

Part 7

The Resource Management System in Auckland

A situational analysis for the Royal Commission on Auckland Governance

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1. Introduction

1.1 Purpose of paper

The Royal Commission on Auckland Governance (“Royal Commission”) was established by the New Zealand Government in late 2007 and was tasked with investigating and reporting on the local government arrangements for the Auckland region for the foreseeable future.

This paper has been commissioned by the Royal Commission to assist it in its task and specifically to explore the interface between the delivery of resource management functions and local governance arrangements for the Auckland region.

The paper does not represent the views of the Royal Commission and is intended to support its wide investigation and consideration of future governance arrangements for Auckland in relation to resource management.

1.2 Methodology

This paper has been prepared after investigation, analysis, and the preparation of working papers on

- the resource management issues that face the Auckland region, based on an analysis of existing resource management instruments (regional policy statement, district plans) and important strategies
- the existing resource management system in Auckland including the status of statutory policy statements and plans
- key informant interviews with those delivering and interfacing with the resource management system
- key attributes of a world-class resource management system.

Submissions and interview notes held by the Royal Commission have also been reviewed.

1.3 Terms of reference of Royal Commission

The terms of reference for the Royal Commission are wide. Those parts quoted below that appear in **bold** (emphasis added) are identified as most relevant to the resource management system in Auckland and its interface with future governance options.

The preamble states:

over the next 100 years, the Auckland region will face enormous change brought about by global economic, environmental, and political forces. Local trends, including high

population growth, add to the challenges and opportunities for the region. Auckland has to compete in a global market place to sell its goods and services and to attract the talented people it requires to secure a sustainable and prosperous future:

... to face these challenges Auckland requires local and regional governance equal to the best in the world and capable of working effectively with central government to ensure Auckland is a successful, sustainable city in the Asia Pacific region ...

The Royal Commission is to investigate and report on

the local government arrangements (including institutions, mechanisms, and processes) that are required in the Auckland region over the foreseeable future in order to maximise, in a cost effective manner,—

- (a) the current and future well-being of the region and its communities; and
- (b) the region's contribution to wider national objectives and outcomes.

The Royal Commission is specifically invited to consider

- (a) what changes to current legislation (consistent with the purposes and principles of local government as described in the Local Government Act 2002) are considered desirable to achieve or support the achievement of the inquiry's objectives; and**
- (b) what changes to the boundary of the Auckland region, or to the collaborative arrangements or mechanisms involving other regions across New Zealand, are considered desirable to achieve or support the achievement of the inquiry's objectives; and**
- (c) what is required for effective relationships and collaborative arrangements between central and local government; and**
- (d) what ownership, governance, and institutional arrangements and funding responsibilities are required to ensure the effective, efficient, and sustainable provision of public infrastructure, services, and facilities to support and enhance—**
 - (i) the current and future well-being of the Auckland region and its communities; and**
 - (ii) the performance of the Auckland region as a growth engine in the New Zealand economy and in its role as a key transport hub for New Zealand and the Pacific region; and**
 - (iii) the ability of the Auckland region to compete internationally as a desirable place to live, work, invest, and do business; and**
 - (iv) the ability of the Auckland region to respond to economic, environmental, cultural, and social challenges (for example, climate change); and**
- (e) what governance and representation arrangements will best—**
 - (i) enable effective responses to the different communities of interest and reflect and nurture the cultural diversity within the Auckland region; and**

- (ii) provide leadership for the Auckland region and its communities, while facilitating appropriate participation by citizens and other groups and stakeholders in decision-making processes; and**
- (f) what alternative transition processes for the implementation of any new or changed local government arrangements, and of any associated matters that are identified, are necessary or desirable:

1.4 Restricted scope of paper

The paper is an informational reference base for the Royal Commission as it develops and crystallises issues and options for governance in Auckland.

Any change to Auckland local governance should, amongst other outcomes, result in an overall improvement in the delivery of resource management, a key function of local government in New Zealand.

At the request of the Royal Commission, the paper also focuses on

- Resource Management Act 1991 (“RMA”) issues where they impact on the governance of the Auckland region, and in particular issues that arise between the Auckland Regional Council (“ARC”) and the region’s territorial authorities
- variations in the delivery of RMA functions and plans between territorial authorities.

The paper is not a critique of the RMA, and while exploring options and criteria for change, does not recommend any particular path forward.

Nor does the paper address the performance of individual councils, except to the extent that those matters are of wider governance significance in relation to the delivery of resource management.

The paper addresses the following:

Current state

Section 2 is a description of the current arrangements for resource management decision making in Auckland, including the various entities involved, their roles and responsibilities, interactions between the entities and key instruments, and how they interrelate.

Current and future issues

Sections 3 and 4 provide an overview of the major resource management issues for the Auckland region, which any Auckland local governance system must address.

The current issues in delivering the outcomes required by the RMA and related statutes are described.

The paper includes case studies provided by key informants illustrating the issues identified, including the interface between the ARC and the region's territorial authorities and between territorial authorities.

A discussion of a "world-class" resource management planning system for Auckland

Section 5 describes the complexities of the New Zealand resource management system and a world-class resource management planning and decision-making system suitable for Auckland.

Discussion of issues and options

Section 6 discusses the major issues and challenges and some options that impact on or could be impacted by differing governance arrangements for Auckland including a set of goals and criteria against which any system change should be evaluated.

2. The current resource management system in Auckland

2.1 Functionaries in the resource management system in Auckland

The RMA sets out a system of resource management related to the structure of local government. Table 1 below shows these as they relate to Auckland. In general, RMA functions are held by Ministers for central government, by regional councils or unitary authorities for regional functions, by city and district councils for territorial functions, and by various other network utilities responsible for infrastructure and public works developments. (A more detailed description of the roles and duties of each body as it relates to Auckland is attached as Appendix 1A. A full list of the requiring authorities other than the Ministers and local authorities is attached in Appendix 1B.)

2.2 The key resource management instruments under the RMA

With so many functionaries with wide plan-making powers it is not surprising that there are numerous statutory resource management instruments that govern land and resource use in the Auckland region. The RMA sets out a hierarchy of policy statements and plans with statutory interrelationships as follows.

2.2.1 National policy statements

National policy statements focus on policies and objectives on issues of national importance that are also relevant to promoting the sustainable management of natural and physical resources.

- Regional policy statements and plans, and district plans must give effect to the provisions of national policy statements.

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Table 1 Resource management functionalities in Auckland

Functionary type	Councils or body	Roles and duties in Auckland
Ministers of the Crown	Minister for the Environment	• National policy statements and national environmental standards
		• Monitoring the effectiveness of the RMA including local authority performance
		• Call in of applications
	Minister of Conservation	• Directing regional or territorial authorities to prepare plan changes
		• New Zealand coastal policy statement
		• Approval of regional coastal plans
Regional council	Auckland Regional Council	• Deciding restricted coastal activity resource consent applications
		• Integrated management of the natural and physical resources of the region
		• Developing objectives and policies but not rules for use, development, and protection of land of regional significance
		• Primary regulatory authority for
		– soil conservation
		– water
		– natural hazards
		– coastal marine area
		– contaminated land
		– discharges to the environment
		– hazardous substances
		– air quality
		• Preparation of regional policy statement
		• Preparation of regional plans
• Resource consent processing for activities associated with water, coastal marine area, discharges, soil conservation		
• Inspection, compliance, and enforcement		
• Monitoring and review		

Table 1 continued

Functionary type	Councils or body	Roles and duties in Auckland
Territorial authority	Rodney District Council	<ul style="list-style-type: none"> Integrated management of the effects of the use, development, and protection of land
	North Shore City Council	<ul style="list-style-type: none"> Control of the use of land
	Waitakere City Council	<ul style="list-style-type: none"> Control of subdivision
	Auckland City Council	<ul style="list-style-type: none"> Noise
	Manukau City Council	<ul style="list-style-type: none"> Preparation of district plan
	Papakura District Council	<ul style="list-style-type: none"> Resource consent processing for land use and subdivision activities
	Franklin District Council	<ul style="list-style-type: none"> Inspection, compliance, and enforcement Monitoring and review
Other requiring authorities	There are many organisations with designation powers under the RMA including water companies, transport organisations, electricity and telecommunication companies, as well as local authorities. (See Appendix 1B.)	<ul style="list-style-type: none"> Lodgement of notices of requirement and decisions on proposed capital works

- Councils must amend policy statements and plans to give effect to relevant provisions in a national policy statement as soon as practicable, or within a specified time, or before an event specified in the national policy statement.
- Consent authorities must also have regard to any relevant national policy statement when considering an application for a resource consent or water conservation order or a requirement for a designation or heritage order.
- A local authority must take any other action specified in the national policy statement.

2.2.2 National environmental standards

National environmental standards are promulgated by central government to enable the adoption of consistent standards at the regional and district levels. A national environmental standard can address a range of environmental management issues including

- use of land
- subdivision
- use of the coastal marine area

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- use of beds of lakes and rivers
- water
- discharges to air, land, and water
- noise
- monitoring.

A national environmental standard may

- prohibit an activity
- allow an activity (but only where it does not have significant adverse effects on the environment)
- allow a resource consent to be granted for an activity only if it complies with conditions specified in the standard and/or in the rules of a regional or district plan
- restrict the making of a rule or granting of a resource consent
- require the review of a water, coastal, or discharge permit
- determine whether an activity is controlled, restricted discretionary, discretionary, or non-complying.

A regional or district plan rule or resource consent may not be more lenient than a national environmental standard, but may be more stringent if the standard expressly allows this.

A national environmental standard does not apply to any resource consent or designation that existed prior to the standard coming into force until that consent is reviewed (section 43B RMA) or the designation lapses or is altered (section 43D RMA).

Where both a national environmental standard and a water conservation order exist, the more stringent provisions in either document apply (section 43C RMA).

2.2.3 *Regional policy statements*

One regional policy statement must be prepared for each region. It provides broad direction and a framework for resource management within the region. Regional policy statements must “give effect to” national policy statements and be consistent with water conservation orders. When preparing a regional policy statement, a regional council must also take into account planning documents recognised by an iwi authority and lodged with the council as well as management plans prepared for foreshore and seabed reserves.

Regional policy statements are consistent with the functions of regional councils under the RMA.

A regional policy statement is required to state

- significant resource management issues for the region

- resource management issues of significance to iwi authorities and boards of foreshore and seabed reserves
- the objectives sought to be achieved
- policies regarding significant issues and objectives
- methods to be used to implement the policies
- principal reasons for adopting the objectives, policies, and methods
- environmental results anticipated
- processes to deal with cross-boundary issues
- the local authority responsible for specifying objectives, policies, and methods for land use control in respect of natural hazards, hazardous substances, and indigenous biological diversity
- procedures for monitoring.

A regional policy statement cannot contain rules controlling the use of natural or physical resources. These are provided for in regional and district plans.

- Regional and district plans must “give effect to” the regional policy statement for their region. This provision, which was introduced via the 2005 amendment to the RMA, comes into effect, however, only once the relevant provisions of the regional policy statement have been reviewed and/or changed and made operative. The review of the Operative Auckland Regional Policy Statement is due in 2009.
- Consent authorities must also have regard to any relevant regional policy statement when considering an application for a resource consent or water conservation order and a requirement for a designation or heritage order.
- Consent authorities must have regard to proposed as well as operative policy statements when considering a resource consent application.

A regional policy statement therefore has a significant impact on resource management decision making within the region, and as reviews are completed under the new “give effect to” provisions of the RMA, will have a significantly strengthened and directive effect on lower-order plans.

2.2.4 Regional plans

A regional council may prepare one or more regional plans to assist it in carrying out its functions under the RMA. A regional council must prepare a regional coastal plan but other regional plans are optional. Regional plans must give effect to national policy statements and regional policy statements and not be inconsistent with water conservation orders, other regional plans for the region, and any Ministry of Fisheries determinations on aquaculture.

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When preparing a regional plan, a regional council must also take into account relevant planning documents recognised by iwi authorities and lodged with the council, as well as management plans prepared for foreshore and seabed reserves within the region.

Regional plans can cover issues within the functions of the regional council including

- soil conservation
- water quality and quantity
- aquatic ecosystems
- biodiversity
- natural hazards
- hazardous substances
- discharge of contaminants
- allocation of natural resources.

Regional coastal plans specifically address activities in the coastal marine area. They may provide for aquaculture management areas (if they do not, applications for aquaculture activities cannot be made) and must consider the imposition of charges for the occupation of the coastal marine area.

A regional plan is required to state

- the objectives for the region
- policies to implement the objectives
- rules (if any) to implement the policies.

A regional plan may also state

- the issues the plan seeks to address
- methods to be used to implement the policies
- principal reasons for adopting the objectives, policies, and methods
- the information to be submitted with an application for a resource consent
- environmental results anticipated
- processes to deal with cross-boundary issues
- procedures for monitoring.

Regional plans contain rules governing the use of resources within the region and have a significant effect on the use of natural and physical resources within the region:

- No person may use land, water, air or the coastal marine area in a manner that contravenes a regional rule without holding a resource consent or having existing use status. Existing use rights are, however, limited by section 20A of the RMA.

They apply during the period between notification of a proposed regional plan and the date on which it becomes operative. If an application for resource consent has been lodged within six months of the relevant rule becoming operative, existing use rights can sometimes continue until the application is determined.

- There is a range of other activities such as reclamation, some discharges of contaminants and some taking and use of water, which are prohibited unless expressly allowed in a regional rule or resource consent.
- District plans must be consistent with the regional plan for the applicable region for matters of regional significance and for matters for which the regional council has primary responsibility.
- Consent authorities must have regard to any relevant regional plan when considering an application for a resource consent or water conservation order or a requirement for a designation or heritage order.

2.2.5 *District plans (all territorial authorities)*

District plans must give effect to national policy statements and **regional policy statements** and must not be inconsistent with **water conservation orders**. District plans must also not be inconsistent with **regional plans** in regard to matters of regional significance and matters for which the regional council has primary responsibility. When preparing a district plan, a territorial authority must also take into account relevant planning documents recognised by iwi authorities and lodged with council, as well as management plans prepared for foreshore and seabed reserves adjoining the district.

District plans cover issues related to the functions of territorial authorities. These include

- effects of land use
- impacts of land use on natural hazards and the management of hazardous substances
- noise
- activities on the surfaces of rivers and lakes
- impacts of land use on indigenous biological diversity.

District plans contain provisions governing the use of land within the district. A district plan is required to state

- the objectives for the district
- policies to implement the objectives
- rules, if any, to be used to implement the policies.

A district plan may also state

- the significant resource management issues of the district

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- methods, other than rules, for implementing the policies
- principal reasons for adopting the objectives, policies, and methods
- environmental results anticipated
- procedures for monitoring
- processes to deal with cross-boundary issues
- the information to be submitted with an application for resource consent.

District plans have a significant effect on the use of land within the district:

- No person may use land in a manner that contravenes a rule in a district plan.
- No person may subdivide land unless expressly allowed by a rule in a district plan or resource consent.
- Consent authorities must have regard to any relevant district plan when considering an application for a resource consent or water conservation order or a requirement for a designation or heritage order.

2.2.6 *Non-statutory planning documents*

In addition to the statutory planning documents, there are a number of non-statutory plans relevant to land use planning in Auckland. The key one is the Auckland Regional Growth Strategy 1999 (“RGS”).

The RGS was developed on a consensus basis by the Regional Growth Forum, established in 1997 and comprising the councils of the region. The forum was established following a contentious period in which the location of the metropolitan urban limits (“MULs”) had been challenged and the respective roles of regional councils and territorial authorities, with regard to MULs, were clarified by the Court of Appeal (in a case between the ARC and North Shore City Council (CA29/95)).

The Regional Growth Forum oversaw the development of the RGS. The focus of the RGS was the growth concept, which involved identifying development capacity for future residential development, with options evaluated against the vision and desired regional outcomes. The MULs were a key part of focusing urban development, including population, employment, and infrastructure, in nodal centres, whilst at the same time accepting that a degree of greenfield land was necessary. All councils in the Auckland region signed a memorandum of understanding signalling their support for and commitment to implementing the RGS and undertook to develop sector agreements for the following sub-regions:

- Central (Auckland City)
- Northern and Western (Waitakere City, North Shore City, Rodney District)
- Southern (Manukau City, Papakura District, Franklin District).

The sector agreements were designed to bridge the gap between the 10-year district plans and the 50-year focused growth concept, by providing detail about the amount, rate, location, and nature of future growth; infrastructure implications; and the implementation actions required to realise the RGS.

A number of supporting regional strategies have been developed to address identified gaps in the RGS and to support its implementation. These include the Auckland Regional Land Transport Strategy 2005, the Auckland Regional Economic Development Strategy 2002–2022, and strategies for open space, affordable housing, and business land. But over time land use pressures led to modifications by councils, and resistance to the MUL in some places. This was addressed by the Local Government (Auckland) Amendment Act 2004 (“LGAAA”), which required Auckland planning documents to give effect to the RGS (section 40(1)(a)) and mandated integrated land use and transport planning. Now, any proposal to move the MUL, as was proposed at Massey North (Westgate) in Waitakere City, must address both the regional (strategic) and local land use planning matters (land use and transport).

Amendments to the RMA (the Resource Management Amendment Act 2005) reinforce the importance of the strategic integration of infrastructure with land use at a regional level, along with a clearer definition of the hierarchy of national, regional, and local plans.

2.3 Implementation of the resource management planning system

In very broad terms, the resource management planning and decision-making system at the regional and territorial level can be segmented into the following parts.

Policy making: Development and processing of the regional policy statement, regional plans, and district plans (including variations, plan changes, and private plan changes) within the scope provided in the RMA and in the manner specified in the RMA and through relevant case law. Policy statements and plans are required to be formally reviewed no later than 10 years after becoming operative (section 79 of the RMA).

Resource consent processing (including notices of requirement for designations) as it relates to the categories of activities specified in a district or regional plan: controlled, restricted discretionary, discretionary, and non-complying activities. In addition, there is provision for restricted coastal activities in the regional coastal plan. The category of activity determines whether resource consent is required before carrying out an activity, who the consent authority will be, what will be considered when determining a resource consent application, and whether a resource consent may or may not be granted. Resource consent is not required to carry out a permitted activity, and cannot be applied if an activity is prohibited.

Monitoring, compliance, enforcement, and review of the exercise of resource consents is an obligation imposed on local authorities by section 35 of the RMA, as are the obligations to monitor the efficiency and effectiveness of policies, rules, or other methods

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in policy statements or plans; to take appropriate action when monitoring indicates that this is necessary; and to prepare a report at least every five years on the results.

Conditions attached to resource consent may require the consent holder, among other things, to monitor the impacts of the activity. This can include taking samples and measurements; carrying out analyses, surveys, investigations, or inspections; and providing information to the consent authority. The information collected is expected to be amalgamated with information collected by the council as part of the state of the environment monitoring and can be assisted by information obtained through compliance monitoring and complaints.

Monitoring closes the feedback loop in the cycle established by the RMA and informs decision makers of the consequences of actions and changes in the environment. Policy and plan effectiveness monitoring provides a means for determining how well plans are working in practice. It builds on state of the environment monitoring and can be complemented by monitoring resource consents, compliance, and complaints.

Monitoring resource consents, compliance, and complaints

- highlights areas that require further action
- provides feedback that may lead to changes to policies and plans
- contributes to assessing long-term trends over time
- helps enable informed decisions.

The core RMA functions described above (policy making, consent processing, and monitoring and enforcement) involve councils in the following activities.

Consultation as part of the preparation of all local authority plans and policy statements. The RMA specifies the agencies that must be consulted when making or changing a plan – and leaves a broad discretion regarding other parties. Although consultation is not mandatory for either applicants or consent authorities processing resource consents or notices of requirement for designations (this was clarified by the Resource Management Amendment Act 2005 – inserting new section 36A), the Environment Court has recognised it as good practice, particularly as a means of identifying/clarifying issues and potentially resolving them early in the process.

Consultation takes time. It can be hard work and cause costly delays. It requires commitment to communicate effectively with a large community of individuals and groups with different values and concerns.

Administration of all of the RMA-related processes is a key part of the performance of all local authorities.

Sections 34 and 34A of the RMA set powers to delegate functions, powers, and duties (including decision making) under that Act. In practice, the RMA places few impediments to wide-ranging and comprehensive delegation of resource management decision making to the party or person considered appropriate by the council or delegated committee(s) of council.

Section 35(5) requires every council to keep records of certain things. This includes records of all

- resource consent applications received
- decisions under sections 93 to 94C of the Act
- resource consents granted within the local authority's region or district
- transfers of resource consents
- extensions of time periods and waivers granted by it under section 37 in relation to applications under section 10 (existing use rights), section 125 (lapsing of consents), and section 184 (lapsing of designations) during the preceding five years
- in the case of district councils, locations and areas of all esplanade reserves, esplanade strips, and access strips in the district.

Section 36 of the RMA enables councils to charge applicants for receiving, processing, and granting consents; and consent holders for administering, monitoring, and supervising consents. Similar requirements apply to the processing of applications for private plan changes and notices of requirement.

Processing statutory documents and RMA applications. Benchmarking the effectiveness of this function tends to be focused generally on meeting the time frames specified in the Act – rather than on the quality of the outcome or effectiveness of the overall process. This focus presents ongoing balancing issues for councils because it is totally reactive (i.e. dependent on what – and the quality of what – is received), and although there is no penalty for failing to meet time limits, the onus is on consent authorities to ensure that they are met. There is also a requirement under section 21 of the Act to “avoid unreasonable delay”.

Technical reporting and the provision of technical services is commonly part of consent and plan processing because of the need to assess adequacy of the assessment of environmental effects lodged with the application or part of the cost benefit analysis of the plan change. Many councils have technical staff, but there are occasions when they may not have the resources (time) or the specific expertise to undertake the work, or when the effects that may arise need to be considered by an expert in a related discipline, for example a landscape architect or urban designer able to address the visual impact of a building in a sensitive landscape. The technical input is used to peer review or audit information supplied by the applicant, or to undertake an assessment of certain effects that the applicant has failed to address.

