

Productivity Commission, Better Urban Planning - draft report

Recommendation

That the Board:

- i. Notes the attached Auckland Council submission and agree to provide the attached letter of support to be submitted with Council's submission based on the matters set out below.
- ii. Authorises the CE to finalise and sign the supporting letter to accompany the Auckland Council submission.

Executive summary

The Productivity Commission (**PC**) inquiry into Better Urban Planning (**BUP**), has released its draft report outlining how the planning system for New Zealand should be organised in future. It proposes significant changes to the current regime. Some of the proposals have the potential to impact positively and negatively on AT. It is also an opportunity to raise issues such as aligning growth and infrastructure funding.

It is recommended that AT attach a letter of support(Attachment 1 to Auckland Council's submission (Attachment 2) for this initiative.

Strategic context

The BUP is a 'Blue skies' review of New Zealand's planning system. This includes the Resource Management Act (RMA), Land Transport Management Act (LTMA) and the Local Government Act (LGA).

Its findings conclude that large scale change is needed, largely due to the shortcomings of RMA, combined with misalignments between the three acts.

Items of interest to AT include:

- Funding suggestions – road pricing, ATAP style agreements and value capture;
- Potential for route protection;
- Addressing cumulative effects of small scale development on infrastructure demand;
- Zoning which changes automatically with circumstances.

AC's submission concentrates on a number of the strategic themes of providing better mechanisms for:

1. Aligning urban growth with infrastructure planning and funding.
2. Protecting strategic transport routes through future greenfield growth areas.

Because of the far reaching implications of the BUP on AT's functions, it is important that we ensure that matters of importance for AT are appropriately addressed.

Background

The BUP inquiry is one of a number of PC inquiries which include an inquiry into 'Housing Affordability' (2012), 'Local Government Regulatory Performance' (2013) and 'Using Land for Housing' (2015). The former study specifically recommended that the government consider reviewing all three planning related acts (RMA, LTMA and the LGA) as it identified the planning system as a contributing factor in housing and land supply availability.

Many of the recommendations in the BUP are similar to, or build on recommendations in earlier inquiries. Some changes are potentially significant and will change or replace key parts of current planning processes.

Issues

The key issues for AT identified from a review and through internal consultation BUP inquiry include:

Productivity Commission, Better Urban Planning draft report - Submission Points/Concerns	
<p><i>Infrastructure pricing and funding to reflect actual costs, use and impacts</i></p> <ul style="list-style-type: none"> • <i>Ability for councils to utilise road pricing and other funding tools</i> 	<ul style="list-style-type: none"> • Support new funding tools including road pricing • PC do not specify any one funding tool in particular • AT/AC will need to continue working with Government on future funding regime
<p><i>Route protection</i></p> <ul style="list-style-type: none"> • <i>Report notes route protection as an issue - doesn't form any view as to how it should be achieved</i> 	<ul style="list-style-type: none"> • Future transport corridors may be compromised as limited tools available for route protection • Propose 'concept designations' or similar as solution.

<p><i>Zoning</i></p> <ul style="list-style-type: none"> • <i>Proposal for planning provisions to change automatically with changed circumstances</i> 	<ul style="list-style-type: none"> • Lack of detail around the mechanism for re-zoning and how it would operate in practise e.g. would land be 'down zoned' in the event of a fall in land value? • Potential for rezoning without transport investment • This recommendation appears to conflict with the Commission's recommendation for mandatory spatial planning
<p><i>Recognition of difficulties in addressing cumulative effects</i></p> <ul style="list-style-type: none"> • <i>PC focus is on ecological cumulative effects e.g. water pollution</i> 	<ul style="list-style-type: none"> • Cumulative infrastructure requirements from development. E.g. numerous small developments contributing to a road upgrade but none individually requiring it at the time of consent • Advocate to widen the scope of PC's consideration of cumulative effects
<p><i>PC's evidence base and reasoning</i></p> <ul style="list-style-type: none"> • <i>Report doesn't address transport issues in depth and only focuses on roads/congestion – no discussion of spatial and cost efficiencies of active modes and public transport</i> 	<ul style="list-style-type: none"> • AT strategic theme - prioritise public transport • AT can provide additional evidence to ensure other modes and transport issues are discussed and understood.

A submission on the BUP inquiry will provide an opportunity to start influencing how these issues are managed into the future, particularly any long-term reform packages to the RMA and related statutes. The final AC submission is attached.

Options

The options considered are:

Option 1: *AT makes an individual submission and works with AC to support each other's submission points*

Option 2: *AT make a joint Submission with AC. Add attached letter identifying support for AC submission highlighting items of interest to AT.*

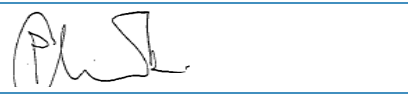

Option 3: *AT makes no submission.*

Option 2 is recommended because it minimises the risk of inconsistency between AC and AT submission. AT staff have worked closely with AC staff and the attached AC submission has addressed AT's concerns. The attached letter will enable AT to emphasise key points.

Timeline

19th August	<i>Draft report released</i>
30th August	<i>Auckland Development Committee workshop</i>
13th September	<i>Customer Focus Committee</i>
15th September	<i>Auckland Development Committee submission decision</i>
3rd October	<i>Submission due</i>
30th November	<i>Final report to cabinet</i>

Document ownership

Submitted by	Don Munro Manager, Strategic Policy Integration	
Recommended by	Peter Clark Chief Strategy Officer	
Approved for submission	David Warburton Chief Executive	

Glossary

Acronym	Description
RMA	Resource Management Act 1991
AT	Auckland Transport
LTMA	Land Transport Management Act
LGA	Local Government Act
AC	Auckland Council
PC	Productivity Commission
CCO	Council Controlled Organisation
BUP	Better Urban Planning (Inquiry)

Attachments

Attachment Number	Description
1	Draft Letter of support to be included with Auckland Council submission
2	Auckland Council submission – saved in the Resource Centre in Boardbooks

Attachment 1

26 September 2016

Better Urban Planning Inquiry
New Zealand Productivity Commission
PO Box 8036
The Terrace
Wellington 6143

Better Urban Planning – draft report

Auckland Transport (AT) would like to thank the Productivity Commission for the opportunity to respond to the draft report on Better Urban Planning (“BUP”). Auckland Transport has worked closely with Auckland Council on the attached submission and fully support it.

In addition to the points in the submission relating to infrastructure provision and integration, we also wish to highlight the following matters which are also relevant:

Route protection for infrastructure networks – as highlighted in the Auckland Council submission, securing infrastructure networks in growth areas is critical to enable the provision of development land and accelerate the provision of housing as envisaged by the commission, particularly in periods of rapid growth and land price inflation as Auckland has recently experienced. In AT’s view, the ability to use a mechanism such as ‘concept designations’ would secure the necessary routes while providing guidance and certainty to the wider community as to where such networks would be located.

Funding tools – A wide range of funding tools and the flexibility to use them in a way that allows tailoring to local circumstances is critical to the enablement and management of Auckland’s growth.

Government Policy Statement (GPS) – As noted by Auckland Council, there are a number of potential issues with the proposal for a GPS but any change should seek to either replace or integrate the existing collection of National Policy Statements, to provide clear guidance in dealing with conflicts between policies.

Cumulative effects – Under an effects based system, the mitigation and attribution of responsibility for incremental infrastructure demands is challenging, particularly for the transport network. AT recommends that this issue is specifically reviewed by the Commission and can provide further information if required on this topic.

Auckland Transport would welcome the opportunity to discuss these matters with the Productivity Commission directly.

Should you require further information or elaboration please contact Don Munro, Manager Strategic Policy Integration at don.munro@at.govt.nz.

Regards

David Warburton
Chief Executive Officer

CC: Auckland Council

Productivity Commission's Better Urban Planning draft report

File No.: CP2016/19709

Purpose

1. The purpose of this report is to seek endorsement of Auckland Council's submission to the Productivity Commission ("the commission") in response to its *Better Urban Planning* draft report.

