
AUCKLAND UNITARY PLAN

Report To: Unitary Political Working Party

Report Name: Regional consistency and local variations

Executive Summary

This report is one of five direction setting papers for the Unitary Plan.

The issue being addressed is the value that will be placed on having consistent or uniform standards for like activities across the region, compared to the current approach in district plans which provides for a multitude of different standards (or local variations) in different local areas.

In the context of this paper, regional consistency means the development of a plan that uses generic provisions (such as standard zones and overlays, development controls and region wide rules) that can apply consistently across the entire region or to a range of circumstances within the region.

Regional consistency does not mean consistency in outcomes on the ground. Rather it is an approach to identifying minimum standards of performance for the like activities. For example a building height of 8m might be identified as acceptable standard for assessing applications for two storey dwellings in a conventional residential zone. This does not mean that all two storey dwellings will look the same, rather than that 8m is considered an acceptable and reasonable standard for achieving the objective of maintaining a low rise character in residential neighbourhoods.

The use of consistent standards is more equitable, it will provide certainty for the development industry and it potentially can reduce the volume provisions in the Unitary Plan.

Local variation is a “bottom up” approach that would create a mosaic of different area or “place based” provisions across the region; and in some cases could apply on a site by site basis. In this model the Unitary Plan would compromise specially designed provisions for a multitude of local areas.

The paper concludes that both regional consistency and local variations will be required in the Unitary Plan. Where appropriate, regional consistency should be achieved to reduce the volume and complexity of the plan; to create greater equity by applying the same provisions for the same activities (regardless of location); and to increase certainty about what will be expected when applying for a resource consent. Local variations are likely to be required to protect the distinctive character of local areas, however it will be important that a strong strategic justification is provided for more restrictive (or liberal) controls so that a plethora of local variations is not created for relatively minor differences in character, scale and intensity.

Recommendation/s

- a) That the report be received
- b) That the Unitary Plan Political Working Party supports Option 3 - Regional consistency with local variations where these have been strategically justified on the basis of predetermined guidelines.

Context

Council has agreed that the Unitary Plan (hereafter referred to as “the Plan”) will be a fully combined plan under the Resource Management Act. This means it will contain regional (or region wide) provisions in the form of a regional policy statement and regional plans, as well as local provisions in the form of a district plan. Council is also required to prepare a spatial plan for Auckland (the Auckland Plan) which will include strategic directions for the long term growth and development of Auckland. The Auckland Plan will provide a basis for aligning Council’s implementation and regulatory plans so it is expected the Unitary Plan will play a key role giving effect to the Auckland Plan.

At the other end of the spectrum, there will also be a need for place or site specific provisions to control or manage unique locations or properties. Accordingly, the following discussion will focus on the continuum between regional consistency and local variation and identify circumstances where the Plan would benefit from a regionally consistent approach and circumstances where local variations would be the most appropriate or efficient way of managing specific areas or activities. The recommendations take into account the need to achieve the first and second order principles that have been adopted by the Council for preparing the Unitary Plan.

Relevant Issues

Keeping the plan ‘simple’ and avoiding repetition

In recent years district plans in Auckland have placed more and more reliance on “place based” provisions to give effect to local precinct plans (e.g. structure plans for green field areas and centre plans for town centres) and implement the aspirations of private plan changes. It is not uncommon to create special zones each time a green field development is proposed to extend an urban area. Many of these zones comprise objectives, policies and rules that are not significantly different from those in existing land use zones. The multitude of zones has also reduced the capacity to identify clear strategic directions and outcomes. The difference between zone provisions has become arbitrary and it can be difficult to identify the purpose of one zone compared to another, particularly in the case of residential zones.

At the same time district plans have become complex voluminous documents that are difficult to navigate and often contain provisions that are ‘tucked’ away in obscure parts of the plan and are hard to find. Most plans have unclear hierarchical structures and contain too much repetition and explanatory information.

A unitary plan containing a multitude of local variations would add to the volume and complexity of the Plan, requiring a repetition of similar provisions across the region and potentially different provisions for like activities in different areas.

The need for regional consistency

A unitary plan containing regionally consistent provisions would not only reduce the volume and complexity of the Plan, but would also allow the creation of uniform provisions for the same activities. For example, the objectives, policies and rules that currently apply to suburban residential development across the Auckland region vary considerably, yet the locations to which they apply and the outcomes the former councils were seeking were often identical. A similar situation exists for the management of rural land, development within town centres, industrial areas and so on.

A unitary plan containing regionally consistent provisions might also contain uniform standards for managing hazardous substances and contaminated sites; regulating advertising signage and car parking; and residential amenity outcomes such as privacy, overshadowing and access to daylight.

If the Unitary Plan is to be a far simpler document than pre-amalgamation there will need to be a considerable degree of regional consistency.