Inspection is a power provided pursuant to section 332 of the RMA. Any enforcement officer, specifically authorised in writing by any local authority or consent authority to do so, may at all reasonable times go on, into, under or over any place or structure, except a dwelling house, for the purpose of inspection to determine whether the RMA or an enforcement order, abatement notice, or other requirement is being complied with.

Research and analysis is a key requirement of the RMA. Section 32 of the Act requires a rigorous assessment of environmental, social, and economic benefits and costs. This analysis must be transparent and well documented, with all assumptions and decisions justified. Section 32 prescribes a process that includes, as a starting point, identifying the resource management issue (a matter or subject that needs to be resolved). This is generally identified through the monitoring/feedback loop provided between plan processing and the plan review process. The resultant report is required to be available at the time of notification.

Policy development and analysis is also specified under section 32 of the RMA. There is a requirement to

- identify the objective (the outcome that would result from the resolution of the issue)
- assess whether the objective is the most appropriate
- identify and evaluate policies
- identify and evaluate methods
- assess the effectiveness of the selected method(s)
- analyse the benefits and costs of the selected method(s).

Hearings are a significant part of statutory processes in the RMA. Hearings can be held by local authorities for

- resource consents (including restricted coastal activities)
- notices of requirement for designations
- heritage orders
- water conservation orders
- objections to certain decisions such as private plan change requests
- changes to conditions, alterations of designations, and lapsing of consents
- proposed policy statements and plans (including variations and plan changes).

The 2005 Resource Management Amendment Act clarified the powers for decision makers when conducting hearings (sections 41A–41C). Significant efforts have been made by councils to ensure that those conducting hearings have met the training requirements.

Decision making under the RMA is subject to legal process, and is legally challengeable through appeals to the Environment Court, High Court, Court of Appeal, and Supreme Court.

Decisions on resource consent applications involve notification decisions (which may be capable of challenge by third parties in the High Court) and determination decisions (which may be the basis for subsequent appeal). These decisions are often made by elected members as hearing commissioners – but increasingly involve professional independent commissioners. The RMA contains a great deal of prescription as to how

such decisions are to be made and the matters that are relevant to the various decisions. Case law has also developed as to how the provisions should be interpreted.

Legal procedures at various courts are provided for in the RMA. Decisions of councils in regard to resource consents, policy statements, plans and plan changes, and the decisions of requiring authorities in relation to notices of requirement are able to be appealed to the Environment Court. Enforcement proceedings (including interim enforcement orders), declarations about the legal status of environmental activities and instruments (both existing and proposed), appeals against heritage orders, abatement notices, compulsory acquisition requirements, and inquiries in respect of water conservation orders are also matters that may be taken to the Environment Court.

Environment Judges may sit alone to hear some kinds of cases, but for appeals about plans and resource consents, the Environment Court is usually composed of one Environment Judge and two Environment Commissioners. It may, however, comprise one judge and one commissioner, or for major cases, one judge and three commissioners. Section 268 of the RMA empowers the Environment Court to arrange mediation and other forms of alternative dispute resolution.

Appeals from the Environment Court can be made (on a point of a law only) to the High Court – and thence to higher courts by leave to appeal.

The RMA creates a range of criminal offences for contravening the provisions of the Act. Prosecutions are governed by the Summary Proceedings Act 1957. A prosecution is initiated by lodging an “information” with the District Court. The information sets out the details of the alleged offence. Local authorities normally prosecute offences under the RMA, but prosecutions can be initiated by any person. Judges of the Environment Court can sit in the District Court.

2.4 The role of communities at different levels in the resource management system

The opportunity for participation in the resource management system is extensive, in particular because of the requirements under the RMA for proposed plans and some consent applications to be publicly notified. However, the ability to be involved in all parts of the resource management processes is limited very often by factors such as time and cost. Few individuals have the time to participate in all areas; most do not have the funds. Groups of interested individuals do, however, participate across all areas of the system.

2.4.1 *Community boards*

Where they exist, community boards can provide a communication link between a council and the local community. Community boards under the Local Government Act 2002 (“LGA”) are required to act as advocates for their community, advise council of local concerns, overview works and services in the community, make submissions in terms of local needs and priorities, establish contacts with local organisations and groups, and carry out any responsibilities delegated by the council.

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The extent to which community boards participate and make decisions in relation to the resource management system depends, in part, on the varying functions and powers delegated to them by their respective council under the RMA and LGA. In terms of participating in the RMA processes, many community boards have the power to provide comment on resource management issues related to their area. Some have the power to lodge submissions to notified resource consents and plan changes. However, the ability to lodge appeals to the Environment Court on council decisions is not provided. Manukau City's boards also have the power to make submissions to the regional council and neighbouring councils on resource consents.

In terms of making RMA decisions, there is a varying degree of delegation. North Shore City has delegated to community board commissioners the power to hear and determine all resource consents of local significance apart from any that are dealt with under staff delegation. Decisions include notified and non-notified land use and subdivision consents, extensions of time, and section 127 RMA changes to consent conditions, and also acceptance of outline plans for local designations. There seems to be an underlying assumption in North Shore City that RMA consenting decisions are best made locally.

Manukau City also delegates the hearing of consents to community board commissioners sitting individually or collectively, and the boards are consulted on significant resource management matters in relation to consents. By contrast, there appears to be no specific delegation of functions or powers to Waitakere City community boards, although the hearing committee for consent applications at Waitakere City can comprise one community board member from the ward to which the matter being heard relates. Auckland City's delegation to community boards does not include resource consent hearings, but individual board members are used as hearing commissioners.

Many of the individual community board members in the region have become accredited to conduct hearings,¹ but considerations such as ensuring consistency of decision making across districts and the impact on achieving statutory time frames (and therefore efficiency and cost of the resource management processes) have generally influenced council decisions around the delegation of powers and functions.

2.4.2 *Individuals and groups*

There are wide legal opportunities for individuals and groups (such as local or regional organisations, businesses, and interest groups) to participate in the RMA system including by making submissions, being heard at local level, making appeals to the Environment Court, and being heard before that body with respect to

- all regional plans, regional policy statements, district plans and changes, or reviews of those instruments
- all notified resource consent applications
- notices of requirement for public works.

¹ The Resource Management Amendment Act 2005 introduced new requirements for the accreditation of panel members at local hearings. All chairs of hearing panels and a majority of the members of any hearings panel must be accredited.

Participatory rights are largely absent where resource consent applications are subject to limited notification or non-notification. More than 90 percent of all applications fall into this category and, as a result, there is very little opportunity for wide participation in the delivery of the RMA system through consents. Rather, the processing of most consents is largely a two-party process between consent authority and applicant (although the applicant will generally be required to obtain the consent of affected parties). This may be one of the reasons that some community boards have sought and obtained a decision-making power over many resource consents, so as to inject the “local” into this part of the RMA system.

2.5 Resource management instruments in the Auckland region

In Appendices 2 and 3 there is a full description of the main statutory instruments (including major changes to those instruments) that relate to resource management in the Auckland region. The appendices also provide detailed information on the Hauraki Gulf Marine Park Act and the Waitakere Ranges Heritage Area Act, both of which have statutory interfaces with the RMA and Auckland’s statutory instruments under the RMA. National policy statements are also covered.

Table 2 summarises the various policy statements, plans and major changes to them, their status, and key statutory dates.

The state of the RMA statutory documents in the Auckland region varies considerably by local authority and by plan. While Rodney District has yet to approve and make operative a district plan under the RMA, other councils have already notified second-generation plans under the RMA (Auckland City District Plan – Hauraki Gulf Islands Section), or are well on the way to preparing for the notification of second-generation plans and policy statements.

The reviewed New Zealand Coastal Policy Statement, National Policy Statement on Electricity Transmission, and numerous national policy statements under preparation will all require changes to the Auckland Regional Policy Statement (“ARPS”), regional plans, and district plans in the near future.

2.6 Delivery of resource management by Auckland councils

2.6.1 Regional issues

The region is faced with a significant wave of statutory planning work over the next five years that requires high resource levels and places new and increased performance pressures on both the ARC and the region’s territorial authorities and the resource management professionals in the region.

As mentioned earlier the LGAAA required changes to Auckland’s planning documents to give effect to the RGS. The changes to the ARPS and district plans resulted in 96 appeals

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Table 2 Resource management policy statements and plans in Auckland

Authority	Name of statement or plan	Status and review dates	Major changes
Minister of Conservation	New Zealand Coastal Policy Statement (“NZCPS”)	Adopted 1994. Reviewed 2008; proposed NZCPS notified, hearing of submissions later this year.	
Minister for the Environment	National Policy Statement on Electricity Transmission	Adopted in 2008.	Not applicable
Minister for the Environment	Proposed national policy statement for freshwater management	Under preparation and expected to be released for public submission in 2008.	Not applicable
Minister for the Environment	Proposed national policy statement on renewable electricity generation	Under preparation and expected to be released for public submission in 2008.	Not applicable
Auckland Regional Council	Auckland Regional Policy Statement	Operative 1999, and due for review 2009.	Six significant changes with none operative. At various hearing and Environment Court stages. Includes major changes as a result of the Local Government (Auckland) Amendment Act.
Auckland Regional Council	Regional Plan: Coastal	Operative in part 2004. Review date is 2014.	Eight variations and plan changes at various stages. Some on hold while other plans are resolved.
Auckland Regional Council	Regional Plan: Air, Land and Water	Proposed plan, all submissions heard and decided. Operative date will be a number of years away.	Variation notified and submissions just closed.
Auckland Regional Council	Regional Plan: Sediment Control	Operative 2001. Due for review in 2011.	Nil
Auckland Regional Council	Regional Plan: Farm Dairy Discharges	Operative 1999. Due for review in 2009.	Nil
Auckland City Council	District Plan – Hauraki Gulf Islands	Operative 1996. Reviewed plan notified for submission in 2006, hearings yet to be held.	Nil

Table 2 continued

Authority	Name of statement or plan	Status and review dates	Major changes
Auckland City Council	District Plan – Isthmus	Operative 1999. Due for review in 2009, but notification expected in 2010.	Numerous significant plan changes are in process.
Auckland City Council	District Plan – Central Area	Operative in part 2004. Due for review 2014.	A number of significant changes in various stages including at Environment Court. Wynyard Quarter plan change rezoning entire area for major urban regeneration notified 2008 and now in the submission and hearing process.
Franklin District Council	District Plan	Operative 2000. Due for review 2010.	Growth strategy change (Number 14) at Environment Court.
Manukau City Council	District Plan	Operative 2002. Due for review 2012.	Five plan changes are live including major change for large greenfield area – Flat Bush.
North Shore City Council	District Plan	Operative in part 2006. Review due 2016.	Large number of plan changes in process. Major changes affect Albany and Long Bay and stormwater management.
Papakura District Council	District Plan	Operative 1999. Review due 2009.	Large number of plan changes. Major changes with respect to growth management including new urban areas at Hingaia and Takanini.
Rodney District Council	Proposed district plan	Notified 2000. Final decisions released 2007. More than 90 appeals to Environment Court outstanding.	There are more than 25 live variations to the proposed plan, and several private plan changes to the operative district plan.
Waitakere City Council	District Plan	Operative 2003. Due for review 2013.	Significant live plan changes with respect to growth management including new urban areas in the northwest at Environment Court.

to the Environment Court. These are expected to be heard in the 2008/09 year and will demand a considerable amount of staff and specialist technical resource from across the region. This input is in addition to the work required to resolve the current body of appeals at the Environment Court linked to the various district plans and regional planning documents.

The review of the ARPS is, as mentioned, due in 2009. The 2005 amendment to the RMA introduced the requirement for all territorial authorities to “give effect to” the provisions of regional planning documents. This means that the ARC must look carefully at its policies and may require significant redrafting of all existing provisions in the ARPS in the upcoming review. It also means that the territorial authorities will need to involve themselves closely with the ARPS review to ensure that their individual council interests are addressed.

In addition, through the 2003 amendments to section 6 of the RMA, heritage has become a matter of national importance. The ARC and all territorial authorities are required to recognise and provide for the protection of historic heritage. Previously it was a section 7 matter where “particular regard” was to be had to this issue. The response to the 2003 amendment and to growing community concerns over threats to heritage will require a significant amount of work to fully address heritage matters, and will place considerable pressure on the existing small pool of heritage specialists across the region.

Changes to section 7 of the RMA now require the ARC and territorial authorities to have particular regard to the effects of climate change and the benefits derived from the use and development of renewable energy. Again, considerable work is needed to address these matters.

The issue of land supply, affordable housing, the justification of the existing MULs and other growth-related regional projects are an area of ongoing work by representatives and staff at ARC. The draft regional parking strategy, which is seeking to bring the management of car parking into line with other regional policies, has just been released for comment. The impact of the regional projects on other work priorities for planning sections of all the territorial authorities of the region is significant.

The operative plans of many of the councils are no longer successfully addressing issues such as the capacity for growth in rural areas, the landscape and ecological changes across rural land, management of future urban areas and infrastructure needs, and consistency with regional growth management policy. A number of the “rural” councils have reviewed the “rural sections” of their operative plans and as a consequence have released plan changes that have generated high volumes of submissions.

2.6.2 Urban design

Recent plan changes, as well as plan changes currently being developed across the region, give much greater attention to urban design considerations than has previously been the case. All the territorial authorities in the region are signatories to the New Zealand Urban Design Protocol and have made a commitment to create quality urban design through their own actions. Almost all of the councils are undertaking in some form

a review of their plans to establish a mechanism to address specific design issues and bring about regulatory changes. The operation of the design review process for assessing development proposals has highlighted design issues, which can lead to plan changes.

Auckland City and Manukau City each have an “urban design panel”. Auckland’s has been operating since 2005. Since then, it has reviewed all development in the CBD, both new buildings and substantial alterations. Added to its area of operation have been developments of 20 or more residential units in any zone; any development adjacent to or within the surrounds of a scheduled building; integrated housing developments or planned unit developments of 10 or more units; any significant new building or alteration in the Business 3 zone; medium- or major-scale council projects, including streetscape upgrades and community facilities; and, more recently, any significant new building or alteration in the Residential 1, 2, and 3 zones.

The “triggers” used by Manukau City to determine whether a proposal is a candidate for panel review include whether the development is multi-unit residential, mixed use, or a major council development, or whether it is in an identified growth centre, or whether it adversely affects scheduled buildings or objects. Manukau City has offered Franklin and Papakura Districts the use of its design panel.

A consultant has been commissioned to prepare a design guide for Rodney District.

Given the current disparate level of urban design resourcing in councils across the region (and through the rest of the country), creating a real or “virtual” regional team to support delivering or training, review, and implementation is considered essential to making Auckland a successful world-class city.

2.6.3 Heritage

Although a number of the councils are fortunate in having heritage specialists on staff, only Auckland City has consistently maintained a large permanent heritage team (since the 1989 local government restructuring). Heritage expertise is required to provide for the identification and protection of heritage features (buildings, individual trees, and areas of high-value ecology, geology, and archaeology), as well as for supporting the ongoing implementation of those planning provisions through plan administration. The district plans tend to identify heritage features and require resource consent for any proposal to alter such features. Developing appropriate site-specific solutions and agreeing them with the applicant generates a considerable additional amount of work during the resource consent process. Retention of heritage features is essential in terms of developing a sense of place and protecting and enhancing the character of a world-class city.

2.6.4 Implementing the sector agreements on growth management

As part of each sector agreement under the RGS, territorial authorities were required to promote various projects to implement opportunities for growth in their districts. The programme was extensive and councils have, through the LGAAA plan change process, indicated a priority for delivering the growth-related planning frameworks. However, there is no comparable priority setting for the delivery of the necessary local and regional infrastructure (other than for transport).

The difficulties encountered to date to direct or coordinate the provision of significant infrastructure is putting at risk the ability to release intensification in the growth areas as planned.

2.6.5 *Staff resources*

Resource management professionals within councils and externally are also involved in other council functions. New career opportunities in areas such as strategic policy, open space recreation and community planning, and transport planning have resulted in large numbers of planners with considerable experience moving away from the areas of district plan development and resource consent processing. These opportunities have arisen because of changes to legislation requiring new consultation and council document development processes similar to those found in the RMA (such as the special consultative processes of the LGA used in developing the long-term council community plans and bylaws). The keenness to move or be seconded into other areas may also be the result of the attraction of different work, given the pressures in the resource management area within councils due to conflict, the prospect of litigation, and the focus on meeting statutory time frames.

2.6.6 *Decision making*

There are many decisions that need to be made with respect to regional plans, district plans, resource consents, notices of requirements, and compliance under the RMA. Each council in the region approaches its decision-making roles linked to the RMA in different ways. In general, these roles focus on the following:

- decisions relating to plan making under the RMA (e.g. decisions to promulgate a plan change, receive a private plan change, appoint a hearings panel to hear submissions, or to lodge a council submission on a plan)
- the hearing and determination of applications for resource consents under the RMA
- determining council's position on appeals on resource consents, plan changes, or notices of requirement decisions, and negotiating settlements
- determination of the council's position in respect of any appeal to the Environment Court under section 176A of the RMA in relation to outline plans
- decisions on regulatory, prosecutions, and legal proceedings to enforce the rules
- district plan compliance
- resource consent compliance
- determination of objections under section 357 of the RMA.

A council committee can possess all of the RMA powers of the council. A community board can also have all of the powers of the council on matters that relate to its community, except the power to approve a district plan or plan change.

Councils in the region have varying levels of delegation across resource management functions. Most councils provide their standing “regulatory and/or policy committee” with the widest umbrella of powers. Some make provision for those resource management issues that have tight statutory deadlines to be dealt with in an expeditious way through the creation of a subcommittee, which can meet more frequently than the monthly standing committee. Some reserve decision making to committees of council or elected members appointed as commissioners (this can include delegation of decision making to community board members), whereas others make extensive use of staff and independent commissioners.

All councils recognise that preparing a new district plan or plan change is an inherently political activity that sits well with the roles and responsibilities of elected members. However, the involvement of elected members in the preparation of plan changes and the review of district plans can be time consuming. It is noted that, given the current age of the regional policy statement and regional and district plans, the volume of work related to district plan review likely to be undertaken by politicians around the region over the next one to five years will be extensive.

2.6.7 Regulatory/policy split

Generally the councils in the region have separated the delivery of their RMA functions, with policy and plan development staff employed in separate groups from regulatory (resource consent and compliance) staff. This separation is not always limited to reporting or management structure; it is sometimes even a physical separation, with the groups located in different buildings. A number of councils retain the separation through to the second-tier management level. However, Auckland City has in recent times moved to place both policy and plan development and administration under the same second-tier manager (although size means that they are not able to be in the same building). The anomaly is the model provided by Auckland City’s central area planning team, where a mix of policy, urban design, and consents staff operate with both district plan development and consents processing functions.

This separation of function is sometimes cited as one of the reasons for problems in retaining experienced planning staff, as policy planners are seen as having higher status than those involved in plan administration. It is also given as a reason for district plans failing to deliver on their objectives and policies as, owing to the separation, plan administrators are not aware of the background to plan provisions. It limits the opportunity for plan administrators and compliance staff to provide informal feedback to policy planners on the outcome of plan rules.

2.6.8 Administration costs

Most of the councils in the region seek to recover 100 percent of the cost of resource consents and private plan changes from applicants. Across the region, the 2008/09 annual plans signalled increases in council fees and charges linked to these activities and as a result the lowest hourly rate charged to applicants for a resource consent planner appears to be \$110 and the highest \$160. Deposits are generally set for lodging resource consents, with the deposit being the base fee and additional council costs resulting

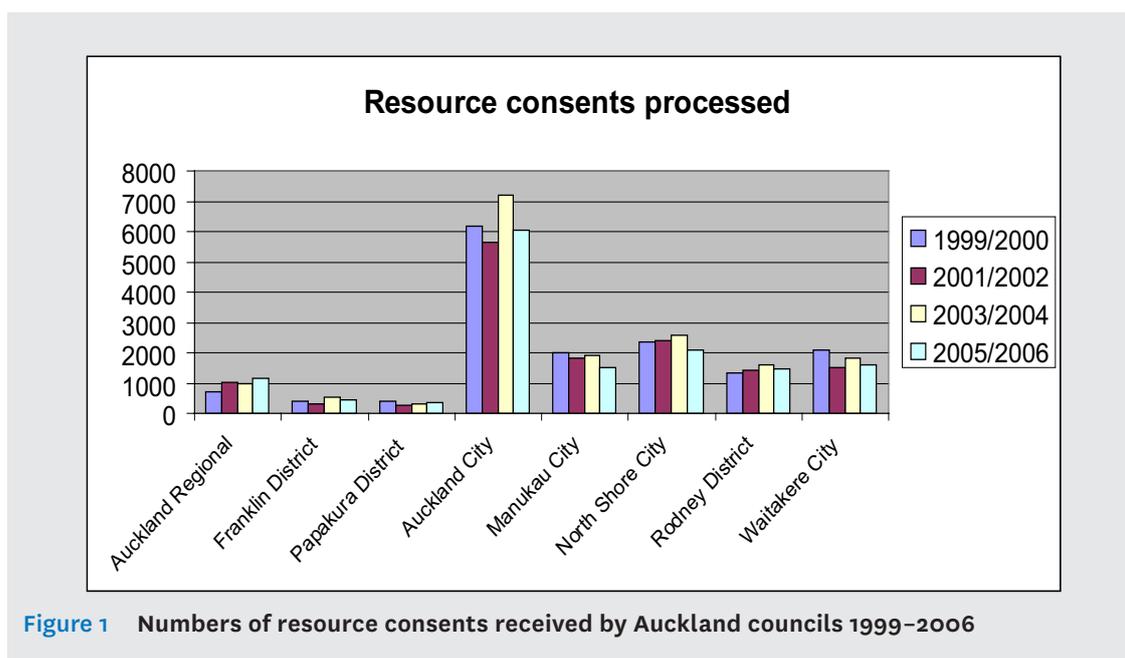


Figure 1 Numbers of resource consents received by Auckland councils 1999–2006

from time required to process a consent. The cost of experts such as arborists or traffic engineers are also recovered. Costs for public notification and hearing processes are also passed on to the applicant.