Executive summary

2. The Productivity Commission released its Better Urban Planning draft report on 18 August. The council's response to the commission is due on 3 October and is set out in the draft submission (Attachment A).
3. The main purpose of the Productivity Commission's inquiry is to "review New Zealand's urban planning system and to identify, from first principles, the most appropriate system for allocating land use to support desirable social, economic, environmental and cultural outcomes". The inquiry is not intended to provide a critique of previous or on-going reforms to the legislation that make up the urban planning system.
4. The Productivity Commission's Better Urban Planning inquiry is being undertaken in the context of significant central government urban planning reform including: the Better Local Services work programme; Resource Management Act reform; a natural resource sector agencies review of the resource management and planning system; and its implementation of the work programme arising from the commission's previous Using Land for Housing inquiry.
5. The inquiry's final output will be a report to government identifying a range of alternative models for the urban planning system and a framework against which current practices and potential future reforms in resource management, planning and environmental management in urban areas will be assessed.
6. Overarching themes in council's draft submission are:
 - i. The inquiry occurs in the context of significant ongoing urban planning reform. Council is concerned about the integration, phasing and coherence of that reform programme. Council accepts changes are required but change has costs and council wants to ensure that the gains from any reforms outweigh the costs it will impose.
 - ii. The Auckland Unitary Plan has better enabled development capacity: the focus now needs to move to funding and delivering infrastructure and development.
 - iii. Funding large scale growth poses significant challenges. A broad range of tools need to be available to support growth but decision-making on when those tools are used needs to lie with local rather than central government.
 - iv. Council values the wider contribution urban planning can make to broader goals of community well-being, resilience and prosperity.
 - v. Criteria for assessing current and future planning reforms should support the treatment of urban planning as a system, should enable focus on planning for future funding challenges and should enable informed decision making and public engagement.
 - vi. The commission approaches land use from a siloed perspective that is fundamentally inconsistent with our experience of urban planning in practice and which is also inconsistent with Te Ao Māori.
 - vii. Some of the commission's recommendations have significant unexamined impacts for Māori as a Treaty partner, and may limit interests of Māori.

Recommendation/s

That the Auckland Development Committee:

- a) endorse Auckland Council's submission to the Productivity Commission's *Better Urban Planning* inquiry draft report.
- b) authorise the Committee Chair, Deputy Chair and a representative from the Independent Māori Statutory Board to finalise and approve the council's submission on the Productivity Commission's *Better Urban Planning* draft report.

Comments

Better Urban Planning Inquiry

7. In November 2015, Ministers Bennett, Smith and English instructed the Productivity Commission to undertake an inquiry into the urban planning framework. This review is known as the *Better Urban Planning* inquiry (the inquiry).
8. The inquiry builds upon the commission's previous *Using Land for Housing* inquiry in 2015 and picks up on the commission's key message to government arising from that inquiry: if government wants to see substantial improvements in the land supply system more fundamental changes than those explored in the *Using Land for Housing* inquiry would be required.
9. The inquiry terms of reference identifies the following additional drivers:
 - i. the costs, complexity and uncertainty associated with the interaction of planning processes under the Local Government Act, Resource Management Act and Land Transport Management Act;
 - ii. differences in purposes, timeframes, processes and criteria within the above law;
 - iii. the impacts of these laws on the productivity of the wider economy;
 - iv. the piecemeal fashion in which the current urban planning system has evolved; and
 - v. evolution of international best practice in urban planning.
10. At a high level, the scope of the inquiry involves identifying options to align the priorities of actors and institutions within an urban planning framework, making provision for sufficient current and future urban development and enabling alignment between national and local priorities and identifying opportunities for improvement. A critique of previous or on-going reforms to the legislation that make up the urban planning system is specifically excluded from the inquiry.
11. Submissions on the commission's draft report close on **3 October** and its final report will be tabled in Cabinet by **30 November**.

Auckland Council's response

12. Council has worked with Auckland Transport and Pānuku Development Auckland and has consulted with Watercare Services Limited to develop this response. Auckland Transport intends providing a separate letter in support of Council's submission to be appended to the wider submission and Watercare will provide a separate submission to the Productivity Commission.
13. Key positions in the council's draft submission are as follows:
 - i. Land supply in Auckland has been better enabled under the Unitary Plan; the focus now needs to move to funding and delivering infrastructure and development.

- ii. The council values the wider contribution of urban planning can make to broader goals of community well-being, resilience and prosperity. The council does not support the commission's proposed narrowing of spatial planning to focus on issues closely related to land use.
- iii. The council supports spatial plans being given more legislative weight in relation to unitary or district plans (Recommendation 9.1)
- iv. The council has concerns about the amount of central government reform underway and the lack of clarity surrounding integrated implementation of the planning framework the reform programme may produce.
- v. The council agrees with the commission that "*a future planning system should only apply rules where there is a clear net benefit [of doing so], and where the link to the [benefits or costs] are clear*".
- vi. The council disagrees with the commission that the planning system should only be used "*where alternative approaches are not feasible*" i.e. as a policy instrument of last resort.
- vii. The cost of funding Auckland's infrastructure is a key challenge. The council needs a broad range of tools to enable it to tailor funding approaches and manage demand for services in order to maximise efficient provision and use of our existing and new infrastructure.
- viii. The commission approaches land use from a siloed perspective that is fundamentally inconsistent with our experience of urban planning in practice and which is also inconsistent with Te Ao Māori.
- ix. Some of the commission's recommendations have significant unexamined impacts for Māori as a Treaty partner, and may limit interests of Māori.
- x. The council considers separating planning from environmental protection law within an urban planning context could simply exacerbate existing legislative misalignments and lead to the further deterioration of the environment. The council has significant concerns about how either of the urban planning legislative frameworks that the commission proposes could be implemented in practice (Question 13.1)
- xi. Broadly, the council does not support the introduction of a government policy statement on environmental sustainability. Within the commission's proposal to introduce a government policy statement on environmental sustainability, council could support the provision of additional central government guidance enabling the establishment of standardised methodologies and environmental reporting processes. However, the council has concerns about a number of other aspects of the proposed government policy statement including how "environmental lag times" could be taken into account, and how national priorities are reflected in a local context (Recommendation 8.1).
- xii. The council does not support the proposed central government override powers in relation to:
 - local plan making in limited (unspecified) circumstances (Recommendation 7.1)
 - enabling central government to require common land use approaches to addressing specific issues (Recommendation 7.1)
 - enabling central government to instruct council infrastructure units to deliver infrastructure where a pre-set price trigger is reached between developable and undevelopable land (Recommendation 7.1).

- xiii. The council does not support the introduction of a permanent independent hearings panel (Recommendation 7.7). The council suggests the commission consider the use of the council-led commissioner model currently enabled under the Resource Management Act as an alternative model.
- xiv. The council does not support shifting regulatory responsibilities for environmental monitoring and compliance away from councils to an independent authority, such as the Environmental Protection Agency (Question 13.2).
- xv. The council does not support increased external audit and oversight of councils' environmental monitoring (with some type of trigger enabling central government intervention if a council's performance was consistently poor over time). The council suggests that further analysis be undertaken to identify if there is a link between compliance efforts by councils and poor environmental outcomes (Question 13.2).
- xvi. The council supports further investigation into the potential for using adaptive environmental management tools. Widening the environmental management toolkit and providing the discretion to use the best tool for each given situation or enabling a combination of approaches to be used would allow a more flexible and responsive approach, and enable the approach to be tailored to address complex local environmental issues (Question 8.2).
- xvii. The council supports giving councils flexibility to select the most appropriate consultation tool for dealing with the issue at hand and better enabling the full spectrum of interests to be understood in council decision-making processes and improving transparency of decision-making. The council considers restricting other participation would undermine the exercise of local democracy (Recommendation 7.6).
- xviii. The council supports the commission's findings and recommendations on financing and funding infrastructure. The council also endorses the potential use of alternative funding mechanisms, in particular targeted rates "to fund infrastructure investments where benefits are well defined" (Recommendation 10.2). The council supports being able to access a broader range of funding tools, this could include the use of road pricing in the form of congestion management tools and the ability to use public private partnerships.
- xix. The council suggests an evaluation of the existing use of transferable development rights in Auckland. This may be useful to assess the merits and possible impacts of the commission's proposed approach to transferable development rights (Question 10.4). The use of this tool could have considerable implications for the operation of the Unitary Plan.
- xx. The council supports recommendations to build local and central government capability (Recommendation 9.2 centre of excellence, Recommendation 12.2 central government urban planning and local government sector capability building, Recommendation 12.1 environmental science, economics and engagement with Māori).
- xxi. The council can see some merit in developing a shared process to assess infrastructure investment programmes although questions the need for institutions or formal processes in all circumstances (Recommendation 9.3). The council lends this

support subject to any learnings from the Auckland Transport Alignment Project becoming available. The council recommends that the ability for councils and central government to engage on key infrastructure also remains available outside of the proposed mechanism.

