

Attachment Three: Draft Submission

Kāpiti Coast District Council Submission on Ministry for the Environment's discussion document: "Building Competitive Cities: Reform of the Urban and Infrastructure Planning System."

Submitter Details

This submission is written on behalf of Kāpiti Coast District Council and was approved by the Council at its meeting on 16 December 2010.

Contact details:

Jim Ebenhoh, Sustainable Development Manager

jim.ebenhoh@Kāpiticoast.govt.nz

(04) 296 4828

Private Bag 60-601, Paraparaumu 5254

Introduction

1. Kāpiti Coast District Council (the Council) welcomes the opportunity to provide feedback on the discussion document "*Building Competitive Cities: Reform of the Urban and Infrastructure Planning System.*" As a Council that is one of the local government leaders in promoting sustainable urban development, the Council welcomes the engagement of central government in this topic.
2. The Council wants to highlight that what happens in a high-growth suburban and peri-urban district like Kāpiti is very important in terms of consolidation, controlling sprawl, and managing growth pressures in New Zealand. It therefore suggests that attention be given to options that work at a variety of scales, for a variety of districts and centres in New Zealand, not just large central cities.
3. The Council has found it difficult to select "agree" or "disagree" from each of the more than 100 options and sub-options presented in the discussion document, so instead has provided some more nuanced commentary where appropriate, indicating where support would depend on a number of factors. In addition, this submission deals with some options in groups, as the responses may be the same or similar across options.
4. The submission is generally consistent with the submission of Local Government New Zealand, but adds Kāpiti-specific detail where appropriate.

Problem identification

5. The Council agrees generally with the list of potential problems identified in the discussion document, particularly the complex planning system, a lack of

- consistency in urban planning decisions, lack of clarity and consistency of national objectives and standards relating to infrastructure development, and mixed access to designations.
6. In terms of “barriers to effective implementation,” the Council sees that a bigger issue than any barriers is a lack of guidance on urban planning issues, leading to mixed results.
 7. The Council is not convinced that land acquisition processes are inefficient and inadequate across the board and would like to see more evidence presented to justify some of the options presented later in the paper. It does consider that the Public Works Act creates significant problems for a Council if it wishes to acquire land for general urban development initiatives (land banking) where it has identified land as strategically important but has not yet developed detailed development intentions.

Other problems to be considered

8. Some other problems with the urban planning and infrastructure development systems have been omitted from the discussion document. The 2008 discussion document released by the Department of Internal Affairs, “Building Sustainable Urban Communities” highlighted some issues and options that are missing in this document, such as a lack of funding for sustainable urban development projects and a lack of central government guidance and research into urban development issues.
9. Like a number of other Councils, Kāpiti Coast District Council has visions for its town centres and other key District areas, based on sustainable development principles and resulting from extensive community visioning processes. What is lacking is sufficient funding to implement much of the vision. The Council’s ability to fund urban development projects is constrained by its population base (which includes a large proportion of people over the age of 65), the current economic climate which makes borrowing difficult, and a dependence on rates, due to a lack of significant Council-owned commercial operations. As a result, current Council funding for town centre improvement programmes (for example) is not sufficient to deliver the vision in a timeframe that matches community expectations. This comes at a time when the current economic climate risks undermining public confidence in the viability of town centres without dedicated government support on things like streetscape and other infrastructure.
10. Sufficient and accessible central government funding needs to be made available to kick-start sustainable urban development projects. As detailed in the 2008 discussion document on “Building Sustainable Urban Communities,” there are a huge number of benefits that would accrue to a variety of government agencies and the community at large. Making it as easy as possible for appropriate projects to access this money, i.e. through one agency, would be beneficial.
11. The 2008 “Building Sustainable Urban Communities” document suggested that government could provide assistance through research, science and technology funding; through generating and providing mechanisms for the sharing of

information; and through strengthening links between academia, the private sector and the public sector. This assistance would be very useful for local government. Best practice guidance would be of particular use. The Quality Planning website is a useful start but needs to be supplemented through initiatives similar to the UK's Commission for Architecture and the Built Environment (CABE).

Options for Change: Planning and Urban Design

Options 1 and 2: more adequately recognise the urban environment in the RMA framework

12. We believe that these options to broaden definitions of 'environment' or 'amenity values' and/or to amend the RMA to refer to a quality urban environment in Sections 6 or 7 have potential, but are unlikely to change urban outcomes very much on their own, and may lead to dilution of existing guidance through Sections 6 and 7.

