

2 District Plan Development

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2. District Plan Development

2.1 Introduction

In developing the District Plan, the Council is bound by the provisions of the Resource Management Act 1991 (RMA) and any amendments, and in particular by Part II of the RMA. The provisions of Part II are discussed in Section 4 of this Plan.

The extent of the North Shore City Council jurisdiction is determined by the Local Government Act 1974 and the RMA, and extends to the boundary with Rodney District to the north, and the boundary with the Coastal Marine Area administered by the Auckland Regional Council.

2.2 The Functions of the Council Under the RMA

North Shore City Council is charged with the task of achieving the integrated management of effects within the city, in terms of the Purpose and Principles of the RMA. This is to be achieved through the preparation of a District Plan. The Council's functions are specified in Figure 2.1.

Part II of the Second Schedule of the RMA sets out matters which may be provided for in district plans. Section 75 specifies how those matters should be dealt with.

This section of the Plan refers to sections of the RMA which are relevant to the development of a District Plan, and discusses how this Plan has been developed.

2.3 The Council's Planning Framework

In June 2001 Council adopted its second Strategic Plan.

The Strategic Plan's vision for the city reads:

We are proud of and enjoy our city and its prosperity. We have a cosmopolitan and dynamic city, offering a range of quality lifestyles with an abundance of education, employment, leisure, entertainment and cultural opportunities. People are able to move around the city with ease, they feel safe and have work and play on their doorstep.

The Strategic Plan prioritised the aspirations or outcomes for the future. Of highest priority is our natural environment. Following this a number of issues are considered to be of equal importance. A quality built environment, ease of movement, community well being and economic development were all considered to have strong interrelationships and follow only the natural environment in terms of priorities. Although not prioritised, leadership and community partnerships is seen as directly related to the success of all of the above outcomes. These issues were identified following community consultation including focus group sessions on the communities' vision for the future of North Shore City held in 1999.

Figure 2.1 Section 31 of the RMA

31. Functions of territorial authorities under this Act. Every territorial authority shall have the following functions for the purpose of giving effect to this Act in its city:

- a) The establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land, and associated natural and physical resources of the city.

Figure 2.1 Section 31 of the RMA

- b) The control of any actual or potential effects of the use, development or protection of land including for the purpose of the avoidance or mitigation of natural hazards and the prevention or mitigation of any adverse effects of the storage, use disposal, or transportation of hazardous substances.
- c) The control of subdivision of land.
- d) The control of the emission of noise and the mitigation of the effects of noise.
- e) The control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes.
- f) Any other functions specified in the RMA.

The strategic planning process outlined above, has strong linkages to the development of the District Plan. In this regard the Strategic Plan helps to establish the framework within which the District Plan issues can be identified and objectives formulated. This is because the Strategic Plan identifies the values and the priorities of the community. The District Plan provides the means to achieve those Strategic Plan outcomes which are related to the management of natural and physical resources. The relationship between the Strategic Plan, the District Plan and the Council's other planning documents is shown in Figure 2.2.

The goal of the Strategic Plan is to develop a vision for North Shore City and provide the Council with the strategic direction to achieve this vision and to manage change over the next ten to twenty years. Accordingly, the Strategic Plan sets out the broad policy base for the management of growth and change in the city. The Strategic Plan is implemented by a range of methods, including the allocation of resources by means of Annual Plans. This can be seen in Figure 2.3.

Section 4 of the District Plan discusses the resources of the city. Section 5 identifies the major resource management issues, on the basis of which Section 6 contains a set of resource management goals within an urban growth strategy which has been adopted to guide the development of the District Plan. Where these goals sit within the framework of the Plan is illustrated in Figure 2.3.