The need for local variations

Whilst there are significant benefits in establishing regional consistency, there is also a need to accommodate local variations to region wide rules and standards. For example, if the Plan contained consistent region wide provisions for suburban residential development, with uniform standards for building height, site coverage, front yard setbacks etc. there might be a need to vary these controls (for example by introducing more restrictive controls) to protect the character of a local neighbourhood or small town that is distinctly different from other areas. This could be reflected in the spacing of development, the form and scale of buildings and/or the pattern of front yard setbacks. Alternatively there might be a need for additional controls or specific urban design/character-based assessment criteria, to protect the unique character or architectural style buildings or minimise the loss of native vegetation cover across the landscape.

Where there are distinctive differences in character, or natural features or physical constraints that warrant a more prescriptive approach, then these should be protected or managed with the use of local “place based” provisions. Key sites and areas subject to significant growth and change may also warrant their own, customised set of planning provisions.

Local variations are a way of ensuring that unique or distinctive places are protected. However, it is essential to provide a clear strategic justification for these variations (preferably on the basis of pre-determined guidelines), so that a plethora of “place based” controls would not be created for relatively minor differences in scale, character and intensity. It will also be important to avoid a progressive increase in local variations over time, particularly through the private plan change process.

The use of place or site specific controls facilitates more detailed prescriptive provisions and this can create greater certainty of outcomes and greater certainty in the consenting process. However, a lack of uniformity in development controls can also create uncertainty and confusion about what is allowed in one area compared to another. This in turn can encourage litigation by applicants who consider that the differences in standards are unjustifiable and inequitable.

Options

Option 1 – Maximum regional consistency

This approach would take regional consistency as far as possible. It would maximise the use of generic zones, templates, codes and region wide provisions. It would reduce repetition of provisions for example by developing one set of objectives and policies for a particular activity that could be referred to in a number of zones or overlays that trigger a resource consent requirement for that activity.

Local variations would not be treated differently unless it was not possible to do otherwise (for example there was some legislative or special circumstances that required the use of place or site specific provisions).

There would be greater reliance on strategic directions in the Plan’s objectives and policies and there would be a greater emphasis on achieving locally appropriate outcomes through the consenting process.

Option 2 – Maximum place or site specific provisions.

This approach would take ‘placed based’ variations as far as possible. It would contain a multitude of local provisions and very few areas in the region would be treated the same. Provisions would be built from the ‘bottom up’ by a mosaic of finely grained provisions that reflect every nuance or change in character, intensity and scale.

Development in each local area would be controlled by detailed provisions that would provide a high level of certainty about expected outcomes. Because there is such a high level of prescription, there would be less reliance on strategic directions in the objectives and policies in the Plan and the consenting process would become more of an administrative exercise.

Option 3 – Regional consistency with local variations where justified by strategic direction

This option cuts across Option 1 and 2. The aim would be to achieve regional consistency but the Plan would be structured to accommodate local variations where there is a strategic justification to vary the region wide provisions. The Plan would make use of standard provisions (much the same as Option 1) however it would introduce a 'layer' of control that would allow place or site specific controls to override the regionally consistent provisions.

This option would avoid a proliferation of local variations by requiring a strong strategic justification for departing from the standard provisions. For example if a particular neighbourhood was characterised by large lot sizes and a heavily vegetated landscape, there could be some form of overlay control that applies more restrictive controls on lot size and removal of vegetation. Each overlay would manage a particular issue or group of issues so that variations would be justified and the exercise of discretion would be restricted to the subject matter of that overlay.

Clear criteria would need to be used to assess the current (and future) character of an area against the strategic outcomes of the Auckland Plan (or statutory requirements where applicable) in order to allow or disallow local place based variations to the regionally consistent provisions.

Evaluation of options

Option 1: Maximum regional consistency

Benefits/Advantages	Costs/Disadvantages
<p>Would allow the creation of a plan with a clear hierarchical structure. This would assist in maintaining the structure and integrity of the Plan when future private plan changes are prepared.</p> <p>The Plan would be short, simple, transparent and easy to understand which maximises the principle of being 'bold, simple and innovative'.</p> <p>The cost of the preparing the Plan would be minimised.</p> <p>There would be opportunities for developers to innovate and achieve different outcomes provided they are consistent with strategic objectives and policies.</p> <p>Decisions made by the courts (interpreting the plan) can be widely applied across the region. This will increase the efficiency and effectiveness of the court process.</p>	<p>Community concern over loss of local character if there was no capacity to introduce local variations to the standard provisions.</p> <p>Savings in the cost of the preparing the Plan could be outweighed by the number of appeals and cost of litigation due to lack of recognising local character.</p> <p>This approach would not pick up on many of the requests for "place based" planning that are encouraged through other plan preparation processes such as area plans, precinct plans and local board plans.</p>

Option 2: Maximum placed or site specific provisions

Benefits/Advantages	Costs/Disadvantages
<p>Every permutation of local character, scale and intensity would be accommodated.</p> <p>There would be certainty of outcomes within the confines of a local area.</p> <p>Local communities would be able to see that their local area had its own tailored suite of planning provisions in the Unitary Plan.</p>	<p>There would be no consistency in standards which could vary on a neighbourhood by neighbourhood basis across the region.</p> <p>The Plan would be voluminous and potentially complex as it would be difficult to create a hierarchical structure that is transparent and easy to navigate.</p> <p>The Plan would take many years to complete and be at a significant cost.</p>

