



Planning Under
Co-operative Mandates

Planning and Governance under the LGA: Lessons from the RMA Experience

Nancy Borrie, Ali Memon, Neil Ericksen, and Jan Crawford

Table of Contents

| | |
|---|-----------|
| Figures and Tables | iii |
| Acknowledgements | iv |
| Section 1: Introduction | 1 |
| 1.1 A New Challenge for Local Government in New Zealand | 1 |
| 1.2 Purpose of this Report | 2 |
| 1.3 Target Audience | 2 |
| Section 2: Planning under the LGA | 3 |
| 2.1 An Overview of the LTCCP Provisions in the LGA | 3 |
| 2.2 The Scope of the LTCCP | 3 |
| 2.3 Māori and the LGA | 7 |
| Section 3: Implications of Co-operative Mandates for Capabilities of Implementing Agencies | 9 |
| 3.1 LGA and RMA as Devolved and Co-operative Mandates | 9 |
| 3.2 Capability and Its Influence on Planning and Governance | 11 |
| 3.2.1 Central government | 11 |
| 3.2.2 Local government | 12 |
| 3.2.3 Māori interests | 13 |
| 3.3 Implications for LTCCP | 14 |
| Section 4: Specific RMA Research Lessons Applicable to LTCCP | 17 |
| 4.1. Mandate Design | 17 |
| 4.2 Key Legislative Provisions | 18 |
| 4.3 Role of Central Government | 19 |
| 4.3.1 Building national capability | 19 |
| 4.3.2 Developing better coordination at the centre | 20 |
| 4.4 Role of Māori | 21 |
| 4.5 Local Government Capability for Planning | 22 |
| 4.6 Plan Preparation | 23 |
| 4.6.1 Institutional arrangements | 24 |
| 4.6.2 Project management | 24 |
| 4.6.3 Professional training, staff resources and collaboration | 25 |
| 4.6.4 Interpretation of mandate purpose | 26 |
| 4.6.5 Research and analysis | 26 |
| 4.6.6 Consultation and participation | 27 |
| 4.6.7 Consulting tangata whenua/iwi | 30 |
| 4.6.8 Organisation and presentation of plans | 31 |
| 4.7 Plan Implementation | 32 |
| 4.7.1 Council commitment to planning | 32 |
| 4.7.2 Council capacity for planning | 33 |
| 4.7.3 Central government capacity building | 33 |
| 4.7.4 Influence of plan quality | 33 |
| 4.7.5 Application of new techniques | 34 |
| 4.7.6 Meeting Māori interests | 34 |
| Appendices | |
| 1. Summary of the PUCM Research Programme | 37 |
| 2. Brief Summary of Phases 1 and 2 Findings and Recommendations | 41 |
| References Cited | 45 |

Figures and Tables

Figures

- | | | |
|----|---------------------------------|---|
| 1. | Process for preparing LTCCP | 5 |
| 2. | Main steps in LTCCP development | 6 |

Tables

- | | | |
|-----|---|----|
| 1. | Consultative process under RMA and LGA | 29 |
| A.1 | Personnel and organisations involved in PUCM Research Programme | 39 |

Acknowledgements

This research report was prepared by Nancy Borrie, Ali Memon, Neil Ericksen, and Jan Crawford. It draws on published results of ongoing research on Planning Under Co-operative Mandates (PUCM) led by Neil Ericksen and administered through the International Global Change Institute at The University of Waikato (see Appendix 1 for more details). The research is funded by the Public Good Science Fund (PGSF) of the Foundation of Research, Science and Technology (FRST). This publication is an output from PUCM Phases 3 and 4 Objective 2 on the *Local Government Act 2002* (LGA) and Long-Term Council Community Planning, which is being led by Ali Memon at Lincoln University.

Phase 1 (1995-1998) of the PUCM research programme focused on evaluating the quality of policy statements and plans prepared under the devolved and co-operative *Resource Management Act 1991* (RMA) using nationwide surveys that included plan-coding, questionnaires, semi-structured interviews, and in-depth case studies in central and local government. Clearly, this research rested heavily on the willingness of people in councils and government agencies, as well as key stakeholders in districts, to provide information. Members of the research team are grateful for the range of unstinting help that they received. The research team consisted of four providers working co-operatively at The University of Waikato (Neil Ericksen), Massey University (Jenny Dixon), University of North Carolina (Phil Berke), and Planning Consultants Ltd, Auckland (Jan Crawford). They were supported by four research assistants: Sherlie Gaynor, Audrey Aird, Claire Gibson, and Adir Kackar.

PUCM Phase 2 (1998-2002) focused on evaluating the quality of plan implementation. The aim was to see the extent to which techniques identified in policies and methods in plans were being used in resource consents. The original team was joined by Richard Jefferies of Kokomuka Consultancy Ltd (Opotiki), now KSCM Solutions Ltd, and Sarah Chapman of Lawrence, Cross, Chapman Co. Ltd (Thames), along with a new set of research assistants: Michael Backhurst, Maxine Day, Cushla Barfoot, Tricia Warren, Mathew Bennett, and Lucie Laurian (now at University of Arizona). As well, the University of Auckland became involved in 2001 when Jenny Dixon moved there from Massey, and Tom Fookes joined the team. The PUCM team is grateful for the support provided by staff in the six district councils chosen for this part of the research. We also greatly appreciate the more than 100 professionals from public and private enterprise who over the past seven years periodically critiqued our methods and results in peer review group workshops.

In October 2003, FRST funded the PUCM team to carry out evaluative research on environmental outcomes from district plans (Phase 3, 2002-05) and long-term council community planning under the LGA 2002 (Phase 4, 2003-07) (Contract UOWX0308). The latter will, among other things, draw lessons from research on planning and governance under the RMA and evaluate processes for achieving the community outcomes on which LTCCP will be based. Eventually, methods will be developed for evaluating the quality of plans produced under the LGA and their implementation, along with factors influencing community achievement of their economic, social, cultural and environmental outcomes (Phase 5, 2007-09).

We appreciate the in-kind support provided by various agencies and organizations over the years, including: Ministry for the Environment (MfE), Department of Internal Affairs (DIA); Department of Conservation (DoC); Office of the Controller and Auditor General (OAG); Office of the Parliamentary Commissioner for the Environment (PCfE); Te Punui Kokiri (TPK); Muaupoko Tribal Authority (MTI, Horowhenua); Te Kawerau a Maki (TKM, Waitakere); Local Government New Zealand (LGNZ); Employers and Manufacturers Association (EMA); New Zealand Business Council for Sustainable Development (NZBCSD); and local authorities.

We thank staff from various agencies who reviewed the penultimate draft of this publication in February – March 2004.

Neil Ericksen
PUCM Team Leader
31 May 2004

Section 1

Introduction

1.1 A New Challenge for Local Government in New Zealand

The *Local Government Act* 2002 (LGA) is a pivotal part of recent local government reforms that seek to strengthen local democracy and promote the sustainable well-being of communities (LGNZ, 2003 p. 5).¹ For the first time in New Zealand's history, local authorities (i.e., regional and city/district councils) have been given a legislative mandate that enables them to promote the social, economic, environmental and cultural well-being of communities; to make democratic decisions by and on behalf of those communities; and to make those decisions in a sustainable way (Wilson and Salter, 2003, p. 2). That is, by taking a "sustainable development approach" to community well-being (Section 3(d), LGA 2002).

The LGA requires local government decision-makers to take greater cognisance of diverse voices and aspirations within local and regional communities in the spirit of a more communicative and deliberative style of governance. The Act strengthens community governance as well as corporate governance within a "whole of government" strategic-planning framework. It gives powers of general competence to local government, makes it more accountable and transparent and encourages inter-governmental collaboration in responding to community aspirations and needs together with other service providers. The Act also puts greater emphasis on promoting Māori engagement in local government decision-making. It is worth noting, however, that the new Act does not replace electoral democracy with participatory democracy, but may be seen as a move towards the latter.²

Like the RMA (*Resource Management Act* 1991), which promotes the sustainable management of natural and physical resources, the new LGA (*Local Government Act* 2002), which promotes the social, economic, cultural and environmental well-being of communities, can be characterised as a devolved and co-operative mandate. However, the LGA goes further than the RMA in this respect by giving powers of general competence to local government and calls for improved inter-governmental co-ordination between central agencies and with councils.

A key tool for achieving the goals of the LGA is development of a Long-Term Council Community Plan (LTCCP), which councils must prepare by 2006. These plans are required to be prepared through a community and inter-governmental consultative process in order to define outcomes which contribute to the social,

¹ The other statutes are the Local Electoral Act 2001 and the Local Government (Rating) Act 2002.

² Electoral democracy refers to a system of government by elected representatives, while participatory democracy is defined as government directly by people. They occupy each end of a continuum of governance.

economic, cultural and environmental well-beings of communities. It is anticipated that central and local government service providers, voluntary agencies and other sector organisations will take these outcomes into account in deciding resource allocations.

A review of the new provisions for strategic planning in the LGA and associated guidance documents (LGNZ, 2003; Wilson and Salter, 2003) makes it clear that effective implementation of them will be a significant challenge for councils as well as central government agencies. Just how much this will be so is highlighted by this report.

1.2 Purpose of this Report

The purpose of this report is to identify ways in which experiences gained from the RMA as a devolved and co-operative planning mandate can enable local and central government and other stakeholders to more effectively implement the LGA. The report is based on findings from the FRST-funded research programme on Planning under Co-operative Mandates (PUCM). Details about the PUCM research programme are provided in Appendix 1.

We argue in this report that the experiences gained from the RMA can inform effective implementation of the LGA in three important respects:

- preparation and implementation of LTCCPs;
- the community consultation process for formulating community outcomes; and
- Māori participation in planning and governance.

This report is organised as follows: Section 2 gives an overview of planning and governance under the LGA with particular reference to the LTCCP provisions (pages 3-9); Section 3 summarises key lessons from the PUCM research programme on planning and governance under the RMA applicable to the LGA (pages 10-16); and Section 4 provides detailed lessons from the PUCM research on RMA for LTCCP preparation and implementation (pages 17-36).

1.3 Target Audiences

This report is targeted to:

- Ministers, chief executives and staff of relevant central government agencies;
- members of relevant Parliamentary Select Committees; and
- local government councillors, chief executives and staff.

It will also be of interest to Māori and stakeholder groups, including the voluntary sector, such as non-government organisations (NGOs), environmental and business groups.

Section 2

Planning and Governance Under the Local Government Act

2.1 An Overview of the LTCCP Provisions in the LGA

The LGA formalises strategic planning practices undertaken to a limited extent by local authorities under the LGA 1974. It requires local authorities, in conjunction with their communities and Crown agencies, to promote community well-being by determining the social, economic, environmental and cultural outcomes they wish for their particular districts and working towards achieving them via LTCCP (Long-term Council Community Plans). It is anticipated that the LTCCP will develop as a vehicle to enable local authorities to prioritise their activities over the medium to long-term (approximately 10 years) so as to contribute to the well-being of the community during that time span (Local Government New Zealand [LGNZ], 2003, p. 71).

The LGA anticipates active participation by the community in the planning process (including central and local government agencies, NGOs, Māori and business). It assumes that local authorities have the capability (i.e., commitment and capacity) to play a pivotal facilitative role in helping to articulate and achieve community well-being objectives, promote a common understanding amongst the range of service providers within the region, co-ordinate their respective activities to focus on the well-being objectives, and achieve greater cohesion within the local authority itself.

2.2 The Scope of the LTCCP

The new and potentially far reaching LTCCP provisions in the LGA 2002 provide a strategic planning framework for council functions and activities, and the allocation of resources to these. All other strategies and plans of a council, including the district plan, need to be recognised in the LTCCP. These other plans and processes are not bound to comply with the LTCCP, but it is anticipated that the LTCCP, because it articulates desired community outcomes and priorities, will influence the direction of other plans and strategies. It is also anticipated that the LTCCP will promote greater co-ordination between central and local government agencies, Māori, business and voluntary sector organisations and other service providers in the setting of a more inclusive and responsive framework for local governance.

In the LGA, section 93(6) in Part 6 — *Planning, decision-making and accountability* — sets out the purposes of the LTCCP, namely to:

- (a) describe the activities of the local authority;
- (b) describe the community outcomes of the local authority's district or region
- (c) provide integrated decision making and co-ordination of local authority resources;
- (d) provide a long-term focus for the decisions and activities of the local authority;
- (e) provide a basis for accountability of the local authority to the community; and
- (f) provide an opportunity for public participation in decision-making processes on activities undertaken by the local authority.

Schedule 10 Part 1 — *Information to be included in long-term council community plans* — defines the scope and contents of a LTCCP. It is to:

- 1(a-d) Describe the community outcomes for the local authority's district or region, how these have been identified, how the local authority will contribute to furthering these outcomes and describe how the community outcomes relate to other key strategic planning documents or processes.
- 1(e) Outline how the local authority will work with other local or regional organisations, Māori, central government and non-government organisations and the private sector.
- 1(f-g) State what measures will be used to assess progress towards the achievement of community outcomes and how the local authority will monitor and, once every 3 years, report on the community's progress towards achieving community outcomes (Schedule 10, Part 1).