Figure 2.2 Relationship between North Shore City Council's Plans

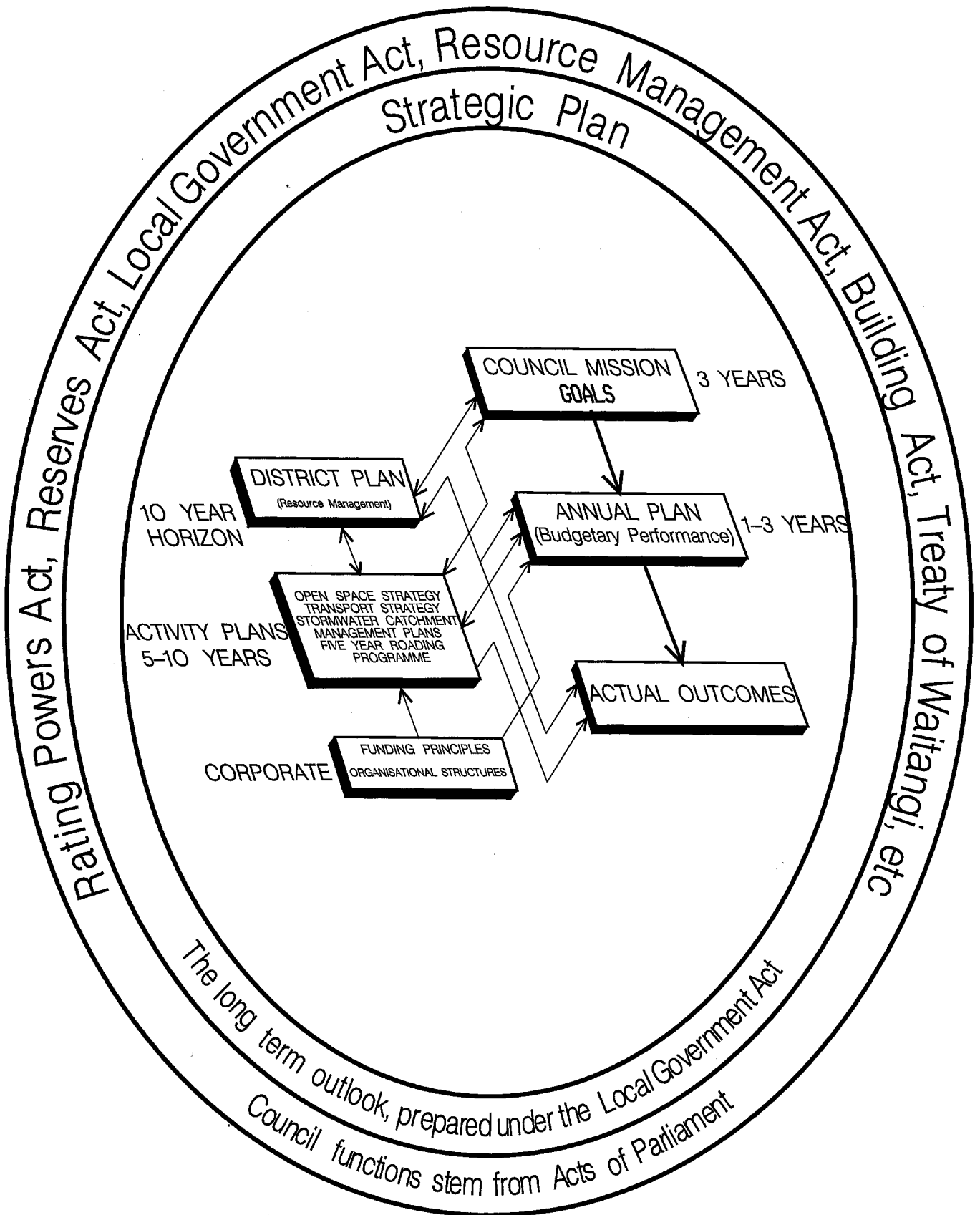
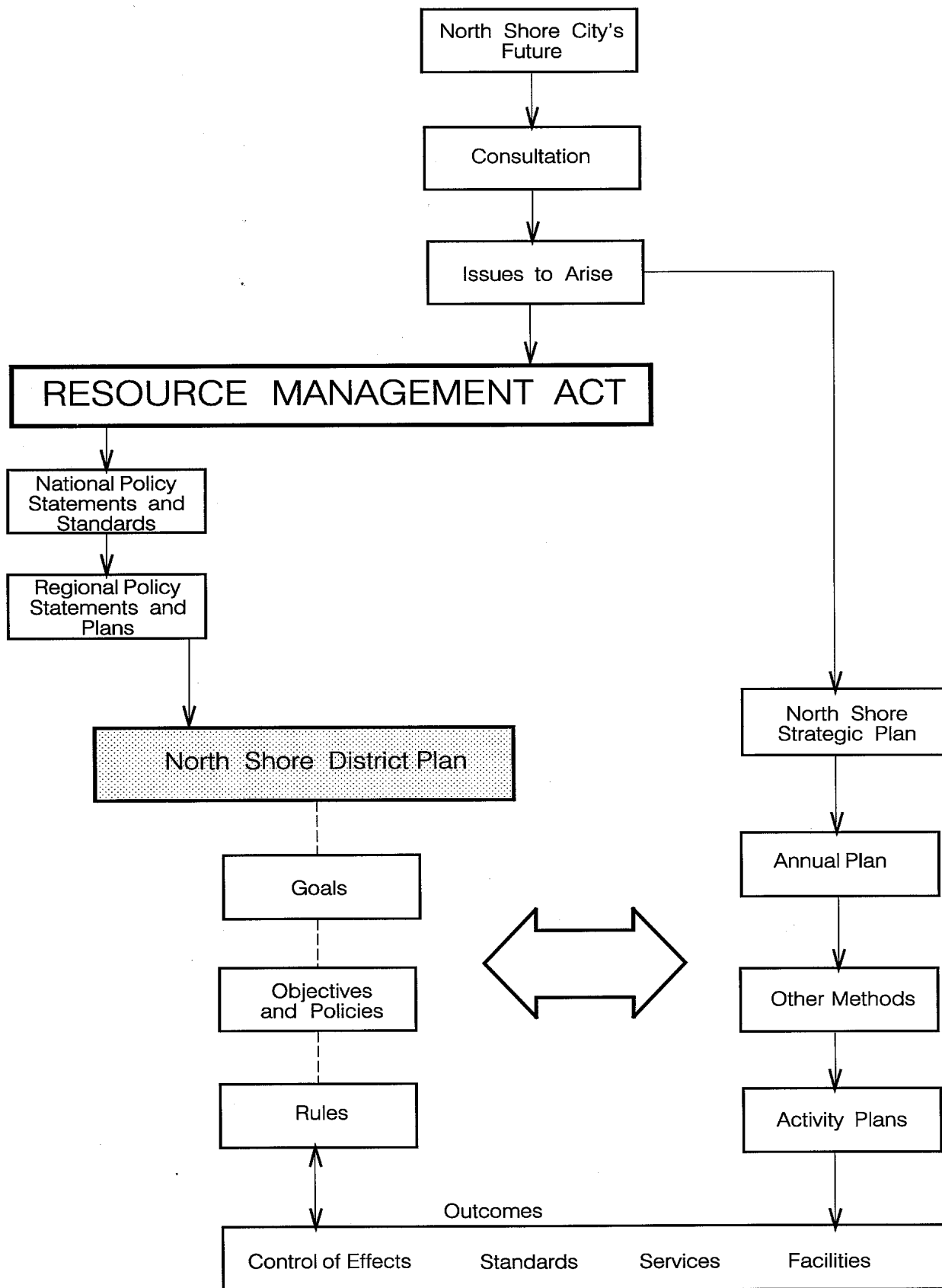