- xxii. The council proposes the commission reconsiders the idea of “concept designations” or other mechanisms/tools for the protection of routes for infrastructure investment to support future growth. Auckland Transport supports enabling the introduction of “concept designations” approaches.
- xxiii. The council proposes the commission also considers options for improving the workability of the Public Works Act, particularly where there may be opportunities to improve outcomes for both affected landowners and public bodies.
- xxiv. The council proposes more work could be undertaken to address current misalignments within the three key planning acts.

Consideration

Local board views and implications


- 14. The approach in the commission’s draft report is to consider changes to the national urban planning framework. Their proposed changes are described at a very high level and many of the proposals require a lot more clarity before both the national, regional and local impacts can be fully understood.
- 15. Local board chairs were invited to attend the workshop with the Auckland Development Committee. Copies of the materials circulated in preparation for the workshop were also circulated to all local board members.
- 16. Any local board resolutions received will be appended to Auckland Council’s submission.

Māori impact statement

- 17. The commission asks a number of questions, which could limit interests of Māori in urban planning to papakāinga, streamlining the Resource Management Act with Te Ture Whenua, cultural impact assessments, what central government guidance should be provided to local government to recognise and protect Māori interests in planning, and the type of legislative provisions to be strengthened to provide for Māori participation in land-use planning. For reference see questions 11.1 to 11.15 in the draft report.
- 18. The commission’s draft report does not specifically acknowledge where recommendations have implications for Māori.
- 19. The commission’s draft report was distributed to mana whenua for feedback and staff attended a hui with mana whenua representatives on 31 August. Staff identified the key issues discussed in council’s draft submission. Mana whenua and mataawaka have been provided with a copy of the attached draft submission and a copy of council’s submission will be circulated once it is available.
- 20. The commission’s suggested approach to separate the treatment of built and environmental urban planning matters is inconsistent with the wider more holistic perspective of Te Ao Māori.
- 21. The underpinnings of some of the other recommendations in the report reflect a siloed approach to urban planning, which also seems at odds with a holistic Māori world view, such as a land use focus for urban planning where the interrelationships with other relevant legislative processes seem to be separate.

22. The role of Māori as a Treaty partner in setting national direction at the central government level is not clear, and there seem to be reduced opportunities for meaningful participation in the proposed national Independent Hearings Panel processes both at the policy setting and consenting stages.
23. These implications of the Commission's draft report for Maori are significant, considering that 85% of Māori reside in New Zealand urban areas.
24. Feedback has been received from the Independent Māori Statutory Board and has been integrated into the draft Auckland Council submission.

Attachments

No.	Title	Page
A 	Auckland Council Draft Submission to Productivity Commission Better Urban Planning Draft Report	11

Signatories

Authors	Toby Shephard - Strategic Advisor Strategic Scanning Jennifer Davies - Principal Strategic Advisor Strategic Scanning
Authorisers	Jacques Victor - GM Auckland Plan Strategy and Research Jim Quinn - Chief of Strategy

Auckland Council Submission to the New Zealand Productivity Commission on its Better Urban Planning Draft Report September 2016

Introduction

1. Auckland Council (“council”) welcomes the opportunity to engage on the New Zealand Productivity Commission’s (the “commission”) draft report on Better Urban Planning. Council has worked with Auckland Transport, Pānuku Development Auckland and has consulted with Watercare Services Limited in the preparation of this submission.
2. This submission is divided into three sections:
 - a. Section one outlines Auckland’s key challenge as context for council’s response to the commission’s draft paper and gives council’s broad response to the commission’s draft paper across three themes:
 - i. Principles for a future planning framework
 - ii. Centralised planning powers
 - iii. Implications for Māori
 - b. Section two summarises council’s key positions in this submission. Council also identifies opportunities for future investigation by central government.
 - c. Section three discusses council’s rationale for those positions, referencing the commission’s recommendations, which we have grouped as:
 - i. Council values the wider contribution of urban planning
 - ii. The shape of the legislative framework
 - iii. Central government’s role
 - iv. Better addressing poor environmental outcomes
 - v. Public participation
 - vi. Integrating funding and planning
 - vii. Building capacity and scope for collaboration
3. The council’s submission focuses primarily on the Commission’s draft recommendations and several of the strategic questions within the Commission’s draft report. Given consultation period constraints, council makes no comment on specific findings within the Commission’s draft report and does not necessarily accept those findings. The same applies with any other recommendations or questions the council has not explicitly addressed in this submission.
4. Council notes that the circumstances in which the terms of reference for this inquiry were issued in November 2015 have evolved. Central government has worked across a number of fronts introducing reforms designed to address these concerns around Auckland housing affordability, knock-on price-rises across other regions and wider macroeconomic risks to New Zealand’s financial stability.
5. The council has concerns about the amount of reform underway and the integration, phasing and coherence of that programme. The recommendations in the draft report affect governance and institutional arrangements and could cause substantial disruption,

uncertainty and cost. Changes to the resource management system could also affect the nature of individuals' rights and interests in resources in ways that are not yet clear.

6. The council's response to the Commission's draft report is made in the context of all elements of the government's reform programme, which proposes fundamental change in some areas. Given this complexity, council makes broad points in section two and offers further detailed rationale in section three.

SECTION ONE: AUCKLAND'S KEY CHALLENGE

7. Auckland is the fastest-growing region in the country. Last year Auckland grew by an additional 117 people every day and is projected to grow by 736,000 people over the next 30 years. That means up to 400,000 new dwellings and 277,000 additional jobs could be required to meet that population growth.
8. Auckland's current and future infrastructure requirements are enormous. To enable Auckland to maximise the benefits of growth, we need services, infrastructure and facilities that can cope with the added demand. This includes increased new transport, water, wastewater and storm-water infrastructure to ensure we can connect newly built homes, and new community facilities for Auckland's expanding suburbs.
9. Feasible development capacity has now been sufficiently enabled through the Unitary Plan. The challenge for Auckland is funding and delivering the infrastructure it needs. To get the most out of our spend, the council needs to plan the provision of transport, water, wastewater and storm-water and community infrastructure in a coordinated way.
10. As well as capital expenditure, infrastructure assets incur on-going operational costs and there needs to be provision made for asset maintenance and renewals. These costs are also significant. The council also needs a broad range of tools to enable it to tailor funding approaches and manage demand for services in order to maximise efficient use of our existing and new infrastructure.
11. The rate and scale of this growth presents both challenges and opportunities for Auckland and the rest of New Zealand. To meet these challenges and opportunities, Auckland needs a range of tools to plan for the future. Auckland council considers that the urban planning framework is a key tool in achieving broad outcomes for the social, cultural, economic and environmental objectives of people and the region.

Principles for a future planning framework

12. The council reiterates the importance of the principles for a future urban planning system it submitted in response to the Commission's issues paper:
 - **Thinking of urban planning as a system:** an effective urban planning system must be able to provide certainty around place based outcomes. The system must also provide flexibility in the process and the tools that can be used to achieve those outcomes. It is essential that there is a solid and shared evidence base to inform policy and plan development and to support decision making. In addition, the

purpose of local government includes the requirement to perform regulatory functions in a cost effective manner. A planning process that is complex and takes a long time to work through may fail to meet that requirement with costs accruing for both the regulator and the user. However any revision to the planning system needs to keep in mind the lack of equality between participants representing different interests. Against that background it must be understood that short term gains can create long term problems and that taking a long term view needs to be a feature of any good planning system.

- **Focussing on planning for future funding challenges:** having a sufficient range of funding tools and mechanisms and the flexibility to use them in a way that allows tailoring to local circumstances is critical to enable Auckland's ability to manage growth. Land use/supply needs to be coordinated and integrated with infrastructure provision and funding which in turns needs to strike a balance between being future-focussed and responsive enough to be able to fix current problems.
- **Enabling informed decision making and public engagement:** It is important councils, ratepayers and taxpayers and all Aucklanders have sound information on which to base their decisions. Councils must engage with and listen to what our communities tell us is important early in the policy process based on clear evidence and our sound advice on possible outcomes, trade-offs and impacts.