The management of resource consents and related compliance and monitoring processes is “big” business. Auckland City has been undertaking a review of its regulatory functions and is implementing a programme of work (including process, technology, people, and infrastructure improvements) that is being delivered at a budget of \$19.6 million (to achieve the first phase of work).² The programme commenced in December 2006 for implementation of the majority of the scope by December 2008.³

Most councils do not charge for council costs related to processing when consent is sought for the removal or pruning of trees subject to protection under the district plan. Some also waive the resource consent fees for not-for-profit organisations.

2.6.9 Legal advice

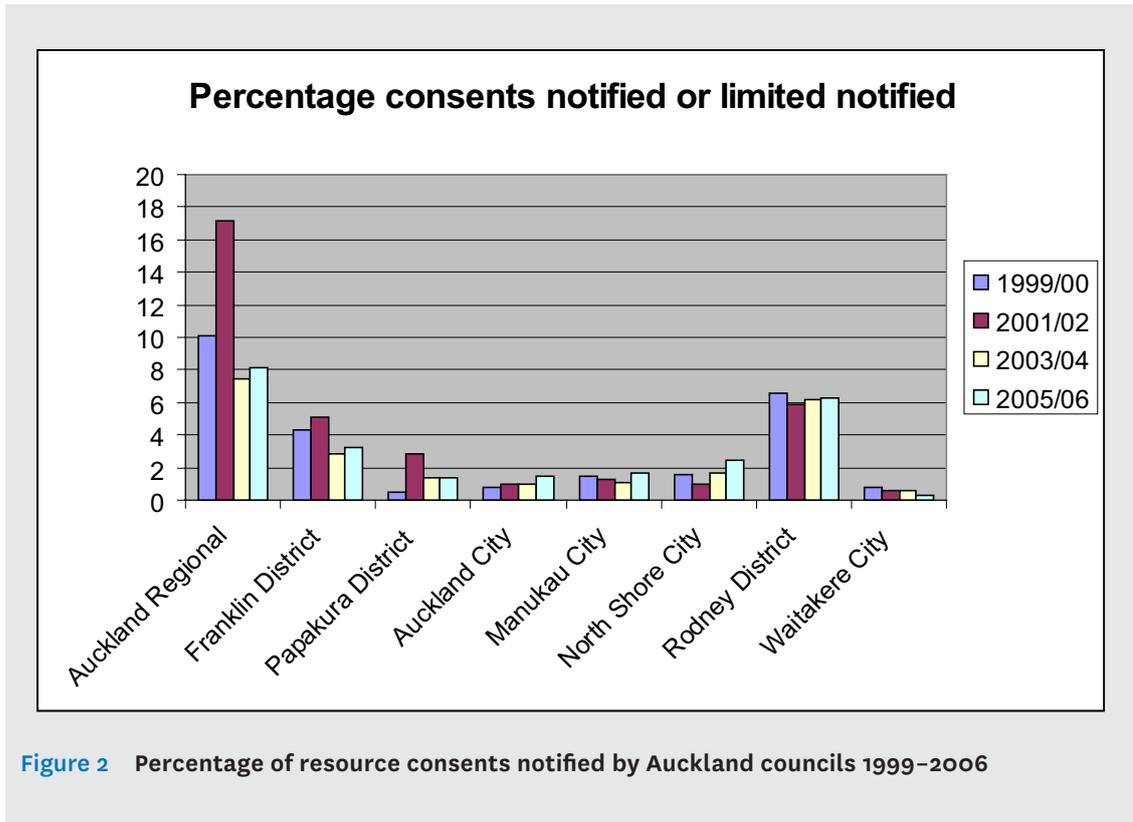
A number of councils have in-house legal support as well as using the services of external legal providers. Almost all of the external provision of resource management legal advice to councils in the region is provided by a small group of law firms.

2.6.10 Resource consent processing performance

The Ministry for the Environment collects information from councils about the number of resource consents processed, their notification status and timeliness of processing. Of interest is the absence in the information of any of its statistics around the performance of councils in processing plan changes and undertaking district plan reviews.

² Figure cited in a report to the City Development Committee in February 2008.

³ This programme is looking at regulatory processes including resource consents, building consents, compliance and monitoring, and providing feedback on the rules.



Figures 1 and 2 indicate the number of consents processed by each of the councils in the region, and percentages notified. Table 3 shows council performance against the statutory timelines for processing in the RMA.

Auckland City has the highest number of resource consents by far at 6,000-plus per year. This number is a result of the redevelopment of existing constrained sites and the number of rules that require low-level resource consents (mostly non-notified), such as consents for tree modification, small reductions in on-site parking provision, and changes (alterations and additions) to buildings in a large number of zones (including many town centres). North Shore City has the next highest level of consent activity at about 2,000 resource consents per annum.

ARC has by far the highest percentage of notified resource consents, and this is in part the result of the type of discharge and network consents processed. Otherwise the percentage of resource consents that are notified is low to very low. As an example, fewer than 1 percent of resource consents are notified in Waitakere City. The large rural councils, Rodney and Franklin Districts, have higher numbers of notified consents, in part because of the higher number of non-complying rural subdivisions.

We have sought to verify the integrity of these data through our own investigations, but note that different recording protocols and software systems mean that the numbers recorded may not be directly comparable.

Overall, it is probably fair to say that timely performance to statutory timelines is not a strong point for Auckland councils, especially for notified resource consent applications.

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Table 3 Percentage of resource consents processed within statutory timelines by Auckland councils 1999–2006

Local authority	Notified					Limited notification					Non-notified				
	Subdivision	Land use	Coastal	Water	Discharge	Subdivision	Land use	Coastal	Water	Discharge	Subdivision	Land use	Coastal	Water	Discharge
Franklin	67	25				0	0				53	73			
Papakura		0					33				17	40			
Auckland	100	48					45				17	56			
Manukau	0	22					67	25			34	32			
North Shore		57					100	71			82	66			
Rodney	63	56					61	50			53	62	67		
Waitakere		20									72	83			
ARC		88	80	10	87			100	100	100		99	99	99	97

Note “0” means none met the timeline. A blank means there were no consents in this category.

The figures for the ARC and North Shore City indicate those councils are the best performers in respect of statutory timelines.

3. Issues that any resource management system for Auckland must address

3.1 Methodology for issue identification

Any changes to governance in Auckland need to take into account the resource management issues that local government must address in Auckland, now and in the future. Resource management is a core function of local government, and structures and institutional arrangements should facilitate effective, efficient, and sustainable delivery of the function. A view to the long term is required, as many resource management issues are long term in nature, require focused attention and action over decades, and are slow to respond.

A wide range of key resource management documents were collected in the preparation of this discussion paper, including strategies, research reports, technical reports, and working papers. Many of these documents were published by ARC, Auckland Regional Growth Forum, Watercare Services Ltd, Committee for Auckland, and Auckland’s

territorial authorities. The review of these documents enabled the extraction of a wide range of resource management issues.

These issues were augmented by feedback received from key individuals well placed to comment on the implementation of the RMA in the Auckland region. Comments were received on the issues that had already been identified.

The issues were then consolidated into theme areas, under which they are discussed in this section. A list of the documents reviewed is attached as Appendix 4. In the text that follows, the numbers in brackets refer to the numbered documents in Appendix 4.

3.2 Growth management

The population of the Auckland region is projected to increase to 2 million people by around 2040, and Auckland has a much higher growth rate than is projected for the rest of the country [7].

The changing demographics (in particular, age and ethnicity) will continue to strongly influence the type of services that local government and other agencies need to provide.

If not well planned, population growth can generate a large range of negative effects. Growth is recognised by the region as a factor in causing many of the other issue areas identified below, creating pressure on infrastructure and land and increasing scarcity of resources [4, 8].

3.2.1 Metropolitan urban limit

Most growth in the region is planned and expected to occur within the region's MUL (as provided for in the ARPS and reflected in district plans).⁴ The MUL that rings urban Auckland and some of the outlying areas (Orewa and Whangaparoa Peninsula, Papakura) has been reviewed from time to time through collaborative regional processes led by the ARC and implemented through district plans. New urban areas are identified through district plan changes and subsequent subdivision and infrastructure provision. The region has experienced difficulties in accommodating household and business growth within the MUL, as existing undeveloped rural areas (greenfields) within the MUL are now running out and existing neighbourhoods are reluctant to accept intensification.

Business land supply within the existing MUL is currently expected to run out by between 2011 and 2020, which will significantly affect the ongoing growth of business, the economy, and employment [5].

Shortage of land suitable for greenfield residential development has been linked to increasing land value and housing affordability. Flow-on social impacts are anticipated, as housing affordability is considered to be closely related to social and community health, quality of housing, and levels of home ownership. Urban intensification is considered to be

4 Metropolitan urban limit is a planning technique used to define urban limits and limit sprawl on rural areas. It is a line drawn on regional planning documents to define the allowed extent of urban zoning. Sometimes called urban limits or growth boundary.

one way of increasing housing densities in already developed areas and to provide other housing options [1].

Continuing to encroach on land outside the MUL (seen as being rural land) is generally recognised as also having significant impacts. However, opinions differ on whether the MUL should be expanded or whether it should be retained at its present position as recently agreed through ARPS changes. If further expansion is to occur, there are questions that need to be considered, such as whether expansion should be incremental, guaranteeing a supply stream, or whether there should be a much longer-term view, setting limits that reflect a 40- to 50-year view of demand [6].

3.2.2 Urban form

Urban Auckland is still greatly affected by the early to late 20th century pattern of infrastructure provision and residential development.

The older residential suburbs ring the former ports of Devonport, Auckland, and Onehunga, as well as being part of the strip or nodal development along major transport routes, which includes the stops along former tram routes, the train stops, and ferry wharves (current and former). The development of the younger suburbs (housing from post-World War II through to the 1990s) was linked with

- the completion of major sewerage and drainage infrastructure (the Manukau oxidation ponds and the Rosedale sewage treatment plant)
- improved access to reliable water supplies (the dams of the Waitakere and Hunua Ranges were developed by Auckland City in the late 1940s to 1960s and passed over to Auckland Regional Authority)
- the completion of major new transport links (the completion of Tamaki Drive opened up the eastern suburbs; the harbour bridge (1959) saw the growth of existing suburbs to the north; and the construction of segments of the motorway system in the north, south, and west saw waves of new suburbs created in the 1960s and 1970s, such as Forrest Hill, Glenfield, Sunnynook, Te Atatu, Ranui, Otara, Weymouth, and Mangere).

The local government areas that were present in Auckland prior to the 1989 local government reform reinforced the basic separation of their districts into retail/commercial/industrial and residential areas through rules in their various district schemes. This has resulted in a large number of “town centres” across the region, each generally accompanied by a peripheral area of commercial or industrial land and surrounded by residential development. This pattern of development has been broken at times with “out of centre” retail developments such as St Lukes, Westgate, Botany, and Sylvia Park and bulk retail centres such as at Wairau Park, Albany Mega Centre, and Manukau City Supa Centre.

Although the policy of limiting urban expansion first appeared in Auckland in the 1951 “Outline Development Plan for Auckland”, the recognition in the 1990s of the need for employment and transport infrastructure to be more closely aligned with where people

live saw the RGS recognise once again that Auckland is constrained by its isthmus location and that it has spread out at low density, which has created inefficiencies and dependence on motor vehicles [1].

While there is high-level alignment between regional and local views on urban form and growth, detailed alignment between the ARPS, district plans, and infrastructure strategies, plans, and funding creates a gap between strategy and implementation all over the region. This is a key issue for the Royal Commission.

3.2.3 Urban redevelopment and intensification

While the RGS recognises that Auckland's future growth could take a number of forms (for example, spread out, compact, focused on nodes or centres, or along transport corridors) and while the current ARPS targets corridors and town centres within the MUL for substantial growth, there is currently limited regional agreement on the future role and management of activities in Auckland's centres, corridors, and business areas [30]. The major form of control of activities and their locations is the district plan. However, the current crop of post-1991 district plans reflects the aspirations of the particular local authority to provide an economic base and meet the needs of its own community, and does not provide a view of their district from a regional perspective.

Achieving results on the ground has also been problematic. Local communities have been vociferous in opposing intensification in some of the targeted urban areas, despite sophisticated structure planning and community planning exercises.

The non-residential redevelopment occurring in recent times has been market driven, with key retail players Westfield (Henderson, Newmarket, and Albany), AMP (new centre at Botany) and Kiwi Income Property (Sylvia Park) creating large new retail volumes. However, there is little residential or business redevelopment occurring in existing town centres (apart from Auckland City's central business district). Most occur either along transport routes or where sufficient land area has been amassed (e.g. Smales Farm and Albany on the North Shore, Highbrook Business Park at Manukau).

One of the reasons given for the out-of-centre development and for growth targets within existing centres not being realised (except within the central business district) is fragmented ownership [6]. Fragmented ownership and small property sizes are argued as making aggregation of suitable-sized redevelopment sites difficult, and prohibitive holding costs (increased by the time taken to move through council consenting processes) are claimed to make visionary redevelopment difficult for the private sector to achieve. Even where underlying land ownership is within one publicly owned entity such as the Wynyard Quarter, difficulties of long-term leases, site contamination, and the long lead time for new planning provisions pose significant challenges for urban redevelopment.

There have been some good examples of redevelopment of brownfield sites (former industrial land that is available for a new use) outside of town centres, for example Stonefields (the old Mt Wellington Quarry) and New Lynn (former brickworks and clay quarry). However, the availability of large brownfield land holdings for redevelopment within the MUL is limited.

3.2.4 Rural land

Outside the MUL, there are development pressures on rural and peri-urban areas. Lifestyle blocks ring the urban areas with a resulting need for more services and infrastructure. The ARC has, through the MUL, opposed new services and infrastructure being located in rural areas on the basis that low-density growth and development in rural areas can negatively impact on landscape character, rural amenity and productive values, natural and ecological values, and cultural heritage.

Lifestyle developments also create land use conflicts (reverse sensitivity) with traditional farming, and the fragmentation of rural land can reduce the availability of economically viable land for food production activities.

Institutional change in the formulation of resource management policy and consent decision-making governance of rural areas could raise concerns for rural communities. It may be felt that urban-based planners view rural areas as a reservoir for future urban development, and a “private park” to serve the city, rather than as communities in their own right [7, 27, 28].

3.2.5 Hazards

Inappropriate development needs to be restricted in areas where hazards are known to be a risk. However, the recognition, management, and understanding of hazards across the region are variable.

Existing and potential natural hazards found in the region include flooding, instability, coastal erosion, earthquakes, and volcanic eruptions. Man-made hazards are also problematic. Contaminated land resulting from a range of historical land use activities (including land filling, industrial activities, and horticultural activities) is also found across the region.

The level of knowledge and identification of hazard-prone areas in district plans across the region is inconsistent [2, 7]. Generally across the region, more detailed work is required to better understand the extent of such risks.

3.3 Key infrastructure

Wastewater, water, power, and transport infrastructure are generally accepted as requiring increased capacity in parts of the Auckland region in order to support the urban growth anticipated by the ARPS and planned to be delivered through the priority programmes provided for in district plans. There are general funding issues impacting on the supply and timing of infrastructure delivery.

Some infrastructure is provided through regional agencies such as Watercare and others by council operations (such as Manukau Water and Metrowater). Not all territorial authorities fund infrastructure in the same manner. Those that fund new development or upgrade infrastructure primarily from development contributions (provisions of the LGA enabling territorial authorities to take monetary contributions for growth-related

infrastructure) can be affected by timing lags. This is because both resource consent (subdivision and land use) and building consent phases that trigger the development contribution are market led, and councils are not always able to anticipate the timing or quantum of funding. This, along with other funding policies and priorities, influences timing and delivery. Strategic infrastructure investment is currently limited because of the lack of effective coordination processes between the range of providers and funders [6]. It is also affected by the different approaches and priorities taken through long-term council community plans for funding across the region.

The common standards for environmental protection specified in regional planning documents (e.g. stormwater and wastewater overflows) are delivered through infrastructure of varying ages and performance capabilities in each of the territorial authorities. Regionally set environmental outcomes compete at a local level with local priorities for funding parks, roads, libraries, and the like. This results in a misalignment between regional and district priorities for environmental protection as described and anticipated in the resource management regional plans [2].

Transport infrastructure developments (e.g. new motorway routes) have been controversial as a result of the negative effects, for example on water quality, greenhouse gas emissions, air quality, heritage sites, amenity, and the community [10, 26]. The coordination of the delivery of strategic transport infrastructure is affected by the number of agencies responsible for such delivery.

3.4 The quality and state of the natural environment

While the focus in Auckland is often on urban and growth issues, the region is very fortunate in terms of its natural environment. The landscape elements of the volcanic cones, coastal beaches and cliffs, and vegetated hills and ranges and islands have long been valued by Auckland's inhabitants. However, all are under pressure because of the rate of growth in the region.

Pastoral farming practices are giving way in many parts of the region to more intensive landscapes related to horticulture, viticulture, lifestyle blocks, and commercial forests. Coastal areas continue to be under pressure for weekend/ holiday development, and with improved access these areas are now being occupied by more permanent, year-round populations.

In addition to the ARC having a significant environmental protection role under the RMA in terms of air, land, soil, coast, and water, and local territorial authorities having roles in relation to their district plans, there are also pieces of legislation focused on protecting the region's environment. Both the Hauraki Gulf Marine Park Act 2000 and the Waitakere Ranges Heritage Area Act 2008 work with the RMA to protect highly valued elements of the region's natural environment.

3.4.1 Ecosystems and biodiversity

Auckland's natural heritage continues to be under threat from development (particularly agricultural, rural, and coastal). Although the loss and fragmentation of natural areas and habitats often occurs incrementally ("death by a thousand cuts"), the subsequent reduction in biodiversity threatens the region's native species and ecosystems.

Introduced pests have also destroyed natural habitats and are directly competing with native species. The Department of Conservation has been working with the ARC and territorial authorities in the region to manage and protect the region's biodiversity. The introduction of new pests presents further risk to Auckland's ecosystems. There is an additional future threat from climate change [1, 2, 7].

3.4.2 Water quality

The quality of fresh water (rivers, lakes, and ground-water) and coastal water in the Auckland region is still declining in some areas from various causes including

- sediment from subdivision
- agricultural pollution (fertilisers, effluent)
- wastewater pollution (leakage and overflow)
- stormwater pollution (contaminants collected by run-off)
- contamination of ground-water by salt water.

Sediment accumulation in estuaries and harbours has resulted in significant changes to marine and intertidal ecology. Freshwater ecology in local streams and rivers has also been negatively affected by introduced plant and animal pests and by the piping and culverting of streams that has followed or preceded subdivision. All of these factors have contributed to the decline of biodiversity in the Hauraki Gulf and other aquatic habitats in the region.

Part of the problem in terms of the Hauraki Gulf and the region's harbours and other marine environments is the fact that the area affected by pollution is not necessarily close to the source of contamination [1, 7, 11, 22]. The ARC works with other regional councils to manage shared natural resources.

3.4.3 Air quality

Auckland has the highest concentrations of nitrogen dioxide and ozone (ground-level ozone is an air pollutant with harmful effects on the respiratory systems of animals and humans) of all monitored New Zealand cities [23]. While Auckland's air quality is good in comparison with international cities of a similar size, ambient air concentrations of particulate matter of 10 micrometres or less and of nitrogen dioxide in the Auckland region currently exceed accepted health guidelines and standards [13]. The ARC has, through its Regional Plan: Air, Land and Water, worked to manage industrial and domestic discharges to the air, as air pollution affects welfare, property, amenity (smog etc), and can cause premature death (1,100 per year in New Zealand) [7, 23].

However, the major source of Auckland's air pollution is motor vehicle emissions. The quality of discharges from Auckland's vehicle fleet is not able to be controlled through the RMA. Therefore the ARC has lobbied central government in recent years for changes to improve the quality of vehicle emissions.

3.4.4 Soil

A large proportion of the rural areas of the region are prone to erosion. There is a reduction in the production capability of land owing to degradation of the soil through leaching of nutrients and loss of soil structure. The amount of productive land in the region is also reducing, with the elite soils being lost as a result of rural growth and subdivision [7].

3.4.5 Landscape

The cumulative effect of development has led to significant change in the character of Auckland's landscape. The region's rural and coastal natural landscape character is especially affected by development pressures [7]. The landscapes valued by Aucklanders have also changed over time. In 2003 the ARC undertook a public preference landscape assessment to identify the value the community places on landscapes.

This survey confirmed that the coastal environment and the Waitakere Ranges are still highly valued by Aucklanders. Within urban Auckland, the volcanic cones are valued as outstanding landscapes. As a result of the survey, the ARC has moved to protect outstanding landscapes and avoid inappropriate development in other areas of landscape significance through planning controls.

3.4.6 Coast/Gulf

In addition to the water quality, ecological, growth, and landscape character issues discussed above, the coast, harbours, and the Hauraki Gulf have other specific issues and features.

Because of the high value of coastal development, the coast has been modified in many parts of the region by man-made structures such as coastal walls and other erosion-control features to protect coastal properties. These modifications of the natural coastal environment in turn have their own impacts elsewhere along the coast, causing sand accretion or erosion due to changes in wave action and intensity.

In time, overfishing (including shellfish gathering) in the Hauraki Gulf may become a more significant issue. Although there are four marine reserves managed by the Department of Conservation close to Auckland, the taking of shellfish, recreational fishing, and commercial fishing under the Government's quota management system are believed to be affecting the biological resources of the gulf.

There is a growing challenge for the region to ensure that public access to the islands of the Hauraki Gulf and to coastal areas in the region is not restricted by private ownership. Councils work hard to ensure that coastal esplanade rules in district plans are adhered to, and the ARC has taken the opportunity in recent years to add considerably to the regional

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park network, with large coastal land acquisitions providing access to the harbours and gulf that play a big part in Auckland's recreational pursuits.

In the future, with climate change potentially leading to increased storm surges, sea level rise and inundation, increased erosion and property damage, and further reductions in coastal ecology, the need for better integration between agencies responsible for coastal planning and management will be critical.