Schedule 10, Part 1 requires that for each group of council activities, a LTCCP must:

- 2(1)(a-b) Identify the activities within the group of activities and the rationale for their delivery, including the community outcomes to which the group of activities primarily contributes.
- 2(1)(c) Outline any significant negative effects that any activity within the group of activities may have on the social, economic, environmental, or cultural well-being of the local community.
- 2(1)(d) Identify the assets or groups of assets required by the group of activities and identify how the local authority will assess and manage the asset management implications of changes to (a) demand for, or consumption of, relevant services and (b) service provision levels and standards, what additional asset capacity is estimated to be required in respect of changes to these matters, how additional asset capacity is to be undertaken, the costs and the division of costs, how they will be met, how maintenance, renewal and replacement of assets will be undertaken, and how those costs will be met. Council is required to supply this information in detail for the first 3 financial years covered by the plan, and in outline for each of the subsequent financial years covered by the plan.

Schedule 10, Part 1(2)(2) requires that the information include:

- (a) A statement of the intended levels of service provision for the group of activities, including performance targets and other measures by which the levels of service provision can be meaningfully assessed;
- (b) The estimated expenses of achieving and maintaining the identified levels of service capacity and integrity of assets;
- (c) A statement of how the expenses are to be met; and
- (d) A statement of the estimated revenue levels, the other sources of funds and the rationale for their selection in terms of s101(3).

The statutory process for preparing and implementing a LTCCP, as described in the Act, is illustrated in Figures 1 and 2. Figure 1 is based on the LGA provisions while Figure 2 is based on the LGA and the LGNZ (2003) *Knowhow Guide*³.

³ The KNOWHOW initiative has produced a series of guides, published by Local Government New Zealand, in conjunction with NZ Society of Local Government Managers, and Department of Internal affairs, on matters relating to the Local Government Act 2002. They include: Rating; Governance; Decision Making; Regulation and Enforcement; Assessments of Water and Sanitary Services; The Local Government Act: An Overview; and Development Contributions under the Local Government Act.

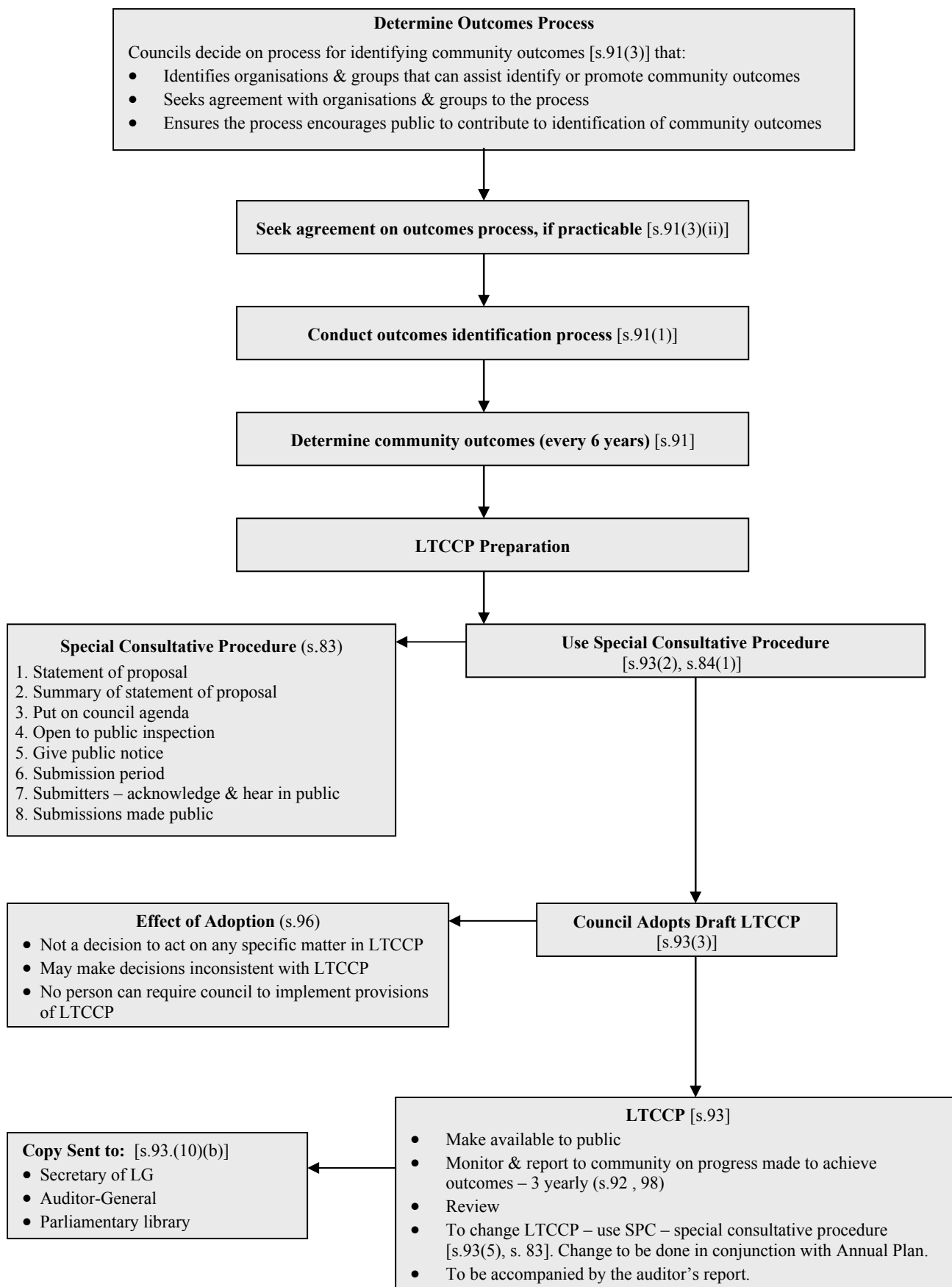


Figure 1: Process for preparing LTCCP (based on the LGA 2002 provisions)

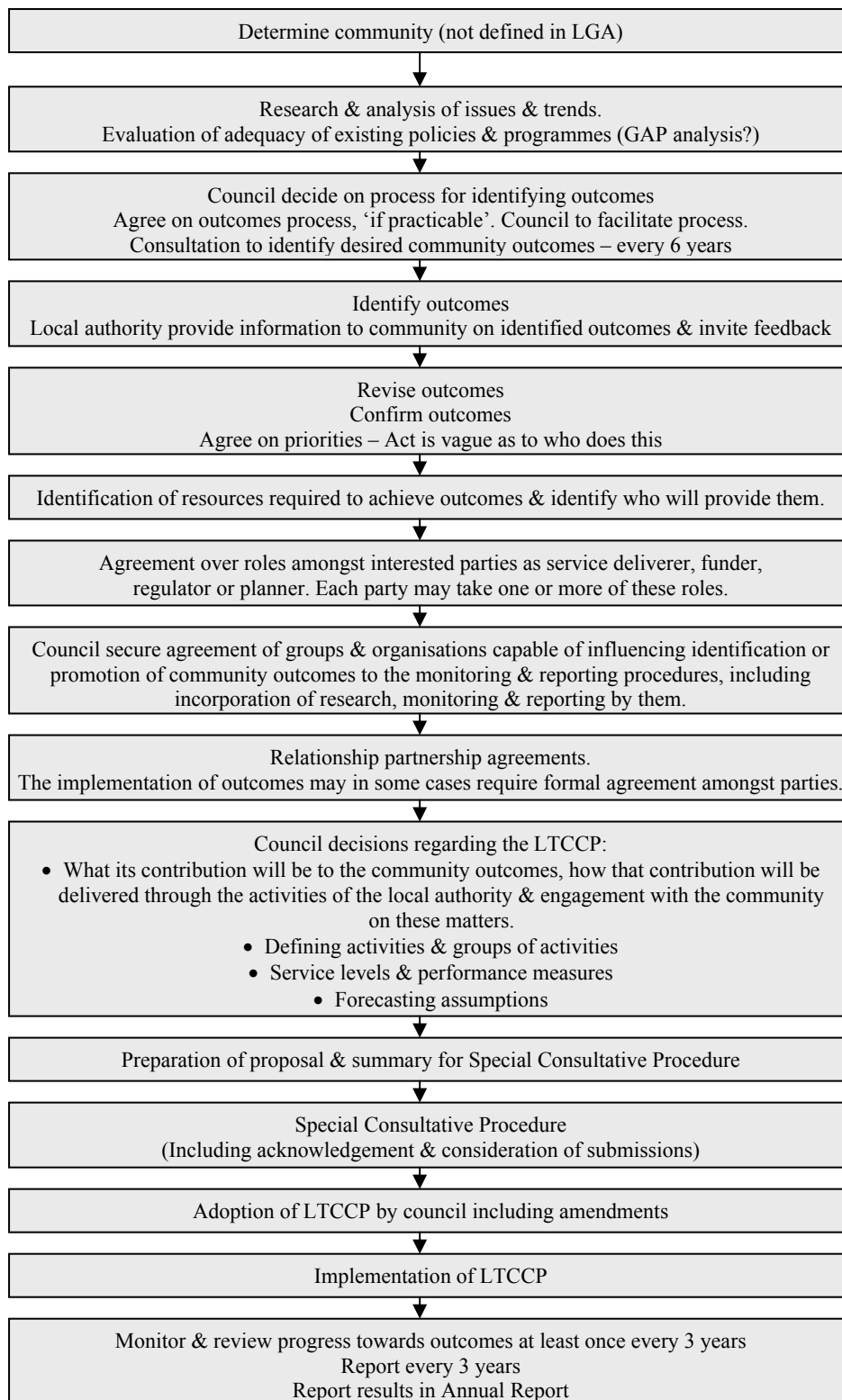


Figure 2: Main steps in LTCCP development. (Based on the LGA 2002 and the LGNZ (2003) Knowhow Guide on Decision-making.)

Note: The *Knowhow Guide* contains a disclaimer: The courts remain the final arbiter of what the legislation actually means. The *Guide* provides representative examples of the ways the powers in the LGA might be used or of ways in which the requirements of the LGA might be met (LGNZ, 2003, p. 15).

2.3 Māori and the LGA

The LGA 1974 did not refer to the Treaty of Waitangi. However, since that time, the Crown has recognised the need to fulfil its Treaty obligations. The subsequent inclusion of requirements with respect to the Treaty in other legislation, e.g., the RMA, has led to uncertainty amongst local authorities as to their obligations, if any. The LGA seeks to clarify the situation. The provisions relating to Māori are within the context of the purpose of the LGA (i.e. more democratic and effective local government that recognises the diversity of New Zealand communities, and relate primarily to Māori participation in decision-making). Local authorities are required to be proactive in facilitating and enhancing Māori involvement in decision-making (ss.4, 14, 77, 81, 82, and Schedule 10 (5)). Even though the term Māori is not defined in the Act, it is presumed to include the tangata whenua and urban Māori.

Section 4 of the LGA makes clear that it is the Crown's responsibility to '... recognise and respect the principles of the Treaty of Waitangi and to maintain and improve opportunities for Māori to contribute to local decision-making processes'. As a result of this obligation, the Crown has included provisions in the LGA requiring local authorities to facilitate Māori participation in local decision-making. Local authorities are not the Treaty partner, but are required by law to act in ways consistent with the Crown's Treaty obligations. In order to clarify the extent of this delegated responsibility, the LGA has specified the principles and requirements for local authorities in relation to Māori in Part 2 — *Purpose of local authorities and related matters* and Part 6 — *Planning, decision-making, and accountability*.

Section 14 (1)(d) requires that a council must act in accordance with certain principles when dealing with Māori. Councils therefore '... should provide opportunities for Māori to contribute to its decision-making processes'. Part 6 sets out the local authorities' obligations in relation to involvement of Māori in decision-making processes. Section 77 (1)(c) requires that, where a significant decision involves land or a water body, local authorities must '...take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, wahi tapu, valued flora and fauna and other taonga'. The term "take into account" requires that consideration be given to Māori interest in the matter but leaves councils some discretion as to how they give effect to it (LGNZ, 2003, p. 61).

Section 81 requires that local authorities must (a) '...establish and maintain processes to provide opportunities for Māori to contribute to the decision-making processes of the local authority; (b) consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority; and (c) provide relevant information to Māori for the purposes of (a) and (b) above.

S. 82(2) states that a local authority '...must ensure that it has in place processes for consulting with Māori in accordance with subsection (1)' (i.e., Principles of consultation). It is anticipated that local authorities will need to enter into dialogue with Māori in order to determine processes that fulfil the requirements of the LGA (LGNZ, 2003, p. 62-64). This may require local authorities to build capacity, e.g., by providing staff and/or finances.

Section 3

The Challenge of Implementing Devolved and Co-operative Mandates

There is a global trend towards community-based governance to achieve sustainable development objectives. In a number of countries, including New Zealand, responsibility has been devolved to local government to respond to community needs within the “whole of government” framework. The principal mandates for community-based planning and governance in New Zealand are the RMA and the LGA.