Options 3 and 4: greater national direction and clarity on the urban environment

13. The Council does support the intent of the discussion document to require local authorities to consider the impacts of their urban growth management policies on housing affordability and wider impact on income and communities. A 'no-growth' philosophy can lead to harmful social, economic and environmental effects.
14. However it does not support the single focus on greenfields development as the solution to this issue implied in the use of a National Policy Statement (NPS) to require local authorities to provide an adequate supply of land to meet future urban growth demands. Such an approach of focusing **only** on greenfields sites would tend to encourage urban sprawl and the significant economic costs this can impose on communities. Each Council should have the flexibility to use a range of tools to respond to growth pressures as its community desires. There needs to be adequate recognition of the role of infill development and intensification within the existing urban footprint rather than solely on greenfield development.
15. Land supply is not the only issue driving housing affordability. The cost of infrastructure provision and the general desirability of an area are other key factors. Aside from the cost of housing itself, the cost of transportation to and from employment and other key destinations is a component of wider housing affordability, as recognised in the recent development of the award-winning Housing and Transportation Affordability Index in the USA. (See <http://htaindex.cnt.org>).
16. The Council would support the use of an NPS to require the consideration of housing affordability in decision-making and regional and district plans, though how each Council responds would need to remain flexible. Greater tools such as those removed by the recent repeal of the "Affordable Housing? Enabling Territorial Authorities Act" would be required to make sure that the solutions are

not just focused on releasing more land for development regardless of the economic, environmental and social consequences.

17. In terms of Option 4, the Council considers that ‘built environment’ would be a better name for a National Policy Statement than the more narrowly defined ‘urban design’ or the hard-to-define ‘urban environment.’

Options 5 to 9: spatial planning in Auckland

18. The Council is reluctant to provide a detailed response on spatial planning in Auckland and generally defers to the Auckland Council and the Auckland community on these options.
19. One point this Council wishes to make is that the options are inter-related; for example, if under Option 7 the Auckland Spatial Plan is given a higher level of statutory influence by requiring other plans to ‘give effect to’ or ‘be consistent’ with the spatial plan, it would seem appropriate to provide for greater appeal rights and a more robust consultation process than if the Spatial Plan had less regulatory influence. Any independent specialist review would not seem an adequate replacement for this. The Council also sees it as important for central government to be involved in the spatial planning process regardless of its regulatory weight.

Options 10 and 11: clarifying central government’s role in Auckland’s planning

20. Again, the Council is reluctant to provide a detailed response on spatial planning in Auckland and generally defers to the Auckland Council and the Auckland community on these options.
21. This Council imagines that central government guidance on spatial planning would be valuable to Auckland or any other council engaged in a spatial planning process, but that a requirement for a central government minister to certify that the spatial plan complies with all Government Policy Statements could seem heavy-handed and unduly restrictive of local decision-making.
22. Again, the options are potentially linked. It only seems fair that if central government were to provide guidance to or require ministerial certification of the Auckland spatial plan (Option 10), central government should itself have regard to or even be consistent with that spatial plan.

Option 12: extending spatial planning with legislative influence to areas outside Auckland

23. The Council thinks that spatial planning is potentially useful outside of Auckland but that it should not be mandatory. Regardless of the degree of spatial planning undertaken by a region, the linkages between the Local Government Act (LGA) and the RMA need to be examined so that growth strategies prepared under the LGA can be given weight under the RMA without undue relitigation. This may include, for example, requiring resource consents to be “not inconsistent with” a strategy prepared under the LGA using the “special consultative procedure.”