The allocation of space in the coastal area to meet the demands of competing users is also an issue, related in some instances to regionally and economically significant uses. This can be seen being played out at the downtown waterfront with the ARC, as owner of Ports of Auckland, taking a slightly different approach to Auckland City over the nature and extent of public access to the waterfront. It can also be seen in opposition from recreational boaties to proposals for new mussel farms and permanent moorings in quiet inlets of the gulf.

The coast is another area where the roles and responsibilities of the regional council and territorial authorities interface. This has at times been problematic, particularly for private parties seeking to get a common view of issues and a coordinated response – especially in relation to development that involves obtaining consent under both the Regional Plan: Coastal and a district plan. Different agencies are responsible for above and below the mean high water springs, the identification of which can be problematic. This arrangement does not allow for the coastal environment to be managed in an integrated way. Interestingly, while the transfer of responsibilities from territorial to regional level, or vice versa, where both councils agree, is possible, this has not been adopted in the region for the coastal environment apart from in the Rodney District, where the ARC has transferred some of its powers in relation to coastal permits to the district council [2, 7, 22, 32, 33].

3.4.7 Hauraki Gulf islands

Many of the issues of mainland Auckland are found in the Hauraki Gulf islands, but the islands also face some issues particular to them. The greatest challenge is the conservation of the islands' natural environments and unique lifestyle while catering for increasing numbers of local and international visitors. Key issues are the retention of character and heritage, the protection of the landscape, with buildings designed to fit into it, and the level and type of new development allowed.

The economies of the islands have moved away from traditional farming and fishing to businesses focused on the visitor industry, grape and olive growing, arts and crafts, and home-based occupations made possible by new technology. However, access remains a significant issue.

The gulf islands have unique transport needs because of their isolation. The most distantly settled island, Great Barrier (75 percent of the island is in the Department of Conservation estate, with a resident population of 700–900) has no passenger ferry service in the winter, and apart from freight, access is only by air to the island's two airfields (Okiwi and Claris). Kawau Island (10 percent managed by the Department of Conservation

and the remainder privately owned with a small resident population) is accessed from Sandspit near Warkworth all year round, and over summer there is a ferry from downtown Auckland. A half-hour passenger-ferry service from Matiatia provides the main access for Waiheke Island's 8,000–9,000 resident and commuter population. Freight and cars access Waiheke via Kennedy Point from downtown Auckland and Half Moon Bay, with a summer service to the Coromandel stopping at weekends at the eastern end of Waiheke.

Although land at the western end of Waiheke Island is included within the MUL, the absence of many of the elements required for more intensive development means that even if there were support for more residential development, the lack of infrastructure is still a limitation. The islands of the Hauraki Gulf do not have the level of infrastructure provision commonly found elsewhere in the region. All island residents need to provide their own water supply (via roof or bore), most have to dispose of sewage on site (only the Oneroa commercial area on Waiheke has a reticulated sewerage system), and many have to provide their own energy. The low level of infrastructure provision comes under considerable strain at holiday time when the population swells, and in dry periods when water supply from rainwater is at critical levels and pressure is placed on the ground-water aquifer [22, 34].

The various islands are under different ownership (private, Crown, council) and have different planning documents. Kawau Island is included in the Rodney district plan, and the bulk of the Hauraki Gulf islands are within the Auckland City Hauraki Gulf Islands Section of the district plan. In addition to district plans, the conservation management strategy prepared by the Department of Conservation under the Conservation Act 1987 provides an additional planning overlay.

The gulf is also subject to the Hauraki Gulf Marine Park Act 2000. That Act seeks, through the Hauraki Gulf Forum (composed of representatives of the Ministers of Conservation, Fisheries, and Māori Affairs, six representatives of the tangata whenua of the Hauraki Gulf and its islands, and representatives from the two regional councils, four city councils, and six district councils around the gulf) to integrate the management, and promote the conservation and management of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments in a sustainable manner, for the benefit and enjoyment of the people and communities of the gulf and New Zealand. (The catchments of the gulf comprise any area of land that drains into the gulf and include considerable areas of the region.)

3.4.8 Open space and recreational land

The provision of and access to open space is vital to the quality of life of Auckland's residents, and there is a need to maintain and extend the supply of it while also improving the range, quality, and accessibility of spaces.

Auckland's current open spaces and recreational areas are diverse. Some are in private ownership (e.g. Eden Park, Pukekohe Park Raceway, private golf courses, tennis clubs, and bowling clubs), others are in public ownership (regional parks, local parks). It covers the open spaces of natural landscape (the volcanic features, the Hauraki Gulf islands, the beaches, coasts, streams, lakes, and natural bush habitats) and a network of open

spaces that include purpose-built stadiums, parks, streets, sports fields, school fields, cemeteries, and playgrounds.

Open space provision is partly provided through the subdivision process, with public open space provision being linked to consents processed under the RMA. Esplanade reserves are acquired through coastal subdivision provisions in most district plans. Land or money is also taken for the provision or purchase of new public open space by councils with development contribution policies under the LGA. Open space is also provided through the philanthropic actions of individuals and companies, gifting land or making it available to the general public (one of the most notable being Cornwall Park), and through the acquisition of land by the ARC for regional parks.

Maintaining adequate levels of open space provision is difficult in the face of competition for space for residential and commercial and other uses, infrastructure expansion, and increasing land values. Some areas of open space are also under threat from overuse as population pressure increases [9].

3.5 Cultural environment

Cultural and built heritage forms an integral part of personal and local identity. The interest in heritage is part of the desire to understand more about cultural origins. The loss of heritage in Auckland has been an issue for many in the region for a number of years, primarily because of the rate of change that has been associated with property and development booms in the 1980s and again in the late 1990s.

Protection of heritage items and places is recognised in the Historic Places Act 1993, but the battles are generally fought in the media because of the permissive provisions (or lack of protection) in the first generation of district plans prepared under the RMA. While “the protection of historic heritage from inappropriate subdivision, use, and development” was added to section 5 of the RMA as a matter of national importance in 2003, the assessment of heritage is a difficult and emotive matter in practical terms. This has been evidenced by the discussion around Auckland City’s recent attempt to introduce changes to the provisions of its residential 1 and 2 zones that are intended to protect and enhance the heritage elements, characteristics, and qualities of certain residential areas.

In some parts of the region, the heritage elements have already been destroyed. However, there is a need to better recognise and provide for the protection of existing cultural and built heritage resources [1, 7, 29].

3.6 Amenity

3.6.1 Urban design

Urban design has risen as a key issue in New Zealand in the past decade. Important steps in improving the understanding of urban design matters have been the development

by central government of the New Zealand Urban Design Protocol and the actions of individual councils in focusing their communities and those involved in development on the value of good urban design.

One of the threats that potentially impacts on the region's ability to deal with growth through intensification is the fact that recent development has often been of mediocre design and lacking in durability. Added to this is the problem that apartments and other forms of intensive housing still have negative connotations in the eyes of the general public (being perceived as leaky and having poor-quality construction) [1, 6, 29].

Ensuring that district plan controls address urban design and that assessments are undertaken by urban design professionals will help make sure that new development responds to the natural and historic environment and protects Auckland's sense of place. Not only will private development need to be subject to assessments, but all public infrastructure and public space needs to be designed as attractive elements in the urban landscape. Good urban design will also ensure that Auckland as a region is well placed to create beautiful places that will attract international visitors and businesses.

3.6.2 *Aesthetics*

Aesthetics contribute to people's enjoyment of a place. Maintaining good aesthetics is a challenge because of its subjective nature, and can be particularly problematic in areas of intensification. The aesthetics of an urban area are created through the retention of heritage and character buildings and elements, through the introduction of sympathetic new development and the provision of high-amenity streetscapes, with street trees, removal of power poles, and undergrounding of overhead lines. Some high-density developments in the past have been considered unattractive. They have not been well received by communities and may now be considered to detract from the aesthetics of an area (a recent example for some is the high-rise Nautilus development at Orewa). While the general community is becoming more accepting of change, resistance remains in many areas. This is evident when intensification plan changes are notified and through the submissions that result. It is also evident with opposition to proposals to establish tourist accommodation and lifestyle developments on coastal properties.

3.6.3 *Health and safety*

The territorial authorities in the region have a public health responsibility under the Health Act 1956.⁵ This is principally in relation to environmental health (i.e. public health matters related to the physical environment, such as sewerage) although there is the general requirement to "improve, promote, and protect public health within its district". Under proposed amendments to the current legislation, a territorial authority not only must identify and abate nuisances but also may have a role in assessing and monitoring activities that are regulated.

5 This Act is currently under review with the Public Health Bill introduced to Parliament in November 2007 (first reading on 12 December 2007). Parliament referred the bill to the Health Committee, which called for public submissions (closed 7 March 2008). The select committee reported on submissions at the end of June 2008.

Territorial authorities have traditionally been responsible for environmental health issues that become nuisances. The term “nuisance” is based on two concepts, “injurious to health” and “offensive”. An example of a “nuisance” could be when a location has become a breeding ground for rats owing to a pile-up of rubbish and animal carcasses. In the case of contaminated land, a nuisance may be created by disturbing land in a manner that results in airborne contaminants. There is considerable overlap between a territorial authority’s functions and duties under the RMA and those responsibilities related to the Health Act. This is because the purpose of the RMA as defined in section 5 includes

managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety ...

The design and layout of the environment also has health implications. Councils in the region seek to have attractive, safe, and accessible town centres and communities to encourage residents and workers to walk or cycle as opposed to drive, for health as well as environmental reasons [29]. However, pedestrian safety is an issue, especially in areas with high car priority. Health impact assessments are starting to become part of the planning process as a way of assessing the needs of a community and the impact of intensification.

Designing safer environments in the region is also being achieved through some of the councils adopting practices related to crime prevention through environmental design. This approach is based on the concept that crime and fear of crime can be minimised through effective planning and designing of our built environment and that the safety of people within the city contributes to the liveability of the city and the extent to which the public use particular areas. The concepts focus on the relationships between people and their environments and recognise that design aspects that make people feel safe (such as good lighting) act as deterrents to crime. The principles of crime prevention through environmental design are embedded within urban design practice but as yet are not found in all district plans across the region.

3.6.4 Noise

Noise from traffic, construction, people, entertainment, business sources, and so on impacts on the amenity of those living in the region. It can negatively affect personal well-being and health. Under the RMA, councils have the power to control excessive or unreasonable noise and can set noise limits for human activity, but noise from moving vehicles such as aircraft, boats, trains, and cars is not under council control.

The fact that the RGS seeks to intensify growth along corridors with high volumes of rail and bus movements means that noise will continue to be an amenity issue for some while. As the region becomes more intensified, finding solutions through requiring better internal acoustic performance from new and more intensive housing is an area that needs to be addressed. It is an area where currently the RMA, the Building Act, and other regulatory functions do not work well together.

3.6.5 *Participation*

Community participation is a key and unique part of the current resource management regime in New Zealand. Both the LGA and the RMA expect councils to enable their communities to become involved at the right level and the right time. They also expect councils to engage their communities on issues where the community can contribute meaningfully in decision making. However, a balance needs to be sought between too much (leading to “consultation fatigue”) and too little consultation.

The desires of different sectors of the community often conflict in RMA processes. Individual property development rights can sometimes be at odds with wider public good benefits. Major transport and infrastructure projects that impact across the region (examples include Transpower’s transmission lines from the Waikato and the State Highway 20 Richardson Road to Waterview route) have been halted as a result of this conflict, while agencies seek to find solutions.

There have also been examples where parts of the same network have been publicly notified in one district and handled as a non-notified resource consent in another. This difference in approach to public notification about resource consents is one area that highlights the different pressures and receiving environments found in the various districts.

3.6.6 *Resistance to change*

Some communities in the region have been resisting change, especially growth. This is partly as a result of the presence of poor-quality examples in the past, but also because of other factors such as a feeling of loss of local identity and a feeling of being “threatened” by new residents who are “different”.

In parts of the region where Housing New Zealand is the main landowner, its tenants fear relocation and dislocation as a result of redevelopment. The result has been the development of resident groups and associations with wider regional and national connections, lobbying community boards and councillors (and staff) at key times (such as local government elections) to show their concern and opposition.

This resistance to change is also found in the desire of many residents to have “character and heritage” provisions in district plans to protect existing buildings in residential suburbs and town centres. The recent Auckland City example of Plan Change 163 (which introduced rules to change the demolition of buildings in the residential 1 and 2 zones for buildings built before 1940 from a permitted activity to a discretionary activity) is in part a result of communities indicating that protecting the character of their neighbourhood is important.

3.6.7 *Council processes*

Council planning processes at regional and district level take a long time. Plan-making processes are lengthy and can get caught up with local government electoral cycles and Environment Court workloads. Often the impact of submissions can result in shifts in policy and inadvertently the creation of new issues.

Resource management decisions can also take a long time and are often perceived to be strongly influenced by the council staff involved. Different experience and skill levels

of council staff and applicant advisers can affect the quality of the consent assessment process and may impact on the decision. Most councils have relationships (sometimes formal contracts with service-level agreements) with specific external resource management providers to cope with any high-volume peaks. Unfortunately for staff, these consultants often end up being allocated the most interesting or complex consents.

Different interpretations and application of a plan provision (often as a result of poor drafting and/or case law interpretation) can affect consistency of outcomes over the life of a plan. It can also result in lengthy debates between applicant advisers and council planners, and can increase delay and costs. At times these matters need to be resolved through the courts, adding to cost and delay.

Council planners can also appear to err excessively on the side of caution, and to be risk averse (a developer view often, as many in the community see them as siding with developers). However, the lack of speed to take enforcement action against non-compliance with the plan or resource consent conditions, and the fact that decisions on whether or not to notify a resource consent can take months, ultimately end up frustrating all sectors of the community and are not unique to one or other council in the region.

Resource management procedures can be further slowed by internal administrative processes and systems that are lacking in efficiency.

3.6.8 Recruitment, retention, and development

Councils can have trouble attracting and retaining quality staff, and suffer from the loss of “institutional memory” when experienced staff leave. This affects their ability to deliver quality resource management services (policy and consenting) and to undertake research and monitoring. It creates inefficiencies when having to pass on local and organisational knowledge and train new staff. Staff quality is also affected by the professional development opportunities available.

With a large number of potential employers (all of the district councils, the regional council, and a large number of planning consultancies) there is at times considerable movement of resource management professionals within the region as councils and their external service providers compete against each other for experienced staff, with those offering the best remuneration package often being the most successful.

3.6.9 Iwi planning/co-management

Agreements for co-management of resources by councils and iwi are virtually non-existent in the urban area of the region, but can be anticipated to become more common in the future. It could take time for these to operate effectively, and create more complexities in terms of council processes.

3.6.10 Cost of development

The cost of development in the region impacts upon its viability and subsequently the ability to deliver the objectives of district and regional plans. Councils contribute to some costs of development including development contributions, compliance costs, holding costs (due to consent processing times), and the cost of the consents themselves.

Increasingly, the need to obtain resource consent has become the norm in the region as there are fewer permitted activities. The addition of urban design assessments and other criteria means that getting consent for development is more complicated. This is in part also the result of most of the “easy” sites in the urban part of the region having been developed. The hard sites left are those with contamination issues, or geotechnical problems, or where there is little or no infrastructure capacity.

However, for some, the value of development in the region still provides sufficient return on investment to compensate for the uncertainty associated with the resource consent process.

3.6.11 Cross-boundary issues

Wherever a line is drawn for management purposes, issues arise in taking an integrated, strategic approach to planning for the environment. For example, infrastructure provision via networks and supply lines often creates cross-boundary issues by their nature, for example, motorway networks, water, and power supply. Problems occur between Auckland’s territorial authorities, and between ARC and the adjacent regional councils (Northland Regional Council and Environment Waikato), especially when policies and rules significantly differ.

Complexities also arise from regional councils and territorial authorities being responsible for planning for different functions in the same area, whether it is land or a coastal area. This is not just a regional issue, as the problem also occurs within individual councils where lines of responsibility are drawn around assets such as parks and roads.

Voluntary collaboration can occur to resolve these issues. This can be seen at the Wynyard Wharf area of the harbour where Auckland City is working with ARC to develop the planning regime to apply to this area. The ARC is a key landowner through Auckland Regional Holdings. Collectively, Auckland Regional Holdings and Auckland City are contributing over \$200 million towards public infrastructure required in the area.

In some instances a greater and more powerful force has been needed to overcome the lack of alignment, although there have been examples where this can also hinder the process (e.g. central government’s waterfront stadium option for Rugby World Cup). The Hauraki Gulf Forum, although mandated by legislation, seeks to achieve collaboration across the Hauraki Gulf, and the Waitakere Ranges legislation requires collaboration between the ARC, Waitakere City, and Rodney District.

4. Informant views of resource management and governance issues for Auckland

4.1 Those involved in the resource management system in Auckland

Twenty-one frequent users of the resource management system in Auckland were interviewed to further inform this discussion paper. The key informants included senior

council officials, developers, and resource management professionals and analysts. The interviews were not intended to represent all key stakeholders in the resource management system; those voices will be heard directly by the Royal Commission.

The informants were asked for their views of the key resource management issues as they impacted governance in the Auckland region.

A number (around 30) of the submissions lodged with the Royal Commission were also reviewed as part of preparing this paper. In the section that follows, a summary of the headline issues identified and the views of informants and submitters is provided. Although this is not a comprehensive review of every submission, it has allowed us to identify major themes.

4.2 The role of regional council

Informants and submitters questioned the role of the ARC versus the territorial authorities and whether there were too many agencies occupying the same space with respect to metropolitan growth. Comments were made that the ARC has a strong “environmental protection agency” position, but that its role in regional strategic growth and development is more problematic. While there are strengths such as the ARPS and RGS (and now the Auckland Sustainability Framework), there is a lack of teeth for implementation.

Better coordination between all parts of the regional council was identified as a must, with informants citing experiences of one part of council supporting an application and another lodging a submission and giving evidence in opposition at a joint hearing of a territorial authority and ARC. The need for an “all of council” view and position was identified.

Informants with territorial authority experience indicated a lack of trust of the ARC. They did not consider that the ARC understood or was close enough to the concerns of local communities.

Informants were generally of the view that there was a need for alignment of a metropolitan urban planning function and planning and funding roles for key infrastructure.

The need for better alignment around resource management processes also featured prominently in the reviewed submissions. Many argued that better alignment would reduce costs and time for both the councils involved and for the participants.

4.3 The current process for developing regional growth policy

Auckland has developed its own methods for developing regional policy through the RGS process and more recently through the Auckland Sustainability Framework.⁶ In developing these regional approaches, it has been possible to get general alignment of regional and territorial authorities at the higher level. The process of putting this into practice through the ARPS and district plans is, however, interminable and can water down regional agreement and aspirations. There is also a misalignment of timing, as different regional processes and district processes (regional policy statement, RGS, LGAAA changes, district plan reviews) are unsynchronised. Ideally, the regional policy statement should precede any major district changes or reviews, but because of the timing of the statutory review of existing planning documents, this is not possible unless there is an ability to halt the reviews until the regional policy statement is reviewed and beyond challenge.

It is also unfortunate that, when decisions are made at the regional level, particularly as seen in recent years in relation to redevelopment and growth around centres and corridors, these decisions are relitigated at the local level.

It is unlikely that territorial authorities have adequately budgeted for significant engagement with the regional council on matters likely to be contained in the forthcoming review of the regional policy statement. While the impact of the “give effect to” requirement in the RMA may be seen in a greater emphasis on early and effective collaboration, some submissions and informants have suggested that further amendment to the RMA is required to make the regional governance agency the final decision maker on its regional policy, and to provide that any “district plans” should be approved by the regional agency to ensure that they deliver the regional policy. Other informants suggested that if local government was reorganised in Auckland, the impending review of council district plans needed to be halted and instead priority given to the review and development of the regional policy statement.

Submissions also addressed frustration at the churn associated with arguing the same issues in a number of planning documents and the cost of preparing individual plans.

4.4 Infrastructure must be planned regionally to support growth management and not lead or lag

Many informants raised the issue of the alignment of key infrastructure funding and development and regional growth management. There was a view that there needed to be a regional body with responsibility for planning (and even, if necessary, funding) city-shaping infrastructure such as motorways, regional arterials, rapid transit corridors, regional water and wastewater networks, open space networks, and the like. The costs of providing such infrastructure, retrofitting existing urban areas, or opening up new urban areas are huge, and need to be coordinated and prioritised to support the region’s best

⁶ The Auckland Sustainability Framework was endorsed by the Regional Growth Forum on 5 September 2007 as the region’s overarching sustainability framework to provide direction so that local authorities and central government agencies can work together in Auckland.

long-term interests. Several informants considered that in some cases there should be a “special green light” for critical regional infrastructure required to unlock and support desired growth in the region. Some comment was made that there are several major special-purpose agencies that can independently make strategic city-shaping decisions and that certainly have the power to prioritise expenditure in such a way as to frustrate regionally agreed growth directions.⁷

The link between growth, infrastructure provision, and development contributions was raised by more than one informant. The current approach of “levying” developers to provide key infrastructure and the difference in values of the development contributions across the region was questioned, as was the focus on paying for infrastructure up front rather than recognising the cross-generational values.

Many of the submissions reviewed also argued that coordination of key infrastructure at a regional level was vital, with some suggesting delivery through council-controlled organisations.

4.5 Overlaps in key planning documents and functions

Informants noted that there is a lot of duplication of effort in the planning area, with different agencies making plans that cover the same territory in one manner or another. There are significant overlaps, and so there must be great efforts between agencies to ensure alignment and consistency of policy. The relationship between land use and transport, the relationship between land use strategy at the regional and district levels, and the relationship between land use and other resources all overlap in the ARPS, regional plans, district plans, and the Regional Land Transport Strategy.

Informants commented on the fact that both regional and territorial authorities “occupied the same space” with respect to planning for and governing the growth of the region. Because of this, there are frequent examples of the regional council objecting to district council plan changes or resource consents because of challenges to regional land use strategic growth factors. Conversely, districts can have a difficult time expanding urban growth areas for local strategic growth that does not accord with the regional council’s view of the world as expressed in regional policy statements and strategies. A lot of time and effort can go into these inter-agency disputes through statutory hearing and appeal processes.