The level of community engagement and debate as the Unitary Plan progressed demonstrates that it is important to Aucklanders that they continue to have a voice and be heard about the planning decisions that shape how they, and future generations, will work, live and play in Auckland.

Centralised powers for urban planning

13. Broadly, the draft report makes recommendations for greater central government intervention or decision-making in lieu of local decision-making. The report also advocates increased local government oversight or the transfer of responsibilities to other Crown agencies. Council sees two clear issues with this approach.
14. First, council considers participation in and implementation planning framework must enable and underpin local democracy. Decision makers should be accountable to and understand the issues concerning local people.
15. Second, recommendations to increase central government powers may change the nature of the relationships between central government, local authorities and tangata whenua. Where such changes significantly reduce or alter the nature of the partnership between Crown and Māori such changes may raise Treaty issues.
16. The council suggests the consideration of such fundamental reform options should be underpinned by shared and agreed understandings of the performance of the current resource management system, agreed objectives for the future, and shared and robust evidence bases upon which to support analysis and decision-making.

Implications for Māori

17. Thinking about land and urban planning as an integrated system that has cultural, social and environmental links as well as economic factors is consistent with Te Ao Māori. The commission's own evidence base noted:

[The inquiry's starting point] appears to encompass economic and possibly environmental aspects of planning, but does not encompass social or cultural aspects of planning. Land is described predominantly as a fiscal asset, rather than a tāonga tuku iho. Concepts of holistic mauri ora are replaced with economic terminology where land is analysed as a resource valued primarily for producing economic gains...[this undermines] the integrity of mātauranga Māori as a conceptual underpinning to urban planning which aims to respect environmental, cultural and social outcomes”.

From Ngā Aho & Papa Pounamu: Better Urban Planning – Report from Māori Built Environment Practitioners Wānanga (2016)

18. Some of the recommendations in the draft report reflect a siloed approach to urban planning, which seems at odds with a holistic Māori world view. Examples of this approach are a legislative model which separates the natural and built environment, and a land use focus for urban planning where the interrelationships with other relevant legislative processes seems to be separate. Indeed, the commission's recommendation to narrow the scope of spatial planning could likely see Māori engage in multiple legislative processes for a single issue from a Te Ao Māori perspective.
19. The role Māori would have as a Treaty partner in setting national direction at the central government level is not clear, and the draft report indicates there seem to be reduced opportunities for meaningful participation in the proposed national Independent Hearings Panel processes at the policy setting and consenting stages.
20. The draft report contains a chapter on the Treaty and Māori issues which poses questions, rather than recommendations, and which could limit interests of Māori in urban planning to papakāinga, streamlining the RMA with Te Ture Whenua, cultural impact assessments, what central government guidance should be provided to local government to recognise and protect Māori interests in planning, and the type of legislative provisions to be strengthened to provide for Māori participation in land-use planning.
21. These implications of the Commission's draft report for Maori are significant, considering that 85% of Māori reside in New Zealand urban areas.

SECTION TWO: EXECUTIVE SUMMARY OF COUNCIL'S POSITIONS

- Land supply in Auckland has been better enabled under the Unitary Plan; the focus now needs to move to funding and delivering infrastructure and development.
- The council values the wider contribution urban planning can make to broader goals of community well-being, resilience and prosperity. The council does not support the commission's proposed narrowing of spatial planning to focus only on issues closely related to land use.
- The council supports spatial plans being given more legislative weight in relation to unitary or district plans (Recommendation 9.1)
- The council has concerns about the amount of central government reform underway and the lack of clarity surrounding integrated implementation of the planning framework the reform programme may produce.
- The council agrees with the commission that "*a future planning system should only apply rules where there is a clear net benefit [of doing so], and where the link to the [benefits or costs] are clear*".
- The council disagrees with the commission that the planning system should only be used "*where alternative approaches are not feasible*" i.e. as a policy instrument of last resort.
- The cost of funding Auckland's infrastructure is a key challenge. The council needs a broad range of tools to enable it to tailor funding approaches and manage demand for services in order to maximise efficient provision and use of our existing and new infrastructure.
- The commission approaches land use from a siloed perspective that is fundamentally inconsistent with our experience of urban planning in practice and which is also inconsistent with Te Ao Māori.
- Some of the commission's recommendations have significant unexamined impacts for Māori as a Treaty partner, and may limit interests of Māori.
- The council considers separating planning from environmental protection law within an urban planning context could simply exacerbate existing legislative misalignments and lead to the further deterioration of the environment. The council considers Option A has some advantages over Option B subject to the land transport and infrastructure laws being closely aligned with the single resource management law. However, it has significant concerns about how either of the proposed urban planning legislative frameworks could be implemented in practice (Question 13.1).
- Broadly, the council does not support the introduction of a government policy statement on environmental sustainability. Within the commission's proposal to introduce a government policy statement on environmental sustainability, the council could support

the provision of additional central government guidance enabling the establishment of standardised methodologies and environmental reporting processes. However, the council has concerns about a number of other aspects of the proposed government policy statement including how “environmental lag times” could be taken into account, and how national priorities are reflected in a local context (Recommendation 8.1).

- The council does not support the proposed central government override powers in relation to:
 - local plan making in limited (unspecified) circumstances (Recommendation 7.1)
 - enabling central government to require common land use approaches to addressing specific issues (Recommendation 7.1)
 - enabling central government to instruct council infrastructure units to deliver infrastructure where a pre-set price trigger is reached between developable and undevelopable land (Recommendation 7.1).
- The council does not support the introduction of a permanent independent hearings panel (Recommendation 7.7). The council suggests the commission consider the use of the council-led commissioner model currently enabled under the Resource Management Act as an alternative model.
- The council does not support shifting regulatory responsibilities for environmental monitoring and compliance away from councils to an independent authority, such as the Environmental Protection Agency (Question 13.2).
- The council does not support increased external audit and oversight of councils’ environmental monitoring (with some type of trigger enabling central government intervention if a council’s performance was consistently poor over time). The council suggests that further analysis be undertaken to identify if there is a link between compliance efforts by councils and poor environmental outcomes (Question 13.2).
- The council supports further investigation into the potential for using adaptive environmental management tools. Widening the environmental management toolkit and providing the discretion to use the best tool for each given situation or enabling a combination of approaches to be used would allow a more flexible and responsive approach, and enable the approach to be tailored to address complex local environmental issues (Question 8.2).
- The council supports giving councils flexibility to select the most appropriate consultation tool for dealing with the issue at hand and better enabling the full spectrum of interests to be understood in council decision-making processes and improving transparency of decision-making. The council considers restricting other participation would undermine the exercise of local democracy (Recommendation 7.6).
- The council supports the commission’s findings and recommendations on financing and funding infrastructure. The council also endorses the potential use of alternative funding mechanisms, in particular targeted rates “to fund infrastructure investments where benefits are well defined” (Recommendation 10.2). The council supports being able to

access a broader range of funding tools, this could include the use of road pricing in the form of congestion management tools and the ability to use public private partnerships. The council also notes that the interim Auckland Transport Alignment Project (known as ATAP) has identified the potential to use variable road network pricing as a demand management tool to achieve better network performance. Wider use of all of these tools to support infrastructure investment and ensure growth pays for growth is an important part of our strategy.

- The council suggests an evaluation of the existing use of transferable development rights in Auckland. This may be useful to assess the merits and possible impacts of the commission's proposed approach to transferable development rights (Question 10.4). The use of this tool could have implications for the operation of the Unitary Plan.
- The council supports recommendations to build local and central government capability (Recommendation 9.2 centre of excellence, Recommendation 12.2 central government urban planning and local government sector capability building, Recommendation 12.1 environmental science, economics and engagement with Māori).
- The council can see some merit in developing a shared process to assess infrastructure investment programmes although questions the need for institutions or formal processes in all circumstances (Recommendation 9.3). The council lends this support subject to any learnings from the Auckland Transport Alignment Project becoming available. The council recommends that the ability for councils and central government to engage on key infrastructure also remains available outside of the proposed mechanism.

Further opportunities for investigation

22. The council has also identified a number of other issues which may warrant further investigation by government and these are listed below.

