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# **An Anthropological Investigation of Urban Land Development**

A thesis presented in partial fulfilment of the requirements  
for the degree of M.A. in Social Anthropology at Massey University

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Anthropological research depends on human interaction and cooperation. This thesis would not have been possible without the generous assistance of all research participants - developers, Council Officers, neighbours - who offered time and effort to the project, but, due to promised anonymity, remain nameless.

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## Abstract

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The impetus for this project came from examples of neighbours' disempowerment in the land and property development process. There is a growing academic consensus that dominant approaches to land development fail to adequately address this issue. NeoMarxist approaches focus on conflict, power, and exploitation, but effectively eliminate the role of the actual developer in exercising power. Case study approaches, on the other hand, have been concerned with conflict and disempowerment, but have focused on specific instances of neighbourhood opposition and resistance. Explanation is often confined to local and national features of the social and geographical environment. These inadequacies pointed to the need to investigate the increasingly significant role that professional, entrepreneurial developers play at the nexus of the contemporary development process.

An ethnographic methodology was used to provide a richer understanding of the land and property development process. The principal participants in the study are a set of 'entrepreneurial developers' operating in and around Palmerston North. Interviews, participant observation, and the examination of case studies are employed. This is complemented by an investigation of the Regulatory Procedure, including interviews with Council Officers, and examination of Council case studies. The research also uses interviews with neighbours, and a wide body of material published within the development industry. Planning for the study drew on Giddens' 'Theory of Structuration' (1979,1984) which stresses the *interrelationship* between the *social structures* of the development process, and the *agency* of developers. The research sought to elucidate the dominant forms of action and ideology which development agents acknowledge, and which therefore constitute the action and ideology of the development industry.

The interpretation of the empirical data uses three interrelated perspectives: The first, provides a broad, industry-level, perspective on the local development industry. It asks, 'What are the major influences which shape and structure the contemporary development industry?'; The second, examines the level of *action*. It asks 'What are the actions of most significance to developers?', and 'What forms of conduct constitute the Institutional structures of the Regulatory Procedure?'; The third focuses on *ideology*. It asks, 'What are the dominant motivations which direct and influence developers' conduct?', and 'How do developers legitimate and rationalise conduct?'

An interesting aspect to the thesis is the extent to which developers share patterns of ideology, not only with each other, but also with a wider business community. Much of this characteristic ideology parallels findings in other ethnographic studies of capitalistic systems. The research highlights the fact that ethnography, and the notion of 'culture', provide an insightful and useful perspective of both the business world, and the study of development.

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## Introduction

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No research process is neatly schematic or follows a logical or consistent direction, however much this impression is conveyed. Anthropological research is particularly difficult to represent as an ordered pattern of controlled events. The purpose of this introduction, therefore, is to stress the *evolution* of this thesis as a process of research. The aim is to observe how the thesis developed through a series of intersecting influences, in particular: an ongoing examination and awareness of previous research and development literature; the ongoing accumulation of knowledge from various sources, and the continual redirection this provided; as well as personal evolution and changing appreciations.

### **Starting Out**

The impetus for this research was a personal experience. This was the shocking discovery, made on returning home after work one Monday evening, that the developer who had recently purchased some neighbouring properties, had entirely stripped this land of trees and vegetation, including a massive Californian 'big tree', over one hundred years old. The family's feelings of shock and bewilderment were quickly accompanied by incredulous anger. These feelings were reaffirmed as neighbours popped in that evening and over the following weeks.

The subsequent months witnessed a number of heated exchanges over the fence. The assertions and rationalisations offered by the developer didn't make reasonable sense to us, and our arguments of neighbourhood values and common decency were typically ridiculed. We were often in a position to discretely eavesdrop on private conversations from over the fence - these being quickly relayed to the family and to our neighbourhood friends. Our own selective adjectives must also have been overheard by the developer or his employees. This deliberate, and semi-deliberate communication did little more than entrench already polemical positions.

The family and neighbourhood were not the type of people to be regarded as passive victims. It was clear from the outset however that nothing could be done to undo the physical 'destruction' already inflicted on the neighbourhood environment. The progression of the development over the subsequent months became marked by the escalating imposition of the development, not just into 'our' environment, but also upon our general sense of wellbeing. As we sought to question these actions, and the possibilities for stemming further encroachments, we were continually confronted by the powerlessness of our situation. There was nothing we could do, and we had no way of contributing to the development decisions being made. Gradually the family and neighbourhood has settled into a sense of resignation.

It also became clear that this was not an isolated experience. Friends, colleagues, and acquaintances generally reacted with sympathetic outrage to my story, but were not entirely surprised. A number of people offered similar stories and experiences. It

appeared that 'developers' suffered a general stereotype and were widely regarded with suspicion and hostility in much the same way as politicians, car salespeople, or real estate agents. Certainly, my own initial characterisation of events has contributed to this general perception. The commonality of my story also suggested that there was something fundamental about the 'system of development' within New Zealand. At this level it appeared that my experience was symptomatic of capitalist greed, and the inevitable product of a social system of organisation (or disorganisation) that was fundamentally faulty, and privileged some (particularly developers) at the expense of others (particularly neighbours).

This intimate experience framed my particular prejudice of 'the development process', and was the catalyst of my own methodological and theoretical pursuit of land development processes. 'Power' appeared to be the central and dominant theme in urban land development processes, and thus, for the study of these processes. In one sense, it was clear that developers 'exercised power' in different ways. In another sense, I was aware of the institutionally defined power of the development process, in that developers were generally supported by the law, and by an industry of development agents with shared beliefs and ideas about constructing the built form. Urban development was also an issue of 'powerlessness', and of 'respectful resignation' (Bourdieu, 1984). To me this represented urban land development as an issue of justice and injustice. Useful research into urban development processes then, would seek not only to focus on the issue of power, and its differential distribution, but would also be informed through a sense of justice, and would seek mechanisms through which the 'injustice' of the development process could, not only be identified, but overcome or avoided.

### Preliminary Research

These experiences of the development process lead to an initial research project focused on conflict at the urban development site which has become the exploratory study for the current research. I approached this preliminary research through an analogy to the practices and experiences characterising nineteenth century European colonial expansion and as consistent with the 'logic' of capitalistic expansion. The aim here was to view these situations of urban land development as the 'process of colonisation turned in on itself', or, that "This time there are no 'new frontiers', no virginal lands for capitalist colonisation that could offset the social and political consequences of global polarisation" (Miyoshi, 1993:371). In essence, the project sought to identify the similarities and dissimilarities in the exercise of power characteristic of these 'periods of capitalistic expansion'. This approach appeared to offer much potential, in regard, particularly, to the questions of: 'What lessons could be drawn from our progressive understandings of colonial processes that might inform a basis of practical resistance, or a theory of praxis, against the excesses of the urban development process?', and; 'Could understanding of colonial processes be more usefully understood, or indeed, demystified, with reference to the physical reality of our own backyard?'

The research task involved the location of three sites of urban development involving conflict, and focused on two 'categories of agents'; neighbours to development, and; the agents developing land. Primarily through interviews and observations, I sought to establish the dominant feelings, beliefs, ideas and ideology, as well as the actions that these individuals had taken and the reasons for these actions, or, indeed, lack of action. This empirical task was guided by the documented experiences of, and subsequent writing about, the process of nineteenth century European colonisation of New Zealand. A number of theoretical orientations were implicated in the study - World System Theories, Marxist analysis, and the functionalist anthropology characterising the colonial period. In particular I was interested to situate the research within the broadly defined academic domain of 'post-colonial writing and criticism'.

In general the project produced interesting comparisons, and was particularly useful in stressing the significance of the continual recreation of capitalist hegemonic authority within ever-expanding fields of operation, the latest of which being truly global in character (a comprehensive analysis is presented in Coles, 1997). In many respects the project pointed to the validity of Harvey's claim, that "these changes (in the contemporary global condition), when set against the basic rules of capitalistic accumulation, appear more as shifts in surface appearance rather than as signs of the emergence of some entirely new post-capitalist or even post-industrial society" (Harvey, 1989: vii).

The methodological framework of the project provided a constructive vehicle for the current research, and enabled a number of useful insights into the process of urban land development. The research revealed that certain abstract properties were applicable to both 'processes of expansion', and that, in some cases, differences could be merely identified in the manifestation of these abstract properties in local and specific situations. Particularly evident were certain similarities between the expressed ideas and ideology of European colonisers (particularly 'development agents' such as colonial New Zealand's foremost entrepreneurs, the Wakefields), and the 'developers' interviewed during this project. Not only were notions of 'wasted land', 'progress', 'efficiency', and 'individual self-preservation', common to both periods, but also the manner in which 'the colonised' (those groups imposed upon) were subject to structurally circumscribed conceptualisations, that they were always 'other' to the 'colonising developers', and that this representation served in the interests of developers' power within both historical contexts. These features appeared to me, to be symptomatic of the process and logic of the progressive expansion of capitalistic hegemony, and the social relations characterising this mode of production. An important aspect of counterhegemonic struggle therefore, is to debunk these dominant conceptualisations.

The research also pointed to the complexities of conflict situations. Conflict was not simply a matter of land rights and use, but involved conflicting processes of identity construction. For a number of the 'neighbours' involved in the study, conflict was not

only a physical imposition, but was accompanied by an emotional imposition on a sense of individual and social identity and wellbeing, developed through historical processes relating to the immediate physical environment. And, while the profit motive appeared extremely important to developers, the process of development also involved issues of identity for developers. The research also reaffirmed the powerlessness of neighbours, and suggested that this powerlessness, and thus the power of developers, had a great deal to do with the regulations and bureaucracy of the state and local government. The research was also able to identify a number of similarities between the actions of developers within situations of conflict, characteristic of both historical periods.

It became apparent from the project that this particular methodological framework was also limited in its capacity to usefully explain contemporary development processes. While ideology was crucial to the exercise of developers' power over neighbours, this power was intertwined and inseparable from the level of actions. It also became apparent however that the range of actions undertaken by developers was beyond the conceptual capacity of the colonial analogy, and related to specific features of the contemporary condition. Also, conflict with neighbours was not necessarily a dominant concern to developers, and was better understood as one of numerous considerations in the development process. The project also indicated the significance of the regulatory procedure to the study of land development processes. To pursue these directions it would be necessary to step outside this methodological framework.

The research project served to increase my awareness of the complexities and ambiguities of land development processes, and their study. The significance of land development to almost every facet of human existence became increasingly pronounced to me, as did the prominent exposure development issues receive in the media. The project also made me mindful of the enormous quantity of literature and research, spanning numerous disciplines, devoted to the study of land development. As I made the decision to pursue the study of land development further, I sought inroads into this spectrum of existing work. The following section seeks to investigate this literature with a view to identifying its contribution to the development of this thesis.