Submitters also raised concern about this issue. Some cited the example of consents being needed from different councils for the same activity (e.g. needing consent from the ARC for earthworks associated with new development that needed consent from the district council). There was frustration expressed at the need to obtain more than one consent and to deal with more than one agency for the same development. Other submissions indicated concern about some key decisions being in local hands and it was suggested the central or regional government agencies should make decisions about transport.

⁷ Transit New Zealand (to become the New Zealand Transport Agency), OnTrack, and Watercare Services Ltd are three such examples.

4.6 A strong and directive spatial plan is needed for the urban area

Comment was made about the missed opportunity with the LGAAA and the amendments to the ARPS and district plans. There was also a feeling that the RMA had taken away the focus on strategic intent because of the “effects” regime. Although it was acknowledged that some progress has been made, there is a feeling that a stronger and more directive spatial plan for the region is required to specify areas and priority, for example, growth nodes and significant infrastructure. A possible way forward would be to utilise the national policy statement mechanism, which has limited rights of submission and to which regional policy statements, regional plans, and district plans are required to give effect.

4.7 Urban redevelopment

Some informants commented that some councils have not taken the hard decisions around urban intensification, in particular from both a planning and infrastructure investment perspective, and that the ARC does not have the clout to ensure agreed regional growth directions are achieved. Regional collaboration goes only so far, and with the hard issues it does not go far enough. Institutional change and powers are required. Informants lamented the absence of an agreed or targeted regional priority over the release of land and the establishment of the requisite infrastructure to deliver growth. It was noted that each territorial authority has made a commitment to achieve growth in its area, but there is no agreed approach for monitoring to ensure it is being delivered or a tool to require adjustment if not. Current governance and statutes do not enable urban redevelopment.

Almost all informants commented on the lack of suitable structures and powers to enable redevelopment in the region. Reference to a regional development agency with acquisition powers was made by several parties. There are several examples of this in operation in Australia. It was envisaged that such an agency would be one of the implementation arms of a regional body – and not another separate special-purpose body.

The ability to land-bank and protect important corridors needed many years in the future was also identified as important for a growing city. Many reflected concern that with the current fragmentation of land ownership in urban areas, there is little ability to force amalgamation of land into sufficient size to achieve large-scale, comprehensive redevelopment. Again, Australian examples were identified.

As part of the mix, there was a perception from developer informants that there were no incentives for them to do what was being asked for in delivering the required growth in the innovative, comprehensively planned manner requested and there was a feeling that they were treated harder than developers doing ad hoc development.

It was noted that if containment of the metropolitan area is going to succeed it needs a lot of coordinated action within the MUL, and this role is spread amongst many agencies with competing priorities and objectives. It was also noted that there needed to be some

upskilling of those who administered and wrote district plans as they currently are too focused on adverse effects and not on addressing strategic outcomes.

Submissions to the Royal Commission suggested that more liveable and prosperous neighbourhoods and town and city centres will come about through Auckland intensifying growth in its suburbs and town centres; and they suggested that, to take on the complex process of redeveloping existing settled urban areas, organisations such as urban redevelopment agencies are required. It is suggested that such organisations may be separate from a council or be a unit of them and that, either way, a larger council is more likely to be able to sustain the organisational capacity to set up and run such organisations, or where they are separate, to be able to interact with them in a meaningful way.

Submissions addressed the need for integrated decision making, at the local and regional level, involving land use planning, transport, stormwater, and social infrastructure. Submissions noted the importance of organisations responsible for delivering redevelopment constantly refining and updating their approaches – to be learning organisations.

Submissions also identified that to intervene positively in the urban marketplace a wider set of tools was required. Resources such as complex geographical information systems and people skilled in consultation were needed to sustain the investigations and the research that supports well-thought-out, design-based plans and interventions. Funding tied to achieving urban design outcomes was also suggested.

It was noted that redevelopment involves public and private money being brought together, with a strong rating base needed to support the capital investment required. Having larger commercial and business areas within a council area makes a big difference to funding levels (as well as to thinking about how the city should be planned). It was pointed out that councils also need the ability to raise debt on the basis of future income from redevelopment. Councils must also have the capacity to engage with central government and to ensure that funding of separate infrastructure projects (roading, public transport, health, education) meet multiple outcomes; and it was noted that this all requires more complex financial management systems and more staff with a higher level of skill.

4.8 Relationship between the rural area and the metropolitan area

Informants were aware that much of the discussion was about urban issues and not rural issues. There was recognition that rural areas have different issues, but also that the rural area needs to be differentiated. There was a view that some parts of Franklin District are driven from rural and productive values and have a loose connection to Auckland. On the other hand, areas close to the metropolitan area, both in Franklin District and areas controlled by other southern councils, are part of areas that have significant lifestyle development that is driven by the growth of Auckland, and needs to be managed in the context of Auckland. In the same way, it was considered that most of Rodney District, including its long coastline, was very subject to growth pressures from Auckland and

could not be easily separated from the region and regional approaches to growth management.

It was noted that urban-centric planning does tend to identify rural areas as “not urban ... yet” and to look at those areas as reservoirs for future urban development, or as areas that need to be protected as the green lungs and amenity areas for urban residents. The smaller scale of local rural communities, the need for sustainable economic development, and the protection of rural values for those communities can get lost in the geometrically larger scale of urban development.

While there was support for the idea of a spatial plan, and a metropolitan urban planning agency with considerably stronger powers than are held today at regional or territorial levels, there was not the same support for a “one region” planning agency. There was also a call for a tool to assist in identifying the productivity values of rural land, as those territorial authorities with rural land were under constant pressure to release land for “lifestyle” purposes because it had greater value for residential rather than rural purposes.

It was suggested in some submissions to the Royal Commission that the mix of rural and urban areas needed to be retained, as it is the protection of rural resources that drives much urban policy. This rural protection focus needs to be complemented with the ability to undertake real urban planning.

4.9 Engaging the best talents in resource management

There was some discussion about the ability of the resource management talent pool to match the resource management challenges facing the region. Generic issues with recruitment, retention, and training were noted. There was not a consensus as to whether larger organisations resulted in improved outcomes, although there was a view that smaller organisations tended to struggle with retaining the technical skills required for both policy development and consenting. There was consensus that if delivering a regional policy/spatial plan was the priority, then finding a method of pooling the best from throughout the region would be optimal, as there was general agreement that no one organisation had the skill set for the task.

There was concern that those who implemented the planning documents through consent processing were considered “second class” and were not as important as those developing and writing policy. There were expressions of concern from the development sector that too often the focus on process rather than outcomes was the cause of the problems. There was also concern that council staff were asked to meet unrealistic targets in terms of workloads.

The need for more professionals trained and skilled in urban design, particularly in the public sector, was noted, as was the fact that larger councils can sustain larger policy teams that help to shape and integrate strategy.

4.10 Harmonisation

Informants, interestingly, did not uniformly identify the need for an integrated district plan, regional plan, and regional policy statement or, at the lower level, standard metrics in district plans, or rules for activities, as a key concern or issue. In part this was because of the significance of the issues at a regional level already discussed above. There was a general recognition of the need to reflect local character and identity. When quizzed about whether it might be possible to have one integrated district plan across the region, those that agreed still felt that specific provisions to address local centres and character would need to be retained.

The views of informants were reflected in some of the submissions reviewed, which also indicated that a level of consistency would be appropriate but with enough flexibility to acknowledge unique local differences. Some submissions suggested allowing community involvement in resource management decision making was one way of achieving local difference. However there was considerable variation concerning the level at which decision making should be made. Some submitters expressed concern at the high volume of consents decided on at officer level and sought more decision making by elected representatives.

4.11 Case studies

Case studies on some parties' views of governance failures in the resource management area are set out in Appendix 5.

5. Delivering a world-class city – the requirements of the resource management system

5.1 What is a world-class city region?

It is useful to identify and even describe some of the attributes of a world-class city region so as to reflect on what the resource management system needs to be able to respond to. As part of developing this discussion, a number of resources were referred to. They were Mercer's Quality of Living Survey, the Auckland Regional Economic Development Strategy 2002–2022, and "Successful Cities – Lessons for the Wellington Region" (a 2004 background paper to the Wellington Regional Strategy).

Mercer's Quality of Living Survey is released annually. It compares 215 cities based on 39 criteria. New York is given a score of 100 and other cities are rated in comparison. Important criteria are safety, education, hygiene, recreation, political-economic stability, and public transportation. The importance of the list lies primarily in that internationally operating companies use it to determine where they will open offices or plants and how much they pay the employees. (Refer Appendix 6 for the specific criteria.)

Auckland was ranked in 2007 and 2008 as fifth in the world on 107.3 points, behind Zurich's first position on 108.1, followed by Vienna, Geneva, and Vancouver.

The Mercer study provides an independent insight into the world's cities, with the study adopting a broad, triple-bottom-line analysis approach. The limitation of the study is that it assesses the "views" of expatriates in each city rather than those of residents. The advantages of surveying expatriates in a given city are that they are more likely than local residents to provide an objective view, and are often well-travelled and educated persons with international experience, who have knowledge of other cities on which to base a comparison. The advantage of the Mercer survey is that it uses measurable indicators and is not purely based on opinion. The disadvantage of surveying expatriates lies in their less community-based focus, being high-earning non-residents. As a result, their opinions may not necessarily reflect a long-term view of what a given city requires to develop and grow in a sustainable way.

The Auckland Regional Economic Development Strategy 2002–2022 sets out the following vision for Auckland:

Our vision for the Auckland region is of an **internationally competitive, inclusive and dynamic economy**. This vision is of a region which is a great place to live, a great place to do business, a place full of skilled people and a place bustling with dynamic enterprise. To achieve this, we must be:

- internationally competitive because we know we are competing to attract and retain skilled people and resources and to sell our goods and services in overseas markets;
- inclusive because we know that some groups in the community are not participating in the economy or gaining the benefits of economic activity and wealth creation;
- dynamic because successful economies are more capable of responding to fast changing and unpredictable international conditions.

"Successful Cities – Lessons for the Wellington region" was prepared for the Wellington Regional Strategy, a project of Greater Wellington Regional Council, Upper Hutt City Council, Kapiti Coast District Council, Porirua City Council, Hutt City Council, and Wellington City Council.⁸ The councils worked together with the goal of building an internationally competitive Wellington by developing and implementing a vision and an integrated framework to achieve sustainable growth of the Wellington region.

The paper identified that what is regarded as a successful city varies significantly from one country to another and that it is ultimately defined by those who live in and relate to the city on their own terms. The paper concluded that the common features of an "internationally" successful city include the following:

- increases in economic output/GDP per capita

8 *Successful Cities – Lessons for the Wellington region* (Working paper 5, November 2004), background paper for the Wellington Regional Strategy, prepared by MacroPlan Australia.

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- an economy that is supported by a diverse industry mix with opportunities for new business and relatively low business costs
- good-quality and affordable health and education services
- affordable housing for low- and middle-income earners
- availability of recreational and sporting activities
- community interaction and a spirit of volunteering
- good-quality air and drinking water
- growth in real family income and a low poverty level
- a high level of social cohesion and safety.

The findings of the paper showed that, holding all else constant, the key common features of a successful city are largely attributable to a proactive and innovative local government. By ignoring all external influences or naturally occurring strengths of these “successful cities”, it appears the role played by the relevant local government authority is what determines the ongoing success of a city.

Some cities (the Londons, New Yorks, Tokyos, and Shanghais of the world) count as world class not just because of their size but also because of their importance in business, finance, or government, or all three. Others count because of a concentration of a particular industry – Detroit for automobiles, for example, or Los Angeles for entertainment. Some even make the list because of the presence of one company. World-class business cities are those where strategic and tactical decisions are made on everything from new plant investment to developing new markets and products. They are the cities others watch and react to. World-class business cities are not guaranteed exclusivity in producing the next wave of influential products, technologies, and companies – but they are a more likely incubator for them. And those products, technologies, and companies are where new jobs come from.

In addition to Wellington, examples of other cities that aspire to be world class include Oxford, Vancouver, and Mumbai.

Oxford’s vision to be a world-class city is as follows:

Oxford as a city will build on its heritage and its international reputation as a place of learning and innovation to create high quality life outcomes for all those who live in the city. We shall develop a city that becomes carbon neutral with high eco standards that protect the health and wealth of all our citizens and which will be a model of good practice locally, nationally and internationally. We shall enhance the role of the city within Oxfordshire and the South East of England as a sub-regional capital assisting surrounding areas by the development of high quality sub regional and regional services and facilities.

Core to delivering this is a spatial vision and strategy.⁹

Vancouver takes considerable pride in being frequently named the “most liveable city in the world” (a better title, perhaps, than “world class”). Vancouver also has become a global destination for tourism, perhaps partially because of its natural splendour, partially its liveable city building (true urbanists know the best places to visit are the places that work best for their residents first – authentic places).

When it comes to city planning and design itself, it is believed by many that Vancouver is world class. Despite being a small city by global standards, it is a destination and model that “punches above its weight” in the global dialogue, as delegations from across the world come to study Vancouver’s practices and projects. Its liveability by design is globally known, and its reputation as an emerging “eco-city” grows every day.¹⁰

Mumbai has a vision to possess, by 2013, the twin elements of a world-class city: dynamic, job-creating growth and a comfortable quality of life.¹¹

The factors are generally subjective but it appears that the elements consistently reflected are

- quality of life
- business and economic growth
- quality of the urban and natural environment
- a proactive and innovative local government.

5.2 The RMA is unique to New Zealand

The Royal Commission has asked for advice on the elements necessary in a resource management planning and decision-making system to deliver a world-class city in Auckland.

It is not possible to describe a world-class resource management system because New Zealand’s RMA (and thereby its “system”) is somewhat atypical in the world of statutory planning in terms of the statutory obligations placed on those exercising functions and powers under the Act. In particular the statutory presumptions on land use and discharges, the emphasis on regulating adverse environmental effects rather than activities per se, the requirement to justify policies and rules by means of the section 32 tests of efficiency and effectiveness, the broad nature of the purpose and principles, the section 8 Treaty of Waitangi obligations, and the very participatory nature of the submission, hearing, and appeal processes mean that there are no easy off-the-shelf

9 Draft of Oxford’s Sustainable Community Strategy 2008–2012, *Oxford: A World Class City*, 30 January 2008, www.oxfordpartnership.org.uk.

10 Comments by Brent Toderian, Director of Planning for the City of Vancouver, British Columbia, 28 May 2008, from PLANETIZEN, The Planning and Development Network, www.planetizen.com

11 *Transforming Mumbai into a World-Class City: First report of the Chief Minister’s Task Force*, February 2004, www.maharashtra.gov.in

indices or benchmarks as to what a resource management system needs to deliver for a world-class city.

Indeed, it may not even follow that having the best resource management planning and decision-making system in New Zealand would make Auckland a world-class city. However, the obverse is probably true: if Auckland does not have the best resource management planning and decision-making system in New Zealand, then it is more unlikely to develop into a world-class city.

The emphasis in this section, therefore, is on what are the attributes of a “best in New Zealand” RMA system, in order to support Auckland as a world-class city.

5.3 Elements required to deliver the resource management system

In Section 2 and above we have described the minimum elements that need to be factored into any Auckland governance model for RMA delivery. In order to deliver the system, the following blend of attributes/facilities is also required:

- human resource competencies – the appropriate balance and range of political, professional, technical, managerial, and administrative skill sets
- system integration – integrated procedures, information, monitoring, investigation, and research capacity (and associated databases), prosecution, and financial (e.g. charges and financial contribution tracking)
- organisational integrity – functional separation of roles (e.g. regulatory and policy) and protocols and the like (for the avoidance of conflicts and for reasons of privacy/confidentiality/disclosure)
- points of entry – publicly accessible facilities (physical as well as virtual/electronic/paper)
- asset management – office facilities and equipment (including “in the field”).

In other words, the system has a number of parameters apart from, but in addition to, the obvious ones of performance on applications or plan development and delivery to which the principles of efficiency and effectiveness should be applied.

It is self-evident that the longer the “supply chain” and the more complex the associated network, the more room there is for inefficiencies and, consequently, the higher the risk of failure in achieving effective outcomes. However, it does not necessarily follow from this that the simpler the structure the more efficient the service and effective the outcome. Resource management is required to resolve significant and often contrary and disparate tensions. A number of councils throughout New Zealand have attempted to provide the one-stop-shop or end-to-end service solution – to variable effect.

5.3.1 Key concepts in the RMA and resource management

In thinking about elements that should inform a “best in New Zealand” RMA system one must also take the RMA into account.

Within the RMA are a number of embedded phrases, concepts, and functions that provide some direction as to these “system elements”. These include

- sustainable management (section 5)
- foreseeable needs of future generations (section 5)
- people and communities, their well-being and health and safety (section 5)
- unreasonable delay (section 21)
- integrated management (sections 30 and 31)
- strategic integration (section 30)
- efficiency and effectiveness (section 32)
- benefits and costs (section 32)
- appropriateness – for achieving the purpose/objective (section 32)
- risk of not acting in the face of information uncertainty (section 32).

However, while these point to a system that seeks a degree of strategic and methodological rigour, because they are not absolutes they do not easily assist in the evaluation of governance options for Auckland.

A further concept often raised in discussions about sustainability is that of “intergenerational equity”, a concept clearly embedded within the RMA with respect to the foreseeable needs of future generations. However, in the context of the resource management “system” it can be considered as a parallel element to that of dynamic efficiency. In other words, the “burden” for achieving resource management outcomes (particularly, perhaps, for rehabilitation or enhancement actions where the issue is not critical and is a legacy one and/or the “exacerbator” is not the present generation) needs to be considered across generations – where “generation” may be defined for this purpose in terms of the 10- to 15-year life of a plan or policy for instance.

In addition, other potential system drivers abound in the RMA world, such as the following:

- Adaptation/adaptability/evolution: The system must not be so inflexible as to inhibit its ability to change in response to new information and value priorities – while at the same time providing a reliable basis for individual or corporate investment decisions (either capital or value investments).
- Collaboration/coordination: The structure and outcome of RMA decision making requires good cooperation between agencies that deliver the RMA (e.g. a district council and the regional council) and also between participants such

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as members of interest groups, or science providers, in the community and a council.

- Consolidation/convergence: Bringing together systems, policies, information, and so on is desirable to make the most coherent structure and eliminate unnecessary overlaps in practice.
- Diversity/divergence: Recognise the plurality of values and perspectives and permit the widest expression of these consistent with the purpose of the RMA as stated in the Act.
- Identity/culture: Ensure that the system can enable full expression of Auckland's identity and culture.
- Integration/interdependence: Ensure that the sum of the parts adds up to a coherent agreed goal(s) by making sure that separate parts of the system fit together – with a reasonable tolerance.
- Professionalism/leadership/expertise: Recognise that the system relies upon quality leadership, inputs, decision making, and implementation.
- Participation: In the words of Chief Justice Elias: “the general policy of the Act [is] that better substantive decision-making results from public participation”.¹² The system must therefore seek a balance between the benefit/cost of participation and the achievement of sustainable outcomes.

Reduced to its simplest, the RMA system (whether planning, consent processing, monitoring or enforcement) can be characterised as follows:

- getting the best available information about often uncertain effects
- in the shortest practicable time
- for informed comment from participants
- before competent decision makers
- to make the “right” decisions
- in a culturally appropriate and timely manner
- within an integrated policy framework (including priorities and sequencing).

However, because many of the local authority functions under the RMA deal extensively with values and uncertainties (as well as rights and privileges, real or imagined) there are few absolutes to guide or limit direction – despite the search for the elusive quadruple bottom line (i.e. social, cultural, environmental, and economic) or attempts to introduce layers of caution or precaution. Accordingly, the RMA is time-, data-, and information-hungry, and this is a significant cost for policy makers, regulators, applicants, and submitters alike.

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Westfield (New Zealand) Limited v North Shore City Council (No 2) [2005] NZSC 17.

Furthermore, while the RMA requires there to be one plan for a district at all times (section 73(1)), this may be prepared in territorial sections (section 73(3)). In the Auckland region, each territorial authority has one plan, except for Auckland City, which has three – one each for the isthmus, the Hauraki Gulf islands, and the central area. This is a total of nine operative district plans. The misleading simplicity of this, however, is revealed by the number and scale of plan changes and variations active at any point of time (refer Section 2). In other words, even if only one council were to emerge from the Royal Commission’s recommendations, or the Royal Commission supported the notion of one plan, there is nothing in section 73 of the RMA to make a single plan happen. That would need amendment of the RMA.

This situation is mirrored to some degree at the regional level. The RMA requires one ARPS (section 60(1)) but allows other plans – including coastal – to be developed for either the whole or parts of the region (section 64(1) and section 65(1)). Operative RMA-based planning documents are in place as far as the ARPS, Regional Plan: Coastal, and two specific-issue regional plans (farm dairy discharges and sediment control) are concerned. The key regional resource plan – the proposed Regional Plan: Air, Land and Water – is still not operative. Indeed, it could be argued that the desire to develop a single comprehensive regional plan (for the key regional resources other than the coast) is the reason why 17 years after the RMA commenced, Auckland still does not have that plan operative. The number of plan changes/variations on the ARPS currently stands at 13.

Participation (and subsequently litigation) is a fundamental fact of RMA life. Certainty of RMA outcome (if clearly defined) logically increases in proportion to the quality, depth, and breadth of information and knowledge about the “reality” of effects generated by any particular activity or group of activities – whether this is in terms of policy development or consent application. However, and anecdotally, it is commonly the outcome itself that is not accepted or valued irrespective of the fact that the particular policy or rule is operative and has been through multiple levels of hearing and decision making – intensification of neighbourhoods in order to achieve the compact city form being a case in point. Relitigation through private plan change, for example, is always an option, subject to the grounds for rejecting such a request under clause 25(4) of Schedule 1 of the RMA.

