision making processes.

56. This is particularly the case in relation to plans under the RMA, where third party appeals can result in issues being determined through court processes. In the absence of a clear legal relationship between plans, the regional strategic direction may not influence a court decision. Such decisions may in practice have a substantial impact on how development occurs and, over time, on the shape of the region.

57. In order for a spatial plan to give direction and guidance to other plans, it needs to have influence. Further analysis is required on the appropriate statutory basis for providing a consistent and clear legal relationship (legislative linkages) between plans prepared under different statutes, to enable the direction from the spatial plan to feed through other plans, and decision making.

58. A level of influence would also provide a more effective mechanism for guiding, informing and giving greater certainty to other parties who make investment decisions that help deliver on the strategic direction. It would also help the Council in giving direction to its CCOs.

Relationship with the National Infrastructure Investment Plan and other central government plans

59. The Treasury stress that an important function of both a spatial plan for Auckland (at regional level) and the National Infrastructure Plan, will be to facilitate the integrated planning of infrastructure investment, promoting dynamic efficiency (getting the right infrastructure in the right place at the right time), and providing greater long-term certainty for developers, investors and businesses. Importantly, a spatial plan could also facilitate complementary infrastructure investment that allows local and central government to maximise returns on capital investment and deliver value for money (for example, by facilitating planning of, and identifying trade-offs between, investment in new roads, public transport, schools, water and communications infrastructure within an area earmarked for growth).

60. Achieving this outcome will require effective alignment and integration between national and local infrastructure investment frameworks. This in turn would likely require, amongst other things:

- participation by the central government agencies who invest in Auckland in developing and working with the spatial plan, and acknowledgement of the plan in their own capital planning and asset management frameworks;
- acknowledgement within the spatial plan of central government's priorities for Auckland and New Zealand, and the role that Auckland plays in the New Zealand economy, including the functional connections between Auckland and other cities and regions, as well as overseas; and
- development and use of common data and planning assumptions at the local and national levels.

61. The Treasury consider that the development of the first National Infrastructure Plan and Auckland spatial plan presents an opportunity to begin this process of alignment; a process that can be strengthened in future iterations. Through its vision, objectives and principles the National Infrastructure Plan could inform the development of the Auckland spatial plan, but also drive engagement from capital-intensive central government agencies in the strategic planning for Auckland's economic and physical growth, for the benefit of New Zealand.

The purpose and role of a spatial plan for Auckland

62. After reviewing international practices and considering the Royal Commission's recommendation for a spatial plan, and the needs of central government in planning infrastructure investment, I consider that a spatial plan, as part of the statutory planning framework for the Auckland Council, would enable growth and development, and support the achievement of broad objectives for the residents of the Auckland region and the wider nation.

63. I therefore recommend that Cabinet confirms its previous in principle decision that a spatial plan be a function of the Auckland Council. I recommend that Cabinet agree that the spatial plan replace the Auckland Regional Growth Strategy (ARGS). The requirement for the ARGS would be repealed under the LGA 1974, but only at the time that appeals resulting from the Local Government (Auckland) Amendment Act 2004 are resolved.

64. In line with international best practice, I also recommend that Cabinet agree that:

- the purpose of a spatial plan for Auckland would be to set a broad long term strategy for managing the growth and development of the Auckland region; and
- the role and function of the spatial plan for Auckland encompasses those matters outlined in paragraph 42 above.

Options

65. A range of options for introducing a spatial plan as a key function of the Auckland Council has been considered. As part of the preparation of the Regulatory Impact Statement, these have also been assessed against the criteria previously

agreed by Cabinet for assessing proposals for Auckland governance [CAB Min (09) 8/1 and CAB Min (09) 31/9 refers].