### **Existing Research and Literature**

Any novice to the subject of land and property development is necessarily subjected to a hugely diverse, eclectic, and prolific collection of literary material. Works stemming from the fields of Marxist economics, public policy implementation, urban geography, and planning and estate management are significant to land and property development. Anthropology's contribution has been largely peripheral, but nonetheless significant, focusing on the effects of development actions, particularly for 'third world' or 'traditional' cultures and communities. Few attempts have been made to categorise and catalogue this literature (exceptions are Gore and Nicholson, 1991, Healey and Barrett, 1991), and these are necessarily selective. My own approach has, to some extent, been

unavoidably random, though it also reflects my own particular experiences with the development process (focusing on issues of conflict and power), my association with anthropology, and the particularities of development processes within New Zealand. Necessity has led me to identify three broadly defined, but dominant, structural themes: the neoclassical influence; the neoMarxist influence, and; the case study approach (in which anthropology is implicated). The following discussion seeks to present a sense of my exploration of this research, and the advantages and disadvantages of each dominant influence.

### Neoclassical influence

The most significantly widespread and prolific influence on existing and ongoing research and material focused on the process of land development has been that of neoclassical economics. Underlying this approach is the simple neoclassical model of the market, whereby demand is translated into supply with the various agencies involved in development working collectively to provide development at “the right time, in the right place, at the right price” (Lichfield and Dabin-Drabkin, 1980). This basic model of equilibrium underlies most of the available real-estate literature (Harvey, 1981, Fraser, 1984, Rose, 1985), and is the foundation of regular reportage in real-estate literature and commentary, as well as a number of property journals (i.e. the *N.Z.I.V. Property Digest*, and *Ernst and Young Sectoral Review*).

Stemming predominantly from the neoclassical tradition are works designed as introductions to property management and investment (Ring and Dasso, 1981, Christiansen, 1989:1, Nourse, 1990, Cadman and Topping, 1995, Gibson and Gray, 1996). While these works may inform a wide range of interests, their dominant intent is to present development agents with a range of basic skills and actions conducive to success in the development industry. Indeed, this is the specific aim of a number of texts (Leinberger, 1993, Soens and Brown, 1994). These works provide a useful introduction to the available strategies employed by development agents as they seek to achieve their aims. Generally however this approach is basic, formulaic, and idealised. While it offers insights into how developers *should* respond, it fails to identify how a diverse range of development agents *actually* respond to a rapidly and perpetually changing industry and social environment.

Another dominant approach characteristic of the neoclassical influence has been to dissect ‘the process’ into its constituent events (Miles et al, 1991, Goodchild and Munton, 1985). This approach is useful in examining the necessity of certain actions and processes within any development process. It offers a means to assess how different agents can enter and influence the development process at different stages. The conceptual failure of these approaches is that no development process tends to be the same. Indeed, within the current environment, the order in which various ‘stages’ are negotiated, and whether

various 'stages' require negotiation at all, is different, depending on the developer, and the particular development project. A useful application of this conceptual approach is that it provides the means to identify potential 'blockages' to development activity (Healey, 1991:223). In this capacity it is useful in formulating potential mechanisms of resistance.

In a number of instances the approaches above were combined with the insights and experiences of actual development agents (Miles et al, 1991), and, as Miles (1991:314) claims, "their perspective on development is especially valuable because they have lived the process described at a time when development has become more difficult to undertake profitably and their insights can help put the development process in human terms". The use of these examples highlights practical observations of developers' actions when faced with specific concerns. However, these tended to be oriented around single, and specific, case-studies, and are generally selected to represent the theoretical discussion, rather than providing a point from which theoretical observations can be made. Related to this approach are a number of books which effectively function as biographical accounts of 'successful' or prominent development agents, either prior to the '87 crash (Jones, 1978), or as postscripts to the development industry (Newland, 1994, Goobey, 1992). While these approaches seek to inform potential development agents of effective strategies for development success, they are specific to the environment in which they were written, and are not necessarily a useful guide to the strategies employed by developers within modified, and continually changing environments.

Neoclassical approaches have largely viewed the effects of conflict and neighbourhood opposition as impositions on the logic of supply and demand. This has been a significant conceptual failing of the neoclassical paradigm but it also appears to be implicated as the moral basis for an expanding body of work designed to inform developers of strategies in overcoming or avoiding conflict with communities or neighbours (Dear, 1992). The neoclassical influence tends to regard conflict as an unfortunate obstruction on market equilibrium, and thus something to be 'got past'. These texts are largely designed as manuals for developers', as "a pragmatic look at community relations strategies that developers can use in the real world of land use and development" (Stein, 1992:ix). The Urban Land Institute's *Working with the community: a developers guide* (1985) is the epitome of this approach, offering a variety of case studies of 'successful' approaches. These texts offer a general insight into the available strategies and options for developers; 'establishing a positive image', 'strategies for gaining support' and 'overhauling the regulatory system' are common themes. The conceptual disadvantages of these books derive, in part, from their basis in American and British case studies. It is clear that local specificities, particularly New Zealand's regulatory system, impact significantly on the strategies available to developers as they negotiate community opposition. A related approach has been those that attempt mediation by stressing the compatibility of values and ideologies among groups implicated in development conflict (Anderson, 1997, Beall, 1997). While these approaches to development and conflict rightly stress the benefits for

everybody in resolving development conflict, they fail to adequately approach the issue of differential distribution of power among groups implicated in development conflict. These approaches also recognise that conflict can be 'resolved' without reference to class struggle or exploitation, although Marxists might argue that it is precisely because of this lack of reference that conflict is overcome and that capitalist development agents are able to continue to extract capital from the construction of the built form.

The role of the state tends to be neglected in works stemming from a neoclassical influence. The notable exception to this tendency has been work from public sector officials concerned with the manufacture and implementation of state policy within a rapidly changing, and increasingly 'economically preoccupied' environment. Healey (1990), Solesbury (1990), and Edwards (1990) have been instrumental in this regard. In New Zealand, a preoccupation with the Resource Management Act has focused attention on the role of local authority, community participation, and flexible state apparatus (Ministry of the Environment, 1988, Cox, 1996). A wide range of Council produced information is also available in New Zealand. Much of this literature tends to focus on development and demographic patterns, although it also provides a practical indication of particular local government policy and direction. This information is complimented by Regional and National studies from the New Zealand Department of Lands and Surveys (see bibliography for references).

#### NeoMarxist influence

A second dominant influence to the study of land development processes derives from a Marxist tradition. This dominant theoretical framework has been useful in confronting some of the conceptual concerns related to the neoclassical tradition. However, it also raises new concerns, and emphasises certain conceptual failings typical of both neoMarxist and neoclassical approaches. The neoMarxist influence has been particularly helpful in its capacity for, and orientation toward, critique. This has focused attention on the issues of conflict and power within the land development process.

NeoMarxist approaches have been useful in observing land development within the social context characteristic of the capitalistic system. Land development is regarded as one of the total activities that are subject to the capitalist mode of production. The dynamics of the urban land nexus is viewed as a total system that follows the logic of capitalist society (Ambrose and Colenutt, 1973, Scott, 1980, Ball, 1983).

A significant approach deriving from the neoMarxist influence has been to document and identify the uneven land use patterns characteristic of capitalist society (Dear, Scott, 1981, Cox, Johnson, 1982:15, Cox, 1982). A dominant feature of this critique has been the observation that capitalist development is highly concentrated and spatially uneven (Cox, 1982:232). This approach has also emphasised the cost for communities of this

specific spatial pattern (Cox, 1982). Wellman's (1983:63) study of personal networks, for example, reveals not only the limited number of residents actively involved in concern about their local environment, but also links this directly to the capitalist production of the built form.

The neoMarxist approach has often regarded conflict as endemic to the urban development process as it unfolds in capitalist societies, stressing the inherent incompatibility between the capitalist development process and the maintenance of community relations (Mollenkopf, 1984). These approaches appear related to the theoretical perspective offered by both Durkheim and Marx (in Sayer, 1995:81) that the development of an advanced division of labour necessarily corrodes community, or *gemeinschaft*, relationships. Harvey has been instrumental in the development of this body of work, observing that "most (fixed assets) were created in a past era and reflect the technology, taste, norms, production needs, and the like, of a former society. There is thus a continuous state of tension between the spatial organisation of society (which is made up of increments of assets each created in its own era) and the form of spatial organisation demanded by the new social order emerging here and now" (Harvey, 1972:1). The claim here is that there is always a fundamental contradiction between community relations established around the built form of a past era, and developers' attempts to stimulate profit from the reproduction of the built form. These approaches have been useful in focusing attention on the inherent potential for conflict resulting from the capitalistic social structure.

NeoMarxist approaches have largely observed the role of the state as a required intervention in the capitalist development process, and as necessary to overcome the fundamental contradictions and conflicts in the capitalistic development system (Mollenkopf, 1984, Smith, 1992). This premise has contributed to a tendency in neoMarxist approaches (particularly those deriving from dependency and world-system theories) to view the state in instrumentalist terms. This is to say that "the dominant economic groups are assumed to control the state and to use this control to further the economic interests of their own class" (Timberlake, 1987:55). A quantity of empirical research has informed this view. Thornley (1991) for example, has observed and documented the coherent attack on the nature and role of the planning profession as a symptom of development processes within capitalistic societies, and the simultaneous tendency for once-community based decisions, to become exclusive to the role of the state. The failing of this approach has largely been its tendency to view the reorientation of the state as inevitable, avoiding the complex processes through which relationships of power are reoriented and reproduced. A related and similarly critical approach has been to redirect the primary focus to the role of the state. Barlow (1995) has been useful here in showing the relationship between a country's dominant forms of political organisation and the nature of participation in the planning and development process.

NeoMarxists have generally taken a simplistic approach to the role of development agents. The basic tenet here, is that while land is developed by dominant actors and firms, these actions are determined through market mechanisms characteristic of the capitalist mode of production in which profit-making is the basic motivation. Two theorisations characterise and dominate neoMarxist approaches to agency. The first, Harvey's (1978) theory of 'circuits of capital', is fundamental to the neoMarxist influence and reveals the money movement among commodity productions, the development of the built environment, and investment in science and technology and social expenditure. Harvey's approach provides a way of identifying how the dynamics of the mode of production 'drive' the processes through which the built environment is produced. Harvey argues that the primary factor through which agents are bound into structural relations is through paths of capital flow, through 'resources' (Healey, Barrett, 1990:93). The second dominant approach to agency has been the notion of the real-estate class monopoly. Smith and Roweis (1981:132) have epitomised this notion: that "In the urban context the main interest group is seen as emerging from a coalition between finance capital (banks, trusts, companies, etc) and the real-estate interest (developers, construction companies, landlords, etc). This coalition acts as a 'class monopoly'...that rapes and dehumanises the City, all in a merely pecuniary interest..." (as well, see Logan and Molotch, 1987 for a comprehensive political economic account, and Hall and McIntyre Hall's recent study of Detroit's New Centre Area). Both examples reflect the neoMarxist tendency to 'mould' the role of agency so that it reflects preconceived structural conditions.