Route protection

23. The report contains some discussion on protecting corridors for trunk infrastructure prior to growth occurring but does not provide specific recommendations on how to achieve this and no discussion about existing limitations of the designation system.
24. The “Building Competitive Cities” report produced by the Ministry for Environment in 2010 proposed the idea of “concept designations” which would enable designations to be put “in concept” early in the process and allow the detailed work to be undertaken at a later stage. The aim of the concept designation was to enable the identification of future transport investment without having to go through the full notice of requirement processes currently required by the Resource Management Act in regards to designating future transport projects. These “concept designations” would require minimal detail and have lapse periods of 30 years, allowing rural activities to continue until the land is needed for transport purposes. Auckland Transport continues to support the idea of “concept designations” or other mechanisms/tools for the protection of routes for infrastructure investment to support future growth.
25. In addition to securing the route in planning terms, the acquisition of land under the Public Works Act can be slow, legalistic, and cumbersome. Innovative solutions which would benefit both the affected landowner and the public body should be explored.

Wider review of body of urban planning law

26. The council acknowledges the commission’s finding that the differing purposes of the three planning Acts create internal tensions, duplication, complexity and costs (Finding 5.2).
27. Some of these misalignments have occurred as a result of differing purposes of legislation, different criteria for guiding decision-making, different processes and different consultation and engagement processes. The council agrees with the commission that these misalignments within the current legislative framework need to be addressed. Council also draws the commission’s attention to the recent paper Local Government New Zealand has commissioned from Simpson Grierson “*The statutory framework of New Zealand’s local government sector: is the key legislation working properly*” (August 2016) for further information.

SECTION THREE: DISCUSSION

Section three provides a discussion on the substantive recommendations made in the commission's draft report. Recommendation numbers are referred to in the discussion. We have grouped the recommendations under our own headings:

- The council values the wider contribution urban planning can make
- The shape of the legislative framework
- Central government's role
- Better addressing poor environmental outcomes
- Public participation
- Integrating funding and planning
- Building capacity and scope for collaboration

The Council values the wider contribution urban planning can make

28. The council recognises that good strategic land-use planning can improve social, economic, environmental and cultural well-being for Aucklanders now and in the future. In addition to the purposes of planning identified by the commission, the council recognises the importance of an outcomes-based approach to planning for land use with broad goals for raising community well-being, resilience and prosperity. This should occur within a framework of environmental sustainability which supports Aucklanders' vision to make Auckland "the world's most liveable city".
29. The wider benefits of urban planning are made all the more critical in the context of strong growth with its fast, dense residential and commercial expansion which, for Auckland, is expected to continue for decades to come. To future-proof Auckland's ability to accommodate and support growth, Auckland also needs to effectively manage or understand the impacts on the natural and physical environment. This will be a determining factor in Auckland's future success.
30. The commission proposes that spatial plans should be a standard and mandatory part of the planning hierarchy and that spatial plans should be tightly defined and focus on issues closely related to land use, in particular the provision of water and transport infrastructure and community facilities (e.g. green space, reserves, conservation areas, and libraries), protection of high value ecological sites and natural hazard management (Recommendation 9.1).
31. The commission made a similar recommendation in the Using Land for Housing inquiry which proposed to narrow the scope of spatial plans to include the 30 year infrastructure strategy, longer term transport planning and longer-term thinking about the growth of the city and land-use rules (Recommendations 3.5-3.8 Using Land for Housing).
32. The council reiterates its response to the commission's Using Land for Housing inquiry in relation to the commission's proposal on spatial plans. The council does not support the commission's recommendation for spatial plans to be tightly defined and focus on issues

closely related to land use (Recommendation 9.1). However, it does support spatial plans having more legislative weight in relation to unitary or district plans.

33. The Local Government (Auckland Council) Act 2009 requires the council to prepare a spatial plan that contributes to Auckland's social, economic, environmental and cultural well-being through a comprehensive and effective long term (20 – 30 year) strategy for Auckland's growth and development. The council consulted extensively with Aucklanders and stakeholders, including government, during the development of its spatial plan. The plan reflects Auckland community aspirations. The council has previously advocated for a more integrated planning framework and to give the Auckland Plan greater statutory weight in relation to the Unitary Plan.
34. The Auckland Plan is required to integrate broad outcomes across a 30 year timeframe which enables decision makers to understand impacts at both a temporal and spatial level. This leads to more informed decision making and risk management, as trade-off decisions are understood within the wider planning context.
35. The Auckland Plan provides a framework by which international, national, regional and local interests can be considered and balanced in a holistic manner and then integrated across a wide range of the council's operations and with other stakeholders.
36. Section 80 of the Local Government (Auckland Council) Act 2009 requires the council to involve central government amongst others throughout the preparation and development of the Auckland Plan. Working in partnership helps to ensure the implications of spatial planning on the financing of central government infrastructure are fully understood and provides an opportunity for discussion about alignment of national and regional interests.
37. The commission's proposed approach to narrow spatial planning to land use matters has specific capacity implications for Māori. This could result in a complex system where a single issue (from a Māori world view) may require participation across multiple legislative processes. This is likely to stretch the limited resources of Māori to effectively participate in resource management even further.
38. The council agrees with the commission that "a future planning system should only apply rules where there is a clear net benefit [of doing so], and where the link to the [benefits or costs] are clear".
39. The council is a strong advocate of cost-benefit analysis supported by a robust evidential base. Our research, information and monitoring unit includes dedicated land use, infrastructure, and environmental monitoring and evaluation functions, and social and economic research functions. The council has proactively built capability in natural sciences monitoring and evaluation, and economics.
40. The council disagrees with the commission that the planning system should only be used "where alternative approaches are not feasible" i.e. as a policy instrument of last resort. Government intervention can also be justified where:
 - there is a clear net benefit
 - the link to the benefit or costs are clear **and**

- intervention supports alternative policy or legislative approaches or
- Intervention fills gaps or deficiencies within those alternative approaches and the community supports such intervention.

The shape of the legislative framework – Question 13.1

41. The commission proposes clearer distinctions between the built and natural environment are made. It concludes the natural environment needs more focus on setting standards that must be met, while the built environment requires assessments that recognise the benefits of urban development and allow change. It considers current statutes and practice blurs the two environments, providing inadequate security about environmental protection and insufficient certainty about the ability to develop within urban areas.
42. This need to introduce clearer distinctions between the natural and built environment leads the Commission to the question how to enable this legislatively. The Commission seeks guidance on the advantages and disadvantages of two proposed legislative models. The first model, Option A, involves having a single resource management law with a built environment section, and natural environment section, with the interrelationships between the two and also between the single law and land transport and infrastructure laws being clearly specified.
43. The alternative model, Option B, involves having one body of natural environment law and a separate body of “planning law” which includes built environment regulation, infrastructure and land transport planning. This model also has some way of clearly specifying the inter-relationships between its two key components.
44. The council appreciates the commission’s proposal is an attempt to better align the legislative framework in which urban planning occurs.
45. The council notes that Option A acknowledges the interconnectedness between the natural and built environment and the shaping effects each has on the other. This is important within any urban planning framework. The council supports the recognition of this interconnectedness.
46. However, both proposed legislative models assume that there are clear delineations between natural and built environment in the urban context. The reality is not so simple. Neither option makes it clear how “urban” issues are framed or are to be managed, particularly in relation to non-urban issues or in situations where “urban” and “non-urban” are literally in close proximity. For example, Auckland’s Unitary Plan enables the development of “satellite towns” which are located within primarily rural environments. Most of Auckland is rural. Auckland is bounded by 3100 kilometres of coastal land. The Unitary Plan enables significant rural to urban zoning changes. A strict separation between urban and natural could also be problematic for linear infrastructure providers whose assets extend across many environments.
47. While Option A recognises it is necessary to link both the natural and built environment sections with land transport and infrastructure laws it frames land transport and infrastructure provisions as sitting outside consideration of the natural and built

environment. Infrastructure is a key enabler and shaper of the built environment. Separating transport and infrastructure considerations from the natural and built environment may have the unintended effect of compounding or introducing new legislative misalignments.