66. The options identified are summarised in table one:

Table One: Options for a spatial plan for the Auckland Council

Option no.	Option	Summary assessment
Option 1	Status Quo – wait for possible changes through Phase Two of the resource management reform process (urban planning work stream) to RMA, LGA, or LTMA	<p><i>Not recommended.</i></p> <p>This would allow for Auckland to be considered in relation to national processes. However, the full scope of reviews is unclear and work is unlikely to be completed in time to allow for implementation of a spatial plan in a timely manner. This will delay the ability of the Auckland Council to develop a clear direction from its establishment that can be consistently expressed through all its plans.</p>
Option 2	A Long Term Council Community Plan that contains elements of a spatial plan with legislative linkage to other plans, under the Auckland legislation (third Bill on Auckland governance)	<p><i>Not recommended.</i></p> <p>This would involve significant change to the role of the LTCCP under the LGA (currently focuses on council service planning, funding & delivery). This would require complex redrafting of the relationship between LGA, RMA and LTMA and to define the role of the LTCCP in land use regulation. It would be a major change in the planning approach from existing local government framework.</p>
Option 3 <i>(preferred long-term option)</i>	A statutory spatial plan that replaces existing strategic plans under the RMA and LTMA under the Auckland legislation (third Bill on Auckland governance)	<p><i>Not recommended at this point.</i></p> <p>This would reduce the number of plans and provide strategic direction. It would be complex to implement as it involves extensive legislative change and amendment to the LGA, RMA and LTMA. Risks of unintended consequences through rushed work if this option was to be included in the third Bill on Auckland governance. It would also make the Auckland Council’s planning framework substantially different to the rest of New Zealand.</p> <p>This option would be investigated further under Option 5.</p>
Option 4	A statutory spatial plan with strengthened legislative linkages to effectively	<p><i>Not recommended at this point.</i></p> <p>This would achieve strategic direction & alignment of plans.</p>

<i>(alternative long-term option)</i>	influence other planning, under the Auckland legislation (third Bill on Auckland governance)	Timeframe does not allow for comprehensive work to be completed with confidence and all aspects of the necessary legislative linkages & implications to be determined. Risks of unintended consequences through rushed work if this was to be included in the third Bill on Auckland governance. This option would be investigated further under Option 5.
Option 5 (preferred interim option)	A statutory spatial plan with no additional or strengthened legislative linkages to other planning, under the Auckland legislation (third Bill on Auckland governance); AND consider replacing existing strategic plans, legislative links, appeal rights, and consultative procedures through the phase two resource management reform process.	<i>Recommended.</i> Provides sufficient certainty for the ATA and existing councils to guide preparatory work for the new Auckland Council. Addresses risks of the new Council coming into an unclear planning environment. This option provides for further exploration of other options, including options 4 & 5, without predetermining the outcomes of further work. It addresses the risk of unintended consequences from rushed work to meet the short timeframe for inclusion in third Bill on Auckland governance.

67. These options are assessed in the Regulatory Impact Statement, attached as Appendix 4.

Recommended option: a staged approach (Option 5)

68. I recommend that Option 5 be adopted. This option is consistent with the criteria previously agreed by Cabinet for assessing proposals for Auckland governance [CAB Min (09) 8/1 and CAB Min (09) 31/9 refers]. However, I note that my preference in the long term is Option 3, where the spatial plan replaces the Regional Policy Statement, and possibly the Regional Land Transport Strategy (refer appendix 1 for a diagram of the preferred interim and long term option).

69. In the short term Option 5 would replace the current requirement for preparation of the ARGS with a requirement for the Council to prepare a spatial plan. Under Option 5, the Auckland Council would prepare and agree a spatial plan as one of its functions. The purpose and role of the spatial plan would be broadly provided for in the legislation. This would ensure that the new Auckland Council does not come into an unclear planning environment, with no preparatory work done toward its planning framework.

70. However, under Option 5 the issues of legislative links, appeal rights, and the overall shape of the planning framework in the long-term would then be considered through the urban work stream of Phase Two of the resource management reform process that is underway. This would ensure that these matters are able to be

considered fully and in the context of the wider nationally focused process, including the relationship between the key Acts (RMA 1991, LGA 2002, LTMA 2003).

71. Phase two of the resource management reform process also has an objective of providing for efficient and effective participation by Maori in resource management processes. The staged consideration of Option 5 will also ensure that these aspects are given appropriate consideration in relation to spatial planning and its place in the national planning approach.

72. Spatial planning may be a useful approach for other councils in New Zealand, not only for Auckland. This option allows for proper consideration of both the Auckland and national local government context, and whether in the longer term a national approach to spatial planning by local government is needed.

73. Both Options 3 and 4 offer potential significant gains in terms of providing effective strategic direction for the region, and particularly in the case of Option 3, simplifying the planning framework. However, both Options 3 and 4 raise significant questions and risks. Detailed, comprehensive analysis and assessment is required, covering all aspects of the necessary legislative linkages and all the implications, including in relation to appeals processes. This work cannot be undertaken with confidence in the time available to meet the deadline for inclusion in the third Bill on Auckland governance, creating a significant risk.

74. The staged approach of Option 5 provides for the potential benefits of Options 3 and 4 to be fully explored and the details worked through in Phase Two of the resource management reform process. It allows for proper consideration of how a spatial plan could further simplify and make the planning framework more effective by potentially replacing existing strategic plans, establishing legislative linkages between plans, and establishing appropriate appeal rights. A full solution could then be adopted for Auckland and/or New Zealand after the establishment of the Auckland Council.