Figure 2.3 Procedure for District Plan Development



2.4 Matters to be Taken Into Account in the District Plan

Sections 55, 74 and 75 of the RMA require that a number of planning policy documents must be taken into account in preparing a District Plan. These include the following:

- National and regional policy statements and plans, with which the district plans must be consistent
- National policy statements on matters of national significance
- National environmental standards for natural resources
- Regional policy statement and regional plans.

Any District Plan is required to have regard to:

- Any proposed regional policy statement or plans
- The planning documents of iwi authorities
- Management plans and strategies prepared under other legislation
- Relevant entries in the Historic Places Register
- The district plans of adjacent territorial authorities.

Any existing planning documents of the kinds listed above which are relevant to North Shore City have been taken into account in the preparation of this Plan. As national and regional policy statements and plans are adopted, the Council may amend this Plan as necessary to take account of these documents.

2.5 Structure and Contents of the Plan

Section 75 of the RMA sets down requirements for the contents of district plans. It provides that a District Plan shall state: significant resource management issues of the city; objectives sought to be achieved by the plan; policies by which the objectives can be achieved and an explanation of those policies; methods to be used to implement the policies including any rules; the reasons for adopting objectives, policies and methods of implementation; information to be submitted with a resource consent application, and anticipated environmental results.

As a means of meeting the requirements of the RMA, each section of the Plan is structured in a uniform way around the following terms:

- *Issues* - being the resource management issues of concern to North Shore City and which need to be dealt with in the District Plan. These generally arise from the impact of human activities on physical resources and the environment
- *Objectives* - being the objectives which the Council has set which are generally concerned with the integrated management of resources in a manner which meets the requirements of the RMA
- *Policies* - being the means for achieving the objectives
- *Methods* - being the precise methods by which each of the policies will be implemented within the broad categories of regulation, economic instruments, education, Council works and Council initiatives
- *Explanations and Reasons* - which both explain and provide reasons for the adoption of objectives and policies. An explanation is also provided for each of the rules of the Plan
- *Expected Environmental Results* - being the environmental outcomes expected as a result of implementing the objectives and policies. They are written in a form which makes them capable of measurement within certain time frames

- *Rules* - being the precise controls for the achievement of many of the objectives of the Plan.

The relative importance of particular objectives in the Plan is reflected in the hierarchical approach which has been adopted. At the top of the hierarchy, Section 6 sets out the broad resource management goals for the city. The second tier of the hierarchy comprises a set of strategic objectives and policies which deals with the overall form of the city. At the third level are the detailed objectives, policies and rules, which indicate the specifics of how the effects of activities and development are to be controlled.

2.6 Justification of Plan Contents

Section 32 of the RMA places duties on the Council to examine alternative options before adopting the Plan and to ensure that its provisions are fully justified. Specifically, the Council is required to:

- Consider the necessity of any objective, policy, rule or other method, or whether there are alternatives which would better achieve the purpose of the RMA. In that assessment the reasons for and against alternatives must be considered, including those for taking no action
- Evaluate the benefits and costs of the principal alternatives
- Satisfy itself that any particular objective, policy, rule or other method is necessary to achieve the purposes of the RMA, and is both efficient and effective.

The Council has been mindful of these requirements since the early stages of the preparation of this Plan and to meet them has taken the following action:

- Background reports and investigations have been commissioned and undertaken on major issues and on the various options for dealing with them
- Assessments have been completed for each set of objectives and policies which assess their necessity, reasons for and against, benefits and costs, along with that of alternative objectives and means, and their effectiveness and efficiency
- Extensive consultation has been carried out
- Notes and memoranda have been prepared and retained, dealing with a wide range of matters and, in many cases, discussing the reasons for adopting or rejecting particular objectives and policies
- Explanations and reasons for adopting particular policies and rules have been included in the Plan.