48. Neither option explicitly addresses or introduces processes to better align planning with infrastructure funding and delivery or provides clarity on how this linking mechanism will provide better integration than the status quo. This is a significant omission.
49. For planning within an urban area, it is particularly important that the whole environment is considered (natural and built) in relation to what is being imposed on that environment (infrastructure and transport links) and that the enabling mechanisms (such as funding and integration tools) do not pose additional barriers to securing good outcomes. It is important that all of these components work together and are well aligned.
50. The council considers separating planning from environmental protection law within an urban planning context could simply exacerbate existing legislative misalignments and lead to further deterioration of the environment. In theory, while it may provide potential to enable simpler and faster consenting in urban areas legislative interpretation and implementation could be challenging.
51. The council considers Option A has some advantages over Option B subject to the land transport and infrastructure laws being closely aligned with the single resource management law. However, it is not clear how either of the proposed urban planning legislative frameworks could be implemented in practice.
52. The council recommends that central government undertakes a review of the whole body of law underpinning the urban planning framework (i.e. Local Government Act, Land Transport Management Act, Resource Management Act, Building Act and associated legislation) to identify any misalignments and how best to remedy those before deciding on the form of any new legislation.
53. Using this approach as a starting point would reduce unnecessary disruption, uncertainty and cost arising from more fundamental reform of the urban planning system. It could allow any reform to be much better targeted and to ensure new and existing or retained elements of the planning framework align well.

Central government's role – recommendations 8.1 and 7.10

54. The Commission makes several recommendations that would provide for greater central government direction or the expansion of central government powers in the urban planning framework:
 - a Government Policy Statement on environmental sustainability
 - powers to override local government plan making and implementation processes
 - a permanent Independent Hearings Panel to review local plans

- centralising the administration, or alternative oversight, of environmental monitoring

Government Policy Statement – recommendation 8.1, finding 8.4

55. The Commission's draft report recommends any future planning system should include a Government Policy Statement (GPS) on environmental sustainability (Recommendation 8.1). This is intended to fill the gaps in the current system, and replace the existing national policy statements and national environmental standards with a view to providing clearer, more consistent national direction. The proposed GPS is intended to provide stronger links between plans and overarching national priorities.
56. The Commission believes that there have been a number of unintended consequences (Finding 8.4) from the current system including regulatory creep as councils bring an ever-increasing scope of issues under the banner of "sustainable management" and a loss of focus in urban areas on maintaining the integrity of ecosystem services. It considers that prioritisation of environmental issues is unclear, and observes that New Zealand does not have an authoritative policy that sets out the country's long-term visions for environmental sustainability.
57. Auckland's Unitary Plan has been developed under the Resource Management Act framework, taking into account the Act's purpose in enabling "sustainable management of natural and physical resources" within the context of the Act's broad definition of "environment" including ecosystems, people and communities, natural and physical resources, and amenity values. In practice, this means these concepts are key drivers within the Unitary Plan. Considerable public and private resource was put into the Unitary Plan development. It has the potential to unlock land for development in Auckland on a large scale, but to do so in a way which enables some measure of certainty for developers, and infrastructure planning and delivery. This is particularly important given long infrastructure lead-in times and risk management for developers. Any change to those underpinning settings, if applied to Auckland, may risk undermining the Unitary Plan.
58. Broadly, the council does not support the introduction of a government policy statement on environmental sustainability. There may be other less disruptive ways to achieve the stated GPS goals. The council encourages the commission to investigate alternative ways for achieving these objectives.
59. The council could support the provision of additional central government guidance enabling the establishment of standardised methodologies and environmental reporting processes.
60. The council requests the commission consider how a GPS could be used to enable national, regional and local contexts to be reflected in environmental priority setting. The council would welcome further clarification on the nature of the proposed GPS and any transitional measures and how it relates to the Resource Management Act.
61. If implementation of a GPS as proposed were to proceed, Council expects any elements within the suite of national policy statements and national environmental standards which

are still “fit for purpose” and not fundamentally “broken” will be re-used where possible to try and reduce any uncertainty this proposal would create.

62. While council appreciates the commission is taking a very high-level approach to this recommendation it also notes the following:
- a mechanism is needed to enable emerging issues to be addressed outside of the proposed five year review period
 - it is also unclear how “environmental lag times” could be taken into account during priority setting (or review).
63. Further, the draft report focuses on engagement with Māori at a local government level but does not identify how Māori as a Treaty partner will be engaged at a central government level when national direction is being set.

Intervention powers – recommendation 7.10

64. Recommendation 7.10 bundles together central government power to override local plan making in a limited set of circumstances, to require common land use approaches to specific issues and to be able to instruct infrastructure units to deliver infrastructure where a pre-set price trigger is reached between developable and undevelopable land.
65. The commission proposes the introduction of these powers in addition to those already provided for under the Local Government Act and Resource Management Act. The commission notes central government’s current powers include the ability to provide national guidance through national policy statements and national environmental standards, to direct councils to review existing plans or prepare a new plan and the ability to appoint Crown review teams, observers, managers or commissioners to councils.
66. The commission’s rationale for the introduction of the newly proposed powers is to retain a trigger for central government intervention given the introduction of the proposed GPS. It is unclear in what circumstances the newly proposed override ability would apply or if the override discretion could be exercised in a far wider range of circumstances than available under national policy statements.
67. The council is concerned that this increases central government’s ability to direct specific changes to plan content. The commission notes “An override power would allow central government to respond quickly and in a more targeted manner to pressing situations ... Under the RMA, central government can only direct councils to prepare new plans or review existing plans, it has no ability to control content. While central government can influence the content of plans through National Environmental Standards, these take time to prepare and implement”. The commission notes that in order to exercise this power, the Minister would be required to table a statement in Parliament, explaining the intervention and its rationale and outlining how any resulting costs would fall between central and local government.
68. Broadly speaking, this recommendation proposes fundamental reform of the urban planning framework which will allow local views to be overridden if they are inconsistent

with national priorities, with very limited “checks and balances” in place, reducing the opportunity for local input and limiting the efficacy of local democracy.

69. Further, it is clear that council may be expected to bear some of the costs of any resulting changes. This is likely to have long-term plan budgeting implications and effectively require unplanned-for reprioritisation of budgets (if councils are not able to access additional funding mechanisms in these circumstances).
70. The council does not support increased central government powers to intervene in the local application of the planning framework. The proposed powers are not a “replacement” for powers enabled by the national policy statements and national environmental standards; they are a significant enlargement of central government’s existing powers.
71. The commission provides some examples of circumstances where local plans could be over-riden to enable a common land use approach. For example, where standardising land use “has greater and broader benefits” in the installation and maintenance of utilities. The parameters for the exercise of this discretion are also unclear as are the budget and financial implications. It is also unclear what the implications are for private property rights and what, if any, compensation would be available for any possible infringement of pre-existing property rights.
72. Again, it is unclear how the use of the proposed ability to enable common land use approaches would impact on the implementation of the Unitary Plan.
73. The council does not support increased central government powers to enable common land use approaches without further safeguards also being proposed to ensure that a genuine balance, rather than a clear over-ride, between local and national interests occurs in these circumstances.

Central government direction to infrastructure providers – recommendation 7.10

74. The third major intervention proposed is the exercise of central government powers to direct council infrastructure units or providers to deliver infrastructure where a pre-set price trigger is reached between developable and undevelopable land.
75. Given long infrastructure lead in times, and the need to align infrastructure funding with planning and delivery, council suggests further assessment would be required of the use of a price trigger to allow central government to direct redeployment of planned infrastructure development, particularly given land price volatility in Auckland.
76. The commission’s recommendation only focusses on council infrastructure provision, excluding central government infrastructure e.g. schools and hospitals. Some transport infrastructure such as state highways are provided by the New Zealand Transport Agency while others such as new arterial roads are partially funded by them. Some of these New Zealand Transport Agency (NZTA) projects are implemented as national projects with different priorities to local needs. Any directive for Councils to provide for

infrastructure would need to be integrated with central government infrastructure planning.