75. I note however, that the legislative vehicle for making any subsequent changes to legislative links to other plans or for replacing other plans will be investigated as part of Phase Two of the resource management reform process. There may be a need to amend legislation, possibly the Local Government (Auckland Council) Act 2009 to establish legislative linkages between the spatial plan and other plans. It is quite possible that any Bill to achieve this would not be before Parliament until early 2011, maybe later, delaying establishing or strengthening legislative linkages. Risks caused by delay will need to be monitored.

76. Making statutory provision for a spatial plan enables central government to give some broad direction on the role and nature of a spatial plan, rather than leaving this entirely to the Auckland Council's discretion. Statutory provision also provides a strong basis to support the needed shifts in focus and practice through the spatial plan that will help make the changes in the local government structure for the region more effective.

77. This will also mean that the Auckland Council will, through its spatial planning function, provide useful information from which central government can better target its infrastructure and service provision, and will inform the private sector in making investment decisions.

78. Option 5 also provides the clarity and direction that is needed now by the existing councils and the Auckland Transition Agency as they prioritise and undertake the work they need to do in preparation for the new Auckland Council from 1 November 2010. Both the existing councils and the Auckland Transition Agency are looking to central government for clarity and direction in relation to the planning framework to allow for an effective transition. Option 5 provides this.

Transitioning to one Auckland Council with one coherent and effective set of plans

79. Ensuring work progresses during the transition period on developing the evidence base for a spatial plan and other plans will provide a strong starting point for the new Council to build from, and support the Council's ability to undertake its role effectively and in a timely manner.

80. Option 5 avoids the new Auckland Council coming into an unclear planning environment, with no preparatory work done toward its planning framework. In such a situation, there would be a high risk that the Council would lose the opportunity to set and implement a clear strategic direction from the start, and be able to achieve some quick wins.

81. Immediate work for the new Auckland Council will include reviewing and consolidating its plans, including the District Plan, Regional Policy Statement and Long Term Council Community Plan. To do this effectively, it will need a clear overarching direction. Some plans have a long review cycle (e.g. District Plan every ten years) and it is therefore important that this opportunity is not missed, as the initial approach taken will guide the region's development for some years.

82. In comparison, the City of Toronto experienced delays and did not have a coherent and comprehensive planning framework in place 10 years after amalgamation. Many commentators feel that this contributed significantly to the City of Toronto not meeting the expectations that were held for the reform process, including in terms of international performance.

83. I therefore recommend that Cabinet agree to encourage the councils of the Auckland region to work together to:

- progress their evidence-based growth management work;
- develop a range of different options for the Auckland Spatial Plan; and
- complete a detailed analysis of how each of the options for an Auckland Spatial Plan will be implemented through the Auckland Council's lower level plans within a short timeframe (e.g. LTCCP, RPS, District Plan, Regional Land Transport Strategy).

84. This will enable the Auckland Council, on its establishment, to have an evidence base from which they can best understand Auckland's growth and can consider a range of possible options for the Auckland Spatial Plan. The new Auckland Council will then be in an informed position to set Auckland's strategic direction, and drive that direction through the Council's lower level investment, infrastructure, land use, and other relevant plans.

85. It will also be important that central government agencies, in particular the Ministries, for the Environment, of Transport, of Economic Development, the Department of Building and Housing, and the Treasury's Infrastructure Unit, also engage in the draft Auckland Plan option development process. This will help ensure that Ministers:

- are informed of progress;
- have a full understanding of the implications and opportunities for effective and efficient central government investment; and
- are able to influence Auckland's strategic direction and help ensure that the best possible option for Auckland and New Zealand is achieved.

Auckland Transition Agency View

86. The Auckland Transition Agency has been consulted on the development of this paper. They support the need for a spatial plan to be prepared as it will provide the overall planning direction for the provision of services by the Auckland Council and its various entities e.g. transport and water. They also support the preferred option (Option 5) for a spatial plan for Auckland, given the limited time available to investigate the advantages of Options 3 and 4.

87. The Auckland Transition Agency also states that it would be useful for the current Auckland councils to make a start now on producing the evidence base needed for a spatial plan. Failure to do so will mean the new Council will lose up to 15 months (assuming such direction is not made until early 2011) in producing such a plan.

Consultation

88. This paper has been prepared by the Ministry for the Environment in consultation with the Ministry of Transport, Department of Internal Affairs, the Treasury, Ministry of Health, Te Puni Kokiri, Ministry of Economic Development and Department of Building and Housing. The Department of Prime Minister and Cabinet was kept informed of the development of this paper.