2.7 Consultation

The First Schedule of the RMA outlines the procedures to be followed for consultation relating to the Plan. Of relevance, Clause 3 provides that a local authority is to consult with:

- The Minister for the Environment and other Ministers of the crown who may be affected
- Local authorities who may be affected
- The tangata whenua of the area; and
- Anyone else the local authority wishes to consult with
- Ministries of the Crown.

In preparing this Plan the Council has consulted as follows:

Ministry for the Environment

- Series of meetings with ministry staff

- Comments sought on the issues document *Planning for North Shore's Future* and the Council's Land Use Strategy
- Draft objectives and policies forwarded for comment and discussed.

Department of Conservation

- Draft Natural Environment section forwarded for comment.

Other Ministries and Statutory Bodies

- Comments sought on issues document
- Letters to all designating authorities requesting advice on requirements.

Auckland Regional Council

- Ongoing consultation with staff of the Auckland Regional Council on work which preceded the preparation of the Plan and on particular sections of the Plan has been undertaken.

Affected Local Authorities

- A meeting of staff of the Auckland Regional Council and of adjacent local authorities was convened for the purpose of discussing cross-boundary issues.

Tangata Whenua

- Consultation with the tangata whenua has been undertaken as described in [Section 7](#).

Other Consultation

In preparing this Plan, the Council has pursued a policy of consulting with as wide a cross-section of the community as possible, including public agencies, to ensure that the Plan properly reflects diverse interests. Specific action that the Council has taken includes:

- *December 1991:* A report entitled *Planning for North Shore's Future* was released. It set out the main issues facing the city and the different options available for resolving them. It was circulated to public authorities and community groups. To promote maximum public awareness of the issues, leaflets were circulated to all ratepayers, articles were published in the press and displays were set up in a number of commercial centres
- *May 1992:* Informal Council committee hearings commenced which provided an opportunity for a large number of parties to present their submissions
- *October 1992:* A report was presented on consultation undertaken with North Shore iwi on their specific responses to *Planning for North Shore's Future*, and whether they had any additional comments or wishes to amend what had been presented
- *December 1992:* The North Shore Land Use Strategy was released and circulated to public bodies and agencies. It provided an overall strategic direction for the preparation of the Plan by providing guidance on some of the main resource management issues facing the city and setting out the main techniques to be used
- *July 1993:* A series of articles was produced in a local newspaper and leaflets were circulated to all householders outlining the conclusions of the Land Use Strategy as well as the draft objectives and policies for residential development
- *November 1993:* Direct consultation was initiated with iwi representatives on the formulation of objectives and policies relating to tangata whenua values.

2.8 Outline of Alternative Methods

In order to achieve the integrated management of effects and sustainable management of the resources within the city, the Council has available to it a range of methods which it can select from. These methods can be grouped into the following categories:

- Regulatory methods

- Economic instruments
- Education
- Council works
- Council initiatives.

Before adopting any particular method to achieve the sustainable management of resources, the Council is required to evaluate alternative methods and to justify its decisions in the manner described in [Section 2.6](#) of the Plan. [Section 2.8](#) to [Section 2.13](#) explain the alternative methods and in each case give examples of specific techniques or actions which are available within different categories of methods.

In selecting methods to incorporate into the District Plan the Council has also been conscious of a strong preference which was revealed through consultation with residents: the need for reasonable certainty. Although there was support for a significant amount of flexibility and discretion in the Plan, people indicated that they wanted to know what their land could be used for and how neighbouring properties could be developed. Another reason for favouring certainty, at the expense of a high degree of flexibility, is because it was seen as likely to cost less. The use of regulatory methods will therefore predominate in the District Plan but will be supported by other methods. In many cases a wide range of methods has been adopted.

2.9 Regulation

There are a number of different mechanisms available to the Council to regulate effects. These include rules in a District Plan, regulation by bylaw and provisions included in management plans. This section of the Plan is explanatory only and has been included to give some understanding of the range of regulatory techniques available.