In this section we explain the characteristics of the RMA and LGA as devolved and co-operative mandates. Then, on the basis of PUCM RMA research findings, we argue that capability-building within central and local government, Māori and the wider community is a prerequisite for effective implementation of the LGA.

3.1 The LGA and RMA as Devolved and Co-operative Mandates

Unless Government adequately funds the mandates that it devolves to local government, their implementation can be jeopardised. Before considering the capabilities of central and local government agencies to implement Government’s RMA and LGA planning mandates, the main features characterising them are summarised.

Passing the RMA in 1991 was a significant step in shifting from a centralist and somewhat coercive planning system to a more devolved and co-operative one.⁴ The new LGA is a continuation of this trend in planning and governance. The RMA also reduced the directive role of central government by establishing an intergovernmental framework that aimed at encouraging co-operation between central and local government.⁵ The LGA increases inter-governmental co-operation amongst central agencies and councils via the LTCCP process.

Coercive planning mandates assume that sub-national governments (e.g., local authorities) are *not* committed to national (or federal/state) planning goals and are

⁴ Although both *Town and Country Planning Act 1977* and *Water and Soil Conservation Act 1967* were somewhat devolved and co-operative, councils nevertheless complained at the number of directives and amount of control residing in central government, especially for the latter. Passage of the RMA followed selective distribution of functions of the Ministry of Works and Development (which helped implement the *Town and Country Planning Act* and *Water and Soil Conservation Act*) across the public sector (e.g., MfE) and private sector (e.g., Works Consultancy Ltd; Opus International).

⁵ Indeed, regional and local councils were to act in partnership in achieving the intentions of the RMA.

unlikely to comply even though they may have the capacity to do so. They are, therefore, centrally driven and interventionist in order to ensure that sub-national government complies with the mandate. Planning is prescriptive and major penalties and sanctions greet non-compliance.

Co-operative planning mandates (e.g., RMA and LGA) assume that sub-national governments are committed and willing to comply with national planning legislation, but may not have the capacity to do so. The primary role of the Government is therefore to provide sufficient funding to its central agencies for them to help build capacity in sub-national governments to implement the national mandate. This can be achieved through provision of financial and/or technical assistance, including for example, education, guidelines, policies, methods, and data. Co-operative and devolved mandates are therefore facilitative and aim to foster local innovation in solving local problems, while at the same time meeting national requirements (Ericksen, Berke, Crawford and Dixon, 2003; May, Burby and Ericksen, *et al.*, 1996). While they may be regulatory, other methods are encouraged for achieving objectives, such as education and incentives, including voluntary responses from stakeholders. Clearly, capability-building is an important ingredient for successful implementation of a devolved and co-operative system of planning and governance, and in turn relies heavily on Government ministers and departmental executives and staff knowing and acting on their respective roles and responsibilities.

“Capability” comprises both the “commitment” and “capacity” to undertake a task. The PUCM team found it to be a significant determinant of how well central and local government fulfilled their statutory responsibilities under the RMA. “Commitment” is ‘...the dedication of elected officials and senior managers to plan, as indicated by their concern for planning, their willingness to budget adequate staff and fiscal resources for planning and the priorities they place on planning compared to other local programmes. “Capacity” is ‘...the ability to plan, as indicated by the human, legal and fiscal resources in place, the effectiveness of local agency communication and co-ordination, and knowledge and technology available to analyse (in the case of the RMA) environmental effects of development and land use change’ (Ericksen, *et al.*, 2001, p. 17; Ericksen, *et al.*, 2003, p. 3).

Like the RMA, the new LGA is a devolved and co-operative mandate, indeed even more so since it gives powers of general competence to councils. The LGA therefore has a number of parallels to the RMA:

- both are procedurally prescriptive, but substantively non-directive (in terms of the particular outcomes to be achieved);
- both statutes contain a broad, relatively undefined “enabling” co-operative mandate framed within the sustainability paradigm;
- emphasis is placed on participation and consultation, but more so under the LGA;
- both statutes are based on the rational-adaptive planning model;⁶

⁶ Rational-adaptive planning model: this is where the planning approach involves an iterative relationship between research and analysis on one hand, and public consultation and participation on the other as steps through plan preparation proceed. (See Ericksen, Berke, Crawford & Dixon, 2003: *Planning for Sustainability: New Zealand under the RMA*, p. 31, 33.)

- Treaty of Waitangi objectives are included, but the LGA goes further in requiring local authorities to establish and maintain processes that provide for Māori to contribute to the decision-making processes of the local authority; consider ways to develop Māori capacity to contribute to these processes; and provide relevant information (s.81 LGA 2004);⁷
- integrated decision-making and monitoring are required;
- LTCCPs are expected to influence other council and governmental strategies, similar to the expectations regarding regional policy statements influencing regional and district plans produced under the RMA;
- LTCCPs are expected to be based on collaboration between crown agencies, councils, communities, and the private sector to promote achievement of community outcomes and community well-being generally. This seems to go further than the “partnership” model considered to lie within the RMA; and
- both RMA and LGA are innovative policy initiatives internationally, suggesting the need for some experimentation matched by adequate resourcing to ensure successful implementation.

There are also significant differences between the two devolved and co-operative mandates. The RMA has a number of mechanisms (for example national instruments, call-in powers, water conservation orders), which allow for national policies (including New Zealand’s international obligations) to be prepared with coercive powers to require compliance.⁸

The devolved and co-operative LGA mandate provides for a more enabling participatory democracy at a local level. Local authorities must engage with their local communities as well as with Crown entities. The purpose of the Act will not be realised unless central government and all other Crown entities (e.g. Transit NZ) also actively engage with the local authorities and local communities. However, the Crown is not bound by the LGA except in certain cases.⁹ While councils must show that they will work with Crown agencies, the latter are not required by law to take part in the LTCCP process.

3.2 Capability and Its Influence on Planning and Governance

The PUCM research found that the most fundamental problem experienced when implementing the RMA was lack of capability in central and local government. Its implications for implementing the LGA will be outlined in detail in Section 4. Here, a summary is provided of the capability problem, starting first with central government and then local government and Māori.

3.2.1 Central Government

The key finding from the PUCM research is that the Government did not adequately fund its agencies — MfE and DoC — to implement its RMA mandate. For example there was a lack of policy direction and advisory support to implement the Act.

⁷ The Government announced on 25 March 2004 a review of policy targeted on the basis of race. It also suggested, that at some later date, a review of statutory references to the Treaty of Waitangi may be undertaken.

⁸ The fact that this has not really been done reflects on the issues to be discussed later.

⁹ Section 8, *Local Government Act 2002*.

Instead, for the first five years, the Government cut annual budgets even though the RMA workload of its agencies escalated. Limited resources badly affected working conditions causing high levels of staff stress and staff turnover in MfE averaging around 23 percent per year throughout the 1990s.

Judged by this one action alone, the Government clearly failed to accept that it had a major responsibility under its devolved and co-operative mandate for ensuring its agencies had the resources needed for helping to build capability in local government. It believed that amalgamations under the 1989 local government reforms would suffice, and therefore turned down MfE's request for a \$2.2 million grant in 1991 for its proposed Transition Plan (i.e., from *Town and Country Planning Act* and *Water and Soil Conservation Act* to RMA). In consequence, MfE in particular struggled to provide the leadership needed for ensuring policies, methods and data were available for councils that were trying to interpret and apply provisions in the RMA, including dealing with matters of national importance. Indeed, by 1997, it was still unclear which central agency had responsibility for leading councils on nationally important matters, such as significant natural areas (Ericksen, Berke, Crawford and Dixon, 2003; Ericksen, Crawford, Berke and Dixon, 2001).

The Government has provided less than half the funding to the Department of Internal Affairs (DIA) in its first year of leading implementation of the LGA than it did for MfE for implementing the RMA (Ericksen, 2003a; 2003b). What is more, the LGA requires councils to consider not just one well-being (environment), but four community well-beings, which makes it potentially more demanding than the RMA. Providing less than \$1 million for DIA to implement the LGA in year one indicates that in spite of intensifying the devolution and co-operative process, the Government still does not recognise and/or accept that it has a major role in funding its implementation by ensuring its central agencies can build capability in local government.

The DIA executive should address this concern by convincing the Minister of Local Government to ensure the annual purchase agreements adequately fund DIA's LGA implementation responsibilities. In addition, the Government should ensure the co-ordination of central government agencies by committing funds over the long-term, such as for 10 years.

Well over a year since the LGA came into being, central agencies were only just starting to look at issues of co-ordination and responsibility, including how LGA relates to the RMA. The experience from the RMA suggests that resources for achieving these sorts of matters ought to have been anticipated in budgets well ahead of the LGA being passed into law.

3.2.2 Local government

The LGA is the most recent of a score of responsibilities that the Government has devolved to local government since 1989. Many are either unfunded or only partially funded by Government (LGNZ, 2000). These devolved functions have put a great deal of pressure on most councils, many of which had poor capacity for implementing the RMA over a decade ago.

The RMA was ambitious and has been challenging for councils to implement. For a variety of reasons, most councils have struggled to fulfil its requirements. Consequently, the quality of notified regional policy statements and regional and district plans varied widely, ranging from good to very poor (Ericksen, et al., 2001; Ericksen et al., 2003).

What is more, there is an implementation gap between what is said in policies and methods in district plans, and what gets implemented through the resource consents process. Low-impact, environmental policies for stormwater management in plans tend to be forsaken for continued use of conventional techniques in consents (Day et al., 2003; Laurian and Day, et al., 2003). These outcomes have implications for achieving the anticipated environmental results stated in plans. Moreover, in many plans, links between an issue and its objectives, policies, methods, and rules are not always clear. This failing has resulted in many plans being not useful for assessing applications for resource consents.

The PUCM research showed that where the capability (i.e., commitment and capacity) in councils was strong, the quality of plans, and therefore their effectiveness in guiding decision-making in councils, was greater (PUCM, Phase 1, 2001, p. 17).

Capacity was measured by a number of factors (e.g., council wealth, staff numbers, skills of staff, etc.) and was found to be a reliable predictor of both plan quality and implementation quality. The RMA was more difficult to enact in smaller councils, which make up the majority, due to their comparative lack of capacity.

Commitment by councillors to the purpose of the RMA determined their willingness to prioritise and fund its implementation, which in turn impacted the quality of plans and their implementation. There was considerable commitment to the purpose of the RMA in the wider community, with some councils preparing innovative plans. However, in a number of instances, these innovative plans were met with community opposition because the methods and rules adopted were not sufficiently discussed with affected parties ahead of public notification. In other words, there was general commitment to the goal of sustainable management, but disagreement about the means of achieving it. This state of affairs arose mostly where councillors imposed unreasonable deadlines (a common failing) for publicly notifying the plan, thereby truncating both good research and timely consultation over methods and rules. Too often these same councillors disowned the plan when things turned sour.

3.2.3 Māori interests

The PUCM RMA research showed that the development of plans under the RMA was impaired by Government's failure to clarify the nature of the partnership between the Crown and Māori and between the Crown and local government in relation to Māori interests. The lack of guidance on the nature of partnership with Māori and the lack of capacity-building for Māori to participate in the planning process led to poor quality with respect to Māori interests in most plans and, subsequently, litigation to recognise Māori rights. Hapū and iwi expectations of an enhanced role in environmental management under the RMA were not fulfilled in most cases, although some councils did well in this regard (Ericksen, *et al.*, 2003, p. 285).

These results are not surprising since the capacity of many councils was found to be low and governance poor. They are symptomatic of a failure by the Government to accept the importance of ensuring that councils were capable of fulfilling the mandates devolved to them.

3.3 Implications for LTCCP

The results from the PUCM research on planning and governance under the RMA raise important issues that have relevance for planning and governance under the LGA, some key ones of which are summarised below.

1. A finding from the PUCM research is the need for more knowledgeable and understanding councillors, many of whom seem driven more by sector and/or personal interest than communities of interest as a whole. Recent moves by MfE and others towards improving training for councillors is to be commended, but some training in the past has tended to come too late in the election cycle, those who really need the training do not attend, and CEOs are reluctant to commit funds for training because many councillors feel it is not needed. This suggests that *aspiring* councillors should all be *required* to undergo training that includes knowing as a minimum: the main statutes guiding councils; structure of councils; roles and responsibilities of various parties; and ethical behaviour. This would better provide for elected democracy than is presently the case.
2. Preparation and implementation of good quality plans requires skilled and knowledgeable staff. The PUCM research revealed that too often plan preparation and implementation is carried out by staff lacking appropriate knowledge and skills. But mostly, the problem has been a sheer lack of numbers of qualified staff to do the job. It is imperative that adequate planning staff be involved in the process of community consultation and the preparation of LTCCPs.
3. The PUCM research found that the staffing problem was exacerbated by the managerialism of the 1990s requiring councils to be functionally structured so as to increase transparency and accountability. The silo effect that resulted meant that policy development was separated from its implementation. This counters the integration that both RMA and LGA require. Related to this are the repeated calls by politicians and business people for increased efficiency, such as reducing the time to process resource consents, which can also lead to decreasing effectiveness of policy implementation. Managerialism, restructuring, and cost-cutting often led to staff stress and turnover and loss of institutional memory. This can adversely influence the preparation and implementation of policies and plans.
4. Under the RMA, regional and district councils were to work in partnership in achieving the Act's goals, but the PUCM research found a disjunction between the two, such that the former had no influence on the quality of plans produced by the latter. This is of concern for the new LGA mandate, which increases the need for co-operation throughout the planning system — central, regional and local.
5. Clarity of provisions in the RMA was found by the PUCM research to be an important influence on plan-making and the quality of resulting plans. Even though the RMA was amended most years during the 1990s, some provisions that planners found difficult to understand remain unchanged (e.g., s.5 on sustainable

management). The new LGA lacks clarity on a number of matters that may impact on the development of LTCCPs.