While the neoMarxist approach attempts to account for many of the concerns neglected by the neoclassical influence, it fails to resolve the dominant conceptual concern related to the neoclassical approach. This, as Stanley (1996:2) observes of Harvey, is the "attempt to make the phenomena fit the framework capped by the announcement that the framework fits the phenomena". The concern here, is that regional, local, cultural, social, and political forces are more fundamental to the study of land development processes than either the neoclassical or neoMarxist approaches acknowledge. Recently this claim has been reiterated of New Zealand's experiences, Murphy et al (1997:165) arguing that "whilst the broad contours of the Auckland experience conform to trends found elsewhere, it is argued that the 'particularity of place' has an important role in aiding our understanding of the specific character of the office development process".

#### Anthropology, Community Studies, and the Case Study Approach

A third dominant influence within the existing research is to take a case-study approach to the study of development processes. This is where anthropologists, and ethnographic methodology, have had some contribution to the study of development processes. These anthropological contributions have complemented a range of other work stemming from a variety of academic disciplines and concerns. The following discussion examines, firstly, this anthropological influence, and then assumes a more general review of similar approaches.

Primarily, and until fairly recently, anthropology's contribution to the study of development processes has been confined to a focus on the impact of development processes on 'third world', or 'traditional' communities (Mathur, 1989, Mair, 1984). This tendency has been the subject of a number of criticisms from a variety of sources. An increasingly dominant concern is the "scant attention paid by anthropologists to the forms that development takes in the so-called 'developed' or 'industrialised' nations" (Abram and Waldren, 1998:i). Abram and Waldren's collection (1998) appears symptomatic of a growing body of literature within anthropology that attempts to counterbalance this predilection for the 'exotic'.

A further strongly articulated criticism of the traditional anthropological concern with the effects of development processes on communities of the 'third world' is not only that this research has been of no value to those being studied, but that it has actually been complicit with the maintenance of the hegemonic authority of development agents (Said, 1979, Escobar, 1995). The particular concern here is that this research has produced and maintained an ideology employed by development agents in establishing and maintaining their hegemonic authority. This observation and criticism has led to calls for a paradigmatic shift in the anthropology of development. A principal advocate for this change has been Escobar (1995) who claims that "...attention needs to be shifted to the institutional apparatus that is doing the 'developing'..." (Escobar, 1995:107). Not only does Escobar note that this emphasis has been almost wholly neglected by anthropologists, but that it provides greater potential in developing a framework for effective resistance than previous approaches.

The great benefit of these ethnographic approaches has been their concern to avoid the conceptual determinism characterising the neoclassical and neoMarxist influences. The case study approach has tended to focus on diversity, culture, and the specificity of place, and has been useful in emphasising, as Smith and Tardanico (1987:89) claim, that "far from being mere epiphenomena of capitalism's structural logic; consciousness, politics and culture are essential forces in the construction and reconstruction of society and economy".

The same point has also been the basis for a dominant criticism of the case study approach. This is the failure to adequately recognise the development site as a 'geopolitical space' (Said, 1979). The concern here, as Gottendier (1985:265) observes, is that "When spatial organisation is discussed without reference to the social system processes which produce, sustain, and reproduce it, then places are seen to magically possess these same properties as reified features of space itself". Cox and McCarthy (1982:197) have also observed that "...neighbourhood activism, as a category of behaviour, is often interpreted by geographers as a politics of turf, or as an instance of locational conflict". The general criticism of the case study approach is that it has tended

to naturalise changes, explaining them as internal manifestations of cultural logic, rather than observing potential connections to the systemic form of development processes, and particularly to the structural shifts in the global economy.

However, case study approaches have been particularly useful in focusing attention on the expressed and complex values possessed by those groups being impinged upon by development processes. Bergua and Buil's (1998:79) study of perceptions of risk in regard to the construction of dam projects on the Esera River in Spain, for example, found "a complexity of ideas, values, concepts and sentiments expressed in symbolic terms", which (they) succinctly express in the term 'culturalism'. The useful practical application of this research has been as a counterbalance to the claims made about communities impacted on by development, by development agents seeking to justify their actions.

Conflict has tended to be a central and dominant theme in works stemming from the case study approach. This has derived primarily from a large body of work concerned with neighbourhood social movements and the practice of resistance to processes of land development. The collective findings of this body of work are diverse and are dominated by the identification of the social roots of local action (Ramsay, 1996, Mayer, 1984). Mayer (1984), for example, has documented the genesis of neighbourhood groups, responding to the threat of highways and urban renewal programmes in the United States. This has led to an emphasis on the diversity and differences in resistance strategies (Bell and Newby, 1971), rather than attempts to appreciate these movements in light of wider political and economic movements, and their compatibility with other mechanisms of resistance.

The relative failure of many neighbourhood and community strategies of resistance, and the documented decline in neighbourhood resistance, has led to an emphasis on identifying the reasons for this ineffectuality and decline (Fainstein, 1987, or the neoMarxist influences of Castells, 1987, and Ambrose and Colenutt, 1973). Fainstein (1987:328), for example, has identified: narrowness of issue; part-time leadership; cross-cutting cleavages; individual geographical mobility and; limited financial resources, as crucial factors in the inability for effective neighbourhood resistance. Ambrose and Colenutt (1973:182) have been critical of the 'parochial view' of community action and research: that "concern is with the workings of [the] property system in their own area, and not the system as a whole. They may also be dedicated to conservation rather than restructuring the system and are quite likely to be open to co-option by local authorities...[They are] likely to be transitory, lasting as long as it takes to achieve, or fail to achieve, a specific aim...[and] that successful community resistance in one area will simply export the problem to some area which is 'softer' from the developers standpoint". Increasingly, this approach to research has been viewed as failing to enhance the resistance objectives that it originally sought to document and enhance.

Two dominant conclusions have emerged from this body of work which could redirect the research emphasis so that it enhances the resistance potential of such groups. The first is the need to blend the concerns of diffuse and divergent neighbourhood groups together. Here Millar and Tomaskovic-Devey (1983:8) have observed that most single issue groups “are politically weak and can win only minor concessions”, adding that “Their political weakness could be overcome if their interests blended together in an effective political way”, while Fainstein (1987:331) has stressed that “Unless housing issues can be linked organisationally and ideologically to other programs, groups concerned with ... [existing use values] will inevitably suffer the limitations associated with locally-based, single issue politics”.

The second dominant observation to emerge from this research has been the necessity for a persuasive and encompassing ideology as a basis for effective resistance to the adverse encroachments of development processes on communities (Fainstein, 1987, Castells, 1983). Increasingly, theorists stemming from this ethnographic and case study influence have looked to the Marxist tradition as a way forward. Gottdiener (1985:290), for example, has claimed that “A greater recognition of the transformational role of socio-spatial praxis requires a redirection of Marxist thinking...A language of socio-spatial liberation necessary for such a task has yet to be invented, as we are overburdened with the categories of political economy” (see also Castells, 1983:179).

Where such approaches have been let down, is in the simplicity regarding development forces, often eliminating the agency of development agents and replacing it with generic terms such as ‘economicism’ (Bergua, Buil, 1998), or, as the personalised form of ‘market rationale’ or ‘capitalist logic’. These studies also tend toward the dichotomous representation of developers’ ‘exchange values’ in opposition to the complex ‘use values’ of communities and neighbours (Ward, 1985). Research into the actual, and complex values possessed by development agents is often neglected in these studies. Escobar’s assertion above (1995:107) appears as relevant to the ethnographic study of urban development processes within the ‘developed world’ as to the study of development processes occurring in the ‘third-’ or ‘developing-world’. My own contention here, is that, because the study of development is implicitly the study of the power involved in the transformation of physical and social environments, there is an ethnographic requirement to redirect methodological focus to those agents and forces involved in the exercise of this power.

## **A Way Forward**

These existing approaches provide a significant foundation to the evolution of this research. Certainly, throughout the research process, ideas, information, and direction have been drawn from each of these dominant influences. In each case however I have identified serious reservations that, I believe, render none of these dominant influences as

adequate starting points in confronting issues of power and conflict in urban land development. Clearly, these deficiencies do not derive from a lack of methodological focus or attention, particularly in the neoMarxist tradition, and numerous case study approaches. Rather, they stem primarily from conceptual inadequacies. The extreme tendency of the structuralist approaches - neoclassical economics, and neoMarxism - has been to regard 'structure' or 'system' as so rigidly governed by formulaic relationships that the actual human subjects of these social processes can be theorised only as the 'bearers' of the structures and not as intelligent contributing forces. In attempting to avoid the determinism of these structuralist influences anthropological and case study approaches to development have tended toward particular locational explanations that can be interpreted with reference to particular individuals, or as phenomena solely created from the immediate environment in which events are seen to occur. These extreme representations of dominant conceptual paradigms emphasise the fact that processes of land development 'exist' at the abstract, structural, 'grand' level, as well as the level of individual, voluntary, human agency. Conceptual approaches that focus exclusively on one of these levels of abstraction are bound to fall short, particularly in regard to a development industry subject to constant change, and where 'what matters' is located in local, national, and, increasingly, global, domains.

It is suggested that a useful way forward is to develop an approach that takes account of both these 'levels of abstraction'. In the expansive field of land development studies, this is not an isolated proposition. Indeed, Mollenkopf (1987:332) has claimed that "The real problem is to construct theories which operate at both levels, simultaneously and which isolate the key interactions among these levels...While organisations take action which advances such changes, they do so because they are responding to structurally defined possibilities". In a similar vein, Smith and Feagin (1987:17) have observed that "Changing urban development patterns are best understood as the long term outcomes of actions taken by economic and political actors operating within a complex and changing matrix of global and national economic and political forces...It is historically-specific political-economic processes through which contemporary corporates must work rather than expressing general economic laws of capitalist development".