As such, the system drivers of efficiency, effectiveness, appropriateness, and so on should be seen as relative markers. Streamlining and integration of processes and outcomes cannot guarantee acceptance of the product – although clearly that is in the interest of many. Reducing the “white noise” in the system may be a realistic goal; eliminating “white noise” is not.

After a review of key informant views and the resource management issues challenging Auckland we have developed a set of goals and criteria for evaluating governance options for Auckland, in terms of delivering a “best in New Zealand” resource management system. This is set out in Section 6.

6. A discussion of current issues and challenges – options for change

Our analysis, research, and interviews have been useful in providing a basis for distilling what the Royal Commission should and should not focus on with respect to Auckland's governance from a resource management perspective.

In this section we identify the key resource management issues – both substantive and related to delivery – which may be impacted by different models of governance for Auckland. We also provide some suggestions as to tools, processes, or structures that could be considered as part of the Royal Commission's investigations and reporting on governance options.

6.1 Possible governance models

As part of the submissions process, several governance models have been promoted. Some of the more strongly supported options are

- one Auckland council with separate agencies under its aegis for transport, water, and similar, and with a number of community councils also under its aegis
- a Greater Auckland Council with enhanced powers and a reduced number of territorial authorities
- a Greater Auckland Council with enhanced powers and the existing territorial authorities.

There are many other versions of a future governance model suggested, and widely differing suggestions for how resource management could be handled within the various options. In relation to the RMA there are a number of options available that could enhance local government performance in Auckland. These include the ability to combine plans (section 80 RMA) and to transfer powers (section 33 RMA).

6.2 Challenges and options

This section summarises the resource management-related matters that any governance model should address, and provides suggestions.

6.2.1 *The need for integration of growth management with infrastructure provision*

A common theme in this paper is the need for the integration of growth management with the planning, funding, and provision of infrastructure. This is a critical resource management outcome sought by the region, and is well supported by the RMA in the roles

and responsibilities given to the regional council.¹³ It has been historically understood as a critical issue for the region through the collaborative establishment of the Regional Growth Forum – now replaced by the Sustainable Development Forum.

The operative and recently amended ARPS provides a lead in addressing this area, but the current ARPS is now dated. Since it was developed, additional powers have been provided in the RMA through amendments, and through the LGAAA, which increase the role of the regional council and the force of the regional policy statement on district plans.

The ARPS is now due for review, and there is a major opportunity for the reviewed ARPS to positively address the need for land use and infrastructure development. There is also the opportunity for the reviewed ARPS to lead and precede the review of any district plan for any of the region’s territorial authorities.

Some parties have referred to a spatial plan for all of Auckland. This concept has had a predecessor, namely the Regional Growth Strategy, but that strategy did not go far enough, did not adequately cover all areas, and was not sufficiently binding on all parties so as to ensure the strategic integration of infrastructure with land use.

A new spatial plan could be a useful precursor to the reviewed ARPS, either as a largely technical exercise, or as part of the public processes that develop an ARPS.¹⁴ In any case, a reviewed ARPS has the potential to be more directive about the location, timing, and form of growth in existing urban areas, new urban areas, and in rural areas. The reviewed ARPS also has the potential to clearly identify the strategic infrastructure required to support that growth.

Some of the options for Auckland governance will provide greater or lesser support for the actual provision of strategic infrastructure aligned to land use change. Dispersed infrastructure provision through a number of agencies and councils, which are not directly under the control and direction of the regional council with appropriate statutory support, will continue to result in the misalignment between rational planning and results on the ground.

6.2.2 Facilitate economic development

Resource management plans and processes should facilitate sustainable economic development in the region. The overall and long-term strategy for economic development of the region is more likely to be directly covered in possible plans such as the Auckland spatial plan, infrastructure development plans, and/or a “One Plan”, all of which have been identified in regional discussions leading up to the appointment of the Royal Commission.

13 Section 30(1)(gb) of the RMA provides for a regional council to give effect to the Act through “the strategic integration of infrastructure with land use through objectives, policies, and methods”.

14 The spatial plan should focus on regionally important issues and could address growth management, growth supporting infrastructure provision, areas for protection, urban renewal areas, new urban areas, and strategic regional infrastructure such as ports and airports, motorways, regional arterial roads, rapid transit corridors, regional open space, and the like.

Resource management plans and policy statements are not “active plans” – rather, they provide strategic direction, and are mostly concerned with the reactive regulation to the location and effects of activities and allocation and use of resources.

We have suggested above that the ARPS could be a more directive statutory document for the region, and could be based on a spatial plan. Lower-order resource management plans are required to give effect to the ARPS, and so an appropriate hierarchy already exists, if the tools of the RMA are fully used.

6.2.3 Facilitate urban redevelopment and urban expansion

The RGS and ARPS have a clear strategy for a compact city with defined urban limits, and with limited greenfield development and redevelopment of centres and transport corridors to achieve urban intensification. The reviewed ARPS could positively direct and prioritise the location and timing of urban growth. Ideally it would precede any second-generation district plans.

A theme through this paper is that, despite the clarity of regional strategy in the existing RGS and ARPS, implementation has been patchy. There are many causes for this. Some are governance-related in that regionally agreed strategy is not easily “enforced” at the local level. Some problems stem from a lack of appropriate agency and powers for the most difficult area – urban redevelopment. Some problems stem from a misalignment of infrastructure funding and provision with land use – both for greenfield and redeveloping urban areas.

In order for the lower-level resource management plans to be more successful at facilitating urban redevelopment and expansion, they will need to be supported by the higher-order plans described above. New powers would also desirably be given to the appropriate agency or agencies to facilitate urban redevelopment.

6.2.4 The resource management statutory instruments – should there be one plan, a few, or many?

An attractive concept for Auckland is “one regulatory plan” – a super plan that includes and integrates rules for the entire region and covers regional policy statement, regional plan, and district plan functions. Such plans exist in other parts of New Zealand, particularly where there are unitary authorities that hold both regional and territorial functions within the one authority. Some regional councils have also combined their regional policy statements and all regional plans into one plan for the region.

Although the RMA provides for combined plans now, between different local authorities and at the regional level, it is in our view highly improbable that such a plan could be developed unless there was only one local authority in Auckland, which held all resource management functions.

In any case it is our view that some thought would need to be given to the sheer size and complexity of such a plan spanning such a complex urban and rural area and an array of resources subject to significant growth pressures. The question of the merits and

structure of resource management policy statements and plans for Auckland should follow, rather than precede, the larger issue of appropriate local government structures.

On the face of it, fewer plans would make it easier to achieve integrated planning across geographical areas, across resources, and between land use and infrastructure. While this could be achieved without a governance change, governance change and reduction of the units of local government would almost certainly eventually result in fewer resource management plans.

6.2.5 *Dealing with regionally important projects*

There are many regionally important projects that require multiple resource consents (including designations) from both regional and territorial authorities and in some cases they will cross more than one territorial authority boundary. The RMA requires that such applications are generally dealt with in a joint hearing between consent authorities, and that the lead agency will be the regional council.

A possible change to the RMA, depending on the governance model proposed for Auckland, would be to empower the regional council to call in, decide, and determine such applications, with powers similar to those held by the Minister for the Environment, but on a regional scale. This would provide for a single consent body for all required RMA consents.

The range of projects could include

- major infrastructure projects
- major urban redevelopment projects
- projects that have major impacts on existing infrastructure and services.

6.2.6 *Inadequate alignment of regional policy statement and district plans*

Despite the provisions of the RMA, including those emanating from the LGAAA strengthening the role of the ARPS in managing the growth of Auckland, some commentators consider that there remains existing and potential misalignment of district plans and the regional policy statement. While the next review of the ARPS provides a significant opportunity for more direction for urban growth in Auckland, with supporting infrastructure, proposed district plan changes – whether proposed by the council or privately – can thwart or undermine policy, priority, or timing of urban growth and the desired urban form.

If plan changes relating to certain geographical areas or issues required regional council signoff (or could be vetoed) prior to public notification, the role of the ARPS and the regional council would be further underlined. This would require an amendment to the RMA.

6.2.7 *Harmonisation of plans and standards*

Some commentators have identified the merits of standardisation of policies and rules, particularly at the district plan level, where similar activities and effects in similar environments can be and are treated in different ways and to different standards between

territorial authorities. This would be regarded as helpful by agencies, organisations, and companies that develop across territorial authority boundaries, either with network infrastructure, or with development or businesses in several authorities. Depending on the standards adopted, including the status of activities, standardisation has the potential to increase efficiency and reduce costs.

While some limited success has been achieved in this area between the existing territorial authorities, the continued existence of separate territorial authorities would, in our view, limit the likelihood of similar policies and standards being adopted for practical reasons. Section 2 identifies the nine district plans in the Auckland region and the widely differing timings for their review. This practicality alone would create a major barrier to standardisation. While further analysis and work could identify “easy runs” for achieving standardisation, the hearing and decision processes of individual territorial authorities could undermine the delivery of standardisation.

If there were fewer territorial authorities in Auckland, then over time there would be an amalgamation of district plans and through this process standardisation for the amalgamated councils would come through those new plans.

If there were one authority in Auckland with territorial RMA functions, then the opportunity for standardisation is obvious. Standardisation could include every aspect of district plan objectives, policies, zones, and rules.

6.2.8 *The importance of the local – sense of place, heritage, urban design, community, and its interface with regionally based resource management*

While standardisation of district plans is an attractive concept, district planning is also an expression of the peculiarities of place, including the aspirations of the local communities as expressed through the public consultation, submission, and hearing processes for district plans. People and communities live, work, and interact in a place, and so do not tend to think like planners about “effects” and “resources” and “sustainable management”. The Auckland region is made up of very diverse urban and rural areas, which should not all be subject to the same standards for all aspects of development and protection.

Any change to governance of Auckland needs to ensure that the local expression of place and detailed place-based plans evolved from community processes still have a voice and a place.

6.3 Evaluating governance options for Auckland from an RMA perspective

As already discussed, there is no international benchmark that can be adopted when describing a world-class resource management system, because the New Zealand system is unique. Notwithstanding, we have proposed a set of criteria that can be used to assess whether governance options for Auckland will achieve the requirements of a “best in New Zealand” resource management system for Auckland. These criteria are presented in Table 4.

Table 4 Criteria to achieve an optimal resource management system for Auckland

Goal to be achieved	Criteria
Sustainability and resilience	Does the option lead to an institutional and policy framework that best addresses the long-term sustainability challenges for Auckland? They include <ul style="list-style-type: none"> • achieving a quality compact urban form • reducing the carbon footprint of the region • improving the quality of natural resources, ecosystems and biodiversity, and air quality • responding to emerging national and international trends and challenges.
Integrated management of resources	Does the option strengthen integrated management of resources within the Auckland region? It includes <ul style="list-style-type: none"> • the interrelationships between resources and environmental quality • spatial integration • integration between transport and other major infrastructure and land use planning • the development of a regional spatial plan.
Issue-based planning	Does the option enhance the ability of planning functionaries to research, monitor, and address the major resource management issues for the Auckland region in the most efficient and effective manner?
Participative system	Does the option strengthen access of communities of interest to effective participation in the resource management system, particularly <ul style="list-style-type: none"> • local communities in planning for their neighbourhoods and in participating in decision making on major land use and environmental change • regional communities of interest in planning for region-wide resource use and land use activity?
Tangata whenua engagement	Does the option strengthen the ability of tangata whenua to engage with and contribute to the resource management system with respect to matters of significance to the iwi in their rohe?
Research and innovation supported	Does the option strengthen the capacity (financial and human resources) to research and monitor the state of the environment, regulatory effectiveness, and innovative solutions to the major resource management issues of the region?
Integrated solutions found	Does the option strengthen and support the development and delivery of integrated solutions to major regional resource management issues between separate resource management functionaries and major stakeholders?
Efficiency and effectiveness achieved	Does the option strengthen the ability of resource management functionaries to develop effective policies, and deliver resource management services in a cost-efficient and timely manner?
Role clarity achieved	Does the option support role clarity between resource management functionaries so as to minimise or avoid duplication of effort and inconsistent or confused institutional responses to resource management challenges?

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Goal to be achieved	Criteria
Accessible and legally robust resource management governance	Does the option strengthen the capacity, efficiency, and effectiveness of high-quality resource management decision making in the Auckland region, including supporting high levels of access from communities of interest to that decision making?
Whole of government engaged	Does the option strengthen the ability for central government to engage with and participate in the resource management system for Auckland, so as to optimise its contribution to integrated solutions to the major resource management issues of the region?
Integration of land use and transport and other major infrastructure	Does the option positively enable a significant uplift in medium- to long-term planning (intergenerational) for the integration of land use development and transport infrastructure and services to achieve higher system efficiency, enhanced environmental quality, resilience of infrastructure, and a lower carbon footprint?
Economic development strengthened	Does the option support the region's goals for sustainable economic development? They include <ul style="list-style-type: none"> • attracting and retaining globally competitive businesses • an innovative, adaptable, and resilient economy.
Quality compact urban form	Does the option positively enable a significant uplift in the achievement of a quality compact urban form? This includes <ul style="list-style-type: none"> • a network of well-designed centres and neighbourhoods • strong centres for communities with a wide range of jobs, housing, facilities, and services • connected along corridors with high-quality public transport • the development of highly effective tools to positively achieve the goal. <p>The resource management system needs support, greater certainty of planning to outcome, integrated planning, and sequencing of major infrastructure investment at the regional level for this goal.</p>
State of the environment understood and our ecological footprint reduced	Does the option support a reduction in our ecological footprint and improvement in the state of the natural environment and resources? This will be through responses such as <ul style="list-style-type: none"> • an integrated approach to managing the natural environment (which does not recognise organisational boundaries) • a catchment planning approach • building and protecting a region-wide natural network providing ecological benefits • low-impact urban design • a strategic research and science-based understanding of the combined effects of development and resource use on the resilience and health of the natural environment.
Enabling investment and development	Does the option improve the confidence of the private sector to invest in quality development? This will be through <ul style="list-style-type: none"> • development opportunities • certainty of outcome • timeliness of decision making • cost-effective decision making.

Appendices

- Appendix 1A: Roles and responsibilities in Auckland
- Appendix 1B: Requiring authorities under the Resource Management Act in Auckland region
- Appendix 2: Commentary on key resource management instruments for Auckland region
- Appendix 3: Legislation, national policy statements, and national standards that affect resource management in Auckland
- Appendix 4: Documents and strategies relating to resource management issues
- Appendix 5: Case studies
- Appendix 6: The indicators used by the Mercer Survey in measuring quality of living

Appendix 1A: Roles and responsibilities in Auckland

Role holder	Responsibilities
<p>Minister for the Environment and the Ministry for the Environment</p>	<p>Responsibility under the Resource Management Act (“RMA”) for</p> <ul style="list-style-type: none"> • recommending national policy statements and national environmental standards that impact on Auckland • calling in proposals in Auckland of national significance for ministerial decision, which the Minister would make after considering the recommendations of a board of inquiry • recommending that an Auckland-based applicant be approved as a requiring authority or as a heritage protection authority • recommending water conservation orders that may affect the region (e.g. water supply catchments and the Waikato River) and monitoring their implementation • monitoring the effect and implementation of the RMA (including any regulations in force under it), national policy statements, and national environmental standards • monitoring the relationship between the functions, powers, and duties of central government and local government in Auckland • investigating matters of environmental significance • considering the use of economic instruments. <p>The Minister has limited powers under the RMA including</p> <ul style="list-style-type: none"> • appointing people to carry out the functions of a local authority if he/she considers that it is not performing to the extent necessary to achieve the purpose of the Act • making grants and loans to assist in achieving the purpose of the RMA (several funds existing for this purpose have been utilised by Auckland groups) • reviewing the performance of councils in the region • directing a council to prepare a plan, plan change, or variation to address resource management issues in the region or direct a territorial authority to change its district plan • requesting information held by a council at no cost to the Minister.
<p>Minister of Conservation and the Department of Conservation and Auckland Conservation Board</p>	<p>Responsibility under the RMA for</p> <ul style="list-style-type: none"> • preparing and recommending the adoption of New Zealand coastal policy statements • approving regional coastal plans • deciding coastal permit applications for restricted coastal activities (e.g. large-scale reclamations such as an expansion to the port or airport) in the region • monitoring the effect and implementation of the New Zealand coastal policy statement and coastal permits granted by the Minister • carrying out his or her functions under Schedule 12. <p>The Department of Conservation can also participate in proceedings under the RMA in its role as an advocate for conservation-through-consultation on the development of plans and strategies as well as through the lodgement of submissions.</p>

Role holder	Responsibilities
	<p>Also related to the Minister of Conservation but at arm’s length is the Auckland Conservation Board. Conservation boards provide community advice on conservation areas, policy, and activities of the Department of Conservation, as well as having a role to advocate for conservation generally. The Auckland Conservation Board has made submissions on matters related to resource management in recent times.</p>
<p>Auckland Regional Council (ARC)</p>	<p>Responsibility under the RMA for</p> <ul style="list-style-type: none"> • the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region • the preparation of objectives and policies in relation to any actual or potential effects of the use, development, or protection of land, which are of regional significance • the control of the use of land for the purpose of <ul style="list-style-type: none"> – soil conservation – the maintenance and enhancement of the quality and quantity of water, and ecosystems – the avoidance or mitigation of natural hazards – the prevention or mitigation of any adverse effects of hazardous substances • the investigation of land for the purposes of identifying and monitoring contaminated land • the control (in conjunction with the Minister of Conservation) of any coastal marine area in the region and its use such as <ul style="list-style-type: none"> – the occupation of space – extracting sand, shingle, shell, or other natural material – taking, use, damming, and diversion of water – discharges of contaminants into or onto land, air, or water, and discharges of water into water – dumping and incineration of waste or other matter and the dumping of ships, aircraft, and offshore installations – any actual or potential effects of the use, development, or protection of land including the avoidance or mitigation of natural hazards – the prevention or mitigation of any adverse effects of the storage, use, disposal, or transportation of hazardous substances – the emission of noise and the mitigation of the effects of noise – activities in relation to the surface of water • the establishment of rules in a regional plan to allocate the taking or use of water (other than open coastal water); the taking or use of heat or energy from water (other than open coastal water); the taking or use of heat or energy from the material surrounding geothermal water; the capacity of air or water to assimilate a discharge of a contaminant • if appropriate, and in conjunction with the Minister of Conservation, the establishment of rules in a regional coastal plan to allocate the taking or use of heat or energy from open coastal water; to allocate space in a coastal marine area; in relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land • maintaining indigenous biological diversity

Role holder	Responsibilities
<p>Auckland Regional Council (ARC), <i>contd</i></p>	<ul style="list-style-type: none"> • the strategic integration of infrastructure with land use through objectives, policies, and methods • transferring powers to another public authority (includes any local authority, iwi authority, board of a foreshore and seabed reserve, Government department, statutory authority, and joint committee set up to prepare combined plans under section 80 of the RMA). <p>Responsibility under the Waitakere Ranges Heritage Area Act 2008:</p> <ul style="list-style-type: none"> • When preparing or reviewing a regional policy statement or regional plan that affects the heritage area, ARC must give effect to the purpose of this Act and the objectives. • When evaluating a proposed policy statement, or proposed plan, change, or variation that affects the heritage area, ARC must also examine whether the statement, plan, change, or variation is the most appropriate way to achieve the objectives. • When amending the Auckland Regional Growth Strategy prepared under section 37SE of the Local Government Act 1974, ARC must ensure that its provisions are not inconsistent with the purpose of this Act or the objectives. • The ARC must reject a plan change request in full or part if the request is inconsistent with the purpose of this Act or the objectives. • When considering an application for resource consent for a discretionary or non-complying activity in the heritage area the ARC must have particular regard to the purpose of this Act and the relevant objectives, and the relevant provisions of any national policy statement or New Zealand coastal policy statement. • ARC must prepare, adopt, and maintain a management plan for the integrated management of the Waitakere Ranges Regional Park. <p>Responsibility under the Hauraki Gulf Marine Park Act 2000</p> <ul style="list-style-type: none"> • to ensure regional policy statement or regional plan that applies to the Hauraki Gulf, its islands, and catchments does not conflict with sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 • to have regard to sections 7 and 8 in addition to the RMA when considering applications for resource consent in the Hauraki Gulf, its islands, and catchments • to notify a change to the regional policy statement, plan, or proposed plan within 5 years of the Hauraki Gulf Marine Park Act 2000 commencing • to be a constituent member of the Hauraki Gulf Forum and to share the costs associated with the forum • to treat the Hauraki Gulf Forum as a joint committee of the regional council under clause 30(1)(b) of the Local Government Act 2002 • to store the records of the forum and to make these records available when required by the forum • to convene the first meeting of the forum. <p>The Hauraki Gulf Marine Park Act provides for the constituent parties to agree for one of their number to be the administering authority and the ARC has been that authority since the Hauraki Gulf Forum commenced.</p>

Role holder	Responsibilities
Rodney District Council North Shore City Council Waitakere City Council Auckland City Council Manukau City Council Papakura District Council Franklin District Council	<p>All seven councils have responsibility under the RMA for</p> <ul style="list-style-type: none"> • achieving integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the district • the control of any actual or potential effects of the use, development, or protection of land, including natural hazards; hazardous substances; contaminated land; the maintenance of indigenous biological diversity; and control of the emission of noise and the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes (The RMA specifies that the methods used to carry out any functions above may include the control of subdivision.) • transferring any function, duty, or power under the RMA to another public authority (defined as including any local authority, iwi authority, board of a foreshore and seabed reserve, Government department, statutory authority, and joint committee set up for the purposes of section 80) • the duty to keep records and monitor the effectiveness of plans (with a five-yearly report) and the state of the environment. <p>The councils have the following powers under the RMA:</p> <ul style="list-style-type: none"> • A local authority has extensive powers to set charges payable by consent applicants, holders and many other classes of person for activities under the Act for which the council incurs cost. • A local authority has the power to waive a time period specified in the Act or a method of service. • A council employee or other designated agency employee can be authorised to be an enforcement officer under the Act. • A council may require the submissions of evidence from the applicant 10 working days before a hearing. • A council may make orders concerning sensitive information so as to exclude the public during parts of a hearing. <p>All councils except Papakura District have responsibilities under the Hauraki Gulf Marine Act 2000</p> <ul style="list-style-type: none"> • to ensure any part of the district plan that applies to the any part of the Hauraki Gulf, its islands, and catchments does not conflict with sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 • to have regard to sections 7 and 8 in addition to the RMA when considering applications for resource consent in the Hauraki Gulf, its islands, and catchments • to notify a change to the plan or proposed plan within 5 years of the Hauraki Gulf Marine Park Act 2000 commencing • to be a constituent member of the Hauraki Gulf Forum and to share the costs associated with the forum • to treat the Hauraki Gulf Forum as a joint committee of the regional council under clause 30(1)(b) of the Local Government Act 2002.