Financial implications

89. This paper does not raise direct financial implications.

Human rights

90. This paper does not raise issues or inconsistencies with the Human Rights Act 1993.

Gender implications

91. This paper does not raise gender implications.

Disability perspective

92. This paper does not raise issues requiring inclusion of a disability perspective.

Legislative implications

93. The recommendations in this paper will guide the development of the proposed Local Government (Auckland Law Reform) Bill planned for introduction in late 2009. The Bill has Category 4 status (to proceed to a Select Committee in 2009) on the 2009 Legislation Programme.

Regulatory impact analysis

94. The Ministry for the Environment confirms that the principles of the Code of Good Regulatory Practice and the regulatory impact analysis requirements, including the consultation RIA requirements, have been complied with. A RIS was prepared and the Ministry for the Environment considers it to be adequate. The RIS was circulated with the Cabinet paper for departmental consultation and is attached to this paper as Appendix 4.

Publicity

95. No publicity is planned in relation to this paper. However, it is a topic that is of significant interest to Auckland, particularly the councils. The introduction of the third Bill on Auckland governance is likely to generate significant public interest.

Recommendations

96. The Minister for the Environment recommends that the Committee:

Previous consideration

1. note that:

1.1. on 6 April 2009 Cabinet agreed in principle that the functions of the Auckland Council should include the development of a single spatial plan and regional infrastructure investment plan [CAB Min (09) 12/7 refers]

1.2. Cabinet agreed on 3 August 2009 that further investigation of integrated planning, including a regional spatial plan and regional infrastructure investment plan, be included in Phase Two of the resource management reforms, through the work stream focusing

on improving approaches to urban planning [AGR Min (09) 5/1 refers]

1.3. the Minister for the Environment reported back to AGR on 17 September 2009 on:

1.3.1. issues relating to the Phase Two resource management reform process and the implications for Auckland governance

1.3.2. options relating to the development of a spatial plan for the Auckland region [AGR Min (09) 8/2 refers]

1.4. the Cabinet Committee on Implementation of Auckland Governance Reforms, noted the contents of the report back [AGR (09) 14] on 17 September 2009 seeking confirmation that the Auckland Council has a statutory spatial plan [AGR Min (09) 9/1 refers]

1.5. the Ministry for the Environment, in consultation with the Ministry of Transport and the Department of Internal Affairs, was directed to report to AGR on 15 October 2009 with a revised paper which includes further detail on:

1.5.1. what comparable overseas' jurisdictions do for planning purposes

1.5.2. the number and status of the planning documents that the Auckland region has currently, and how they relate to each other

1.5.3. the appropriate legal status of a spatial plan and its relationship to, and implications for, the planning instruments outlined in paragraph 1.5.2 above

1.5.4. an analysis of the various planning options, including possible timeframes, legislative vehicles for the options, and the implications for the Auckland Transition Agency

Other context

2. note that:

2.1. Auckland is predicted to take up to 60% of New Zealand's population growth over the next 30 years

2.2. the Auckland region already has a different statutory planning framework to the rest of New Zealand to help manage growth, through the requirement for an Auckland Regional Growth Strategy under the Local Government Act 1974

2.3. the Local Government Act 1974 provision for a growth strategy was aimed at resolving the difficulties that the councils of the Auckland region face managing Auckland's growth

Spatial planning

3. confirm Cabinet's previous in principle decision that a spatial plan be a function of the Auckland Council

4. agree that the purpose of a spatial plan for Auckland is to provide an effective and broad long term strategy for growth and development in the region

5. agree that the function of the spatial plan for Auckland, drawn from international best practice, is to:

5.1. articulate the long-term (20 - 30 years) vision / strategic direction for the region and its communities, including broad objectives

5.2. articulate the city region's role in a country

5.3. visually illustrate how the region may develop in the future, including the sequencing of growth and infrastructure provision

5.4. provide an evidence-base to support decision making, including trends, opportunities and constraints facing the city region

5.5. translate this strategic direction into a set of policies, priorities, programmes and land allocations together with resources to deliver them

5.6. set out a development strategy for how broad policy goals, involving land use, transport, other infrastructure, and environmental management, can be achieved

5.7. involve effective participation (including community participation) leading to confidence in plans and decisions

5.8. identify and guide the location of critical infrastructure services and associated investment (e.g. open space, water and wastewater services, transport, etc)

5.9. identify the existing, and guide the future, location and mix of residential, business and industrial activities within specific geographic areas

5.10. identify significant ecological areas of the region areas that should be protected from development

5.11. give direction to and effectively align implementation, regulatory and funding plans of the council

5.12. integrate otherwise competing policy goals, and provides opportunities for coherent and combined investment and regulatory decision making, and