A useful theoretical tool through which to synthesise the elements of 'structure' and 'agency' in social interactions characterising development processes is Giddens' 'Theory of Structuration'. At the outset it must be stressed that this discussion is not a comprehensive review or critique of Giddens' work, but is, rather, designed to present some key tenets of Giddens' approach that have come to inform the methodology of this research. The development of the structuration approach has marked a substantial shift from a static, to a dynamic perspective in social theory. Rather than distinct dualisms, Giddens proposes a 'properly synthetic duality', or, a 'sense of structuration': how action is structured in everyday contexts, and how the structural features of action are produced by the very performance of that action. Giddens develops his theoretical apparatus through a number of texts. In *'New Rules Of Sociological Method'*, Giddens states that

“By the duality of structure...I mean that social structures are both constituted ‘by’ human agency, and yet at the same time are the very ‘medium’ of this constitution” (1976:121). Later he approaches the concept of structure through a comparison of language and speech (1976:118-121): While speech is spatially and temporally situated, in that it presupposes a subject and an addressee, language is virtual and ‘outside of time’, or, that language is ‘subjectless’. Giddens uses this comparison to inform his conceptual relation between interaction and structure in social analysis: whereas interaction is constituted in and through the activities of agents, structure has a ‘virtual existence’ - it consists of ‘rules and resources’ which are implemented in interaction, and which thereby structure interaction, and, which are, in the very process, reproduced.

A reasonable inference to be made from this analogy is that if ‘structures’ have a locus of existence; it is in the heads of social actors. Indeed, in “*Central Problems Of Social Theory*” (1979) Giddens goes some way in reaffirming this claim, stating that “To regard structure involving a ‘virtual order’...implies recognising the existence of: (a) knowledge - as memory traces - of ‘how things are to be done’ (said, written) on the part of social actors; (b) social practices organised through the recursive mobilisation of that knowledge; (c) capabilities that the production of these practices presuppose”. A central tenant of Giddens’ approach is a recognition that individuals are ‘knowledgeable agents’, capable of accounting for their actions, not merely ‘cultural dupes’ or mere puppets to abstract structural forces. Giddens refers to ‘the reflexive monitoring of action’ as the ability of agents to explain, both to themselves and to others why they act as they do by giving reasons for their actions. Giddens’ also distinguishes ‘levels of consciousness’: the ‘unconscious’ (the level of motivation); ‘practical consciousness’ (rationalisation of action); and ‘discursive consciousness’ (reflexive monitoring of action). The insight of this theorisation is largely methodological, meaning that social analysis requires the study of strategic actions, conducted by knowledgeable agents. Action, or agency, is the centre of theoretical concern. This is emphasised by Giddens’ first two rules in ‘Sociological Method’: “(A1) Sociology is not concerned with a ‘pre-given’ universe of objects but with one which is constituted or produced by the active doing of subjects; (A2) The production and reproduction of society thus has to be treated as a skilled performance on the part of its members” (Giddens, 1976:160).

While the notion of ‘structuration’, or, ‘the duality of structure’ is “the centre of Giddens’ theory” (Berstein,1989), he also elaborates on the various aspects of this theory in ever increasing detail throughout his expansive body of work. In particular, Giddens’ notion of social structure is developed in terms of the ‘rules and resources’ in play in any society, the former governing normative patterns, the latter concerning the way in which material goods and power are distributed. ‘Rules’, Giddens argues, cannot be conceptualised in isolation from the ‘resources’ which facilitates the exercise of power. The central point here is that restrictions on opportunities operate differentially, affecting, unevenly, various groups of people, whose categorisation depends on certain assumptions about social structure, and “it is this differential operation which cannot be

grasped by the analysis of rules alone” (Thompson, 1984:154). In stressing the interconnection of ‘rules and resources’, Giddens highlights the ‘enabling’ characteristics of ‘social structure’. In *The Constitution Of Society*, Giddens attaches further levels of abstraction to ‘Rules and Resources’ (1984:19). ‘Rules’, Giddens claims, always have two aspects to them. On the one hand they relate to the constitution of meaning, and, on the other, they relate to the sanctioning of modes of social conduct. Of ‘Resources’, Giddens draws a distinction between ‘allocative’ rules, referring to the resources that comprise the body of organisation through which life chances are reproduced (often associated with the power of the state, or state apparatus), and ‘allocative’ resources, referring to the material features of the environment and the mode of production (often characterised as the power of the capitalist mode of production). Giddens pursues this abstraction further in *Contemporary Critique of Historical Materialism*.

Giddens’ approach to time and space in social analysis is also particularly useful in informing a study of land development processes. He has been particularly critical of the distinction between ‘synchrony and diachrony’ in social analysis, arguing that “social theory must acknowledge as it has not done previously, time-space intersections as essentially involved in all social existence” (1979:54). Giddens argues that any society which exists beyond face to face interaction must have means of extending itself across time and space. This proposition is then redirected at the notion of social actors as knowledgeable agents, and the conception of ‘social structure’ as ‘rules and resources’. Giddens insists that societies or ‘structures’ are not simply reproduced in one time or place. He identifies three levels of temporal existence relevant to social analysis: the finite temporality of our individual lives; the temporality of face-to-face interactions; and the ‘long duree’ of institutional (or social structural) time (Crait, 1992:47). Giddens also employs his notion of ‘time-space distancing’ as he observes the distinctive features of modern industrial society. Here, Giddens observes a process of time and space ‘shrinkage’ between individuals and groups, by which individuals have greater access to each other, and, where our relevant pool of information, and human behaviour, is becoming steadily more global in character.

Given what appears to be a particularly constructive approach to the study of land development, it is surprising the lack of focus given to Giddens’ within the existing literature. Exceptions are Healey and Barrett (1990, 1992), and Healey and Nabarro (1990). The former (1992) have, rather optimistically, sought to employ Giddens’ theorising into a conceptual model through which any development process is usefully understood, employing the transformation of the Hebburn riverside in Tyneside from 1979-89 as a case study. Gar-On Yeh and Wu (1996) have sought to apply this approach to the investigation of changes in the land development processes of Chinese cities, examining the impact of the changing ownership of urban land, the land development process, and the role of the state and local government on urban development and planning. Both works stem from a background in public policy implementation and this, while insufficiently acknowledged, has clearly influenced what is considered significant

to 'the development process'. My particular concern however, is that the 'expressed knowledgeability' of development agents themselves appears relatively neglected. Instead, the research is informed primarily from the expert observations of the researchers themselves, and this, it appears to me, undermines the principal methodological insight of Giddens' notion of 'knowledgeable agency'. Both works provide limited conclusions (Wu and Gar-On Yehs' predictive conclusion on the potential of future corruption is interesting), and raise numerous questions, and this, as Healey and Barrett (1992:43) claim, points to the need for further empirical research along these lines.

A number of other studies have pursued an 'institutional analysis' approach to the development process. Leysshon et al (1990) have investigated the spatial expansion of large commercial property firms within a liberalised and expanding global marketplace. Fu-Lai Yu (1997) has sought to examine the creative and adaptive capacities of entrepreneurs, claiming that "to explain economic development in a community requires a dynamic theory which centres around some human agency" (1997:8). As well, McNamara (1990) applies a structuration approach to his investigation of the changing role of research in investment decision-making within an industry in which 'suppliers' are increasingly seeking to preempt consumer demand. Adams et al (1992) have examined the changing acquisition strategies of land purchasers within an environment characterised particularly by the decreased role of local authority in the development process, and the flexibility of state apparatus. A general criticism of these works is that the role, ideas, and actions, of 'agency' are not given sufficient emphasis in these studies, and information is assumed by the expert researchers based on their own perceptions of structural conditions. A particular concern of the former two works, and to a lesser extent, the latter two, is the failure to get past the surface appearance of financial capital flow and acquisition strategies through, and from, these agents.

My own use of Giddens' ideas diverge from those above in a number of ways. One variation is simultaneously a reflection on anthropological methodology, and my own perceptions as researcher. Certainly, I approached the 'development industry' from a position of relative ignorance (relative to those researchers identified above, and, most certainly relative to those who claim membership to such a community). Combined with ethnographic methodology, this personal position has potential to highlight areas, perceptions, and actions neglected by more 'informed' researchers. As Abram and Waldren have recently stated, "What has distinguished anthropology from other forms of investigation has been a willingness to question accepted routines and beliefs, and by doing so to make explicit, taken-for-granted relationships and procedures of power....Anthropology is a theory of practice, within which theory and practice can never be fully discrete" (1998:15). Indeed, structuration theory melds well with the

prevailing concern of anthropology's study of practical actions within an imperfect world. A particularly appropriate definition of this anthropological concern is "the interpretative study of why people do what they do in their own terms, and in the terms of their social groups, rather than in terms of objective criteria imposed by the analyst" (Chapman, Buckley, 1997).

I have also made an effort to avoid the abstraction of Giddens' theorisations. Indeed, Giddens himself (1990:213) has pointed out that "while structuration theory touches at many points upon the conduct of social research, it is not a research program. As I have remarked before, its concepts should be regarded as sensitivising devices, to be used in a selective way in thinking about research questions or interpreting findings". In essence, I have interpreted Giddens' theorisations as a starting point for empirical study. In this respect, the research process is also based on the paradigms significant to ethnomethodology. Here Zimmerman and Boden (1991:6) write: "The fundamental insight of ethnomethodology is that the primordial site of social order is found in members' use of methodological practices to produce, make sense of, and thereby render accountable, features of their local circumstances. In so doing, they constitute these circumstances as a real-world setting of practical action". In this sense, a fundamental difference is that Giddens attempts to provide a theoretical solution to a problem which ethnomethodology regards as an empirical question (Hartland, 1995:24). My own divergence from ethnomethodology is the theoretical perception that 'structure' and 'agency' exist as interdependent poles, and that empirical research is enhanced when there is an understanding of '*what to look for*' in the actions and ideology of agency.

The inclusion of the theory of structuration to this research process was symptomatic of an evolution from a previous preoccupation as to whether certain development processes were 'good' or 'bad', to a more fundamental and pragmatic concern as to how development processes occur. Rather than signifying a complete departure, this evolution was complementary to my initial concern with the theme of 'power' in land development. This point requires some explanation, and begins with the notion that social research is the study of social processes performed by knowledgeable agents. The actor is the centre of methodological concern, and theorisation must start with the observation and identification of 'strategic conduct'. In essence, this is the study of the way in which development agents perform actions so as to achieve their aims within social structure. This social research is implicitly the investigation of power, in that 'power' is the ability for an agent to achieve specific outcomes through their intervention (or lack of intervention) in the course of events. This is to say that developers are engaged in 'acts of power', but this only makes sense if that developer could have done otherwise. Only then, is what the developer does, an 'act' at all. In exercising this institutionally-defined, or socially-defined, capacity, the agent implements various kinds of 'resources'. Implicit

in the empirical research task then is to observe the manner in which development agents “...define and implement their strategies in relation to the ‘rules’ they acknowledge, the ‘resources’ they draw upon and seek to accumulate, and the ‘ideas and ideology’ they assert in determining and justifying their strategies” (Healey, Barrett, 1990:97).