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Role holder	Responsibilities
Rodney District Council Waitakere City Council	<p>Responsibilities under the Waitakere Ranges Heritage Area Act include</p> <ul style="list-style-type: none"> • when preparing or reviewing a district plan that affects the heritage area, to give effect to the purpose of this Act and the objectives • when evaluating a proposed district plan, change, or variation that affects the heritage area, to examine whether the plan, change, or variation is the most appropriate way to achieve the objectives (having regard to the purpose of the Act) • to reject a plan change request in full or part if the request is inconsistent with the purpose of this Act or the objectives • when considering an application for resource consent for a discretionary or non-complying activity or a recommendation on a proposed designation in the heritage area, to have particular regard to the purpose of this Act and the relevant objectives, and the relevant provisions of any national policy statement or New Zealand coastal policy statement. <p>Further provisions of the Act include the following:</p> <ul style="list-style-type: none"> • The council may prepare and adopt a local area plan (“LAP”) for a local area that is within its district and the heritage area. The purpose of a LAP is to promote the purpose of this Act and the objectives; to provide objectives in relation to the future amenity, character, and environment of the local area to which the LAP applies, and the well-being of the local community within that area (including its economic and social well-being); and to inform decision-making processes that relate to the heritage area. • A council may include in its district plan any part of a LAP that relates to managing the use, development, or protection of natural and physical resources. The LAP or the parts of the LAP must be treated as a proposed plan change, and Part 1 of Schedule 1 of the Resource Management Act 1991 applies. • A council must establish and maintain processes to provide opportunities for Ngāti Whātua and Te Kawerau a Maki to contribute to the decision-making processes of the local authority in its implementation of this Act. • The councils must jointly monitor and report on the state of the environment in the heritage area, the progress made towards achieving the objectives, and the funding impact arising from activities to be undertaken specifically to give effect to this Act.
Requiring authorities listed in Appendix 1B	<p>Requiring authorities have responsibility under the RMA for issuing a requirement for a designation in a district plan to facilitate a project or, in the case of a Minister of the Crown or a local authority, a public work.</p> <p>Responsibilities under the Waitakere Ranges Heritage Area Act include, when making a decision, to have particular regard to the purpose of this Act and the objectives and the relevant provisions of any national policy statement or New Zealand coastal policy statement.</p>

Appendix 1B: Requiring authorities under the Resource Management Act in Auckland region

A designation applies to district plans only. If a requiring authority wants to do something that requires resource consent from the regional council, it must apply for resource consent.

It should be noted that some approved requiring authorities do not use their powers in all of the district plans in the region.

Organisation	Type of infrastructure or works for which it holds requiring authority status
Transit New Zealand	For the construction and operation (including the maintenance, improvement, enhancement, expansion, realignment and alteration) of any State highway or motorway pursuant to the Transit New Zealand Act 1989. Includes the Orewa bypass as a specific project in the Auckland Region.
Watercare	For its network operation of undertaking a drainage and sewerage system in the Auckland region, including wastewater collection, treatment, and disposal. Includes the construction and operation of a pipeline for the conveyance of water from the Waikato River to the company's existing Redoubt Road Water Reservoir at or about map reference NZMS 260 R11 825 651.
Metrowater	For the operation of a sewerage system and the distribution of water for supply.
New Zealand Refining Company	For distributing and transmitting petroleum by pipeline.
Transpower	For the network operation of the supply of line function services. This includes the completion of the construction of the Albany/Silverdale 220kV line, and the operation, maintenance, and improvement of that line.
Airways Corporation	For the network operation of the provision of any approach control service.
Auckland International Airport	For the operation, maintenance, expansion, and development of the airport known as the Auckland International Airport and specific projects in Manukau City.
Counties Power	For the network operation of the supply of line function services.

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Organisation	Type of infrastructure or works for which it holds requiring authority status
Radio New Zealand (was New Zealand Public Radio Limited)	<p>For the operation of the radio communication facility of its network in respect of any site of which New Zealand Public Radio Limited (or any of its subsidiary companies as defined in the Companies Act 1955) is or may, at any time, become an owner or holder of any other estate or interest.</p> <p>For the operation, erection, installation, maintenance, replacement, alteration, improvement, and other use of land (within the meaning of section 9(4) of the Resource Management Act 1991) in respect of any such radio communication facility.</p>
Television New Zealand	For the network operation of a system comprising radio apparatus to permit radio communication.
Meteorological Service	For the network operation of a system comprising telecommunication links to permit telecommunication and radio communication.
Telecom Mobile	For the purpose of the operation of telecommunication or radio communication, including the network of Telecom Mobile Limited, or any components of Telecom Mobile Limited's network previously operated by any predecessor.
Telecom New Zealand	For network utility operation comprising lines, radio apparatus, telecommunication links, telephone stations, and works to permit telecommunication and radio communication; and includes the network within the meaning of section 2(1) of the Telecommunication Act 1987 of which Telecom New Zealand Limited is the network operator under that Act.
Ardmore Airport	For the operation, maintenance, and expansion of the airport known as Ardmore Airport.
New Zealand Railways Corporation	For the construction and operation of its railway line.
Manukau Water Limited	For the construction, operation, and maintenance of facilities in the regions of the Auckland Regional Council and the Waikato Regional Council for distribution of water for supply; and of a drainage or sewerage system.
Toll New Zealand	For the construction and operation (including the maintenance, improvement, enhancement, expansion, realignment and alteration) of its railway line.

Organisation	Type of infrastructure or works for which it holds requiring authority status
New Zealand Rail Limited/Toll	For the construction and operation (including the maintenance, improvement, enhancement, expansion, realignment, and alteration) of its railway line and in particular the new rail route from Southdown to Avondale.
Vector	For the supply of line function services. “Supply of line function services” has the meaning given to that term by section 2 of the Electricity Act 1992.
Vodafone	For the network utility operation of a system comprising telecommunication links to permit telecommunication and radio communication. This includes all lines, radio apparatus, telecommunication links, telephone stations, and works to permit telecommunication and radio communication; and includes the network within the meaning of section 2(1) of the Telecommunications Act 1987.

Appendix 2: Commentary on key resource management instruments for Auckland region

For the purpose of this paper, the key resource management instruments are described under the councils to which they relate. The regional council is first and then the territorial authorities in alphabetical order.

Auckland Regional Council

The regional council (“ARC”) has one regional policy statement and four regional plans.

The **Auckland Regional Policy Statement** became operative in August 1999 and, while it is due for review by 2009, it is expected to be notified in June 2010.

There are currently seven proposed changes (two are private changes) to the regional policy statement, with decisions on four of these having been appealed to the Environment Court.

There are 49 appeals in relation to Proposed Changes 6 and 7 (related to LGAAA). Proposed Change 8 has part of the change (linked to volcanic cones) completed and now subject to appeals and the other part of the change (related to landscape values) has been put on hold waiting for a variation to be prepared and notified.

The **Auckland Regional Plan: Sediment Control** was made operative in 2001 and is due for review in 2011.

The **Auckland Regional Plan: Farm Dairy Discharges** was made operative in May 1999 and is due for review in 2009.

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The **Auckland Regional Plan: Air, Land and Water** was notified in October 2001, with decisions released in October 2004. A number of appeals lodged by a range of parties (including councils and water utilities within the region) are before the Environment Court. In addition there have been two variations to the plan. Variation 1 has been incorporated in the plan. Variation 2 is currently live, having only just closed for further submissions.

The **Auckland Regional Plan: Coastal** was made operative in part in October 2004. There are four live variations that are on hold, while a new aquaculture policy framework is being prepared. There is one variation caught up in the Regional Plan: Air, Land and Water appeals and there are three live plan changes with submissions still to be heard. The plan is due for review in 2014.

The ARC actively monitors the plan changes, notices of requirement, and notified resource consents of the territorial authorities in the region and lodges submissions and where necessary, appeals, to oppose, support, or offer conditional support.

Auckland City Council

Auckland City has three sections to its district plan – based on geographic areas.

- The **Hauraki Gulf Islands Section** applies to Waiheke, Great Barrier, and the 60-odd other islands in the Hauraki Gulf. First notified in 1991 and operative in 1996, the reviewed section was notified in late 2006, and Auckland City has been working through hearing the 3,000-plus submissions.
- The **Isthmus Section**. This section of the plan applies to the suburban areas of Auckland City between the Waitemata and the Manukau Harbours and between Avondale and Panmure. Made operative in 1999, work has commenced on the review, which is expected to be notified in January/February 2010. (It is due in November 2009.)

To date more than 200 plan changes have been made to this section of the plan, and a number, having been appealed, are before the Environment Court. Auckland City has adopted a “rolling review” approach to the district plan, identifying improvement opportunities and responding to issues and developing significant numbers of plan changes to advance the plan in areas such as urban design, heritage, and character enhancement. Plan changes were notified as part of the response to growth initiatives (liveable community plans) in areas identified under the Regional Growth Strategy for change and intensification.

- The **Central Area Section** applies to Auckland’s Central Business District ringed by the motorway system. This section of the plan was made operative in part in January 2005.

A number of plan changes have been made to this section of the plan in response to issues such as heritage protection and character enhancement. The major thrust of work in recent times has related to the area now called Wynyard Quarter, being the area of land between Fanshawe Street and the Waitemata Harbour.

Franklin District Council

The current district plan was made operative in 2000 and the council has started work in planning for the review of it. While the number of live plan changes to this plan is small (as compared with other councils in the region), considerable work has been undertaken in reviewing the rural and coastal sections of the plan and to direct growth to villages. Plan Change 14 notified on 30 September 2003 is before the Environment Court.

Like other councils in the region, Franklin District has made significant moves in promoting quality urban design to be achieved. Franklin District also undertakes a periodic review process of potential plan changes as a mechanism for improving the workability of the district plan.

Because of its position, lying in part within the jurisdiction of the ARC and in part within the jurisdiction of Environment Waikato, Franklin District needs to monitor the planning documents of two regional councils to ensure that its district plan is current or to determine if there are impacts on council operations and activities.

Having part of its district outside the Auckland region means that there is pressure in places such as Pokeno from the private sector seeking rezoning of areas outside the metropolitan urban limit (“MUL”) as set by the ARC.

In terms of the Southern Sector Agreement,¹⁵ Franklin District is required to present proposed plan changes to its southern sector partners (Manukau City and Papakura District).

Manukau City Council

Manukau City’s district plan is due for review in 2012. The plan has five live plan changes. A number have been appealed to the Environment Court. The council has developed an urban design action plan and a further change to the district plan is expected to introduce urban design guidelines.

Considerable effort has been spent by Manukau City in developing Flat Bush, an area of 1,730 hectares within the district. It will comprise a mix of residential, commercial, conservation, and stormwater management areas as well as public parks and roads. After eight years of detailed planning, bulk earthworks, and construction of roading and other infrastructure works, Flat Bush is expected to be home to more than 40,000 people by 2020. Manukau City has played (and continues to play) a strong role in planning and creating Flat Bush.

North Shore City Council

With its district plan made operative (in part) in 2006, North Shore City’s district plan review is not due until 2016. Currently there are a large number of live plan changes to the plan. These are a mix of private plan changes and council-initiated changes relating in particular to the management of the effects of growth in Albany, and to manage flooding and stormwater.

Papakura District Council

The smallest of the territorial authorities in the region, Papakura District’s operative district plan is due for review in June 2009. There are a number of plan changes (both

15 The agreement between ARC, Manukau City, Papakura District, and Franklin District signalling their support for and commitment to implementing the Regional Growth Strategy.

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council-initiated and private) to the operative plan. The bulk of the changes currently being processed involve growth management and the provision of residential growth capacity in accordance with adopted growth management objectives.

There are a number of plan changes affecting the plan, the most significant related to the MUL and Takanini Structure Plan. Three potential private plan changes are in prospect:

- Ardmore Airport Ltd is likely to pursue a private plan change to relax the underlying zone for Ardmore Aerodrome to provide for some non-aviation activities.
- Landowners are preparing a private plan change to progress the rezoning of the Hingaia Structure Plan Area 1B, which is an area for residential use. It is currently within MUL.
- Landowners are investigating options to pursue business land options within the Hingaia Structure Plan area in light of the Auckland Region Business Land Strategy/business land needs. Investigations will include technical matters such as stormwater management, roading layout, urban design.

Other council-led projects may result in plan changes and designations:

- Mill Road Corridor land use/transport corridor investigation of the arterial route linking Flat Bush to Papakura and further south (the project is a recommendation of Southern Sector Transportation Strategy); likely to lead to designations/plan change
- urban planning/transportation planning investigation to establish a consistent Roding Hierarchy for the district; particular focus on identifying future land requirements for roads; likely to lead to designations/plan change
- Integrated Catchment Management Plan, a district-wide (and cross-boundary) project that is likely to lead to a plan change
- review of Development Code; linked to district plan rules, especially subdivision provisions; likely to lead to plan change.

Rodney District Council

Rodney District's first district plan under the Resource Management Act was notified in 2000. Decisions on submissions were released between 2003 and 2007. The Environment Court has received 166 appeals to the plan. Of these, 42 have now been settled, 25 have been withdrawn, and four have been settled in part. One decision has been received from the Environment Court. The Court has directed a programme of work to see if the majority of the appeals to the rural provisions of the plan can be managed first.

In the meantime, the council is working through a programme of variations to respond to issues that were raised in the hearings on submissions to the proposed plan and on appeal. There are more than 25 live amendments to the proposed plan as well as applications for private plan changes to the operative plan.

Waitakere City Council

The district plan of Waitakere City was made operative in March 2003 and is due for review in 2013. It has a number of plan changes that are associated with the LGAAA process that have been appealed to the Environment Court because of the implications in relation to the MUL. The Waitakere City district plan is considered by some to be the most innovative of the district plans in the region in that, unlike the other plans of the region, it relies on an assessment to determine the status of an activity (as opposed to reliance on activity lists).

Appendix 3: Legislation, national policy statements, and national standards that affect resource management in Auckland

Other significant issues that need to be taken into account when reviewing the regional policy statement, regional plans, and district plans in the Auckland region include (but are not limited to) the following:

- the review of the New Zealand coastal policy statement (the region's planning documents will need to "give effect to" this national policy statement)
- giving full effect to the Hauraki Gulf Marine Park Act 2000 and the Waitakere Ranges Heritage Area Act 2008
- addressing the issues of genetically modified organisms
- other national policy statements and national standards that are being developed.

These are discussed in more detail below.

Local Government (Auckland) Amendment Act 2004

The Local Government (Auckland) Amendment Act ("LGAAA") directs all councils in the Auckland Region to integrate their land transport and land use provisions and ensure these are consistent with the Auckland Regional Growth Strategy, give effect to its growth concept, and contribute to the land transport and land use matters specified in Schedule 5 (sections 39 and 40 LGAAA).

Section 39(1) requires that

Each Auckland local authority must, by 31 March 2005, prepare and publicly notify proposed land transport and land use changes to its Auckland planning documents.

Section 40 describes such changes as

- (1) A land transport and land use change is a change or variation to an Auckland planning document by including issues, objectives, policies, and descriptions of methods for the purpose of—

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- (a) giving effect, in an integrated manner, to the growth concept in the Auckland Regional Growth Strategy prepared under section 37SE of the Local Government Act 1974; and
- (b) contributing, in an integrated manner, to the matters specified in Schedule 5.

Hauraki Gulf Marine Park Act 2000

The need for better understanding and management of the Hauraki Gulf, its islands and catchments, led to the passing of the Hauraki Gulf Marine Park Act (2000) (“HGMPA”).

The purpose of the HGMPA is to

- integrate the management of the Hauraki Gulf, its islands, and catchments
- establish the Hauraki Gulf Marine Park
- establish management objectives
- recognise the relationship of tangata whenua with the Hauraki Gulf and its islands
- establish the Hauraki Gulf Forum.

The Act provides integrated management of the Hauraki Gulf across 21 other statutes by requiring that all persons carrying out functions for the gulf under those Acts must have particular regard to sections 7 and 8 of the HGMPA. There are also more specific requirements relating to sections 7 and 8 in terms of the Resource Management Act 1991, Conservation Act 1987, and Fisheries Act 1996.

The Hauraki Gulf Forum has appointed the Auckland Regional Council as its administering authority. The Forum comprises

- representatives of the Ministers of Conservation, Fisheries, and Māori Affairs
- six representatives of the tangata whenua of the Hauraki Gulf and its islands (appointed by the Minister of Conservation after consultation with the tangata whenua and the Minister of Māori Affairs)
- representatives from the 12 local authorities around the gulf, including two regional councils, four city councils, and six district councils.

All of the councils in the Auckland region are members of the Forum.

Section 17 of the HGMPA sets out the Forum’s functions. These include

- preparing a list of strategic issues and determining a priority for action on each
- producing a state of the environment report for the Hauraki Gulf every three years
- monitoring and sharing information on the state of resources
- receiving reports from
 - constituent parties on addressing the strategic issues
 - tangata whenua on iwi management or development plans

- persons and groups with an interest in the Hauraki Gulf
- promoting and advocating integrated management and, where appropriate, sustainable management
- encouraging and disseminating educational and promotional material
- facilitating and encouraging coordinated financial planning
- commissioning research into matters relating to the functions of the Forum
- producing an annual report, which is presented to the House of Representatives by the Minister of Conservation.

The HGMPA defines catchment as meaning “any area of land where the surface water drains into the Hauraki Gulf”.

Both the HGMPA and the Resource Management Act (“RMA”) direct the councils in the region on how the requirements of the HGMPA should be considered in the district plan.

Section 9(3) of the HGMPA sets out the relationship between a district plan that applies to the Hauraki Gulf and the RMA. Section 9(4) sets out a consent authority’s responsibilities when considering resource consent for the Hauraki Gulf. These two sections of the HGMPA state:

- (3) A territorial authority must ensure that any part of a district plan that applies to the Hauraki Gulf, its islands, and catchments, does not conflict with [emphasis added] sections 7 and 8 of this Act.
- (4) A consent authority must, when considering an application for a resource consent for the Hauraki Gulf, its islands, and catchments, have regard to sections 7 and 8 of this Act in addition to the matters contained in the Resource Management Act 1991.

Section 10 of the HGMPA requires sections 7 and 8 of this Act to be treated as a New Zealand coastal policy statement issued under the RMA. Section 75(3) of the RMA states that a district plan must give effect to any national policy statement and any New Zealand coastal policy statement.

Therefore the HGMPA requires the councils in the region to ensure that their district plans “do not conflict with” section 7 and 8 of the HGMPA; and through the consideration of sections 7 and 8 of the HGMPA as a New Zealand coastal policy statement, the RMA requires the councils to ensure that their district plans “give effect to” sections 7 and 8 of the HGMPA.

These are different legal tests – “does not conflict with” (section 9(3) of HGMPA) is less stringent than “must give effect to” (section 75(3) of RMA).

Waitakere Ranges Heritage Area Act 2008

As described in the preamble to the Waitakere Ranges Heritage Area Act (“WRHAA”)

- (2) The Waitakere Ranges and its foothills and coasts comprise an area of some 27 720 ha of public and private land located between metropolitan Auckland

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and the west coast of Waitakere City and Rodney District. The area is of local, regional, and national significance:

- (3) The area is outstanding in northern New Zealand for its terrestrial and aquatic ecosystems, which include large continuous areas of primary and regenerating lowland and coastal rainforest, wetland, and dune systems with intact ecological sequences. The area contains distinctive and outstanding flora, fauna, and landscapes:
- (4) The Waitakere Ranges (part of a remnant volcanic landform) are the western visual backdrop to metropolitan Auckland. Their forested hills and coastal vistas are essential to the identity of both Waitakere City and metropolitan Auckland. The foothills and coastal areas are a combination of rural, urban, and natural landscapes that create an important transition and buffer zone to the forested part of the Ranges:
...
- (6) The area includes the Waitakere Ranges Regional Park. The Park, protected at local, regional, and national levels, is an area of some 17 000 ha, established over a period of 110 years through gifts, grants, purchases, and vestings (including legislation promoted by Auckland City Council in 1941 to create the Auckland Centennial Memorial Park, commemorating the centenary of the Metropolitan District of Auckland):
- (7) The Waitakere Ranges also contribute to metropolitan Auckland's water supply. They are a water catchment and the location for a series of storage and supply systems that have sustained, and continue to sustain, metropolitan Auckland since 1902:
- (8) In 2005, more than 21 000 people lived in the area (outside the Regional Park), mostly in forest-dominated urban, rural, or coastal communities:
- (9) The area is subject to development and urban intensification pressures. These pressures are compounded by the area's proximity to metropolitan Auckland, and threaten to undermine the unique natural, landscape, cultural, historic, and community features of the area, including its farming and rural character:

The WRHAA applies to land within Waitakere City and Rodney District and resulted from years of continued combined effort by Auckland Regional Council, Waitakere City, and Rodney District.

The purpose of this Act, described in section 3(1), is to

- (a) recognise the national, regional, and local significance of the Waitakere Ranges heritage area and
- (b) promote the protection and enhancement of its heritage features for present and future generations.

Under sections 10 and 11 of the WRHAA, when preparing or reviewing a regional policy statement or regional plan or district plan that affects the heritage area, the regional council or the relevant territorial authority must give effect to the purpose of this Act and the objectives.