6. The PUCM research found that many people in the system of planning and governance had a poor understanding of the basic assumptions underpinning the RMA as a devolved and co-operative mandate. This lack of understanding appeared to adversely affect the overall implementation effort and thereby outcomes desired by the legislation.

Section 4

Specific RMA Lessons Applicable to LTCCP

The following discussion identifies in more detail those PUCM research findings considered relevant to the LGA, in particular the LTCCP provisions. Application of these lessons has the potential to circumvent some of the implementation difficulties encountered with the RMA. We elaborate on the relevance of the PUCM research findings, provided in the previous section, to specific aspects of the LTCCP process. The key aspects are:

- mandate design;
- key statutory provisions;
- role of central government;
- role of Māori;
- local government capability for planning;
- plan preparation; and
- plan implementation.

4.1. Mandate Design

PUCM findings and recommendations

Devolved co-operative planning requires a clear mandate design. The expectation is that when key provisions in the legislative mandate are clearly understood, capability to plan and the quality of planning documents will be higher. PUCM results show that key provisions of the RMA were unclear to plan-makers and hindered their plan-preparation. This in turn was one factor that affected the quality of the plans and therefore contributed to difficulties in fulfilling the mandate. Lack of clarity as to the intentions of the mandate with respect to sustainable management for example meant councils were left to determine them or rely on under-funded government agencies for help. This resulted in a range of interpretations, some of which failed to recognise the intentional change in approach in the legislation.

PUCM recommended that there needed to be an improved understanding of the intention of the RMA mandate. In order for this to occur, the national framework for sustainability, of which the RMA is an integral part, needed to be improved. PUCM found that the policy framework for sustainable “development” with respect to the RMA was incomplete and fragmentary. Relevant statutes and policies needed to be reviewed to ensure greater clarity of purpose and better integration in environmental planning was required at all levels.

Lessons for the LGA

The national framework for sustainability and the LGA mandate need to be clearly understood by stakeholders in order that they can be translated into action through good quality LTCCPs. Key provisions in the legislation, in relation to other mandates, need to be clear to councils and other stakeholders involved in implementation. It is not, however, clear how some provisions relating to aspects of the planning and decision-making mandate in Part 6 of the LGA are to be interpreted.

A co-operative mandate, such as the LGA, requires each council to interpret the mandate in the context of circumstances in its own area in partnership with other service providers. This involves more than just quoting the Act. Getting it right will take time, energy and resources at both the central and local government level. There is, however, no directive in the LGA to require different service providers to collaborate in order to respond to community outcomes.

As with the RMA, the concept of sustainability has been incorporated into the legislative purpose of the LGA, but in a more comprehensive manner. The LGA (s.3(d)) requires that local government take a “sustainable development approach” when acting in their role of promoting the social, economic, environmental and cultural well-being of their communities. In spite of many workshops on the topic of sustainable development over the last three years, the question remains as to whether the national framework for sustainability has been clearly articulated so as to provide adequate direction to local government as it prepares LTCCPs.

Uptake of aspects of the legislation may well be slow and varied, because the mandate design gives councils discretion in how they should respond in relationship to other plans, strategies and community outcomes. The LGA anticipates new processes and behaviours within central and local government. It needs to be recognised that there may be an implementation time-lag, unless councils take action to ensure effective and integrated management at every level. This time-lag will potentially impact councils’ ability to meet legislative deadlines, such as the 2006 deadline for the first LTCCPs. The legislation does not appear to make provision for the extension of this deadline. Some councils, when faced with their limited capacity and a legal deadline, may produce the absolute minimum required by the Act. As found by the PUCM research, meeting deadlines compromised quality.

4.2. Key Legislative Provisions

PUCM findings and recommendations

A clear understanding of key provisions in the mandate at the outset would enable councils to better translate the provisions of the legislation into plans. PUCM found that several of the key provisions in the RMA were not well understood (e.g., s.5 sustainable management) and required clarification by the Environment Court. This lack of clarity caused difficulties for plan writers and delayed district plans and regional policy statements for years in some cases.

Lessons for the LGA

The LGA is comprehensive planning legislation encompassing social, economic, environmental, and cultural well-beings. Interpretation of the LGA legislation therefore needs to be clear and unambiguous. Where no statutory guidance is given in the LGA it could be expected that interpretation will depend on case law. Unless

guidance is given early on by DIA regarding interpretation, judicial review may well determine meaning, which may not capture the intentions of the legislators. Examples of potentially contentious provisions within the LGA are phrases such as “taking a sustainable development approach”, “significance” and “community”. Some guidance is given with regard to implementation of these provisions in the Knowhow Guides produced by LGNZ in conjunction with SOLGM and DIA (2003). Contention over meaning has the potential to delay completion of LTCCPs. Under the RMA, Government is able to give guidance via national policy statements and national standards, and to “call in” projects. Government chose not to do so (except for that mandated for the coast), and this helped cause costly and repetitive explorations in councils around the country over matters of national importance, other matters, and Treaty matters in Part II of the RMA. The LGA does not give any, let alone discretionary, power to the Minister of Local Government to provide comparable policy guidance if he/she so wished, and this seems certain to cause costly experimentation across councils.

4.3. Role of Central Government

In view of its responsibility for overseeing implementation of legislation that devolves functions to local government, central government needs to ensure that councils have the requisite capability to implement the legislation.

4.3.1 Building national capability

PUCM findings and recommendations

Building the internal capability of central government and its agencies for undertaking the planning required under the RMA was required in a number of areas. Lack of funding accompanied by a series of annual budget cuts by the Government severely restricted the ability of MfE and DoC to fulfil their advisory and operational roles of building national capability for implementing the RMA. MfE in particular, as Government’s main implementing agency for RMA, lacked the resources to interact with, and provide support to, councils to the extent needed, as well as give leadership to other central government agencies (including DoC) that also had responsibilities under the RMA as statutory consultees. PUCM recommended that the lead agency needed to be very much stronger capability-wise.

Lessons for the LGA

Political commitment at the national level will influence local government’s implementation of the LGA. Unlike the RMA, the Crown is not bound by the LGA except in certain circumstances as set out in s.7 and 8. These circumstances do not include Part 6 of the Act which contains LTCCP provisions. Likewise, councils cannot be required to implement LTCCP provisions and can make decisions inconsistent with the contents of an LTCCP (s.96). There is, therefore, a danger that both central government agencies and councils may not elect to put sufficient effort or resources into the LTCCP preparation process, unless strongly encouraged and assisted to do so by the Government. Lack of commitment by central government agencies to LTCCP may cause councils to question the wisdom of committing their resources to the LTCCP process. The level of council commitment in turn will affect whether or not communities see LTCCPs as meaningful and useful documents. As highlighted in the PUCM 1 research findings, failure by central government to

support councils in their tasks may mean that they reject the goals of the LGA due to the high cost and lack of financial support for making LTCCP.

Central government agencies will also have to determine their own level of commitment to implementing LTCCP as, in many instances, their commitment is essential if community outcomes are to be achieved. For example, activities undertaken by Police, Ministry of Education and Child Youth and Family could all be considered integral to community well-being.

A co-operative mandate needs strong leadership by the key central government agency, in this case Department of Internal Affairs (DIA). In the first year of the new LGA, DIA, the lead agency, had about half of the \$1.8 million funds that MfE had for implementing the RMA. To gain the planning and governance outcomes desired through implementation of the LGA, the Government therefore needs to dramatically increase the funding and resources of its lead agency so that it can undertake its advisory and implementation roles, especially capacity-building.

Government also needs to fund other agencies for their roles as partners in both the process of making LTCCPs and their implementation, e.g., Te Puni Kokiri, MfE and MSD. Key central government agencies should provide councils with advice and support on the implementation of those provisions relevant to their responsibilities in the LGA. The Local Government Knowhow initiative and the current input of the Office of the Auditor General are important steps in this direction, but appear to have been constrained by limited funding.

4.3.2 Developing better coordination at the centre

PUCM findings and recommendations

A need for better co-ordination at the centre was identified. The lead agency (MfE) needed to have a clear mandate and adequate resources (staff, skills, finances), in order to co-ordinate the actions of central government and related agencies and more effectively collate and transfer information to regional and local councils (Ericksen, *et al.*, 2003, p. 298)

Lessons for the LGA

The LGA requires government departments and agencies to have input into LTCCP (Schedule 10, Part 1,1(e)(ii)). Councils will, therefore, need to interact with a large number of agencies. There is the potential for multiplication of effort by both the agencies and councils. For example, in some areas this could require councils working out how to “partner” with central government agencies on 30+ community outcomes, depending on how a “community” is defined. LGNZ notes that government agencies are aware of problems caused by different jurisdictional boundaries and fragmentation (LGNZ, 2003, p. 47).

One option is for central government to speak with one voice (“whole of government”) in order to reduce the financial and political costs on councils. Adopting this approach, however, requires government agencies reaching agreement on the objectives and determining how this is to be done. Such an approach has the potential to lose the diversity and richness of opinion that result from each organisation presenting their viewpoint.

The Government recognised the need for co-ordination and a whole of government approach, but it took over a year since passing the LGA into law for the first consultative meeting to take place. There does not yet appear to be a strategy for effecting a whole of government approach. Meanwhile councils are proceeding with preparation of LTCCP and can be expected to start making approaches to central government agencies for input. If a “whole of government” approach is to be taken, then urgency needs to be given to such a strategy. Central government agencies, especially those with significant responsibilities in terms of the four well-beings identified in the LGA, i.e., DIA, MfE, MSD, and TPK, need sufficient funding to do this job properly.

4.4 Role of Māori

PUCM findings and recommendations

The PUCM findings highlighted the need for improved relationships between councils and hapū and iwi in most councils and better understanding of the purposes of the RMA with respect to the Treaty. Council staff and hapū and iwi representatives had differing views about their relationships. While council staff knew that their understanding of the Treaty and its implications for planning was only low to medium, Māori viewed it as being much worse. The same discrepant outcome applied to the perceived commitment of councils to hapū and iwi interests through plan provisions and involvement in monitoring resource consents. Consequently, council staff thought they were doing rather better regarding iwi interests than did the hapū and iwi representatives. Nationally, there was a wide variety of approaches to involving tangata whenua and considerable variation in the degree of commitment by councils.

The capacity of councils affected hapū and iwi involvement in the preparation and implementation of plans. Only the highest capacity councils could afford to enhance capacity of whanau/hapū/iwi to participate effectively in plan preparation and the resource consent process. While there are many mechanisms that are available for involving hapū and iwi participation in the resource management processes of councils, there was little evidence of their use. This was due in part to hapū and iwi lack of capacity and the lack of clarity regarding their role. Consequently, Māori aspirations for an enhanced role in environmental management have not been realised in many councils.

Lessons for the LGA

An important objective of the LGA is to provide greater opportunities for contribution by Māori to decision-making (including urban Māori as well as tangata whenua). The LGA requires councils to establish and maintain processes that provide opportunities for Māori to contribute to decision-making. Councils are also required to consider ways to foster Māori capacity to participate. Comments by LGNZ reflect PUCM findings — that while some councils are making progress in developing effective relationships with Māori, others need to make a more concerted effort in this area (LGNZ, 2003, p. 62). LGNZ has sought to assist councils in improving their performance by suggesting ways to build relationships, undertake consultation and build capacity of Māori to contribute while recognising that capacity building needs to also occur within councils (LGNZ, 2003, p. 63-69). PUCM findings would suggest that such actions will require commitment by both councillors and staff. This may require changes in attitudes within councils, especially from councillors. Small

councils, even when they have this commitment, will struggle to carry out the mandate unless central government assists. The primary requirement will be to overcome the distrust of councils that has developed on the part of some Māori (Ericksen, et al., 2003. Chs 5 and 12). Iwi and hapū groups should clarify organisational responsibilities for consultation.

4.5 Local Government Capability for Planning

Clearly, under a devolved and co-operative mandate, councils take on major responsibilities for implementation of national mandates, like the RMA. Since the passage of the RMA 12 years ago, the Government has devolved nearly 20 major functions to local government, including the LGA, many of them unfunded (LGNZ, 2000; Ericksen, Berke, Crawford, and Dixon, 2003). Many indicators from the PUCM research suggest that for effective and efficient planning (preparation and implementation), the Government ought to continue reforming local government, in order to reduce the many small councils that struggled to cope with the RMA, by creating larger units with higher capacity to perform. In the absence of reform, there are lessons from the RMA experience that might help with planning and governance under the LGA. These are addressed below.