This empirical task was initially confined by my own initial preoccupation with conflict, and the power differentials between developers and neighbours, that is, ‘What strategies did developers actually use to avoid, or overcome opposition from, and conflict with, neighbours?’, and, ‘What ideas and ideology did developers’ assert in legitimating and determining these actions?’.

This preoccupation proved to be only a methodological starting point, and the research evolved toward what developers’ themselves appeared to find significant, that is, ‘What actions did they regard as most significant within the contemporary development environment?’, ‘What rules and resources were implemented and accumulated?’, and ‘What ideas and ideology were most commonly expressed?’. This was also a personal evolution as I became more knowledgeable, and ‘drawn into’ the development process. This growing and changing level of personal knowledgeability continually informed the methodological direction of the project and reinforced its methodological evolution. The final product is less a comprehensive study than a work in continual process. What is presented reflects both my own preoccupations, and, the emphasis provided by research participants themselves. The following discussion seeks to provide a sense of this methodological evolution.

## **Methodology**

An anthropology of land developers hardly evokes the image of the lone anthropologist stranded on an island occupied by natives possessed by an entirely alien lifestyle and system of beliefs. This is, however, a more accurate reflection of this research process than might be assumed at face value. Certainly, the research process conducted over the past two years has been both highly intensive, and deeply reflexive. The project involved a number of contradictory influences and was often confusing. Predominantly however, the project is characterised by an evolution of ‘knowledgeability’. It started with my own limited knowledge, informed primarily through a single negative experience and evolved through an increased sensitivity to the ‘knowledgeability’ of development agents. The research experience has been one of personal evolution and cultural transformation.

As this level of understanding matured, I also became increasingly sensitive to the diverse ‘forces’, experiences, indicators, legislation, social perceptions, in essence, the ‘structural conditions’, which are widely regarded as constituting ‘the development industry’. What struck me most was the diversity of forces impacting on development, and its perpetual state of transformation. Greater sensitivity towards ‘the industry’ continually redirected the research emphasis, leading to changes in the questions posed,

and providing substance within interview situations: 'How would this change affect you?', 'Was this situation common?', 'What did you do in that situation?'. Thus, the evolution of the research proceeded from both, the 'agency perspective' of developers', and, at the general 'level' of 'the industry', informed through media reports and commentary, development publications, and the Real Estate industry. This was a complementary process, and knowledge from one 'level' often allowed greater insight into the other, and provided access to knowledge previously inaccessible.

The backbone to the research is a series of interviews with nine development agents. In each case a letter of introduction and consent form were posted, usually followed up with a telephone conversation. Development agents responded enthusiastically, and arrangements for an interview were made. Generally the interviews lasted an hour and a half. On a number of occasions the interviews were followed up with telephone conversations to clarify points made and to raise questions that became apparent after further scrutiny of transcripts. I also transcribed each interview myself, immediately following the actual event. Throughout the research process I continued to revisit both these transcripts and the taped interviews.

The interviews were designed formally, oriented around questions that I had come to consider important to the study of land development processes. However, each interview had to allow enough scope and flexibility for the developer to express what they considered important about the development process, thus opening new areas and directions of study. As the study progressed the insights and 'knowledge' expressed through this degree of informality and flexibility became incorporated into the formal structure of subsequent interviews. In this sense as well, the project was constantly evolving, and I was constantly attune to the questions of 'whether the insights presented by one developer reflected some commonality in the knowledge of other developers?', and, 'to what degree did instances of strategic conduct reflected personal whims and opinion, or, a more common reflection on a specific structural condition?'.

The selection of research participants also reflected the evolution of the research process. Initially this was fairly arbitrary. The first two participants were identified by the location of housing developments recently constructed and on sale. Investigations revealed the developers involved and interviews were arranged and conducted. The first of these 'developers' was best described as a speculative 'builder/developer'. The second participant operated on a much larger scale, owning large quantities of land on speculation, constructing large multiplex housing estates, and attracting commercial clients as a facilitator of their development requirements. The third participant was located as a result of the development of commercial facilities for a multinational company within the City. The development had been reasonably well publicised and had involved some controversy. I was able to interview the manager of this facility, who was ultimately responsible for the establishment, development, and ongoing operation of the company. These three interviews produced discrepancies in terms of both ideology and action. For

example, the first two participants were clearly more concerned with maintaining a long term reputation within the development industry and with Council Officers, while the third participant was oriented primarily at a single development. In addition, the latter two participants possessed far greater resources than the first participant, and this appeared to gain them much greater flexibility and control in their strategic conduct. However, there were also similarities in the conduct of this diverse group of 'development agents', particularly in their 'basic' knowledge of the industry, and as they sought to legitimate their development actions. It was clear that 'the development industry' was made up of a diverse range of agents of various orientations.

This insight, among others, redirected the research process to more specific criteria in the selection of research participants. The process of selection became oriented toward those 'development agents' more akin to the second participant. Thus, the research focus turned to those development agents who could be seen as 'successful developers' - those of greater resources, and undertaking larger and more widespread projects. These developers were identified as 'developers' in the phone book, and all had offices and staff in town. Generally they operated as both speculative agents, purchasing blocks of land, and sites within town, as well as attracting commercial clients. From my own observations and research, and as was reflected in a range of development literature, an increase in this 'type' of development agent appeared symptomatic of trends within the development industry. For this reason, as well as my own perception that these were simply more interesting participants, they became the primary focus of this research. Five further participants were selected in this manner. However, these development agents were also distinct from each other. For example, two of these developers had secured themselves in specific niche markets, focusing their attention of the development of these particular facilities around the country. Among other things this reaffirmed, again, the fact that 'the development industry' is not a coherent body of agents responding uniformly to structural signals, but is made up of a diversity of independent agents responding to 'social structures', and to each other, in a range of ways.

The final participant was a locally based development Consultancy agent specialising in various aspects of strategic action conducive to successful development. This was indicative of a significant trend reflected in industry information. A number of the developers interviewed throughout this research indicated their own employment of these agents. It was suggested that the involvement of these 'development agents' would offer useful and pertinent insights into the strategic actions conducive to the contemporary development industry: 'What skills, knowledge, ability did these agents possess that other developer's didn't?'; 'What justified their existence within the industry?'; 'How were they able to be employed?'.

Date	Developer's Alias	Summary of Participant	Nature of Research Exercise
Sept '97	Allen	Builder/Developer: Small-scale, Speculatory, Residential properties.	Interview
Sept '97	Neighbour 1		Interview
Sept '97	Neighbour 2		Interview
Sept '97	Neighbour 3		Interview
Sept '97	Booth	Developer: Large-scale, Commercial properties, Residential villages.	Interview
May '98	Carter	Manager, facilitating Transnational development in local area, Case study one.	Interview
May '98	Page	Council Officer.	Interview
May '98	Duncan	Developer: Large-scale, Specialising in niche market, Major residential development, Case study three	Interview
June '98	Edwards	Builder/Developer: Large-scale, Commercial properties, Residential properties	Interview
June '98	Farrow	Developer: Large-scale, Commercial properties, Residential properties.	Interview
June '98	Neighbours' 4,5,6		Interviews
July '98	Gunn	Developer: Large-scale, specialising in niche market.	Interview
July '98			Examination of Council files
Aug '98	Quin	Council Officer	Interview
Aug '98			Council/Developer luncheon
Aug '98	Read	Council Officer	Interview
Aug '98	Horne	Developer: Large-scale, Commercial properties, Residential properties.	Interview
Aug '98	Scott	Council Officer	Interview
Aug '98	Ireland	Consultant.	Interview
Sept '98/ Oct '98			Phone and letter correspondence clarifying original responses

**Table 1: Research Participants**

It quickly became apparent that interviews were greatly enhanced if some awareness of these developers' actions could be accrued prior to the actual interview. Here the research process significantly widened to include a further range of sources and methodological techniques. Often this involved the increased awareness of media reports, and the inspection of past newspaper articles. This information-collecting process also involved informal conversations with a wide range of individuals, and, as is discussed shortly, more thorough processes of investigation. This background information proved particularly useful in providing some necessary degree of specificity and substance to interviews. Background information also proved particularly befitting to the 'interview strategy' developed at the beginning of the project.

This 'interview strategy' involved a system of questioning, designed to identify instances of strategic conduct, and then to unfold 'layers of meaning', or, the various degrees of knowledgeable, possessed by development agents. The initiation of the system of questioning was marked by the identification of an *event*, or an *instance of interaction*. This could be deliberately raised in conversation, either hypothetically (particularly as I came to appreciate 'common situations' for developers), or by reference to something I had learnt about the developer from preliminary investigations. My initial preoccupations tended towards interactions of conflict involving neighbours, and then Council Officers. As research progressed, this definition widened to include a range of interactions in which power could be seen to be exercised by developers. The description of an instance of interaction led to the second strand of investigation, which was to question the *actions* the developer had taken in these circumstances. This could be complemented by questioning the range of options available to the developer. Often, particularly as the research progressed, these levels of questioning had been previously investigated through other means - in a number of interviews I prompted developers about their actions from the information and perceptions I had gathered from alternative sources. Essentially, these levels of questioning were precursory to subsequent levels of investigation.

The third level of questioning sought to expose expressed reasoning, for example, 'Why did you take that action?', and, 'Why did you choose that action from those options?'. The answers to these questions became subject to further levels of investigation. The intention here was to expose deeper levels of ideological reasoning. However, this posed a dilemma of how deeply one could delve into the knowledgeable of developers without appearing stupid or ridiculous. Continuing to ask 'why?' when answers are provided can appear odd to say the least. Often this interview strategy required some effort - adding inflections in my voice, exaggerating interest in my body language - these were important aspects in maintaining the reasonable flow of conversation. The implementation of this system of questioning was, by necessity, very informal and flexible. It was employed in situations where it was both appropriate and possible, and generally in an effort to enhance the flow of conversation rather than stultify it. Also, the interview strategy

required reasonable flexibility. Indeed, sometimes the type of response that I expected from the fourth or fifth level of questioning would result from the third level of questioning, or vice versa.