Under section 13(1), when considering an application for resource consent for a discretionary or non-complying activity in the heritage area, a consent authority

- (a) must have particular regard to—
 - (i) the purpose of this Act and the relevant objectives, and
 - (ii) the relevant provisions of any national policy statement or New Zealand coastal policy statement and
- (b) must consider the objectives having regard to any relevant policies in the regional and district plans.

Similar provisions apply within the designated area to other activity status consent applications, notices of requirement for designations, and heritage orders.

As the WRHAA came into effect only on 8 April 2008, it is far too early to determine whether the approach to managing a unique geographical area, requiring coordination between three councils and their plans (and actions), will be successful.

The Hazardous Substances and New Organisms Act 1996

The definition of new organisms in the Hazardous Substances and New Organisms (HSNO) Act includes, among others, new organisms not present in New Zealand prior to 29 July 1998 and genetically modified organisms (“GMOs”).

The Ministry for the Environment has drafted a number of information sheets and provided legal advice on the relationship of the RMA and the HSNO Act. In the fact sheet titled “Genetic modification (GM) and local government” it states:

The HSNO Act requires that before any GMO can be imported into the country, developed in containment, tested in the field or released into the environment (with or without conditions), approval must be obtained from the Environmental Risk Management Authority (ERMA).

When considering an application, ERMA must assess the environmental risks. It must examine issues such as the risk of an organism escaping from a laboratory or the risk of contamination of surrounding plants by pollen from GMOs. In the case of field tests, ERMA must require that they are carried out under strict conditions to reduce any potential risk to the environment. It must also ensure that genetic material is not released outside the field test site and that this material is destroyed once the test is finished. As well, ERMA can impose a wide range of controls under the new conditional release category. These might include limiting the proximity of the GMO to other organisms.

ERMA must undertake a thorough risk, costs, and benefits assessment where the overall benefits are balanced against the potential risks. This covers not only environmental assessments but also the magnitude, likelihood and distribution of any costs and benefits of an application both to the applicant and to New Zealand as a whole. The fact that ERMA considers both the direct and indirect impacts of an application ensures that the wider economic consequences for New Zealand and the indirect effects on other industries are taken into account on a case-by-case basis.

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It is possible that a council could try to control genetic modification through the RMA or LGA. However, the fact that there is a national specialist body set up specifically by parliament to make decisions on GM may mean it would be difficult for councils to do this. The issues surrounding genetic modification are also highly technical, meaning that councils are unlikely to have the skills to deal with these issues.

New organisms

An inter-council working party on GMOs was formed in 2003 comprising local and regional councils in the Northland region to consider the role of local and regional authorities under the HSNO Act, the RMA, and the Local Government Act 2002. The number of member councils is continuing to increase and now includes, amongst others, the Auckland Regional Council, Waitakere City, Rodney District, and Auckland City.

Technical reports (commissioned by the working party) have assessed the potential risks of the release of a new organism with ERMA approval. These potential risks have been broadly characterised under the headings of environmental, economic, and sociocultural risks.

The Minister for the Environment has confirmed that local government can address local and regional concerns under the RMA should they choose to, so long as they can satisfy a section 32 analysis – in other words, justify why local and/or regional regulation is necessary/beneficial in addition to national regulation by ERMA.

Auckland City decided in the proposed Hauraki Gulf Islands Section district plan (notified 2006) to undertake a precautionary approach in regards to this matter and as a consequence imposed a prohibited status to the establishment of new organisms within the gulf. This is justified by the council by the following facts:

- Liability issues have not yet been resolved.
- GMO technology is in its infancy and inherently complex and therefore potential environmental, economic, and sociocultural impacts are poorly understood.
- There is a current lack of field-based long-term monitoring under a variety of environmental conditions, and such efforts are critical to assessing degree of risk.
- Increasing environmental variability attributed to global warming and associated climate change significantly increases the risk of adverse and unpredictable environmental and economic impacts.

Given the above, Auckland City was of the opinion that the degree of uncertainty surrounding environmental, economic, and sociocultural risk outweighs, at this time, potential benefits of GMOs. Auckland City considers its approach to be appropriate and consistent with the requirements of the RMA and sections 7 and 8 of the HGMPA.

National policy statements

National policy statements are issued under section 52 of the RMA. They are tools available under the RMA to help local government decide how competing national benefits and local costs should be balanced. They state objectives and policies for matters of national significance that are relevant to achieving the purpose of the RMA. There are

currently two completed national policy statements – the New Zealand Coastal Policy Statement 1994 (issued under section 57 of the RMA), and the National Policy Statement on Electricity Transmission 2008.

The current work programme for national policy statements is

- New Zealand Coastal Policy Statement (a review led by the Department of Conservation)
- freshwater management
- renewable electricity generation
- flood risk management.

The review of the coastal policy statement is under way. The proposed New Zealand Coastal Policy Statement was notified on 8 March 2008. Submissions closed on 7 May 2008. It is expected that there will be a national policy statement on water allocation and a national policy statement on nutrients and microbial contaminants, and sediment; these may require the Auckland Regional Plan: Air, Land and Water to be rewritten in some way, which may have a flow-on impact on the district plan.

The National Policy Statement on Electricity Transmission came into effect this year and identifies the need to operate, maintain, develop, and upgrade the electricity transmission network as a matter of national significance.

Its objective is

To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:

- managing the adverse environmental effects of the network; and
- managing the adverse effects of other activities on the network.

It provides that electricity transmission is a matter of national significance under the RMA and prescribes an objective and policies to guide the making of resource management decisions.

The national policy statement requires local authorities to give effect to its provisions in plans made under the RMA by initiating a plan change or review within four years of its approval.

A national policy statement on renewable electrical generation, under preparation, may see the need to provide in district plans for small-scale energy generators.¹⁶

In March 2007, the Government decided that a national policy statement on flood risk management under the RMA should be developed. The need to consider a national policy statement was identified as part of the flood risk management review. A position

¹⁶ The proposed policy statement was notified in September 2008 for public comment.

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statement on a national policy statement on managing flood risk was notified in May 2007. Comments were sought from councils, iwi authorities, and other organisations with a direct interest in flood risk management. The Minister is still considering these comments and a proposed policy statement is still anticipated

On 17 December 2007 the Ministry for the Environment formally advised Government's intention to prepare a national policy statement under the RMA on the topic of freshwater management. It is proposed that the national policy statement set some specific national targets for water quality, for example swimmable rivers.

This latter national policy statement is being made ready for public consultation, and will be heard by a board of inquiry.

Other central government initiatives – contaminated land

The Ministry for the Environment has released (September 2007) a report on submissions and a position paper dealing with a policy framework for managing contaminated land, and a prioritised work programme. Ongoing input from councils is anticipated and, because of the relatively low level of detailed knowledge about contamination and the impact of any knowledge on properties, this issue may be quite a significant matter for local councils to handle.

Appendix 4: Documents and strategies relating to resource management issues

(Abbreviations used are listed below the table.)

	Document Name	Date	Author/ Signatory	Description
1	Sustainability Themes: Expert Group Papers	August 2006	START	Working papers for the development of a sustainability framework for the Auckland region <i>Issue areas:</i> built environment, economic/business, energy, environment, urban form
2	Forces Shaping the 21 st Century: Climate Change/ Natural Hazards	June 2006	START et al.	Working paper for the development of a sustainability framework for the Auckland region <i>Issue area:</i> climate change/hazards
3	Forces Shaping the 21 st Century: Demographics	June 2006	START et al.	Working paper for the development of a sustainability framework for the Auckland region <i>Issue area:</i> growth – changing needs

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	Document Name	Date	Author/ Signatory	Description
4	Forces Shaping the 21 st Century: Resource Availability	June 2006	START et al.	Working paper for the development of a sustainability framework for the Auckland region <i>Issue areas:</i> natural resources including energy, water
5	The Auckland Region Business Land Strategy	October 2006	ARC	Strategic framework for future business growth in the Auckland region <i>Issue area:</i> location of business land
6	Growing Smarter: An evaluation of the Auckland Regional Growth Strategy 1999	July 2007	ARGF	Technical report for the Auckland Regional Growth Forum evaluating the Auckland Regional Growth Strategy <i>Issue areas:</i> key infrastructure, growth, urban environment, and amenity
7	State of the Auckland Region Report	2004	ARC	Report on state of Auckland <i>Issue areas:</i> growth, transport/energy use, waste, climate, air pollution, landscape, hazards, heritage, soil erosion/degradation, ecosystems/biodiversity, pests, water supply, water quality (fresh & coastal) & contamination, natural character
8	Auckland Sustainability Framework: An agenda for the future	September 2007	ARGF	Framework for sustainable future outcomes for Auckland <i>Issue areas:</i> climate change, resource use, growth/changing needs
9	Auckland Regional Open Space Strategy Technical Report	November 2005	ARGF	<i>Issue area:</i> open space provision, accessibility, maintenance, etc
10	Auckland Regional Land Transport Strategy (Chapter 3: Trends and Issues)	2005	ARC/ARTA	<i>Issue areas:</i> access to transport, environmental impact of transport (air pollution, effect of construction of infrastructure)
11	Three Waters Issues Report TW2	June 2006	Watercare Services Ltd	Part of Three Waters Strategic Planning Process – basis for consultation <i>Issue area:</i> water including supply, wastewater, stormwater, urban and rural, demand, quality
12	The Case for Auckland	August 2006	Committee for Auckland	Awareness document on contribution of Auckland to NZ and the brakes on improving Auckland's performance <i>Issue areas:</i> sprawl, growth
13	TP292 Auckland Air Emissions Inventory	2004	ARC	Technical report on air quality for Auckland region <i>Issue area:</i> air quality

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	Document Name	Date	Author/ Signatory	Description
14	The Growth Conflict: Developing an Approach to Auckland's Infrastructure Needs	Not sure	D. Lyon – Beca Carter Hollings & Ferner Ltd	Practitioner's perspective on infrastructural issues faced by the Auckland region <i>Issue area:</i> infrastructure including airports, power, ports, regional parks, land transport, wastewater, water – integrated management
15	Royal Commission on Auckland Governance – Preliminary Views of Auckland Airport: Scoping of Issues	No date	Auckland International Airport Ltd	Governance related issues faced by Auckland Airport <i>Issue area:</i> provision for/protection of major infrastructure
16	Collection of file notes from meetings between the Royal Commission and councils/government agencies	January – February 2008	Royal Commission	Comments from Franklin, Papakura, and Rodney Districts, MfE, PCE, DBH <i>Issue areas</i> include air, water supply & quality, wastewater, infrastructure linkages, regional assets, growth, pollution, climate change
17	North Shore City Council City Plan 2006-2016 (front section only)	2006	NSCC	LTCCP for North Shore City <i>Issue statements</i> on growth, environment, transport/land use, local economic development
18	Auckland City Council LTCCP 2006-2016 (front section only)	2006	ACC	LTCCP for Auckland City <i>Issues outlined</i> regarding growth, energy, tourism, health & the environment
19	Waitakere City Council LTCCP 2006-2016 (front section only)	2006	WCC	LTCCP for Waitakere City <i>Issues</i> include provision for growth, town centres, transport/land use
20	Manukau City Council LTCCP 2006-2016 (front section only)	2006	MCC	LTCCP for Manukau City <i>Issue statement</i> on growth
21	Rodney District Council Long Term Plan 2006-2016 (front section only)	2006	RDC	Growth, water infrastructure, transport – amenity values, business land
22	The Hauraki Gulf State of the Environment Report Updated and revised June 2008	March 2005	Hauraki Gulf Forum	<i>Issue areas:</i> Hauraki Gulf-related, including water quality, natural heritage & biodiversity, natural character & landscape, cultural heritage, coastal hazards, soil erosion & sedimentation, biosecurity, fisheries & aquaculture

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	Document Name	Date	Author/ Signatory	Description
23	Quality of Life '07 in Twelve of New Zealand's Cities (front section and other selected sections)	2007	Collaboration	Information on Rodney District, North Shore City, Waitakere City, Auckland City, and Manukau City key quality of life/environment indicators <i>Issue areas:</i> natural environment, waste, biodiversity, energy, air, water quality, water consumption, ecological footprints, amenity, land use/transport
24	Creating our Future: Sustainable Development for New Zealand	2002	PCE	National document
25	Managing Change in Paradise: Sustainable development in peri-urban areas	2001	PCE	
26	Auckland Regional Land Transport Strategy 2004 TP No. 5: Trends and Issues	December 2004	ARC/ARTA	Air emissions, transport/land use
27	Draft Rural Strategy	2007?	MCC	<i>Rural issues:</i> landscape character & amenity values, natural/ecological, cultural heritage, soil, land use conflicts, natural hazards, open space
28	Franklin District Growth Strategy (section 2)	2001?	FDC	<i>Rural issues:</i> growth, water supply, wastewater, stormwater, solid waste, electricity etc, rural character, environmental quality, heritage
29	Urban Design Framework (webpage)	2008	ACC	<i>Urban design issues</i> faced by Auckland City
30	Growing Smarter Regional Classification Project: Making the most of Auckland's Centres, Business Areas and Corridors into the future	March 2008	For the Regional Policy Steering Group	Overview and summary of findings to date of Regional Classification project <i>Issues addressed:</i> business land availability, centres
31	Kaipara Harbour Coastal Environment Policy Review	October 2007	ARC	TP345 a study of the statutory management of the Kaipara Harbour and management issues
32	Regional Coastal Planning and the Challenges of Integration	2003	R. Britton	Looking at integrating the planning directions of regional and local councils into a comprehensive approach to coastal planning. <i>Issues:</i> cross-boundary issues, coastal
33	Chances Beckoning: Integration in New Zealand's Coastal Management	October 2000	H. Brookes (ARC)	Assessing success of RMA coastal management system <i>Issues:</i> coastal, cross-boundary issues

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	Document Name	Date	Author/ Signatory	Description
34	Hauraki Gulf Islands District Plan review – Issues and Options Papers	May 2005	ACC	<i>Issues:</i> specific to the Hauraki Gulf islands (environmental, transport, amenity, heritage – area specific)
35	Metro Project Action Plan: Implementing the Auckland Regional Economic Development Strategy	October 2006	AREDF, collaboration	Project to transform Auckland’s economy <i>Issues:</i> economic (only slightly relevant)
36	AREDS 2002–2022	October 2002	ARC	<i>Issue area:</i> economic growth & development (only slightly relevant)
37	Affordable Housing Strategy (Appendix 3: Key Issues)	March 2003	ARC/ARGF	<i>Issue area:</i> land scarcity
38	The integration of land use planning and transport – a case study of the Local Government (Auckland) Amendment Act 2004	No date	D. McGregor, M. Batistich, M. Faid	

Abbreviations used in the table above: ACC, Auckland City Council; ARC, Auckland Regional Council; AREDF, Auckland Regional Economic Development Forum; AREDS, Auckland Regional Economic Development Strategy; ARGF, Auckland Regional Growth Forum; ARTA, Auckland Regional Transport Authority; DBH, district health board; FDC, Franklin District Council; LTCCP, long-term council community plan; MCC, Manukau City Council; MfE, Ministry for the Environment; NSCC, North Shore City Council; PCE, Parliamentary Commissioner for the Environment; PDC, Papakura District Council; RDC, Rodney District Council; RMA, Resource Management Act 1991; START, Sustaining the Auckland Region Together; WCC, Waitakere City Council.

Appendix 5: Case studies

Case Study 1

The following information was obtained from evidence presented at a resource consent hearing. The case study was suggested by an informant as an example of difficulties encountered by applicants with Auckland Regional Council (“ARC”) having different resource management roles.

The proposal by Winstone Aggregates (“Winstone”) to establish a new quarry at Symonds Hill, within the Hunua Quarry zone (adjacent to the Hunua Quarry), required consent from both ARC and Papakura District Council (“PDC”), and was the subject of a joint hearing for land use and regional council consents.

Both councils appear to have been directly contacted early in the process by Winstone, who sought to establish a process whereby staff of both councils could be briefed and provided with draft copies of their applications, Assessment of Environmental Effects, and expert reports for review. Winstone sought in turn

feedback from councils on the adequacy of the draft documents, including advice on any information gaps or issues overlooked.

From the evidence provided by Winstone it appears that feedback was given by both councils although time frames for turning around the feedback varied, with ARC's feedback in some areas taking much longer than anticipated.

ARC lodged a submission to the PDC application and this appears to have surprised Winstone as the evidence indicates that elements in the submission had not been previously flagged by the ARC and that this omission was not consistent with the objectives of establishing liaison processes in 2006.

Winstone indicates in the evidence that it sought to understand and satisfy ARC's concerns (about landscape and visual effects) by meeting, before the hearing, with the ARC policy staff who were involved in the submission.

The hearing report prepared by the ARC for the regional council consents appears again to have also surprised Winstone as the evidence suggests that the matters raised could have been addressed by ARC staff earlier. One of the issues appears to have been quite significant in the scheme of things as it related to the method for measuring the extent of a financial contribution for riparian planting and mitigation for the impact on a stream, which could potentially result in a variation in the cost of condition from \$700,000 to \$1.5 million.

Reviewer comment

Having pre-application meetings and engagement with council staff before applying for resource consent is generally considered best practice and can result in the processing of an application being simpler, quicker (as they are a useful way of considering and resolving issues before the application is finalised), and less costly. In the case of complex consents, such a process can be effective if it gathers together all of the parties likely to be involved and ensures that those who have a role participate.

However, the process is reliant on a process of formal agreement of issues, achieved by way of exchanged and signed minutes, as staff and parties can change.

Case Study 2

The following information was obtained from evidence presented at the 2007 resource consent hearing, the hearing reports from the Rodney District Council ("RDC") proposed district plan, and agendas and minutes of RDC and ARC committee meetings. The case study was suggested by an informant as an example of the difficulty of making strategic decisions when focused on a regulatory view of resource management issues.

Williams Lands Ltd owns a large area of land known as Weiti Station (840–900 hectares), which is located between Long Bay and Stillwater. The land was zoned for a small number of residential lots on part of the land, with the bulk in 100 percent rotational pine forest and rural use. On purchasing the land, the owner became

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successor to submissions (and subsequently appeals lodged in 2006 and 2007) to the proposed Rodney District Plan that sought additional development potential (i.e. 600 lots). The ARC was a further submitter to those submissions and a party to the appeals.

It appears from the evidence and agenda items that in 2006 Williams Lands commenced a process of assessing the capacity of the land for further residential development and this included meetings and extensive presentations to staff from ARC and RDC to discuss three options. The options proposed to increase the number of residential lots to either 200, 600 or 1500 residential lots, with different levels of gifting of land as public park (up to 300 hectares in the most intensive situation) and other amenities (e.g. 74 km of public trails through private land and 50 ha of native bush proposed to be planted). The land was offered for either ARC or RDC ownership or to be protected through covenanting. None of the options was accepted. In June 2007 the RDC resolved to rescind a May 2007 resolution to “investigate options regarding the land known as Weiti Station, in order to establish all the eastern area and the Okura catchment as a public park” and it is understood that the ARC advised Williams Lands it would support only a 150 residential lot development.

The owner subsequently lodged a resource consent application for a restricted discretionary activity to develop 150 residential lots as provided for in the plan, with the balance of the land left undeveloped and in private ownership. This application was heard in November 2007 by a joint panel of ARC and RDC commissioners. ARC lodged a submission in general support of the application but raised concerns about the protection of landscape values and indicated that if these issues could not be resolved then consent should be refused.

It was noted in staff reports to the ARC’s February 2008 Regional Strategy and Planning Committee that considerable effort was made by Williams Lands to discuss the proposal with ARC, prior to and post-lodgement of the application, and that prior to the hearing a revised proposal was presented. At the hearing the ARC asked for further amendments to the proposal to reduce the impact of the proposal, including the use of a “heritage protection zone”, reduction in the number of lots, protection of existing vegetation, and limiting future development. The application was granted by the commissioners in December 2007 without the changes the ARC requested, so the ARC appealed the decision. A consent order was subsequently agreed by all parties in June 2008 with changes to landscape and heritage elements but no reduction in lots.

Reviewer comment

A number of proposals have been put forward for the Weiti Station over the past 15 years, all strenuously opposed by community interests. This case is an example of the impact of regulators in frustrating decision making.

Appendix 6: The indicators used by the Mercer Survey in measuring quality of living

<p>Political and Social Environment</p> <p><i>Relationship with other countries</i></p> <p><i>Internal stability</i></p> <p><i>Crime</i></p> <p><i>Law enforcement</i></p> <p><i>Ease of entry and exit</i></p>	<p>Economic Environment</p> <p><i>Currency exchange regulations</i></p> <p><i>Banking services</i></p>
<p>Socio-Cultural Environment</p> <p><i>Limitations on personal freedom</i></p> <p><i>Media and censorship</i></p>	<p>Medical and Health Considerations</p> <p><i>Hospital services</i></p> <p><i>Medical supplies</i></p> <p><i>Infectious diseases</i></p> <p><i>Waste removal</i></p> <p><i>Sewage</i></p> <p><i>Air pollution</i></p> <p><i>Troublesome animals and insects</i></p>
<p>Housing</p> <p><i>Supply of houses and apartments</i></p> <p><i>Supply of household appliances and furniture</i></p> <p><i>Household maintenance and repair</i></p>	<p>Schools and Education</p> <p><i>Availability of schools</i></p>
<p>Natural Environment</p> <p><i>Climate</i></p> <p><i>Natural disasters</i></p>	<p>Public Services and Transport</p> <p><i>Electricity</i></p> <p><i>Water availability</i></p> <p><i>Reliability of phones</i></p> <p><i>Reliability of mail</i></p> <p><i>Traffic congestion</i></p> <p><i>Airport access and links</i></p>
<p>Recreation</p> <p><i>Variety of restaurants</i></p> <p><i>Theatrical and musical performances</i></p> <p><i>Choice of cinemas</i></p> <p><i>Sport and leisure activities</i></p>	<p>Consumer Goods</p> <p><i>A variety of fresh fruit and vegetables</i></p> <p><i>A variety of other consumer goods</i></p> <p><i>Availability of alcoholic beverages</i></p> <p><i>Availability of automobiles</i></p>

Source: Quality of Living Reports, Mercer Human Resource Consulting, 2002.