PUCM findings and recommendations

The PUCM research showed that organisational capability (i.e., commitment and capacity) in councils impacted the quality of plans and their implementation. Plan quality was significantly greater where capability was strong. Capability was found to vary throughout the planning process at both regional and local levels and was impacted by:

- lack of understanding of the proposed method of effects-based planning;
- inadequate time given to understanding the mandate and managing the process;
- lack of skills for preparing effective plans;
- lack of ability to determine the timing of research and consultation;
- limited staff available for the task;
- lack of understanding of the task on the part of councillors;
- lack of understanding of the long-term cost of truncated research and consultation; and
- lack of political commitment and capacity to Treaty and Māori issues.

The PUCM team recommended that the Government: develop a programme that would build local capability to plan nationwide; continue reforming local government so as to reduce the number of councils with low capacity to fulfil the statutory requirements; assist councils to build a better factual basis for planning; and evaluate plan implementation.

Lessons for the LGA

In that there has been no significant reorganisation of local government since the PUCM research began, it could be anticipated that the capability of some councils has not significantly altered. For that reason attention needs to be paid to the PUCM recommendations, that building of local capability to plan is conducted nationwide and that local authorities are assisted to build a better facts base on which to conduct

their planning. This means having adequate funds and skills to carry out research, including the purchase of information. This problem is recognised by LGNZ to the extent that it has suggested that councils look at collaborating when seeking to achieve community outcomes and improve well being. Actions such as sharing staff and resources for preparing background information are ways of addressing the lack of capability in some councils (LGNZ, 2003, p. 49-50). The Government should, however, play a more proactive role through DIA and related agencies in facilitating this process, rather than simply minimally funding LGNZ to provide guidance notes for its member councils.

It is recognised that some collaboration is already being undertaken in the RMA context, e.g., regional and district councils are working to collaborate in monitoring and this could be expanded for LGA purposes by including central government agencies. There is, however, bound to be a considerable time-lag in recognising the worth of doing this and then carrying it through, and this will have implications for achieving statutory deadlines.

4.6 Plan preparation

PUCM findings and recommendations

From the international literature and the expert judgements of leading planning professionals in New Zealand, the PUCM team developed eight criteria for evaluating the quality of regional policy statements and regional and district plans. The eight criteria were:

- i. Interpretation of the mandate
- ii. Clarity of purpose
- iii. Identification of issues
- iv. Facts base
- v. Internal consistency of plans
- vi. Integration with other plan and policy instruments
- vii. Monitoring
- viii. Organisation and presentation.

The evaluations showed that the quality of notified policy statements and plans (as of mid-1997) was only good to very poor. Not one was very good or excellent. The PUCM research also showed that improvement in just four of these eight criteria would lead to a very considerable improvement in the quality of plans produced. The four criteria are: mandate interpretation, facts-base, monitoring, and organisation and presentation.

The PUCM team recommended strategies for helping councils produce and implement higher quality plans. Particular areas requiring improvement in order for councils to produce and implement high quality plans were: organisational structure; project management; professional training; interpretation of mandate purpose; research and analysis; consultation; and plan organisation and presentation. These seven aspects of planning and governance are elaborated upon in turn below.

4.6.1 Institutional arrangements

Institutional arrangements were found to have a significant influence on planning under the RMA. Managerialism wrought by Government policy required transparency and accountability not only in central agencies, but also local government. This had costs and benefits. Reorganisation of councils into policy, regulatory and service delivery functions inhibited co-ordination and feedback across units of council, and this in turn adversely affected plan development (preparation and implementation). Resource allocation went into the more “public” or visible aspects of the process in an endeavour to meet performance targets, e.g., shorter consent processing timelines. Some managerial reforms did, however, bring benefits for plan-making. For example, preparation of long-term financial strategies, asset management plans, and annual plans enabled funding for the implementation of regional and district plans. The PUCM research emphasised the need for councils to develop a feedback system to enable integration between and among council units and infrastructure providers. Inter-departmental co-operation was seen as essential at plan-writing stages, as well as for successful implementation. Māori participation in governance also needed to be recognised.

Lessons for the LGA

The preparation and implementation of LTCCP has a broader scope than plan making under the RMA, as it requires councils to draw together all aspects of their operations and responsibilities and, in collaboration with other service providers, decide how to focus on community outcomes. The need for inter-departmental co-operation within a council, together with inter-agency co-operation, places a far greater demand on councils than under the RMA. Councils therefore need to work out a means of achieving this necessary integration and obtaining ongoing feedback, both intra-organisationally and inter-organisationally. They also need to be committed to funding the necessary work involved in maintaining ongoing relationships. A Government that wants councils with the capacity to comply with its national mandate must, therefore, play a major capacity-building role. Local government is already questioning the capacity of all councils to carry out their various regulatory responsibilities, including those under the LGA 2002 (LGNZ, undated).

4.6.2 Project management

PUCM found that the plan preparation and writing process needed to be well managed, i.e., for councils to have a “plan for making the plan”, by setting realistic timelines, allocating sufficient staff and budgets, and evaluating staff performance. It was recognised that this is a responsibility of the CEO, but in order for politicians to oversee the CEO, they need an understanding of the plan-making process. Given the deadlines, statutory and otherwise, the task for council is to realistically assess the scope of the work required and fund it accordingly. The PUCM team found that good plan-preparation efforts were confounded where councillors had unrealistic expectations of the plan-making process and made unrealistic demands on staff to meet deadlines. For regional policy statements, it was to meet the two-year statutory deadline, but for district plans in particular, it was often to meet an election deadline. This rush to notify badly affected the plan-preparation process. It curtailed *research and analysis* needed for making a strong plan, and truncated *consultation* with stakeholders affected by methods and rules in the proposed plan. Consultation at the end of the plan-preparation process was especially important and failure to commit to

it resulted in adverse, often hostile, public reaction when plans were notified. The problem was two-fold: staff tended to be too accepting of deadlines; and councillors tended to be too demanding and distrustful of staff in meeting them. Training for both staff and councillors in project management ought to help reduce this problem. More broadly, elected representatives require much better training than currently occurs as to the nature and requirements of the various roles and processes in local government. This in turn might provide the political support and necessary funding for improved planning and governance. Central government should assist councils in the task of educating councillors more fully than is currently the case.¹⁰

Lessons for the LGA

The preparation of LTCCPs will occur in addition to councils' other statutory functions and administrative responsibilities. Councils will, therefore, need to realistically assess the scope of the work and fund it accordingly. In other words, councils need to first devise a carefully crafted LTCCP project management plan (with achievable milestones) that extends to 2006 and beyond. They then need to develop a rolling budget in support of the project management plan, entering each year into the Annual Plan. For this to happen, councillors need a better understanding of their role in policy development and governance than evident under the RMA, in order to provide the necessary political support for a LTCCP project management plan.

Advice on how to assess the workload required and manage the plan preparation process needs to be given by lead agencies, such as DIA and LGNZ. The organizational strategies for plan-making, as outlined in PUCM Guideline 1, also provide some guidance (Ericksen, Chapman and Crawford, 2003). As with any new activity, there is the potential to underestimate the time and resources required for the preparation of LTCCPs.

Councils will need to be adaptable and open to considering new approaches to seemingly familiar tasks, e.g., seeking community input. Applying methods that have been previously used under the LGA 1974 or other statutes, e.g., RMA, may be inappropriate or insufficient. For example, requiring local authorities to recognise community diversity is a significant change from the LGA 1974 and will necessitate a fresh approach to community outreach on the part of many councils.

4.6.3 Professional training, staff resources and co-operation

PUCM found that adequate staffing (number and skills) was an important predictor of plan quality. Understaffing or under-trained staff and the consequent overworking of staff were major constraints on the plan-making efforts of almost all councils. Some councils lacked the resources or did not make the long-term commitment necessary to employ sufficient staff with the expertise to undertake the task. Where co-operation and sharing with staff in other councils occurred, especially in regional councils, it had a positive effect on staff preparing plans, even though the quality of plans did not necessarily reflect this collaboration (Ericksen, *et al.*, 2001, p. 20 and Ericksen, *et al.*, 2003, p. 89).

¹⁰ Ministry for Environment is working on a scheme for voluntary accreditation for councillors and commissioners. It is anticipated that this scheme will be available early to mid 2005.

Lessons for the LGA

Adequate staffing for the implementation of the LGA is an important consideration. It is unclear where, within a council's structure, the preparation of LTCCP will be centred, e.g., CEO, Financial Manager, Planning and Regulatory. The LGA leaves the administrative details for each council to determine. Given that the LGA is a comprehensive planning mandate, it would appear wise for councils to utilise the generic planning skills that already exist within the policy and planning sections of council. If councils choose not to employ specialist planning and related staff, but rather require existing staff to prepare LTCCP in addition to their other tasks, then this will adversely impact on both the preparation of LTCCP and other regulatory or administrative functions. Understaffing will lead to the over-working of existing staff. Small councils may not have the resources to employ a specialist person, assuming that experienced staff are available. The lack of available expertise, staff numbers and quality will impact on plan preparation and result in poor quality plans. This will have implications for plan implementation and outcomes. LGNZ has suggested that councils could collaborate in some areas (LGNZ, 2003, p. 50). As noted under other aspects, this may take considerable time to evolve and is not necessarily the cheapest option for achieving integration.

4.6.4 Interpretation of mandate purpose

PUCM found that councillors and council staff needed to understand the intent of the Act and its inter-relationship with other legislation in order to write good plans. It was not sufficient to simply paraphrase sections of the Act. Rather, councils had to go one step further and interpret the legislation in their particular context. Initiatives considered helpful in developing a better understanding of the RMA mandate were a “buddy system” with other local authorities, teams from central government helping build political commitment and staff expertise, and workshops to explain the task to councillors, especially new councillors.

Lessons for the LGA

The LTCCP will potentially utilise information from, and directly or indirectly influence the contents of, various council documents and plans prepared under the LGA and other legislation. Councillors and staff need to understand the various processes and mechanisms and their relationship with other legislative instruments. For example, councillors need to be aware of how LTCCP may necessitate changes to RMA plans. The Know-how guides and workshops of LGNZ and DIA go some way towards helping to realise this lesson, but the minimalist role of DIA needs to be changed to ensure fuller treatment and follow-through. Councils also need to understand the intent of the Act, for example “taking a sustainable development approach” in order to give effect to the Act. Sustainable development, community well-being and community outcomes are contestable concepts and their meaning could be more clearly defined to assist councils with preparation of LTCCPs. That is, national leadership is required, otherwise like the RMA, it will be the “hole in the doughnut” all over again.

4.6.5 Research and analysis

The LGA, like the RMA, is based on the rational-adaptive planning model, which focuses on the collection and interpretation of facts (through research) and views (through consultation with stakeholders). Councils require the capability

(commitment and capacity) to undertake the research necessary for plan making and informing the consultation process. Poor research for RMA plans led to a weak factual basis for the plan, and hence led to poor issue definition, objective setting and inadequate provision for monitoring. Thus, research must be commenced early in the plan-preparation process. The PUCM team also identified that the research needs to be linked to the monitoring framework, otherwise monitoring becomes too problematic.

A fundamental problem under the RMA was the lack of leadership from central government regarding the provision of policies, methods, and data on nationally important environments. For example, in the absence of a co-ordinated programme through MfE, councils requested data and expertise from DoC on significant natural areas. Unfortunately, too often they were let down with faulty data and mapping systems that were mismatched.

Lessons for the LGA

Basic research needs to be undertaken by councils so that they know the state of their region or district, communities of interest, and infrastructure, before preparing the LTCCP. Councils also need to ensure the timeliness of information for the LTCCP process. The “public” parts of the LTCCP process, such as consultation, may capture resources (e.g., staff funding) to the detriment of other less visible, but equally significant parts, such as preparation of background data. Essentially, there is a need to develop a research culture within councils. Possible actions that may assist in this process are: reaching agreement on the skills and data required from various divisions of council and CCTOs (council-controlled trading organisations) so staff can recognise, and give priority to, their role in the process; and having research units that could be allied to councils’ enhanced strategic planning role. Alternatively, a group of councils may collaborate in setting up independent research organisations.

Communities cannot necessarily be relied upon to provide the necessary information, particularly where data has to be purchased, and may in fact rely on councils to provide it. Even where council data is free for a community group, there may be restrictions on who else can use it. Extraction and analysis of council information may require increased staffing to fulfil statutory obligations (e.g., state of environment reporting), additional funding through mechanisms such as the Annual Plan, and improved across-division liaison (in councils).

Intergovernmental co-operation relies on timely and relevant provision of information by central government or else LTCCP will be “partial”.