The desire to explore the strategic conduct of developers required a range of methodological directions. From my previous research I had already observed first-hand, the fact that different individuals and groups held very different perceptions of the same event. It also became clear in early interviews that developers would simply not divulge information, or mention events that I knew to have occurred. Certainly, they explained events, and their own actions, in the best light possible. For this reason it was important to investigate the 'strategic conduct' of developers from other angles. This information came from a wide range of sources, such as casual conversations with acquaintances and friends, newspaper articles, Council files, and property development texts from various genres, each of which could be employed in interview situations. In a number of cases, conversations or interviews with neighbours raised useful points and events that could also be questioned in interview situations.

A dominant finding to emerge from interviews and conversations with neighbours was the significance of the regulatory procedure in enabling developers to achieve their aims, particularly in the face of opposition from neighbours. This was constantly reaffirmed as I interviewed development agents. I came to conceptualise the council enforced regulatory procedure as the battleground upon which development conflicts were fought and won. This influence led me in three further methodological directions. The first was to examine what constituted the 'structural-', or 'institutional-environment' of the regulatory procedure: the Resource Management Act 1991; its amendments and proposed changes; the District Plan; and other Council information designed for development agents. Certainly this was a useful basis on which questions could be posed to developers about their conduct within the regulatory procedure. In essence however, it was an insufficient assessment of the constitution of the regulatory procedure, failing to acknowledge the actual implementation of regulations. In addition, this assessment was often confusing, exposing the flexibility and ambiguity of legislation. Here it was necessary to turn to those agents, Council Officers, empowered to enforce the regulatory procedure.

The main strategy employed in regard to Council was a series of four semi-formal interviews with Council Officers, which were complimented by preceding and subsequent conversations with a wider range of Council Officers. This process was useful in assessing and identifying the basis on which development decisions were made within the regulatory procedure, and in questioning not only what actions developers took, but what actions developers should take in regard to achieving their aims within the regulatory procedure. The first of these interviews was conducted early in the research.

process. The rest were conducted at later dates, and after I had investigated a number of case study files maintained by the regulatory division of the City Council. These case studies provided a concrete foundation on which to compare events within the regulatory procedure, and thus to question the basis of decision-making.

The involvement of Council Officers to the research process directed me to additional sources of information. The first of these were case study files in which all correspondence, plans, consent applications, and information relevant to a particular development project is collated by Council Officers, and is available to the public. These were enormous files and I spent 4 weeks established in a Council Office reviewing five case studies, three of which were particularly useful in informing the research. These files were a written testament of developers' strategic conduct within the institutional environment of the regulatory procedure. It was also useful that each case study focused on a developer involved in my research because I was able to employ this aspect of their strategic conduct into the system of interview questioning outlined above. In addition these case studies provided a useful basis on which to assess decision-making criteria within the regulatory procedure: 'How were decisions made?', 'What were the beliefs and ideas supporting these decisions and decision-making criteria?', 'How were developers most likely to achieve their aims within the regulatory procedure?', 'What 'resources' were most effective within the regulatory procedure?', 'How were these accumulated?', and, 'How were they employed to maximum effect?'.

Another research opportunity that came about through the involvement of Council Officers was an invitation to a Council/developer luncheon. This was a Council initiative designed to "improve communications between all sectors of the development community". It provided an excellent opportunity to interact with a range of development agents and to talk informally about related issues. It was also an opportunity to observe, firsthand, interactions between development agents, related professionals, and Council Officers. It was particularly insightful as dominant ideologies were expressed and as developers' articulated their particular concerns to Council Officers.

### **Critical reflections**

A interesting reflection on the evolution of the research progress was my changing attitude towards developers, and, what I felt to be their perception of me. My general perception of, and attitude towards, 'developers' continued to evolve throughout the project. The image of the 'evil developer' very quickly dissolved into a much more complicated social animal. Feelings of outrage and prejudice towards developers were rapidly replaced with respect and a certain degree of admiration. This evolution was greatly enhanced by the general willingness of the developers involved in this study to contribute to the project. Interviews were not simple 'praise sessions'. Often, questioning was quite pointed and mildly confrontational, particularly as my confidence grew, and as

I was able to compare answers with alternative evidence. Regardless of this, developers would almost always wish me luck and offer further assistance if necessary. At one point I considered my own potential career in the development industry. Some have characterised this as 'ethnographic seduction', while others have put it down to the natural result of increased knowledge.

I was also aware of how developers tended to regard me. As each interview progressed I was constantly aware of the state of ignorance that had informed aspects of previous interviews. Questions such as 'whether developer's regard me with some skepticism?', and, 'to what extent did their impression of me influence the answers they provided and the directions they pursued in interview situations?' were constantly at play. In this regard it was interesting that, while I allowed a reasonable degree of scope for developers to express themselves, and probed numerous aspects of development, including issues related to finance, the conversation and response never ventured too far beyond the realm of anthropology, and from my own level of understanding or comprehension.

Any research in which issues of power are brought to the fore is subject to certain methodological problems. Research on land development, in which secrecy is part of competitive advantage, and where controversy and conflict often surround issues and actions, simply exacerbates these methodological problems. Healey and Nabarro have also raised these issues, observing that "empirical research on the industry raises challenging problems of research method and data sources. It involves arenas where many powerful actors operate, where secretive strategies are part of the battle for competitive success, where data are scarce and produced in ways which are often difficult to penetrate, and where publicly available documentation and public talk is often a deliberate distortion for the purposes of competitive strategy" (Healey, Nabarro, 1990:13). To a reasonable extent these concerns were overcome, in part through the fact that I was often reasonably well informed prior to the interview and was able to 'remind' developers of certain actions, and, in part, because confidentiality was stressed throughout the interview procedure. On a number of occasions developers would stress the confidentiality of what they had said.

Another significant concern symptomatic of this sort of research approach is the unavoidable difficulty in making generalisations based on limited and specific information, without distorting the specificity of developers actions and ideology. Healey (1991:219/220) has also acknowledged the difficulties of this concern: "(to) preserve the capacity to penetrate the detail of agency relationships in the negotiation of development projects, while at the same time offering ways of generalising about the behaviour of actors and the significance of events in the development process under different conditions".

A constant concern throughout the project was to test the generality of the actions and ideology of developers'. The process of questioning previous findings in subsequent interviews offered some means to make reasonable interpretations as to what forces, or series of circumstances, lead to particular actions. The depth of interviews, and the range of participants involved, provides integrity to the generalisations made throughout the thesis.

Another concern is that the strategic conduct of developers exists within a constantly changing and diverse array of structuring forces. This recognition poses numerous questions concerning time and space that are beyond the scope of this research. Such questions include 'the extent does the strategic conduct of developers reflect aspects of the current condition?', 'the extent as to which actions are 'leftover' from past eras?', 'the extent to which actions are preemptive of future demand or conditions?', and, 'the question as to whether strategic actions will actually achieve the desired outcomes they are designed to achieve?'

In another sense the research involved a constant state of tension, one dimension being an increased awareness and empathy with developers, the other being various reaffirmations of my own original prejudices, particularly as I talked to neighbours and with acquaintances. Constantly, the sense of 'being a traitor' pervaded the investigation, both to developers, and to the ever diminishing, but nonetheless present, sense of justice that initiated the research emphasis on land development. Thus, in methodological terms, where I might have got 'deeper in' I felt constantly 'pulled back' by these supposedly contradictory personal forces.

The processes of analysing research 'results' and then producing a completed thesis was extremely difficult and drawn out. Transcripts were constantly revisited, previous perceptions questioned, new questions were posed, old questions were revisited in a different light, both to myself, and to developers as I followed up on interviews. It became gradually clearer that a great deal of control is required in severing oneself from the research process long enough to present some findings or conclusions to what is essentially designed as an indefinite process. The analysis of an eclectic mix of literature - particularly concerned with development processes (as identified above), a number of related ethnographic studies, and a variety of theoretical influences enabled a number of useful comparisons to be made throughout the subsequent discussions.

## **Overview of the Thesis**

The focus of this research has been oriented toward the identification of '*levels of analysis*' rather than a comprehensive analysis of 'the development process'. The body of the thesis comprises three parts: The first (Chapter One) is the most general, focusing

on the '*grand*', '*structural*' level of the development industry; The second (Chapters two and three) focus on the level of *action*, or '*strategic conduct*'. The third (Chapters four and five) focus on the level of *ideas and ideology*.

## Part I

Chapter one provides an overview of the 'environment' in which this research was conducted, and in which developers perform their actions. The chapter also describes my evolving comprehension of what comprises 'the development industry', informed by my own analysis of industry information, commentary, and media, and through the direction provided from interviews with development agents. The purpose of the Chapter is to present the major structural changes characterising the contemporary development environment, that is, 'What shifts have there been in this environment which may make past experience a less than reliable guide to the future?', and, 'What are the main issues and uncertainties which will shape the way the industry works in the immediate future?'

## Part II

The second part of the thesis focuses on the level of developer's strategic conduct within this diverse and eclectic environment. Various peculiarities characterise the discussion at this level of analysis, primarily the distinction between the strategic conduct characteristic of the social institution of the Council enforced regulatory procedure, and, the strategic conduct characteristic of the social structures that can be principally described as 'the development marketplace'. This division is symptomatic of the inherent interconnection between actions, and the environment in which they are performed, between 'rules and resources'. This level of analysis requires two chapters.

Chapter two is an assessment of developers' strategic conduct within 'the development marketplace'. Emerging from this chapter is the dominant theme 'Risk', and this is employed to add comprehension to the discussion. The chapter addresses a number of questions fundamental to the research project: 'What are the main variables through which developers' organise their strategic conduct?'; 'What actions are developers able to take in regard to these variables?', and; 'What 'rules and resources' are important to developers' as they perform these actions?'

Chapter three recognises the Council-enforced regulatory procedure as a 'rule-governed environment' distinct from that of 'the development marketplace'. Dominant themes to emerge from the chapter are: the significance of 'the law' as a mechanism employed by developers to achieve their aims, particularly in the face of civil opposition, and; the degree to which the rules of the law are subject to manipulation in the interests of developers' power. This is, as Weber (1970:12) observed, a condition symptomatic of the regulation of modern society. The purpose of the chapter is to assess developers' strategic conduct within this increasingly complex rule-governed environment: 'What is

'the law', and how can it be represented, both to developers', and 'objectively' ?'; 'What resources are effective within the regulatory procedure ?'; 'How are these resources effectively employed by developers to achieve specific outcomes ?', and; 'What 'rules' characterise developers' strategic conduct, and how are these rules employed ?'. The chapter also presents the opportunity to focus on the strategic conduct of developers in regard to the neighbours of developments: 'What strategies are characteristic of developers' conduct toward neighbours ?'; 'What rules and resources are significant in this exercise ?', and; 'How are these rules and resources employed ?'.