Section 76 of the RMA provides for territorial authorities to adopt rules in district plans “to prohibit, regulate or allow activities” as a means of achieving planning policies, but it is the Council’s duty in making a rule to have regard to environmental effects (in particular, adverse effects). ‘Rules’ is a generic term which covers a range of different implementation techniques as discussed below.

2.9.1 Zoning

While there is no requirement in the RMA to zone land, the concept of zoning is available as a basic technique of land use control. The advantage of zoning is that it enables areas with different sensitivities to effects to be differentiated. It provides a mechanism by which statements of objectives, policies and expected results can be formulated for different kinds of areas. It also provides a framework of specific measures to implement those objectives and policies. Zoning is a means of recognising and managing the cumulative effects of activities over time in an integrated manner. If zoning was abandoned and activities were allowed to locate irrespective of the characteristics of different areas, the function and character of areas would gradually be eroded. Furthermore, the costs imposed in ensuring that significant adverse effects did not occur would in many cases be high, as would be the case if industries were permitted to scatter throughout residential areas.

For these reasons, zoning has been retained as a basic technique in the District Plan. Four major land use components in the city have been identified, comprising residential, business, recreation and rural. These form the basis of the zoning, but within that pattern of zoning there is flexibility for activities to locate, provided that they can be serviced by the infrastructure and are compatible with the area.

2.9.2 Listing of Activities

Different techniques are available to control the effects of activities. One of these techniques is the identification of activities which are appropriate within particular zones by means of the listing of activities. the RMA provides for:

Permitted Activities

- Those which can proceed as of right without the need for a resource consent application, provided that they comply with all relevant controls. A Permitted activity

may be expressly identified in the Plan (e.g. light engineering) or may be defined by reference to the controls specified in the Plan (e.g. all activities which meet the following controls).

Controlled Activities

- Those which must comply with all relevant controls, and be assessed by Council in respect of matters which the Council has reserved control over in the Plan. They require an application to the Council and will be assessed on matters such as:
 - Design and external appearance of buildings and other structures
 - Landscaping design and site layout
 - Location and design of vehicular and pedestrian access to and from the site
 - Car parking.

The Council must grant consent to the applications but may impose conditions in respect of the matters over which it has reserved control.

Limited Discretionary Activities

- The RMA provides for a category of activities in respect of which the Council restricts the exercise of its discretion to specific matters. Discretionary activities of this kind are referred to in this Plan as Limited Discretionary activities. The Council may only grant or refuse consent or impose conditions in respect of those specified matters. The technique of Limited Discretionary activities is used in two ways in the Plan:
 - As a category of listed activities within particular zones
 - As a method to provide the necessary discretion in cases where the particular characteristics of the site or locality are out of the ordinary or where the intention of the rule can be satisfied by some means other than those specified in the Plan. Where the Plan provides an opportunity for a Limited Discretionary activity application for non-compliance with a rule, the Council's discretion is limited to the matters listed in the Plan.

Applications for both type of Limited Discretionary activity will be assessed on the basis of criteria specified in the Plan.

Discretionary Activities

- *Discretionary activities listed in the Plan:* The RMA provides for a category of activities in respect of which the Council may grant or refuse consent dependent on the nature of the application. Some activities because of their scale, location, intensity or operational characteristics require assessment to determine whether they are suitable, or under what circumstances they may be suitable, in certain areas. Discretionary activity applications will be assessed on the basis of criteria specified in the Plan.

Non-Complying Activities

- Those which contravene a rule in a plan but are not specified as Prohibited activities. An application may be made for a Non-Complying activity, but to grant consent the Council must satisfy itself that it meets the tests of the RMA.

Prohibited Activities

- Those which are expressly prohibited in a plan on the basis of their actual or potential effects. The Council cannot grant its consent to a Prohibited activity.