4.6.6 Consultation and participation

The PUCM team found that consultation needed to be inclusive and timely. Effective communication and information dissemination networks need to be built in order for ongoing interaction with stakeholder groups to occur. Councils should be prepared to go to other parties, rather than expecting them to come to council. Detailed case studies showed that where consultation weakened towards the end of the plan-preparation process, councils got into difficulties with their constituents, produced a relatively poor quality plan, or both. A common problem was too much consultation at the beginning of the process when it was easy to reach agreement as to the higher level objectives and policies and too little when it came to deciding on methods. Lack

of involvement in the development of rules and other methods partly explains the rejection of plans by local communities and significant variations to plans soon after notification, e.g., Far North, Tasman, and Gore district councils. On the other hand, constituents were annoyed and confused when different aspects of plan-preparation required their responses around much the same time.

Lessons for the LGA

The LGA requires local authorities to consult with their constituents in a variety of circumstances in order to enhance local democracy. A council has a duty under s.14 (1)(b) to "...make itself aware of the views of all of its communities". The LGA goes further than the RMA and, in s.82-90, provides specific detail as to the consultation principles that apply in the LGA context, the circumstances in which consultation is to occur and the way in which it is to be conducted. In order to assist local authorities in this task, LGNZ gives guidance on good consultation practice, a consultation checklist and various methods of consultation with their respective advantages and disadvantages (LGNZ, 2003). The council also needs to determine how it will consult with the "silent majority". Council has to consult in a variety of ways, e.g., for community outcomes, LTCCP, and bylaws.

It could be anticipated that the quality of consultation will improve within councils in response to the requirements of the LGA. Again the experience of staff involved in resource management consultation is potentially valuable. Councils will, however, need to be cautious in the use of their discretionary powers, given under s.82 (3), in order to avoid the legal debate that surrounded consultation under the RMA, for example who to consult, and who is the "community". Councils will also need to communicate effectively with constituents when commencing consultation in order to avoid confusion within the community as to the statutory context and intended end use of the information obtained. The LGA provides for a number of plan-related consultative processes, for example community outcomes, Long Term Council Community Plans and Annual Plans.

Table 1 gives an indication of the range of consultative processes that could, potentially, take place within a community over a 10-year period.

As noted by LGNZ in relation to identifying community outcomes (LGNZ, 2003, p. 41), stakeholders need to be given an overview of the purpose of the various plans and use of the consultative outcomes. This is particularly important given that there may well be other consultative procedures occurring simultaneously under other legislation within the region and/or district. There is the potential for "death by consultation". For that reason consultation needs to be co-ordinated and its purpose made clear to the wider public/community who can then determine the relevance and implication of each consultative process and whether or not they wish to participate. For example: to provide input into a policy or plan; to assist in the creation of a statutory power, e.g., bylaw, or for guidance only, e.g., LTCCP.

Table 1: Consultative processes under the RMA and LGA

| Process | Process & Act | Frequency In years |
|---|---------------------------------|--|
| National Policy Statements | RMA | Anytime |
| New Zealand Coastal Policy Statement | RMA | |
| District Plan Review | RMA | 10 |
| Regional Policy Statement Review | RMA | 10 |
| Regional Plan Review | RMA | 10 |
| Draft Regional Plan | | |
| Private & Council Plan Changes & Council Variations | RMA | Anytime, subject to First Schedule RMA |
| Resource consents | RMA | Anytime |
| Draft LTCCP | SCP ¹¹ LGA | |
| Adoption of LTCCP | SCP LGA s.93 | 3 |
| Amending LTCCP (via Annual Plan) | SCP LGA s.93 | Anytime |
| Identifying community outcomes | s.91 LGA (Council to determine) | 6 |
| Where Council is required or chooses to use or adopt SCP | SCP LGA s.87 | |
| Annual Plans | SCP LGA s.95 | 1 |
| Water & other services assessment (i.e., consult if not included in LTCCP) | ss 97 & .125 LGA | |
| Adopting & amending policy of significance | SCP LGA s.90 | |
| Transfer of small water services or close down (referendum) | s.131 LGA | |
| Establishment of council controlled organisation | s.56 LGA | Anytime |
| Community views regarding a decision | s.78 LGA | Anytime |
| Making bylaws, unless if minor effects Amendment/Review/Revoking of bylaws | SCP LGA s.86, s.156 | Anytime 5 yearly |
| Change in mode of delivery of significant activity | SCP LGA s.88 | Anytime |
| Funding & financial policies (7 compulsory, 2 optional) <ul style="list-style-type: none"> • Revenue & financing • Liability management • Investment • Development contributions • Partnerships with private sector • Remission & postponement of rates on Maori freehold land • Rates remission • Rates postponement | SCP LGA. s.102 | |
| Disposal of parks (Council must consult) | s.138 LGA | |

¹¹ SCP : Special Consultative Procedure set out in s. 83 LGA 2002

Issues that arise regarding consultation are:

- *council's ability to manage relationships, e.g., with Māori, and implement effective consultation on so many fronts, as well as across the region;*
- *the cost of consultation, given that background information has to be collected and analysed and then prepared for public release;*
- *council's capability to conduct consultation in terms of number and skills of staff;*
- *the quality, timing and length of the consultation;*
- *whether or not there will be community buy-in, given the limited opportunities offered by the LGA submission process. The less formal process may encourage some participants while limited legal rights, when compared to the RMA, may deter others. For example, in the submission process there is no procedure for challenging council's decision, unlike the RMA. Instead, dissatisfied parties must commence judicial review proceedings; and*
- *the ability of the wider public/communities to participate in the various LGA processes. The question arises — who will up-skill or educate the public so that the process is not “captured” by articulate minorities or sectoral interests?*

It is expected that MFE will provide guidance on the review of first generation RMA plans by councils in relation to the parallel LTCCP process. This consultation has the potential to cause confusion within the community, as well as put an extra burden on local authority staff and central government agencies required to meet their legislative requirements, e.g., Crown Public Health input into District Plan review and LTCCP.

4.6.7 Consultating tangata whenua/iwi

The RMA provides a strong mandate for including Māori in the plan-making process, and reflecting Māori environmental values and *Treaty of Waitangi* principles in plan provisions (ss 6, 7, 8, 33, 34, 35, 93 and Clause 3 of the First Schedule). Nevertheless, PUCM results showed many notified regional policy statements and district plans not adequately addressing Māori interests in land use and resource management. A number of major influences affected the potency of policy statements and plans in this regard, including: interpretation of the mandate; partnership building; consultation; organisational capability; and capacity building.

Many of the 28 district plans analysed for their content with respect to Māori interests either paraphrased the RMA or failed to acknowledge key sections of the Act. They tended to concentrate on developing processes in the plan for iwi participation rather than incorporating substantive resource issues of concern to Māori. Thus, many plans were deficient in identifying issues relevant to tangata whenua/iwi, being typically limited to wāhi tapu. Generally, plans failed to translate Māori concerns into relevant objectives, policies and methods, rules, and anticipated environmental outcomes (Jefferies, et al., 2003).

Overall, uncertainty caused by the failure of Government to clarify whether or not councils were agents of the Crown in dealing with the Māori partner had allowed disinclined councils to choose a minimalist approach to iwi interests under the RMA. This was exacerbated by Government not providing adequate capacity building and guidance to councils for implementing provisions in the RMA.

Some councils did, however, consult tangata whenua/iwi well and showed that there were a number of tools available for promoting participation by Māori in their planning processes and for formalising relationships. These included: iwi management documents; memoranda of understanding; memoranda of partnership; liaison committees and the like (Neill, 2003).

Lessons for the LGA

The need for better engagement with hapū and iwi was recognised when developing the LGA, which clarified the role of the Crown in relation to local government and the Treaty and requires councils to be proactive in facilitating and enhancing Māori involvement in decision-making.

4.6.8 Organisation and presentation of plans

The PUCM research found that the organisation and presentation of RMA plans varied. In some instances poor presentation, e.g., map quality, led to heated debate and withdrawal of support for the plan in at least one local authority (Ericksen, *et al.*, 2003, p. 190). In order to be of greatest assistance to the various stakeholders and lay people in their decision making, plans should be readable and accessible, with a well-organised structure and logical connections from one part to another. Users need to be able to trace the cascade of elements through a plan. For example, they need to be able to see how an issue is linked to the objectives, policies, methods and rules in the plan. Anticipated environmental results from the implementation of a plan rule should also be clear (see Ericksen, *et al.*, 2003, Fig.2.3, p. 35).

An essential precondition in the plan preparation phase is having “a plan for writing the plan”. Attention should also be given to ensuring that the best method for organising and presenting the information is used at each step in plan-writing, bearing in mind the purpose of the task and the audience. Also that the plan is internally consistent and the various parts of the plan have been integrated.

Mechanisms that assisted in this were:

- a detailed table of contents and keyword index;
- a users’ guide explaining plan interpretation;
- a glossary of terms and conditions;
- cross referencing throughout the plan, e.g. rules and issues, objectives and policies;
- using clear illustrations and language;
- spatial information clearly illustrated on maps; and
- individual properties clearly delineated. (Ericksen, *et al.*, 2004, p.18).

A well-organised and presented plan reflects the quality of its early conceptualisation and consideration of the users’ needs.

Lessons for the LGA

The LGA makes clear that LTCCP are intended to be a key tool in enabling local authorities to promote the social, economic, environmental and cultural well-being of their communities in a sustainable way. The PUCM finding that RMA plans need to be readable, comprehensible and easy to use with a well organised structure and

logical connections from one part to another is even more applicable to LTCCP, given their broad focus.

The statement of community outcomes required by the LGA should give adequate direction to service providers to prioritise their activities and subsequently monitor progress towards achieving community outcomes. The Act does not require communities or councils to prioritise community outcomes although communities may wish to do so but, given the RMA experience, councils and communities would do well to do so. The way a plan, such as LTCCP, is organised depends on how it is conceptualised. Given the wide range of target audiences for community outcomes and LTCCP, this needs a lot of forethought early in the planning process.

4.7 Plan Implementation

PUCM findings and recommendations

PUCM found that implementation depended mainly on council capability (i.e., commitment and capacity) and plan quality.

The research findings showed that under the RMA there was an implementation gap, defined as the difference between policy intentions and techniques included in plans and what was actually applied when making decisions on applications for resource consent. Where council capability and plan quality were relatively high, the quality of plan implementation was higher. Where a council's capability and plan quality were low, the implementation gap was greater due to a council's inability to apply the various techniques provided for within the plan. However, as council capability increased, e.g., through councillor understanding, staff experience, training and numbers, so did the quality of implementation. These influencing factors are described in more detail below.

4.7.1 Council commitment to planning

It was found that a council's commitment to planning does affect implementation as it influences allocation of funds and resources to the process, political priorities and understanding of the planning process by politicians. Pressures to comply with statutory time frames as well as the economic desirability of growth, from a council's viewpoint, meant that some activities (economic growth) prevailed over others (environmental protection and enhancement).

Lessons for the LGA

Political commitment to the LTCCP will also influence a council's implementation of it. Unlike the RMA, LTCCP are not binding on the Crown, its agencies, or councils. There is, therefore, a danger that councils may not elect to put sufficient effort or resources into the LTCCP preparation process. As noted earlier, the Government and its agencies will also have to determine their level of commitment to implementing LTCCP, as in many instances their commitment is essential if community outcomes are to be achieved.

As with the RMA, some LTCCP outcomes may take precedence over others. There is no guidance in the legislation, other than the general categories, on the types of outcomes that could or should be included in an LTCCP. There is no specified hierarchy of outcomes, leaving it to councils to determine, after community

consultation, the weighting they give to each outcome. This weighting will determine the level of funding for different council activities and therefore progress towards achievement of community outcomes.

4.7.2 Council capacity for planning

Council capacity to fulfil the RMA mandate was found to vary widely while statutory functions remained the same. Local authorities with limited or low capacity tended not only to yield poor quality plans, but also inhibited the use of policies and techniques that promoted innovation, both of which compounded implementation difficulties.

Lessons for the LGA

In that local government amalgamation has not occurred to any significant degree over the last 12 years, low capacity local authorities still exist. The LGA requires all councils, regardless of their capacity, to prepare and implement LTCCP. Small councils with limited or low capacity will struggle to prepare a medium to high quality LTCCP due to lack of capacity, which in turn will impact the quality of implementation. Capacity will also determine a council's willingness to be innovative when seeking to acknowledge community diversity. In time, stakeholders may find poor quality LTCCP of limited use when making decisions and may disregard them. As noted earlier, this could lead to a loss of confidence in and commitment to the LTCCP process by councils, central government agencies and the wider community.

4.7.3 Central government capacity-building

RMA findings showed that where strong implementation efforts by key agencies in central government occurred they enabled councils to produce higher quality plans. Government's inadequate funding of lead agencies meant that they were unable to build council capability evenly across the nation or provide the necessary guidance and advice on the RMA. Since high quality plans correlate with better implementation, there is a benefit in promoting good plans.

Lessons for the LGA

The LGA requires councils to undertake new functions. Councils will require capability building in order to fulfil these tasks. Government needs to ensure that councils are assisted in their task of preparing good quality LTCCP, in order to reduce the likelihood of there being an implementation gap when they are adopted and then implemented. Implementation requires a good quality plan and the capability to carry out its intentions. For many councils, capacity-building by Government will be needed, not only to ensure a good quality LTCCP, but also consistent follow-up action designed to achieve the community's outcomes. To achieve this, the lead agency (DIA) and collaborating agencies (MFE, MSD, MED, and TPK) need to be adequately resourced for their respective roles.