Options 13 to 20: improving the delivery of quality urban environments through effective implementation tools

24. The Council does not support a national template for local and regional plans (Option 13), especially if the use of such a template is mandatory, as local and regional plans need to reflect local needs and issues. An “ideal plan template” to be used on a voluntary basis as a starting point could be helpful.
25. A national template plan for National Policy Statements (NPS’s) and National Environmental Standards (NES’s) (Option 14) would probably not be useful as, for example, the proposed NES on Forestry cuts across so many rules in regional and district plans that it could not easily just ‘slot in’ as one section of a plan.
26. The Council supports the production of a combined NPS and NES as a single document (Option 15) where this is appropriate.
27. The Council is unsure of whether a National Urban Design Panel (Option 16) should be created. The Council would lean towards support if such a Panel were provided as a resource for local government but its recommendations were not mandatory, and if it did not pass costs on to local government.
28. Similarly, the Council is unsure about the proposal to establish a Government Architect (Option 17). If the intention is to achieve high quality public buildings and urban spaces, and to do this by coordinating central government activities in these areas, without passing a cost on to local government, the Council would lean towards support. It would not support a situation of the Government Architect interfering in local government decisions and/or results in costs to local government.
29. The Council does believe that a clear political lead is needed to coordinate central government investment and funding allocation. This is relevant in relation to public transport provision, as well as health and education. In Kāpiti, for example, we have encouraged developers to include medium density housing close to a proposed railway station (Lindale), as a result of regional government indicating the area would be a transport hub. This decision was then changed and there is insufficient central and regional government funding for the creation of this railway station. Similarly, we are trying to encourage complete sustainable communities in two new greenfield areas (primarily Waikanae North), with a full range of social infrastructure available, but until recently the Ministry for Education has taken the approach that schools will not be planned or designated until the supporting development actually occurs. Since then it has acquired land for a school, with limited discussion with the local authority. The location creates a need to review the structure (spatial) plan and does not work easily from a community access point of view.
30. The Council is unsure whether land amalgamation should be pursued other than through existing methods and processes (Option 18). If the scope of the Public Works Act were extended to ensure that local authorities are able to compulsorily acquire and amalgamate land for major urban regeneration projects (Option 19),

- the Council would be likely to support the safeguards indicated as sub-options (a) – (d), including central government oversight, the use of compulsory acquisition as a tool of last resort, the limitation of compulsory acquisition to specifically defined works, and special protection for Māori land.
31. Compulsory acquisition powers need to be carefully delineated and limited to preserve local decisionmaking and respect community wishes. These powers should be limited to cases where they are requested by a local community following identification of a clear vision and community outcomes (e.g. through the LTCCP community outcomes process or local/regional growth strategies).
 32. The Council would be interested in considering the potential of new tools for land assembly (Option 20), particularly those that do not rely on compulsory acquisition. Funding constraints severely limit options for local government at the moment, though there are undoubtedly cases where integrated, sustainable urban development would be best served by having land currently in multiple titles combined under one owner.

Options for Change: Infrastructure development

General

33. The Council is providing less detailed feedback on these options than on the options for Planning and Urban Design. One reason for this is that the existing mechanisms are very complicated and it can be difficult to clearly support or oppose an option for changing these mechanisms without seeing more analysis of the linkage to the problems that have been identified.
34. It is also very important to note that the Council (as with most territorial local authorities) has two separate and distinct roles related to infrastructure development:
 - the regulatory role, including the ability to comment on designations and make decisions on resource consents; and
 - the role of infrastructure provider.
35. These two roles can be in conflict so must be kept separate. What this means in the case of this submission is that the Council must take care that it is not favouring its regulatory role over its infrastructure provision role, or vice-versa.
36. In general, the Council is supportive of an approach that balances the need for efficient provision of important infrastructure with property rights and local issues, as well as environmental concerns. The Kāpiti Coast District is currently the site of a proposed Road of National Significance – the Wellington to Levin Corridor, and the process (to date and to come) puts this balancing act at the forefront of our community's concerns.

Options 1 to 3: improve the clarity and consistency of national objectives for infrastructure

37. Within Option 1, the Council supports the development of an agenda of proposed NPS's and NES's, and a greater number of nationally consistent standards, provided that they allow for local flexibility where appropriate. Also within Option 1, the Council does not know why certain aspects of infrastructure construction and operation should be conducted without the need for approval, unless this is through the use of a NES.
38. Within Option 2, again the Council would support the development of combined NPS and NES documents where appropriate, but the Council questions the value and workability of national template plan for local and regional plans.
39. The Council does not oppose making reference to the importance of infrastructure in Sections 6 or 7 of the RMA but (as with making reference to urban issues), is unsure of the value that this will have in isolation. Again, this could have the effect of further diluting those sections of the RMA and making the balancing of all those matters more difficult, without further guidance on that balancing act.