### Part III

Part III shifts attention to the level of dominant ideas and ideology, contained in two chapters.

Chapter four is essentially concerned with the level of motivation. In some respects this chapter makes explicit the underlying and directional features of the previous chapters, although it raises questions about what influence these motivations have for the strategic conduct of developers. The chapter considers dominant expressions of motivation from interview situations, and how these motivations become manifest in: (a) direct statements, and; (b) practical decision-making criteria and taken-for-granted assumptions?.

Chapter five examines the expressed ideology of developers' from another angle. Here ideology is regarded as "meaning mobilised in the service of power" (Thompson, 1984, 1990). The purpose of the chapter is to examine the means through which the expression of dominant ideas become mechanisms for the realisation of developers objectives.

### Conclusion

The intention of the conclusion is to present some synthesis on the findings and discussions presented throughout the thesis, although this is difficult given the design and nature of the research process and thesis structure. In many respects, the conclusion is best represented as a personal disentanglement from the research process because it is here that I return briefly to more fundamental issues precipitating this thesis. Particularly I am concerned with the position of this thesis within the academic domain of anthropology, and, with the issue of public participation in the development process. The thesis provides some basis from which to make reasonable generalisations about both of these matters.

# PART I

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## Chapter 1: **Change and Uncertainty in the Development Industry**

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### Introduction

The purpose of this chapter is to convey a general sense of 'the development industry'. It represents an appreciation of, and involvement with, the industry over a 2 year period. The chapter draws extensively from the diverse and prolific body of literature and materials constitutive of the development industry: Economic reports, Development and Real-Estate commentary and reportage, Central and Local government legislation and information. To a lesser extent personal accounts of my involvement throughout the research process also provide useful reflection on the development industry.

The diversity of the forces, the various interests and groups, and other factors of interest that constitute 'the development industry' are diverse. Social, economic, and political forces are in constant interplay, embedded in, and across local settings, national boundaries, and global finance and technology. That it is complicated and confused is clear, and at least one commentator (Christiansen, 1989:56) has pointed out that "General statements about the property market for the whole of New Zealand may be both misleading and unwise. The final comment about the property industry is that, in terms of economic theory, it is the most inefficient or imperfect there is" (see also Balchin, Kieve, and Bull, 1988:15). This overview, however, seeks to simplify the 'development playing field', and to discuss what are generally perceived within the industry to be the key features and changes driving development.

There are a number of features that appear to dominate the present period, at least as reflected within the property press and development literature. The current climate for development is one characterised by:

- 1 A general consensus of relative stability and slow economic growth in the property market, following the post-crash recession of the early nineties. It is widely thought that the property market has entered a period of slow recovery in its market cycle and this is reflected in industry opinion, investment statistics, and within the built form. To some extent this optimism has been offset by the major concerns of 1997, notably the 'Asian crisis', and perceived government instability. Typically, slower growth than the national averages are reported for the local Palmerston North economy, although there is clearly evidence of economic recovery and upswings in overall property development. Recent reports also indicate improved comparisons to the national average. Conditions are also differentially reported within the city, mainly in terms of long-term popularity within certain limited areas;

- 2 The rapid development of technology, impacting on the type of development design being demanded and affecting the development process in terms of access to information, and the efficiency and speed of construction. An aging population, and demographic shifts have also altered demand statistics. The industry has also developed an increased concern with 'non-traditional markets', including retirement housing, the adaptive reuse of buildings, and, re-examination of property portfolios as a result of restructuring in areas of health and education;
- 3 Changes in the types of development interests constituting the contemporary development industry in New Zealand, locally, and globally. In particular, the growth of Multinational and Transnational Corporates are actively encouraged by the present government and within dominant business circles. The extent of 'Asian', American, and Australian investment remains stable, although often exaggerated, and differentially located with Auckland attracting most international investment. Asia offers new opportunities for New Zealand based development agents, although Australia and the U.K. remain preferential markets for New Zealand based companies. As a proportion of total stock capitalisation, the property market has risen slowly since its crash in the late eighties, with the quantity of property companies increasing from 3 in the early nineties (in 1987 the number exceeded 30), to 8 listed companies at May, 1997. Changes in technological availability and expectations under the Resource Management Act have had particular effect in changing the constitution and roles of a variety of professionals implicated in the wider development industry;
- 4 A political climate characterised, at the national level by the privatisation of previous Government functions, producing new agents in the development field, and the Resource Management Act, introduced to reorient environmental decision-making and subject to constant reassessment resulting from a vociferous political climate. Local government and regulatory authorities have been subject to significant criticism within the industry, particularly in their capacity to implement the Resource Management Act. Authorities appear increasingly responsive to these criticisms however. In addition, trends are evident in the devolution of property assets, and the withdrawal of Council development in housing and infrastructure. This has produced new roles and opportunities for private enterprise;
- 5 In addition to these factors, it became apparent throughout the process of this research, that the development industry operates within a vociferous, generally suspicious, yet complex, social climate. Certainly, an important conclusion to result from the research process, acquired through an enhanced appreciation of development related media, and particularly through general conversation about the thesis with a wide range of people, was that land development (and land developers) was a particularly interesting and identifiable subject to which everyone was able to comment. Often this related 'to what happened to me next door', or, that 'a friend

had a similar experience'. Elsewhere it related to the Resource Management Act. Others entered the conversation vigorously on issues of Council or Government incompetence. These 'social forces' are a fundamental part of the development industry.

### The Land and Property Market

A general feeling of conservative optimism about the New Zealand property market pervades industry commentary and surveys. For example, the March 1997 *NZIV/Massey University Outlook Survey* reported that 65% of respondents believed the Auckland property market would improve, with 35% saying it would stay the same (for December 1996, 58% believed it would improve, while 8% expected it would deteriorate). Confidence for Wellington is even greater with 80% of respondents in the same survey expecting improvement, primarily in office and industrial sectors. Flatter markets have been predicted in Christchurch, Invercargill, and Dunedin until 2000 (*NZIV/Massey University Market Outlook Survey*, December 1996). Similarly a survey of real estate practitioners in the September issue of *'New Zealand Real Estate'* reflected cautious (notably in regard to the 'Asian crisis', any potential 'political upset', and the volatility of interest rates), but generally optimistic attitudes. Most predicted that the 'general market' had passed rock bottom and was improving (*'New Zealand Real Estate'*, September, 1998:23-24). These predictions accompany a general feeling that the New Zealand economy has 'rode the recession' and has now entered a period of recovery (although this has again been confused by latest Treasury forecasts and statements). Most recent forecasting from the Real Estate president, Max Oliver suggests "better times ahead for the property sector", and that prospects are looking good for developers in 1999, with a more stable economy and lower interest rates seen as encouraging more people to make an investment in property and business (Max Oliver, on National Radio, 'Money Matters', 16th December, 1998). Implicit here is the base assumption of 'market cycles' relating to land development and property investment.

### 'Cycles' in the development industry

The notion of 'market cycles' is central to the development industry. While contested, the most widely recognised belief is that the 'market cycle' is initiated with an upturn in the economy, which leads to a growth in rental levels (Spinich, 28/1/99). As a result, particularly when there is insufficient rental space available, rents rise. Such circumstances are attractive to investors, and they move in, pushing yields down and prices up. The wider economic picture complements these conditions, and with growth in business, interest rates remain low and inflation is stable. The economic conditions during this period, higher rents, higher property prices, and more available finance, are attractive to developers, and they tend to enter the market during this 'boom' phase. Depending on the quantity of new buildings, and the lag period between the market

conditions and the built form, there is potential for market oversupply. As this occurs, tenants gain more bargaining power, and rents and property values stabilise or fall (Gibson, Gray, 1996:8). We can observe this cyclical effect from New Zealand's rental statistics over time. Following the colossal office-space oversupply that occurred during the 1987 stock market crash and subsequent economic recession, Auckland gross market rental rates fell from \$395 per square meter in 1989, to about \$175 per square meter in 1993. Wellington's fell from \$485 per square meter in 1988 to about \$180 in 1993. The same statistics identify what is widely regarded as a gentle recovery in the commercial property market, with rental levels expected to reach pre-crash levels by 2002 (O'Malley, 1998:4/5), although, O'Malley has elsewhere predicted that this growth will not constitute a new office development boom (1997:4).

With the benefits of hindsight and long term historical analysis it can be fairly concluded that there exists 'market cycles' in property development. The understanding and predictability of these 'cycles' is more problematic however. What is generally agreed to is that different factors affect this 'market cycle', but they do not always interact or coincide in the same way. As Christiansen (1996:55) has pointed out, "The market does not behave cohesively: it is not a concrete entity which moves totally in the same manner and in the same direction. It is a discrete mass, the component parts of which may behave differentially and move in different directions at the same time." Various 'cycles' effecting the development industry include: General business and economic cycles; Mortgage money cycles in residential development; Construction cycles, where too much construction can produce a 'buyers market' very quickly; Government policy cycles in terms of Immigration policy, or tax rates; Affordability cycles, in terms of what people can afford and how this relates to particular areas; Inflation cycles; Speculation and investment cycles (Bloch, 1996).

Literature from the development industry commonly conceives the industry in terms of sub-markets, and market segments. Geographically, while there are global and national factors of influence which may effect most development proposals, it is clear that some areas are more effected than others. It is also commonplace to differentiate the 'commercial', 'industrial', and 'residential' segments of the property market. Each react differentially to development forces. Price and rent range also differentiate specific 'markets'. The 'market', it's segments, sectors, sub-markets, can behave in different ways, and this can be a matter of direction or of degree. For example, office rents might be different in different parts of one city, or different from another city. Industrial rents may be going down while retail rents increase, older houses might show signs of decreasing in value while newer houses might be showing disproportionate increases. Farm prices might be increasing by 5% in one part of the country, but 25% in another part.

## Economic Influence and the State of the Economy

It is well established within the development industry that the general state of the economy affects businesses in general. This business climate impacts on the development industry in terms of both the demand for, and the value of, built space. Inflation rates and interest rates also impact heavily on property prices; developers and investors are obviously less keen to borrow and invest with higher interest rates. As an economic rule, interest rates tend to rise when inflation rates are higher than the targets set by the Reserve Bank (Gibson, Gray, 1996:9), although, as Don Brash (1998:5) has pointed out, this is a cyclical relationship, identifying the housing market as one significant factor in the inflationary pressure of 1994 to 1996. The Reserve Bank may seek to impact here, in firming monetary policy to stem inflationary pressures.