4.7.4 Influence of plan quality

Improving the quality of plans was found to improve their implementation as they gave better guidance to decision-makers. Higher quality plans had better internal consistency, so that policies were more closely aligned to their respective objective, and led to more targeted methods. PUCM recommended that councils could improve

plan implementation by increasing the quality of their plans, especially by improving the internal consistency of the plan.

Lessons for the LGA

The quality of a LTCCP will, to some extent, determine the quality of its implementation. Implementation difficulties, such as those identified under the RMA, will recur, unless central government acts to address those factors that were found to impact RMA plan quality and subsequently plan implementation. For example, providing clear guidance on the meaning of “a sustainable development approach”; ensuring councils have the capability to develop a strong factual basis for the plan; and providing plan-making assistance to councils so that plans are internally consistent. An internally consistent LTCCP will, among other things, have identified potential areas of conflict between community outcomes and identified ways of avoiding such situations, e.g., by prioritising community outcomes.

A clear plan that is easily understood and interpreted will be able to meaningfully guide councillors, staff, and other stakeholders when they are involved in decision-making. Given the considerable information that must be included in the plan, there is a need for clear presentation and layout, in order to assist decision-makers in using the LTCCP. Guidance as to how to use the LTCCP would also be of assistance.

4.7.5 Application of new techniques

Despite most RMA plans including a range of innovative, environmentally friendly techniques for achieving stated objectives, their use depended on a council’s ability to apply them. There was a reliance on traditional environmental management techniques for stormwater in low to medium capacity councils, despite what the plan promulgated. Reasons for this were identified as: lack of central government guidance in key areas, e.g., national policy statements; plans that had a policy-rule gap, consequently giving little guidance to the staff required to implement them; time-lag between new concepts in policies and development of staff skills and techniques to implement them; and limited council capacity to develop and promote the new techniques identified in policies.

Lessons for the LGA

The LGA requires councils to implement innovative approaches to strengthen strategic planning in local government. Unless councils have the capacity and commitment, PUCM findings suggest that there is a risk that the new LGA may not fully achieve its improved governance objectives: promoting the four community well-beings taking a sustainable development approach. The Government needs to assist councils to fulfil the innovative mandate it has devolved to them. Risk-taking is costly in terms of funds, time, and energy. It is far easier to put words in plans than to act on them. A key question is: What will induce councils to follow through effectively, given they are not bound by LTCCP provisions?

4.7.6 Meeting Māori interests

Little evidence was found of policies in district plans highlighting issues of importance to Māori being implemented through resource consents. There were so few references to hapū and/or iwi interests in resource consents that a valid random sample for analysis could not be attained. Study therefore re-focused onto evaluating

relationships between councils and hapū and iwi in plan implementation, including the capacity of hapū and iwi to engage in consent processes.

The *commitment* of many councils to involve hapū and iwi in resource management processes was found to be generally low. There was thus a general dissatisfaction on the part of hapū and iwi with councils' performance with respect to both Treaty relationships and consent processing under the RMA. The rather poor hapū and iwi-council relationship was exacerbated by a lack of clarity over the status that hapū and iwi have through the *Treaty of Waitangi* in RMA processes (Backhurst, *et al.*, 2003).

While council staff knew that their understanding of the Treaty was only low to medium, Māori representatives viewed it as being much worse. The same discrepant outcome applied to the perceived commitment of councils to iwi and hapū interests through plan provisions and involvement in monitoring resource consents. Consequently, council staff thought that they were doing rather better regarding iwi interests than did the iwi and hapū representatives. In councils where commitment to Māori permeated the organisation, from consent processing staff through to senior management and politicians, hapū/iwi respondents perceived better outcomes for Māori. At best these results suggested there was a need for more effective training and communication and, at worst, the parties were simply talking past each other.

The *capacity* of councils was found to affect the extent of hapū and iwi involvement in implementing district plan policies. Effective participation required a combination of good relationships with, and capacity building of, iwi at a governance level. Only the two highest capacity councils of six studied could afford to build the capacity of local iwi to participate in the resource consent process, and only one council provided funding for iwi involvement in resource consent evaluation. Once capacity was increased, communication regarding resource consent applications required clear guidance and criteria about when an application should involve iwi consultation.

While some iwi and hapū charged for their time when consulted by resource consent applicants, many individual Māori took part in assessing resource consents without recompense. On average hapū/iwi employed three staff to deal with consents, but could only afford to pay one of them. While it seems reasonable for costs associated with resource consent consultation to be recovered from consent applicants, responsibility for iwi costs associated with participation in governance relationships ought to be that of council.

Lessons for the LGA

Given the less than positive experiences for hapū and iwi under the RMA, the LGA greatly strengthens legislation with respect to Māori interests in local government by clarifying issues of partnership and participation in decision-making processes. Nevertheless, the PUCM findings on reciprocal perceptions of various issues suggests that there is much to be done to improve relationships and behaviours of the key stakeholder groups in the plan preparation and implementation processes if key iwi and hapū interests are to be adequately met.

Invariably, iwi have to deal with a multitude of regional and local councils. For many iwi, issues transcend boundaries and thus need to be recognised and addressed consistently. The capacity of iwi to participate would be better enhanced if there was

greater integration between local councils (cities and districts), and between regional and local councils on issues of significance and processes for iwi involvement.

Obviously, for councils to fulfil the new LGA requirements on Māori interests, they must build their own capacity by providing sufficient finances for increasing staff and councillor skills and understandings of Māori culture and traditions and building appropriate institutional processes to deal effectively with them.

Appendix 1

Summary of the PUCM Research Programme

Planning Under Co-operative Mandates (PUCM) is an ongoing research programme funded primarily from the Public Good Science Fund (PGSF) of the Foundation of Research Science and Technology (FRST). Through it, the PUCM team has been evaluating the quality of environmental planning and governance under the RMA. The foundation for the PUCM research was laid by a three-nation study involving New Zealand, Australia and the United States (1992-1995), which aimed to compare and contrast environmental policies under coercive and co-operative mandates (May, Burby, Ericksen, et al., 1996). Amongst other things, findings indicated that coercive mandates lead to a relatively quick and uniform uptake of a national or state mandate by local governments, while co-operative mandates lead to relatively slow and uneven uptake across the nation or state. Later, detailed studies of coercive and co-operative state mandates in USA yielded similar conclusions (Burby and May, 2001).

Phase 1 (1995-98) of the PUCM research programme focused on evaluating the quality of policy statements and plans prepared under the devolved and co-operative Resource Management Act 1991 (RMA) and a range of inter- and intra-organisational factors that influenced plan-making and thereby its quality. In other words, the influence of central government activities on council planning and governance was also examined. Multiple methods and multiple means — both qualitative and quantitative — were used in this research, including a nationwide survey, in-depth case studies of councils and key Government RMA implementation agencies.¹²

The most complete presentation of results from the Phase 1 research is in Ericksen, Berke, Crawford and Dixon (2003). Main findings and recommendations for action are provided in Ericksen, Crawford, Berke and Dixon (2001).

Phase 2 (1998-2002) focused on evaluating the quality of plan implementation through the resource consents process. The aim was to see the extent to which techniques identified in policies and methods in plans were being used in resource consents. That is, whether or not there was a gap between the two, and if so, why. This aim was pursued through six district councils chosen from those identified through the national survey in Phase 1 so as to maximise the range of council capacity to plan and plan quality. For technical reasons (getting large enough samples for topics in each council), the focus was on urban amenity, storm water management and Māori interests. Again, multiple methods and means were used in this research. The

¹² The methods included: a nation-wide survey of notified policies and plans (55) using a peer-reviewed plan coding protocol; questionnaires (62) that elicited factual information from councils about the plan-making process and its support; and semi-structured interviews (119) in each council with lead planners, councillors and consultants. In-depth case studies (4) were conducted in district councils aimed at elaborating on the influences found to be important in the national surveys. As well case studies of key Government RMA implementation agencies — Ministry for the Environment and Department of Conservation — were carried out.

most complete presentation of findings and recommendations from the Phase 2 research is in Day, Backhurst, and Ericksen, et al., 2003.

More recently, FRST has funded the PUCM team to carry out evaluative research on environmental outcomes from district plans (Phase 3, 2002-05) and long-term council community planning under the LGA (Phase 4, 2003-07). The latter will, among other things, draw lessons from research on planning and governance under the RMA and evaluate processes for achieving the community outcomes on which LTCCP will be based. Eventually, methods will be developed for evaluating the quality of plans produced under the LGA and their implementation, along with factors influencing community achievement of their economic, social, cultural and environmental outcomes (Phase 5, 2007-09).

Through Reports to Government, the PUCM team has identified areas in which the performance of planning and governance in central, regional and local agencies could be enhanced (Ericksen, Crawford, Berke and Dixon, 2001; Day, Backhurst, Ericksen, *et al.*, 2003). Summaries are given in Appendix 2.¹³ The PUCM Reports to Government may, therefore, have helped shape the LGA response. It is evident that there are many areas of LGA implementation where lessons can be learnt from the RMA research experience to date. These lessons are the focus of this report.

The methods developed for the several phases of research have been periodically critiqued by over 100 professionals in peer review group workshops around the country.

The PUCM Team

PUCM started in 1995 as a joint programme conducted between The University of Waikato and Massey University, with sub-contracts to the University of North Carolina at Chapel Hill and Planning Consultants Ltd (Auckland). In 2000, Auckland University replaced Massey when one of the co-principal investigators relocated. The list of personnel who have been or are still involved in the PUCM Research Programme can be seen in Table A.1 on the next page. The average full-time staff equivalent (FTE) per year has been 3.2.

¹³ The Reports to Government were sent to: relevant Parliamentary select committees; all relevant ministers; chief executive officers and key staff in relevant central government agencies; the mayors, chief executive officers, and lead planning staff of all regional and district councils; and a number of other key stakeholder groups.

Table A.1: Personnel and organisations involved in PUCM Research Programme

| ORGANISATION | PERSONNEL | PUCM PHASES | | | |
|--|--|--------------|--------------|--------------|--------------|
| | | 1 (95-98) | 2 (99-02) | 3 (02-05) | 4 (03-07) |
| The University of Waikato | Prof. Neil Ericksen (Programme Leader) | x | x | x | x |
| | Michael Backhurst * (PhD & Research Officer) | | x | x | |
| | Maxine Day * (PhD Research Officer) | | x | x | |
| | Sherlie Gaynor * (Research Assistant) | x | x | x | |
| | Cushla Barfoot * (Research Assistant) | | x | | |
| | Matthew Bennett * (Research Assistant) | | x | | |
| | Claire Gibson (Resource Officer) | x | x | x | x |
| | Greg Mason (PhD & Research Officer) | | | x | |
| | Nathan Kennedy MPhil & Research Officer | | | x | |
| | Nancy Borrie (Research Officer) | | | | x |
| The University of Auckland | Prof. Jenny Dixon * (Co-leader) ⁺ | x | x | | |
| | Dr Tom Fookes (Snr Researcher) ⁺ | | | x | x |
| Planning Consultants Ltd (Auck.) | Jan Crawford (Project Manager) ⁺ | x | x | x | x |
| The University of North Carolina | Dr. Philip Berke (Theory and Method) ⁺ | x | x | x | x |
| University of Iowa | Dr. Lucie Laurian (Methods) ⁺ | | x | x | x |
| Lawrence Cross and Chapman (Planning Consultants) | Sarah Chapman (Consultant/planner) ⁺ | | x | x | x |
| Kokomuka Consultants (now KCSM Solutions Ltd) | Richard Jefferies & (Consultants) ⁺ | | x | x | x |
| | Tricia Warren * | | x | x | |
| Lincoln University | Prof. Ali Memon (Senior Researcher) ⁺ | | | | x |

⁺ Subcontracted through University of Waikato, * Contracts completed

Appendix 2

Summary of PUCM Findings and Recommendations from Phases 1 and 2

PUCM Report 1: *Resource Management, Plan Quality, and Governance (Feb 2001)*

Findings

F.1 Assessing the Local Plan Making System

F.1.1 Plan Quality: Overall plan quality was poor, with smaller rural councils not performing as well as larger councils. The role of Māori in land use and resource management was also poor.

F.1.2 Organisational Capability: Capability (i.e. commitment by councillors and staff; and capacity due to quality and quantity of resources available) to plan impacted the quality of plans.

F.1.3 Institutional Arrangements: Structures within councils significantly influenced planning processes and consequently the quality of plans.

F.2 Assessing the Intergovernmental System

F.2.1 Mandate design: When key provisions in the mandate are clearly understood, councils' capability to plan increases and higher quality plans are produced.

F.2.2 Implementation Efforts: A co-operative mandate requires strong leadership from central government in order to ensure that councils have the capability to implement the national mandate. Strong implementation effort results in higher quality plans.