77. Our council-controlled infrastructure providers have made it clear that it is not possible in some circumstances to change course as easily as the commission's draft report appears to suggest. It is important to note that all councils face some sort of infrastructure funding constraints, whether it is debt ceilings, inability of developers to fully fund infrastructure delivery or ratepayer resistance. This is acknowledged elsewhere in the draft report. Neither councils nor central government has the ability to fund everything for everyone all of the time. Given this, rather than this tool bringing on "the underpinning supply of infrastructure in a timely manner" it may simply result in reprioritisation of existing infrastructure spend (where and if that is possible), increased uncertainty in terms of delivery of completed infrastructure and stranded partially completed infrastructure assets.
78. We are unclear why on the one hand the commission would seek to improve plan-making certainty and clarity in its proposal by introducing mandatory spatial plans but on the other hand actively undermine certainty for infrastructure design, planning and delivery by proposing intervention at this stage of the process. Developers need certainty about where, how and when infrastructure will become available, and once that certainty has been provided, reduction or reprioritisation of those plans could significantly affect their ability to continue with developments, or continue to the scale and scope originally planned. The council wants to avoid its own assets being "stranded" by changes in direction and also wants to avoid the situation where private developments are "stranded".
79. Land use may also influence land prices; it is important to recognise that land use planning is not only about the provision of land for housing. Land is required for business and industry, activities such as tourism and recreation, and services such as health and education. A narrow focus on a residential pricing tool may mean that the other important elements of successful cities and economies may be forgotten. Having a range of pricing triggers would add significant complexity to how this tool might be used (and how frequently the trigger thresholds need to be reviewed and reset). Further, there are many factors that affect land prices and land price differentials in Auckland including strong inward migration, lack of economic activity in other regions, the cyclical nature of the development industry and international economic shocks.
80. All of the proposed new intervention powers could result in uncertainty across infrastructure planning, as planned infrastructure expenditure is reprioritised "on the fly". This is particularly significant given the long lead-in times required to design, fund and deliver some infrastructure. There would also be funding and budgeting implications for the council resulting from the exercise of these powers, particularly as the commission makes explicit the expectation that any expenditure or debt incurred by council controlled organisations would remain their responsibility.
81. The proposed new intervention powers also raise accountability issues for decision-makers as well as having the potential to result in sub-optimal outcomes given the networked nature of infrastructure.

82. The council does not support the introduction of the three proposed new intervention powers.

Permanent Independent Hearings Panel – recommendation 7.7

83. Recommendation 7.7 proposes the establishment of a permanent independent hearings panel (IHP) to consider and review new plans, plan variations and private plan changes. This recommendation is aimed at reducing local political “intervention”, alleged “bias” of local interests over national interests, to free up the Environment Court and to speed up plan-making.
84. The council stresses that the IHP model used in Auckland is yet to be fully evaluated. A partial process review has been undertaken. The council has already indicated it will be monitoring the outcomes of the Unitary Plan decisions very closely. A robust evaluation of this model would need to consider not only process aspects, but the overall outcomes it achieves and Aucklanders’ experiences in engaging with this process.
85. It has been suggested that the complexity of the process and legalistic approach has also excluded some from being able to engage effectively with it.
86. The council has identified a number of practical issues a proposal for a permanent IHP raises:
- an IHP is unlikely to be justifiable for every new plan, plan variation or private plan change across New Zealand. This could be a significant workload
 - the scope, scale and costs of some of these processes could be prohibitive
 - it is unclear how attendance by submitters would be enabled if this was to be a single national model
 - local-issues specific knowledge on the panel, such as local infrastructure funding and delivery circumstances.
87. The council does not support the introduction of a full IHP model until the full evaluation of its processes is completed and outcomes are better understood. Given the IHP outcomes will take some time to become clear, it is not yet possible to assess whether the outcomes under the council-led or the IHP model are comparable, or one option results in better outcomes than the other. The council suggests if the commission still wants to recommend this proposal it considers whether the council-led commissioner model would be a better interim step.
88. The council-led model preserves the ability to ensure appropriate levels of local understanding and necessary skill-sets for the particular urban environment. The scope of the independent commissioners’ model is different from IHP. In Auckland, Commissioners can sit on hearings for a broad range of circumstances such as resource consents, Section 357 objections, bylaw dispensations, reserve management plans, plan changes, special consultative procedures and notices of requirement.

89. Auckland's commissioners have skills ranging from planning, resource management law, engineering (transport and infrastructure), landscape architecture ecology, biodiversity and environmental management, freshwater management, the Treaty of Waitangi and kaupapa Māori, community, coastal management, heritage and conservation management, urban design, air quality, rural planning and land management and waste management. This enables commissioners to be selected on a case by case basis taking into account the specific skillsets required to assess each matter before it.
90. The council is not clear how wide-spread the use of this model is but suggests it may be worth investigating how it is used nationally and how it could be better supported.

Better addressing poor environmental outcomes – question 13.2

91. The Commission seeks feedback in Question 13.2 on the option of shifting regulatory responsibilities for environmental monitoring and compliance to an independent authority, such as the Environmental Protection Agency or making provision for more external audit and oversight of councils. The problem this proposal seeks to address is current poor environmental outcomes. It suggests that monitoring efforts are under-resourced and “enforcement decisions show evidence of some political interference”. The commission notes the transitional costs involved in the more radical of these proposals and the proviso that if the latter option was accepted it would need to be accompanied by the ability for central government to intervene if a council's performance was consistently poor over time.
92. The council agrees that in some areas environmental outcomes are poor and are declining. However, it does not appear that there has been a robust analysis of the key drivers for this decline, rather it has simply been attributed to councils' insufficient monitoring or decision-making.
93. In a simple sense, growth puts significant pressure on the environment. Nationwide, our response to growth is to attempt to speed up development, and this often occurs at the expense of the environment or in a way that does not support positive environmental outcomes. Rather than being able to seek win-win situations where growth and good environmental outcomes are enabled, the urban planning framework can drive win-lose situations. In some cases, this can lead to poor environmental outcomes.
94. Taken cumulatively, even when environmental losses appear relatively “small”, the overall impact can be significant, particularly if the choices to develop result in unforeseen environmental impacts. Further, environmental degradation can take some time to become evident and can require significant remediation to address.
95. Although there are benefits in standardising national reporting and compliance requirements, there are also disadvantages as it drives effort and resource being focussed on “what is measured” and valued at a national level irrespective of their significance at a local or regional level, rather than on matters which may be of greater significance or impact when considered in a regional context. This is an example of an unintended outcome of having a “one-size” fits all environmental monitoring framework with no ability to tailor to or take account of local circumstances. Monitoring at a national

scale will almost inevitably fail to recognise environmental complexities at regional or local scales.

96. The council does not support the complete regulatory transfer of environmental monitoring and compliance to an independent national body. The council considers this would simply embed the status quo in terms of environmental outcomes.
97. The council does not support increased external audit and oversight of councils' environmental monitoring (with some type of trigger enabling central government intervention if a council's performance was consistently poor over time). It is not clear that it is councils' involvement in the monitoring and compliance of enforcement outcomes that is causing declining environmental outcomes. While the council acknowledges that like all other council activities, monitoring and compliance efforts need to be sufficiently resourced and prioritised to be effective, even within a constrained funding environment council puts a significant amount of resource and expertise into managing environmental outcomes.
98. We suggest the commission recommends further central government investigation to better understand the primary contributors to New Zealand's declining environmental outcomes and policy options for addressing the key drivers behind our declining environmental outcomes.
99. As the council has noted, to future-proof Auckland's ability to accommodate and support growth, Auckland also needs to effectively manage the natural and physical environment. This will be a determining factor in Auckland's future success and it is critical that council and central government better understand why our environmental outcomes are declining and take steps to address this.
100. The Commission seeks guidance on whether greater emphasis on adaptive management would assist in managing cumulative environmental effects in urban areas (Question 8.2). The commission considers that "complex natural systems respond in unpredictable ways, but decision-making occurs in a dynamic socio-cultural, economic and political system that is complex and often uncertain". The objective of introducing more adaptive approaches to management of cumulative environmental effects is therefore to provide opportunities for incremental learning and faster adaptation of environmental management strategies. According to the commission, adaptive management "also allows balancing of the need for immediate action against the realisation that management can be improved in the future".
101. The council broadly supports the commission's reasoning in terms of managing environmental discharges and other pollution related cumulative effects. Effects-based regulation does not work especially well with the mitigation of transport effects as applicants are only required to mitigate the effects of their own development and/or provide sufficient capacity to service it. It can be challenging to attribute responsibility for cumulative effects. This is an ongoing challenge for Auckland Transport in providing for residential growth and neither the existing funding tools nor the Resource Management Act consenting process address it. A future planning framework will need to include

clear tools and expectations as to how such cumulative effects are to be accounted for and addressed.