	<p>A lack of uniformity in standards could result in inequities and uncertainties, as opportunities may be different between areas that are generally similar. It can also compromise the efficiency and effectiveness of the courts as it limits their capacity to create precedent decisions that can be widely applied across the region.</p> <p>The approach is contrary to the principles of being 'bold, simple and innovative'.</p> <p>Implementation of the Plan would be an administrative burden and could increase the cost of the resource consent process.</p> <p>It could be difficult to give effect to higher order strategic directions (such as the Auckland Plan) as every local area would potentially have different controls.</p> <p>A lack of uniformity could encourage greater litigation.</p>
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Option 3: Regional consistency with local variations where justified by strategic directions

Benefits/Advantages	Costs/Disadvantages
<p>Would allow the creation of a clear hierarchical structure.</p> <p>The Plan would be relatively simple, transparent and easy to understand, which pursues the principles of being 'bold, simple and innovative'.</p> <p>Unless otherwise affected by an overlay with more restrictive controls, there would be opportunities to innovate and achieve outcomes that are consistent with strategic objectives and policies.</p> <p>Local differences can be accommodated without compromising the structure, integrity and simplicity of the Plan.</p> <p>Would make it easy to implement the strategic directions in the Auckland Plan</p>	<p>As has happened with existing district plans, there could be an ongoing community demand (or request for private plan changes) for place or site specific controls which could ultimately overtake or dilute the benefits of regional consistency.</p> <p>Care would need to be exercised that local variations were accommodated in a rational and consistent way so that the hierarchy of the Plan remains clear and easy to navigate.</p>

Summary of evaluation

The first and second order principles adopted for the Plan focus on producing a plan that is simple, relatively short and easy to understand and use. An assessment of the three options indicates that Options 1 and 2 would not achieve this outcome. These options would create difficulties giving effect to higher order strategic objectives in the Auckland Plan and they could create social and economic inequities if some areas are treated differently (and potentially unfairly) compared to others.

Option 1 is attractive in that it will allow for the creation of a simple easy to use plan. The greatest downfall of this option is the capacity to accommodate local variations. This would not reflect the 'real world' or strategic planning support for place based provisions in some locations.

Option 3 adopts the advantages of both Options 1 and 2. It allows for the development of a plan similar to that envisaged in Option 1, but provides for the use of local variations where there is a strong strategic justification for departing from the standard provisions. Local variations can be accommodated without creating unnecessary complexity in the Plan and potentially compromising simplicity of the structure.

Implementation Issues

The recommended approach will require further research to establish the existing pattern and character of development throughout Auckland; and to determine the extent of differences and the need for local variations. There is a substantial amount of data available to do this work including the use of aerial photography, existing regional and district plans and Council's GIS system, however it will also require a survey of existing urban areas to identify patterns of development and differences in character.

Attachments

Appendix A – Unitary Plan: Core and Second Order Principles

Signatories

Author	Raewyn Catlow, Team Leader Unitary Plan
Authorisers	Phill Reid, Manager Unitary Plan

Guiding Principles

The Unitary Plan will be developed in accordance with the following principles:

Core Principles:

- **Bold:**
Explore options and don't be constrained in early thinking.
- **Innovative:**
Be innovative in approach to the development of the framework and toolbox, rather than constrained by past practices.
- **Simple:**
Keep in mind the end-user.
- **Fast:**
Remain outcome focused, avoid distraction, and keep driving towards delivery.

Second Order Principles:

- **Give effect to the strategic direction of the Auckland Plan.**
- **Outcome focused:**
The Plan will focus on outcomes for the region while reflecting the needs and characteristics of different communities.
- **User friendly:**
The Plan will be user friendly, easy to understand, and have a clear, consistent flow. This includes: use of plain English, intuitive flow and navigation, consistency in formatting and use of text, maps as key entry points into the Plan, use of overlays to accommodate specific matter. It will also have minimum repetition and better cross referencing.
- **Transparency and collaboration / consultation:**
The Plan will be developed adopting a transparent and collaborative approach and reflects the unique characteristics of Auckland Council's co-governance structure, while also recognising the core principles above.
- **Defensibility / robustness:**
The Plan will be a robust and defensible, evidence-based plan.
- **Ensure planning burden is proportionate to planning gain:**
Planning provisions are reflective of and proportionate to the activity.
- **Activity statuses and notification:**
 - Clarify the circumstances under which each activity status is to be used and minimise, where possible, the use of some activity statuses.
 - Increase, where possible, the use of provisions in the plan that predetermine the level of notification necessary for any application.
- **Minimum content as required by the RMA:**
For example, the objectives, policies and rules for the regional and district plan components, but with additional information such as the statement of issues, or monitoring strategy sitting in a separate document.
- **Greater use of illustrations and diagrams:**
But not to the detriment of significantly increasing the length of the document.
- **Reduce the number of site specific provisions.**