Options 4 to 8: changing access to the designations system

40. The Council supports the exploration of the extension of eligibility to a broader range of infrastructure types (Option 4), but suggests that the balance of public vs. private good needs to be considered.
41. The Council also believes that some limits need to be considered if access to the designations system is widened (Option 6); for example, that requiring authorities are not able to make decisions on their own designations.
42. The Council has no concerns with options 7 and 8: to change "network utility provider" to "infrastructure provider" and to amend the definition of "infrastructure" in accordance with the full range of eligibility for requiring authority status.
43. The Council believes that exploration of Councils having a greater role in decisions relating to designations should occur, and that Councils should be able to review designations and apply conditions if required during a District Plan Review.

Options 9 to 11: 'concept designations'

44. The Council has concerns about the idea of 'concept designations' in that it is often the detail about actions to mitigate, or the ability to refine concepts which leads to the best outcome for the local and national communities. While it does recognise the difficulty in providing detailed design at the conceptual phase when a designation may be needed, it would oppose any process which excluded full

scrutiny of final design and mitigation. It also believes that any concept designation process must allow adequate scrutiny of the concept.

45. In terms of Option 10, the level of detail provided should not prevent local government from being able to assess effects at the resource consent stage – a concept designation should not result in a project being a ‘controlled activity’ that a Council would have to approve.
46. In terms of Option 11, infrastructure providers using concept designations should have access to a more limited range of powers than those currently provided through notices of requirement.
47. The Council would support a longer maximum lapse period for designations, especially for linear infrastructure and networks where land assembly and planning is likely to take a longer time.

Options 12 to 15: streamlining the approval process for designations

48. The Council is concerned that the application of these options is not clearly limited to resource consents for activities arising from designations only. These options should not be applied to all resource consents, or all resource consents deemed to be ‘nationally significant.’
49. The Council believes that Option 12 of integrating multiple approval processes is already provided for in the EPA process.
50. The Council has concerns about Option 13’s sub-options, such as automatically ‘rolling over’ designations into updated district plans if no new conditions dealing with new issues can be attached to old designations. As stated above, the Council also does not support ‘controlled activity’ consent status for applications following concept designations.
51. In terms of Option 14, the Council wonders how different these proposals for consistent processes are from current practice.
52. The Council has no concerns with most sub-options within Option 15, which deals with re-consenting of regional consents. Again, the Council wonders how different this is from existing practice. The Council is concerned about sub-option (vi) of Option 15, which seeks to constrain notification and consultation requirements to directly affected parties rather than the public at large. The public at large may have a genuine and valid interest.

Options 16 - 19: enhancing decision-making for designations

53. The Council supports the requirement for decision-makers for designations to be independent of the infrastructure provider (Option 16), especially but not exclusively for “limited requiring authorities.”
54. The Council wonders how different the proposals for considerations for decisions on designations in Option 17 are from current practice, but supports strongly the

sub-option (h) which says “the extent to which realistic options for co-location of infrastructure could be appropriate and have been considered.”

55. The Council does not believe that Option 19 of giving greater status to the reasons for ministerial call-in is justified by evidence that the current system of having to ‘give regard to’ these reasons is too weak.
56. The Council does not support Option 20’s requirements that decisions should ‘give effect’ to infrastructure that is consistent with an existing spatial plan. That is too strong an approach and does not account for the current uncertainty and likely variation across regions in the content and process of a spatial plan. A spatial plan process might not be robust or detailed enough to require resource consents to ‘give effect’ to infrastructure contained within a spatial plan.

Options 21 to 26: providing adequate compensation under the PWA

57. The Council supports looking at providing more adequate compensation under the PWA.

Options 27 to 28: improving the acquisition process under the PWA

58. The Council questions whether Option 27 (allowing a requiring authority to take possession of a property before a second valuation is obtained) is fair, even if the difference between the initial payment and the agreed payment is paid later plus interest. The Council does not support moves to get people and businesses out of their homes and sites without due process.

Options 29 to 31: managing the transition of adopting any of the options

59. The Council does not believe there is evidence that Option 29 (introducing a sunset clause on existing designations) is necessary.
60. The Council is interested in Option 30 (‘grandfathering’ existing designations into any new system for minor improvements or maintenance) but needs more information on what this actually means.
61. The Council would like to know what specifically Option 31 (ensuring that the next generation of district plans give due account to existing designations) means beyond the status quo.

Signature required from Mayor or Committee Chair