F.2.3 Relations between Regional and District Councils: Regional and district councils are required to work together in partnership. Effective partnerships have been slow to develop.

Recommendations: There are major problems in the NZ environmental planning system, with the two main areas requiring improvement being organisational factors being: local capability to produce good plans and central government's mandate design and capability building efforts.

R.1 Improve National Policy Framework for Sustainability

R.1.1 Review National Framework: Statutes and policies should ensure clarity of purpose and improve integration of planning at all levels.

R.1.2 Clarify Key Provisions in Act: Key provisions in legislation need to be clarified so that councils can incorporate them into plans and policies.

R.1.3 Develop National Policy Statements and Standards: Councils require guidance, via national policy statements and standards, in order to fulfil delegated responsibilities.

R.2 Build National Capability for Planning

R.2.1 Strengthen MfE: The lead central government agency needs to be strong and adequately funded to implement the legislation.

R.2.2 Build better Co-ordination at the Centre: The lead central government agency needs the mandate and resources to co-ordinate the activities of key central government and related agencies.

R.2.3 Provide Improved Support to Councils: The lead central government agency needs to be adequately resourced in order to be able to proactively support local government.

R.3 Integrate State of Environment Reporting — Monitoring and reporting has been limited, with many monitoring programmes weakly developed.

R.3.1 Develop Integrated SOE Monitoring Programme: Central government needs to develop an integrated monitoring programme. Monitoring should be carried out at the most appropriate level. Each level of government should be provided with information (regular reports) that will help them improve their monitoring.

R.3.2 Monitor Policies and Plans: Central government should regularly monitor the status of plans produced by local government and their organisational capabilities to implement them. Outcomes should be integrated into the SOE monitoring programme.

R.4 Develop National Programme to Build Local Capability

R.4.1 Continue Reforming Local Government: Many Councils with limited capacity produced poor quality plans. More effective units of local government should be created through voluntary amalgamation.

R.4.2 Assist Councils to Protect National Assets: Central government should provide financial assistance and in-kind relief to councils implementing plans and assorted methods aimed at protecting and enhancing nationally important assets.

R.4.3 Establish a National Education Programme: Central government needs to improve overall knowledge on how to create high quality plans, by describing best plan practices and explaining practical techniques for plan-making in councils.

R.4.4 Build a better Facts base: Sound data is required for policy development. The lead central government agency should co-ordinate the provision of methods, tools and data so councils can improve the facts base for planning and policy-making.

R.4.5 Evaluate Plan Implementation: Evaluation of plan implementation needs to be conducted to see if the anticipated outcomes are achieved.

R.5 Improve Plan Quality through Good Practice in Local Government

The eight key principles for achieving a good quality plan are expanded on in Ericksen, Chapman and Crawford (2003).

R.5.1 Improve Organisational Structure: An integrated feedback system assists in overcoming problems arising from the organisation of councils into functional divisions.

R.5.2 Improve Project Management: A clear understanding of what is required to produce good plans is necessary in order to manage the plan making process. Councillors and staff leading the plan-making project should be trained for the task.

R.5.3. Improve Professional Staffing: The number of planning staff was an important predictor of plan quality. Sufficient funds need to be allocated by councils to ensure the number and quality of staff are adequate and procedures are sound.

R.5.4 Improve Interpretation of Mandate Purpose: Councils need to understand the intent of the legislation and its relationship to other legislation early in the process. Activities which would help councils include support from the central government lead agency in the form of a buddy system, teams to work with councils at crucial stages and workshops for educating councillors.

R.5.5 Improve research and consultation: Central government needs to provide guidance to councils on how to undertake research and consultation.

[See Criterion 4- Facts Base in *A Guide to Plan Making in New Zealand* p.11].

R.5.6 Improve the organisation and presentation of plans: Organisation and presentation of plans needs to be improved, with councils given examples of best practice.

[See 6.0 The Art of Plan-Making, in *A Guide to Plan-Making in New Zealand*: p. 20-23].

PUCM Report 2: District Plan Implementation Under the RMA: Confessions of a Resource Consent. (April 2003)

Findings

- F.1 Implementation gap:** The quality of implementation was found to vary significantly across councils, depending on the capacity of council and plan quality. The lower the council capacity and plan quality, the greater the implementation gap. When capacity increases (e.g. through staff experience and training), the quality of implementation also increases.
- F.2 Traditional rather than innovative techniques:** Within low to medium capacity councils the range of environmental management techniques had not changed greatly since the *Town and Country Planning Act 1977*. Reliance on traditional measures, that tend to compromise achieving environmental values, can be attributed to a number of factors including:
- lack of central government guidance;
 - poor plan quality, particularly inconsistencies within plans, that give little direction to implementing staff;
 - time-lag between adoption of new concepts and techniques to implement them; and
 - limited council capacity to test, modify if necessary, and promote new environmentally robust techniques.
- F.3 Government culpability:** Without minimum national standards combined with serious and meaningful efforts to improve the capacity of local government, the anticipated environmental results articulated in district plans are unlikely to be achieved, unless non-plan methods have a significant and positive effect on the environmental outcomes.
- F.4 Capacity affects iwi/hapū participation:** The capacity of councils affected the extent of hapū and iwi involvement in implementing the plans. Only the highest capacity councils could afford to enhance capacity of local hapū and iwi to participate effectively in the consent process. There was little evidence of processes for hapū and iwi participation were being implemented, due in part to the issues of capacity of councils as well as lack of clarity surrounding the role of hapū and iwi in the consent process.
- F.5 Linking PQ and IQ:** Improving the quality of plans was found to improve their implementation as they gave better guidance to decision makers. High quality plans had internal consistency.
- F.6 Commitment to planning:** Indirectly, commitment affects implementation through its link to the direction and allocation of funding and resources, political priorities and the understanding of district planning processes. It may also be a factor in the highly variable levels of “information quality” found in consents. Consents may be granted without clear or detailed information due in part to pressures for time-compliance as commitment to economic growth prevails over environmental protection and enhancement.

Recommendations

- R.1 Build council capacity to plan:** Build council capacity to plan by:
- Having central government agencies: implement local government reform; clarify the RMA mandate, especially Part III; develop and implement national policy statements and national standards for Part II matters; provide low-capacity councils with resources to build hapū and iwi governance relationships and continue guidance and training on plan development and implementation.
 - Increasing the skills of staff (resource management, engineering, landscape and urban design, staff numbers processing consents), their experience and access to training and guidance.
 - Improving the transference of knowledge and guidance between policy and implementation by removing or bridging functional barriers between council units.

R.2 Improve Plan quality: by:

- Clarifying policies in plans, including providing greater guidance and clarity on the range of environmental management techniques available, through such methods as practice notes and guidelines.
- Increasing internal consistency within plans, including clearer links between policies and methods;
- Linking State of the Environment monitoring findings with next generation of plan policies;
- Improving the fact base, and in turn, the identification of important environmental issues and focusing policy development on priority issues (based on PUCM Phase 1);
- Clarifying relationships between plan methods and non-plan methods (e.g. best practice guides);
- Improving interpretation of RMA sections 6, 7, 8 (based on PUCM Phase 1).

R.3 Improve council relationships with iwi, by:

- Clarifying governance relationships between councils and tangata whenua;
- Promoting integration between regional and district authorities to accommodate iwi interests efficiently and appropriately.

R.4 Improve iwi participation in plan implementation, by:

- Building iwi capacity to meaningfully participate;
- Providing clear guidance and criteria to consent processing staff about when and how an application should involve iwi consultation.

R.5 Build commitment and capacity of councillors to constructively participate in RMA and LGA planning processes, by:

- Developing and implementing training and accreditation systems for newly elected councillors, as well as aspiring local government candidates.

R.6 Improve consent processes, by:

- Requiring higher standards of information in consent applications;
- Building capacity in consultants and RMA practitioners to implement district plans (particularly surveyors).

R.7 Improve the relationship between regional and district councils, including greater regional council guidance of, and provision of information to, district councils.

References Cited

- Backhurst, M., Day, M., Warren, T., Bennett, M., Ericksen, N., Jefferies, R., and J. Crawford (2003). *Evaluation of Hapū and Iwi Participation in the Resource Consents Processes of Six District Councils*, Hamilton and Opotiki: The University of Waikato, The International Global Change Institute (IGCI) and KCSM Consultancy Solutions Ltd, Māori Working Paper No. 2.
- Burby, R. and May P., with Berke, P., Dalton, L., French, S. and E. Kaiser (1997). *Making Governments Plan: State Experiments in Managing Land Use*, Johns Hopkins University Press, Baltimore.
- Day, M., Backhurst, M., and N. Ericksen, et al. (2003). *District Plan Implementation under the RMA: Confessions of a Resource Consent*. Hamilton: The University of Waikato, The International Global Change Institute (IGCI), Second PUCM Report to Government.
- Ericksen, N. (2003a). *Planning Paradise with the Cheshire Cat: Governance Problems under the RMA*. A Key-note address to New Zealand Planning Institute Conference, Hamilton, 23 May 2003.
- Ericksen, N. (2003b). *The Legend of the RMA: A Trilogy*, Invited address to Bright*Star RMA Conference, Wellington, 24-25 September 2003.
- Ericksen, N., Berke, P., Crawford, J., and J. Dixon (2003). *Planning for Sustainability: New Zealand Under the RMA*. Hamilton: The University of Waikato, The International Global Change Institute (IGCI has distribution rights for New Zealand.) Book also published by Ashgate (UK) as *Plan-Making for Sustainability: The New Zealand Experience* (March 2004). Aldershot, England.
- Ericksen, N., Chapman, S. and J. Crawford (2003). *A Guide to Plan-Making in New Zealand: The Next Generation*. PUCM 1 Guideline, January 2003. The International Global Change Institute, Hamilton.
- Ericksen, N., Crawford, J., Berke, P. and J. Dixon (2001). *Resource Management, Plan Quality and Governance. A Report to Government*. Hamilton: The University of Waikato, The International Global Change Institute, First PUCM Report to Government.
- Laurian, L. and Day, M. with P. Berke, N. Ericksen, M. Backhurst, J. Crawford and J. Dixon (2004). Evaluating Plan Implementation: A Conformance-Based Methodology, *Journal of the American Planning Association*, 47 (4), forthcoming.
- Local Government New Zealand (undated). *Local Government NewZ: The Latest from Local Government New Zealand*. Wellington: LGNZ.
- Local Government New Zealand (2000). *Devolution – Fact or Fiction?* A report on the extent of new functions and costs acquired by local government since reform in 1989, Wellington: Local Government New Zealand.

- Local Government New Zealand, SOLGM and Department of Internal Affairs (2003). *The Knowhow Guide to Decision Making under the Local Government Act 2002*.
- Jefferies, R., Warren, T., Ericksen, N., Berke, P., Chapman, S., and J. Crawford (2003). *Iwi Interests and the RMA: An Evaluation of the Quality of Plans and Processes in Councils*, Hamilton and Opotiki: The University of Waikato, The International Global Change Institute (IGCI) and KCSM Consultancy Solutions Ltd, Māori Working Paper No. 1.
- May, P., Burby, R., Ericksen, N., Handmer, J., Dixon, J., Michaels, S., and D. Smith (1996). *Environmental Management and Governance: Intergovernmental Approaches to Hazards and Sustainability*. London and New York: Routledge.
- Neill, B. (2003). *Reflections on Relationship-building between Tangata Whenua and Local Government: Notes from Research and Practice*, Hamilton and Opotiki: The University of Waikato, The International Global Change Institute (IGCI) and KCSM Consultancy Solutions Ltd, Māori Working Paper No. 3.
- Wilson, V. and J. Slater (2003). *A Guide to the Local Government Act 2002*. Wellington: Brookers Limited.



. I . G . C . I .

International
Global Change
Institute

THE INTERNATIONAL GLOBAL CHANGE INSTITUTE
TE WĀNANGA O NGĀ RERE KĒTANGA-A-TĀIAO

THE UNIVERSITY OF WAIKATO
PRIVATE BAG 3105, HAMILTON
NEW ZEALAND

PHONE: +64 7 858 5647; FAX: +64 7 858 5689
EMAIL: igci@waikato.ac.nz
WEB: www.waikato.ac.nz/igci



A FRST-funded Research Program
on the Quality of Environmental
and Community Planning and
Governance in New Zealand

Published by

The International Global Change Institute
University of Waikato
Hamilton

1 June 2004

PUCM Team Leader (Neil Ericksen, IGCI)

- Objective 1 RMA plans (Jan Crawford, Planning Consultants Ltd, Auckland)
- Objective 2 LGA LTCCP (Ali Memon, Lincoln University)
- Objective 3 Environmental Outcomes for Maori (Richard Jefferies, KSCM Solutions LTD, Opotiki)
- Objective 4 Practice Development (Tom Fookes, Auckland)

Support Team: Phil Berke (UNC), Nancy Borrie (Lincoln), Sarah Chapman (Lawrence Cross Chapman), Nathan Kennedy (IGCI/KSCM), Peter Kouwenhoven (IGCI), Lucie Laurian (U.Iowa), Gregory Mason (IGCI), Claire Gibson (IGCI).