2.9.3 Performance Standards

Another technique which is available to control the effects of activities is the adoption of performance standards. Performance standards set limits with which activities need to comply, although in many cases how those standards may be met is open to different solutions. Nevertheless the standards need to be definitive in specifying permitted levels. However, by themselves, performance standards are an incomplete method of managing the effects of activities because, as a technique, they:

- Lack a time dimension to deal with cumulative effects

- Do not protect the potential of resources
- Do not ensure that market demands are tempered by sound planning principles, where they may be at variance.

They therefore need to be used in conjunction with zoning.

All of the zones adopted in the Plan have specified performance standards (called controls in the Plan) which all Permitted and Controlled activities are required to meet, and some of which also apply to Discretionary activities. Throughout the Plan the extent of reliance which is placed upon the listing of activities as compared with the application of performance standards varies from zone to zone.

In order to provide an element of flexibility for most of the performance standards, an opportunity to apply for a less restrictive standard is provided by way of a Limited Discretionary application as discussed under [Section 2.9.2](#) above. The extent of flexibility and the nature of application required are specified in the Plan in all cases. The flexibility provision provides an opportunity to achieve a result which is more responsive to the circumstances of the case and the needs of the community, than would be the case with an inflexible performance standard.

2.9.4 Designations

Designations are a form of land use control which derive from a requirement made by a requiring authority. A requiring authority is a Minister of the Crown, a local authority, or a network utility operator approved by the Minister of the Environment for a particular project or work. The effect of a designation on a site is to override the provisions of the Plan and any resource consent, in favour of a designated purpose, irrespective of any resource consent.

Designated land is also zoned to indicate the purposes for which the land would be used if it were not designated. This is commonly referred to as “underlying” zoning. The underlying zoning applies to any development or to any [Activity](#) which is not part of a designated work but which is undertaken by, or with the approval of, the requiring authority.

The disadvantage of using designations as a technique is that they provide a mechanism for establishing activities which are not necessarily compatible with the surrounding area. The preferred approach, and one which has been adopted as far as possible in the Plan, is for public works to be dealt with in the same way as other activities within general zones or by way of special zones. However, it is recognised that the designation procedure has an important role in preserving land for future public works, and consequently both techniques are used in the Plan. Each designation is expressed in the Plan by way of a map identification with an underlying zoning and is accompanied by a description of the purposes of the designation.

2.9.5 Heritage Orders

Heritage orders are a means of incorporating in a District Plan, requirements by heritage protection authorities for the protection of places of special heritage significance. Section 189 of the RMA defines these as being places of “special interest, character, intrinsic or amenity value or visual appeal, or of special interest to the tangata whenua for spiritual, cultural or historical reasons”. The effect of including a heritage order in a District Plan is to protect the place or area or land from any activity which would affect the cultural, architectural, historical, scientific, ecological or other interest. The Council as a Heritage Protection Authority under Section 187(b) of the RMA may also issue a requirement for a heritage order at any time of its volition or may be required to use the heritage order by another Heritage Protection Authority. The technique of scheduling heritage items in the District Plan is a separate method of protecting such items. Buildings, objects and places which have been identified as being of heritage significance in the city are listed in a Schedule in the District Plan and identified on the District Plan maps.

2.10 Economic Instruments

Economic instruments involve the use of market mechanisms to achieve planning objectives. The assumption behind many of these instruments is that pollution and environmental damage occur because many environmental resources are not priced. These resources have intrinsic worth and they often benefit the public at large. Any adverse effects on these resources therefore carries a disbenefit to the public. Using economic disincentives is a form of pricing intended to discourage adverse effects, and to ensure that the costs of such actions lie with the user. Conversely, economic incentives are a means of encouraging private action which will result in public benefits. Economic instruments can include the following:

- Requirements that bonds are deposited to ensure that consent conditions are complied with. A failure to meet conditions results in the bond money being used for remedial works
- Incentives offered to achieve planning objectives, for example, a provision to achieve public plazas in a retail centre in return for the ability to add extra floor space in a commercial development
- Charges for the use of services or resources. These are the most commonly used economic instruments and include charges which relate to planning administration, and other charges which lie outside the District Plan, such as water metering, purchasing of tickets for refuse disposal and carbon taxes on petrol
- Tradeable rights, being property rights attached to any particular resource use, which can be freely traded through private co-operation. A simple example involves a neighbour being paid compensation for loss of amenity on the erection of an over-height building next door. A more complicated arrangement would be the allocation of necessary facilities such as sanitary landfills, regarded as undesirable by residents in their own neighbourhoods, to particular localities by way of tradeable rights. Another example is transferable development rights which are often used as a means of protecting historic buildings.

The main advantages of economic instruments are that they provide a means of taking into account the true cost of resource use and can be a flexible alternative to other techniques. However, their anticipated effects need to be carefully investigated before adoption. The use of economic instruments on a broad scale carries with it a number of potential dangers: in the first instance, that economic trade-offs may be satisfactory in the short term but inequitable in the longer term; and secondly that involved parties may benefit but the general public and the environment may suffer.

2.11 Education

Educational techniques can be an effective means of ensuring that adverse effects are avoided, remedied or mitigated. By themselves these techniques are unlikely to be sufficient to achieve environmental objectives but they can have a significant supporting role in resource management. They include:

- Easily accessible information on District Plan Rules and means of compliance
- Positive guidance and assistance on achieving good results in development or satisfactory operating standards, for example, design guidelines; and
- Education on a wide range of matters such as the effects of poor environment performance and how to avoid it - for example, avoiding accidental spill from an industrial process into a stream.

Policies on education are included throughout the Plan but will be implemented by the Council by means of its Annual Plan process. Information leaflets and guidelines relating to the District Plan are available. Further assistance on both these aspects is available from Council offices. Educational initiatives relating to environmental matters are undertaken at two levels: continuous advice on an 'as required' basis, and intermittent, higher profile initiatives.

2.12 Council Works

An important means of achieving resource management objectives is through the Council's works programme. A significant advantage of works is that they assure the Council of particular results, even though the Council's ability to undertake them is limited by the availability of funds.

Policies are included in the Plan for works to be undertaken for such matters as: enhancing the appearance of commercial centres; the 'calming' (slowing) of traffic in residential areas; and the provision of walkways on coastal reserves. These projects are additional to the basic servicing works for which territorial authorities have traditionally been responsible.

These policies will be implemented outside the District Plan by including expenditure in the Annual Plan for the works, as funds become available.

2.13 Council Initiatives

Closely related to the undertaking of works, the Council can undertake various actions and initiatives to promote or prevent action as part of its resource management strategy. Often these initiatives involve working with other agencies. These measures may be less costly than undertaking Council works but their disadvantage is that the Council is not in such a strong position to achieve the environmental results sought.

Council initiatives take many forms including:

- Advocacy initiatives ranging from the lodging of submissions on matters of interest or concern, to lobbying at the national, regional or local level
- Practical measures aimed at avoiding, mitigating or remedying environmental effects
- Co-ordinating initiatives to achieve a higher level of amenity in a particular area or to enable co-operative actions to proceed.

Policies are included in the Plan to undertake such action and initiatives as, for example, co-ordinating community efforts to develop Centre Plans aimed at encouraging the vitality of retail centres.

References

Resource Management Act 1991

North Shore City Strategic Plan 1994

New Zealand Coastal Policy Statement 1994 (National Policy Statement)

National Environmental Standards

Auckland Regional Policy Statement (Draft 1993)

Auckland Regional Erosion and Sediment Control Plan (Proposed 1993)

Auckland Regional Land Transport Strategy 1993

New Zealand Historic Places Trust Register

Planning for North Shore's Future 1991 - North Shore City Council Planning Department Report

Land Use Strategy 1993 - North Shore City Council Internal Report