5.13. act as an information and coordination mechanism between the spatial planning agency and other parties (e.g. central government, the private sector, infrastructure providers) that provide services, infrastructure, and other investment, to enable discussion and agreement on the timing, location and outcomes

6. note that the policy options for a spatial plan as a function of the Auckland Council are:

6.1. Option 1: Status quo – wait for possible changes through Phase Two of the resource management reform process (urban work stream)

6.2. Option 2: A Long Term Council Community Plan that contains elements of a spatial plan with legislative linkage to other plans, under the Local Government (Auckland Law Reform) Bill

6.3. Option 3: (*preferred long term option*) A statutory spatial plan under the Local Government (Auckland Law Reform) Bill that replaces existing strategic plans under the RMA and LTMA

6.4. Option 4: (*alternative long term option*) A statutory spatial plan with strengthened legislative linkages to effectively influence other planning, under the Local Government (Auckland Law Reform) Bill

6.5. Option 5: (*preferred interim option*) A statutory spatial plan with no additional or strengthened legislative linkages to other planning, under the Local Government (Auckland Law Reform) Bill; AND consider replacing existing strategic plans, legislative links, appeal rights, and consultative procedures through the Phase Two resource management reform process

7. agree that:

7.1. a statutory spatial plan with no additional or strengthened legislative linkages to other planning, be provided for within Local Government (Auckland Law Reform) Bill (Option 5), with the following attributes:

7.1.1. a function of the Auckland Council

7.1.2. set out the strategic direction for the Auckland region

7.1.3. be part of the planning framework for the Auckland region

7.1.4. be available to inform other Auckland Council plans with the strategic direction

7.1.5. developed using the special consultative procedure contained in the Local Government Act 2002

7.1.6. replace the requirement for Auckland Regional Growth Strategy under the Local Government Act 1974
and

7.2. that the Ministry for the Environment with other relevant agencies, investigate as part of the urban work stream within Phase 2 of the resource management reform process, opportunities to further simplify, streamline and make planning instruments and mechanisms more effective, including:

7.2.1. whether a spatial plan should supplement or replace council's existing strategic plans (e.g. Regional Policy Statement, Regional Land Transport Strategy)

7.2.2. the strength of the legal relationship between the spatial plan and other plans (e.g. District / Regional Plan, Long Term Council Community Plan)

7.2.3. the relationship of the spatial plan to national planning instruments (e.g. National Policy Statement, Government Policy Statement, National Infrastructure Plan)

7.2.4. consultation procedures and appeal rights
and

7.3. that provisions in the Local Government Act 1974 and the Local Government (Auckland) Amendment Act 2004 establishing and giving some effect to the Auckland Regional Growth Strategy

should be the subject of savings provisions in the Local Government (Auckland Law Reform) Bill until such time as the last appeal on related matters to the Regional Policy Statement and existing District Plans are resolved

8. note that:

8.1. to establish new or strengthen existing legislative linkages between the spatial plan and other plans could require an amendment the Local Government (Auckland Council) Act 2009 in the future

8.2. the legislative vehicle for enabling the outcomes of the process referred to in paragraph 7.2 above, will also be investigated in Phase Two of the resource management reform

9. note that:

9.1. paragraph 7.2 above will also enable the spatial plan to be considered in relation to the resource management reform process objective of providing for efficient and effective participation by Maori in resource management processes

9.2. existing provisions in the Local Government Act 2002 and Resource Management Act 1991 in relation to the Treaty of Waitangi and Maori will continue to apply to the implementation of the Auckland Spatial Plan through other plans

Transition to one Auckland Council with one set of plans

10. agree that the councils of the Auckland region be encouraged to work together to progress work on Auckland Spatial Plan to be presented to the Auckland Council on its establishment November 2010 including:

10.1. detailed analysis and an evidence basis to underpin and inform a spatial plan and modelling of regional growth scenarios;

10.2. a range of different options for a draft Auckland Spatial Plan,

10.3. detailed analysis of how the different options for a draft Auckland Spatial Plan could be implemented through the Auckland Council's lower level plans in both the short and medium term (e.g. Long Term Council Community Plans, Regional Policy Statement, District Plan, Regional Land Transport Strategy).

11. direct the Ministries of Environment, Transport, Economic Development and the Treasury, and the Departments of Internal Affairs, and Building and Housing to work with the councils of the Auckland region and the Auckland Transition Agency and other relevant agencies as appropriate, to represent central government interest

through the Auckland Spatial Plan options development process as outlined in recommendation 10 above, and report progress to Ministers as appropriate.

[signed by]

Hon Dr Nick Smith

Minister for the Environment