102. The council supports further investigation into the potential for using adaptive management tools, noting that adaptive management assumes frequent, meaningful and effective monitoring. As acknowledged by the commission, adaptive management approaches will not be fit for purpose in every circumstance and there are some circumstances where a “predict and control” tool may be required. Widening the environmental management toolkit and providing the discretion to use the best tool for each given situation, or a combination of approaches to be used would enable a more flexible and responsive approach, and enable the approach to be tailored to address complex local environmental issues. An adaptive management approach may not be suitable, for example, where known and severe environmental outcomes need to be managed.
103. The council is unclear at this stage what impacts or consequential changes might need to be considered in relation to the financial planning and related public consultation processes if adaptive environmental management approaches were enabled and would seek to better understand this if the option was further pursued.

Public participation – recommendations 7.4-7.6

104. The Commission acknowledges the public should have the right to participate in plan making. It also notes that operation of the planning system would be improved if greater focus and limits were introduced into some participation and consultation processes.
105. The Commission proposes:
- Focusing urban notification requirements on those directly affected or highly likely to be directly affected, by a proposed development. (Recommendation 7.4).
 - Appeal rights for plans should be limited to people or organisations directly affected by proposed plan provisions or rules (Recommendation 7.5).
 - Consultation requirements should give councils flexibility to select the most appropriate tool for the issue at hand (Recommendation 7.6).
 - A future urban planning system that encourages the use of tools that ensure the full spectrums of interests is understood in council decision-making processes, and that allow the public to understand the trade-offs involved in decisions (Recommendation 7.6).
106. The council supports broad and early engagement with the community. Aucklanders engage with consultation processes where those issues being consulted on are most relevant for them. The council considers the ability to engage with the planning system as local democracy in action.
107. Auckland Council's statutory role and the wider range of activities and services it provides means that the council is regularly consulting with the public across a range of issues. This may relate to wider regional issues, for example the Unitary Plan or

Auckland Plan development, or it may relate to local issues, for example consents and local board activities.

108. The council supports recommendations to give councils flexibility to select the most appropriate consultation tool for dealing with the issue at hand and better enabling the full spectrum of interests to be understood in council decision-making processes. The council considers engagement as a key tool for enabling transparent decision-making. The Local Government Act already allows for consultation and engagement other than through the Schedule 1 process to precede plan changes. The council has also made extensive use of pre-consultation opportunities to better understand its diverse communities and their interests and has also used mediation within the context of the Unitary Plan process to meet this goal.
109. As acknowledged in our submission to the Productivity Commission's Inquiry into Using Land for Housing issues paper, we consider the notification provisions of the RMA to be a key source of uncertainty, cost and delay for applicants in the resource consents process. The council therefore continues to support identifying clear guidelines or criteria regarding the level of notification for activities.
110. The council is open to discussion on the narrowing of notification and appeal rights where appropriate, subject to broad and early engagement as discussed. Any changes to notification appeal process should be created from a shared understanding of the issues. Council sees the potential for limited appeal rights to provide efficiencies where appropriate. For example, council could be interested in the application of limited appeal rights to the council-led commissioner process it already uses.
111. Finally, the council notes although the draft report appears to leave consultation and engagement with iwi unchanged, these recommendations would apply to consultation and engagement with iwi as well. Council considers that these and other changes recommended could represent significant change to the Treaty relationship between Crown and iwi that merit further scrutiny.

Integrating funding and planning – recommendations 10.1-10.3, 7.3

112. Broadly, the council supports the Commission's findings and recommendations on financing and funding infrastructure and their integration with spatial planning (Recommendation 10.1, Recommendation 10.2, and Recommendation 10.3). In particular the council welcomes the commission's acknowledgement of the constraints on council borrowing.
113. A significant body of work on local government funding mechanisms is available, including the work undertaken by Local Government New Zealand. The council supports further investigation into widening local government's funding toolkit to enable all councils to better access fit-for-purpose tools and tailor their application to local circumstances as required.
114. The council also endorses the potential use of alternative funding mechanisms, in particular targeted rates "to fund infrastructure investments where benefits are well

defined" (R10.2). Auckland already funds infrastructure with development contributions and infrastructure growth charges and levies volumetric water and wastewater charges. The council supports being able to access a broader range of funding tools, this could include the use of road pricing in the form of congestion management tools and the ability to use public private partnerships. The council also notes that the interim Auckland Transport Alignment Project (known as ATAP) has identified the potential to use variable road network pricing as a demand management tool to achieve better network performance. Wider use of all of these tools to support infrastructure investment and ensure growth pays for growth is an important part of our strategy. Further benefits of some of these options include the ability to manage demand and to drive better performance of the transport network. However, the appropriate funding mechanism has to be chosen on a case by case basis, there is not a one size fits all solution.

115. Legislative changes are likely to be required to support effective implementation of targeted rates. In addition to the recommended change to enable targeted rates to be set on the basis of change in land value, provision should also be made for targeted rates to be:
- set outside the annual plan or long-term plan process – enabling timely interaction with developers/land owners, subject to appropriate consultation requirements
 - committed to by the council for a period beyond one year – to provide greater certainty for any potential third party financing arrangements
 - based on land values reflective of potential residential use set at the time the rate is struck – at present land value for rating purposes can only be based on what it can currently be used for not potential future use. For example, rural land can only be valued for residential use for rating purposes once infrastructure is in place. As a result a significant burden of a targeted rate would fall on properties that were already developed.
116. The council notes levying targeted rates on the basis of changes in land value (Recommendation 10.3) can be challenging; particularly in relation to identifying attributable uplift and in the scenario proposed by the Commission where reactionary zone changes are introduced (Recommendation 7.3).
117. Although it has not been specifically recommended in the commission's draft report, council strongly recommends the commission also proposes further investigation into the charging of regional fuel taxes. These have the advantage of a particularly short lead-in time for introduction and implementation. It would also mean that those using roading infrastructure would be paying for it. As with the other tools suggested by the commission, the ability to use the widest variety of charging tools is preferred as opposed to an obligation to use any one in particular.
118. The council is unclear on how the proposed responsive rezoning (Recommendation 7.3) would work in practice and in conjunction with the other tools the commission proposes. We are unclear why on the one hand the commission would seek to improve plan-making certainty and clarity in its proposal by introducing mandatory spatial plans but on the other hand actively undermine any certainty for infrastructure design, planning and delivery by proposing responsive zoning.

119. The council seeks further clarity on how the commission expects these tools to work together, whether the proposed rezoning tool would also trigger industrial or commercial land change uses (and how any impacts on that type of land use would be managed.) Further guidance on the nature of the proposed pre-set trigger that would enable rezoning and details of any constraints on this would also be welcomed. One possibility which has not been articulated by the commission is a decline in land prices. In that situation, would planning provisions or zoning move in the opposite location to reduce development potential and consequential infrastructure obligations?

120. The council notes in response to the commission's question in relation to the benefits of allowing councils to auction transferable development rights (Question 10.4) that a limited form of transferable development rights have been enabled within the Unitary Plan within its rural provisions. We suggest an evaluation into their use in this context is considered to assess the merits and impacts of this approach. We note, if the commission's proposed recommendation proceeds, their more widespread introduction could raise issues for the application of the Unitary Plan and therefore their introduction should be carefully considered in the context of existing land use provisions. We also note the application of this tool could have significant implications for how we manage our growth in line with the Auckland Plan.

Building capability and scope for collaboration – recommendations 9.2, 9.3, 12.1, 12.2

121. A number of recommendations (Recommendation 9.2, 12.1 and 12.2) propose the introduction of specific tools to build both local and central government capability. These tools include the development of a Centre of Excellence resource (Recommendation 9.2), further focus on building economic and environmental science skill-sets (Recommendation 12.1) and central government capability building in relation to urban planning.

122. The council supports these recommendations as they are likely to better enable the development of a shared basis for understanding and collaboration between central and local government, a robust evidence base underpinning that collaboration and the sharing of "best practice" and innovative approaches to addressing issues within the urban planning framework.

123. The council can see some merit in developing a shared process to assess infrastructure investment programmes (Recommendation 9.3) although questions the need for institutions or formal processes in all circumstances. There may be useful learnings from the approach developed within the Auckland Transport Alignment Project.

124. The council encourages the Commission to acknowledge the need for local and central government to also be able to engage outside these formal processes to enable innovative responses to emerging issues to be collaboratively developed. The council notes the proposal should not be limited to an "assessment only" role but also be accompanied by the expectation for risk sharing, enabling co-funding and sharing of expertise. There are already opportunities for central and local government to collaborate

and these are becoming more effective as capabilities within each level of government are developed.

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