It is also clear that financial markets affect, and are affected by, development. On one level this is because the availability of finance increases demand for development. Increased demand usually causes price rises, and so inflation goes up and interest rates can follow, resulting in subdued demand (Gibson, Gray, 1996:9). The state of interest and inflation rates also affects investment in development as it relates to alternative investment opportunities. For example, during periods of low inflation, and high interest rates, investors may decide that fixed interest bearing deposits (such as money in the bank) are more attractive. Indeed, investors appear more willing to shop elsewhere, especially as opportunity for investment expands across national boundaries, and as more investment opportunities take form (Gibson, Gray, 1996:9).

Surveying the prevalent views in property and real estate literature, there is some consensus that the general economic conditions are relatively stable, if not as optimistic as they should be. Concern however has been widely levelled at the effects of the 'Asian crisis', and the volatility and perceived incompetence of the Government. There is also a widely held perception that the general economic condition is more tangible and, therefore, relatively stable compared to the 1980's. Real-estate Institute President, Max Oliver has recently claimed that while 1998 was tough, a major slump predicted by many was not borne out, and that 1999 looks more promising with lower interest rates, and relative stability in the economy (National Radio, 16th December, 1998).

Increasingly financial markets are perceived as operating at the global level. This was forcefully demonstrated on the New Zealand property industry by the 1987 bust period and subsequent economic depression, precipitated by the New York stock market crash on the nineteenth of October 1987. As Newland (1994:3) describes, "Rolling out of New York, the collapse swept through the world's major markets. The New York stock market lost one trillion dollars on that one day alone". Since this period, and as evidenced by the relatively insignificant impact of the more recent major international economic crisis centred in South East Asia, the property industry has "entered the low risk stage of recovery, (and) investors may appreciate it's stability" (Horsley, 1998 Sector Review).

Nevertheless, the 'Asian crisis' has proven itself a major force in the New Zealand property industry. The I.M.F., for example, has predicted a substantial slowdown in economic growth that is already being realised, warning that New Zealand is vulnerable to external economic shocks. Crosby (1998:6) also claims that the New Zealand dollar is struggling to differentiate itself from the Asian crisis, citing the relative fall in the New Zealand dollar to 0.57% against the U.S. dollar. Consequently interest rates have risen, and the stock market remains unusually volatile. For example, in one week in October, the NZSE 40 fell 18% (O'Malley,1998:6). O'Malley predicts that this will have a varied impact on New Zealand trade and development opportunities. On the one hand New Zealand based manufacturing is expected to suffer as Asian manufacturers attempt to 'export themselves out of debt'. Contrary to this pessimism however, the New Zealand economy could be boosted from trade opportunities in energy and consultation as the I.M.F. and World Bank inject funds into Asia (O'Malley,1998:7).

### The Economy in Built Form

The state of the built form provides the development industry with an important, and more tangible, indication of the state of the economy. In commercial property especially, vacancy rates and number of sales are recognised measurements of supply and demand. The standard rule here is that values rise during periods of high demand and fall when there is oversupply. '*Real Estate Sector Review*' publications continue to identify declining vacancy rates around the country, indicating steady national recovery. For example, in December 1997, Auckland's whole market vacancy rate was estimated at 10.0% with the prime sub-market rate at about 6.6%. Wellington figured at 9.6% and 4.8% respectively. The forecast for December 2002 is 6.0% in whole market vacancy, and 4.0% in prime market vacancy in Auckland, and in Wellington, 6.5% and 4.5% (O'Malley,1998:4). Residential building consent figures issued by Statistics New Zealand show a 1.7% national improvement for November 1997, compared with the same time in 1996, although this is still lower than levels from 1989 to 1995. The largest increases were in Waitakere City (from 91 to 169), Wellington City (from 47 to 120), and Hamilton City (from 74 to 125). Significant decreases occurred in Auckland City (down from 300 to 162), Rodney City (from 99 to 66), and the Thames-Coromandel District (from 65 to 43). Early reports of the 1998 year show a 3.8 % slump in the six months to December 1998, the biggest fall since 1961 (Evans, 28/1/99). Spinich (28/1/99) however has claimed that this particular measurement is an inaccurate reflection of the residential property market.

The quantity and quality of major development projects underway is another widely acknowledged indication of the state of the economy. This factor has contributed to the national feeling of cautious optimism within the development industry. In Auckland, over twenty large-scale projects are currently underway, including the America's cup project, Princes wharf, Fuller's extension, Britomart (although this is still subject to Resource consents, and within an increasingly uncertain political climate after local body elections),

Quay park, Railway Station development, and the Auckland Container Terminal (Oliver,1998:27). Financial analyst Mark Spinich also identifies the new Sun Alliance offices, and Price Waterhouse Cooper's future accommodation requirements as contributing significantly to low interest rates and record property growth to the six months ended December 1998 (Spinich, 28/1/99). There is also a tendency to accommodate large developments to existing sub-structure and parking facilities, and Ernst and Young's database of potential and proposed office developments currently records a large number in Auckland (15+) and in Wellington (10+) at various stages of advancement (in O'Malley,1997:4).

### Local Economy

It is also useful to discern the distinctions and peculiarities of the local Palmerston North economy. Here, prime CBD commercial development is reportedly popular among investors, although it is also identified that non-prime grade property is subdued with extended periods of marketing required before sales are achieved (*Bayleys Research*,1997:11). A vacancy rate in 1997 of just over 10% is not initiating any new development, although there is some refurbishment and upgrading underway (*Bayleys Research*,1997:11). Retail conditions are also static with relatively little predicted change to the year 2000. Industrial property shows the best improvement trends, selling well, and with good returns within a wide 9.5% to 16% yield bracket. It is also reported that "Construction is limited to predominantly pre-leased developments with speculative building largely at a standstill except for some prime locations" (*Bayleys Research*,1997:11). A significant contributing factor to a slight industrial upturn, as reported within the industry, is the increased relative importance of central location for industrial distribution networks, and the de-emphasis from New Zealand's main cities. Relative to other locations, Palmerston North figures conservatively on Bayleys Research Risk:Return ratios, offering a medium to low risk for medium to low returns in the industrial sector, and medium risk for low returns in the commercial property sector. Balancing this, Bayleys, in their 'Predicted industrial and commercial real-estate cycles', place Palmerston North on the road to recovery, although trailing other medium sized metropolitan cities (*Bayleys Research*,1997:18).

Palmerston North City Council building consent figures show small improvement in the City's residential construction industry in the second half of 1997 after a massive decline in 1996. Here the Council consider this statistic "an important economic indicator and barometer because it typically provides early indications of the overall future prospects for the economy" (*P.N.C.C. Economic Report*, February,1998:25). For the twelve months to December 1997, 177 residential building consents were issued, a 9% drop from the 194 issued in the twelve months to December 1996. This is again the lowest figure since 1988, and well below the peak in the 1990-91 period when annual consents were in the vicinity of 450 (*P.N.C.C. Economic Report*, 1998:25). The medium price of a house sold in Palmerston North in December 1997 was \$120,000, down from the \$124,750

recorded in December 1996. This compares to a national medium house price (December 1997) of \$165,000 (affected by an Auckland price at \$285,000). Residential sales numbers have also continued to drop. The correlates with the National Bank's prediction of a 5% drop in house prices nationwide. It is expected that this trend, and inflationary pressures, will affect areas such as Palmerston North less than in previous large-growth areas such as Auckland (*P.N.C.C. Economic Report*, 1998:27). Bayleys Research identifies Palmerston North as a 'low risk:low returns' investment in the residential sector, although acknowledging Palmerston North's residential real estate cycle as heading towards a recovery (1997:18).

Within Palmerston North too, residential development statistics are differentially located. As has been the trend for quite some time, there has been upward movement in the Hokowhitu area, and to a lesser extent in the Hospital area. Economic analyst Fong Mee Chin (in *P.N.C.C. Economic Report*, February, 1998:5) has claimed of this differential distribution in development emphasis, that "decreases in value are more likely to be due to lack of modernisation, in particular, of service areas for dwellings built between the mid fifties and mid eighties".

#### Technology and the Development Industry

Changes and innovations in technology significantly impact on the development industry, in terms of both the demand for types of space, and, as it becomes involved in the production of that space. Of particular currency in development commentary is the notion of the 'virtual office' (a recent survey of 100 Wellington companies showed a clear majority encouraged or permitted employees to work from home, providing technology such as laptops, modems, mobile phones, fax and e-mail, in Horsley, 1996:11). For a variety of reasons, and exacerbated by the Auckland CBD electricity shutdown earlier this year, more and more companies are encouraging telecommuting, sharing of work spaces, 'hoteling' (mobile computer systems), and the use of satellite offices in lower-cost locations. Technology has impacted significantly on the geographical spread of development: as information and technology play a larger role in successful business practice, the factors that once determined where a manufacturer would locate are becoming less relevant. Distance is less a disincentive for investment in country centres, and in some cases, it represents a strategic advantage. Bayleys Research analysts (1998:3) cite a greater willingness for companies to move part or all operations from the traditional CBD headquarters to suburban locations. They also claim that advances in information technology will result in "...more manufacturing to order, reducing the space requirement to carry product sitting in stock. This will put greater pressure on transportation and infrastructure as goods must be moved rapidly to meet demand" (1998:3). The implications of technological change also raise questions of demand in residential development: 'Does telecommuting effectively merge people's working and living arrangements?'; 'How can value be ascribed to technology in the home?'; 'Do

technological advances allow people to live where they like without impacting on job prospects?', and; 'What does this mean for central business districts, urban areas, and transport networks?'. These are prevailing concerns within the industry.

Some analysts have predicted more radical reorientations in the construction of the built environment. Horsley, for example, has pointed to the fruition of the 'smart building', and, an expectation that development be increasingly designed towards particular tenants' technological needs, rather than general construction (Horsley, 1996:11). Two possibilities stemming from accelerated technological advances are: increasingly flexible constructions, adaptive to technological changes, and; the possibility that constructions will become redundant more quickly.

Building technology also alters the speed and efficiency of the development industry. Much anecdotal evidence gathered throughout this research supports this claim. For example, neighbours, Council Officers, and developers reported townhouses being built in 5 to 6 weeks. New technologies, ranging from concrete and foundation layering to prefabricated structures, were reported as improving the speed of certain jobs as much as 1,000%. It is also predicted that technology will affect the property industry in other ways. In a recent discussion paper, the Macquarie Bank and the Australian Institute of Valuers and Land economists (1997) point out that land and property professionals have quicker, and more ready access to a wide range of up-to-date information, which, they claim, will speed the development process, and shorten market cycles in all asset classes (1997:7).

#### Population changes and demographic shifts

The development industry is necessarily effected by, and affects, changes and shifts in population, an aspect of the development industry that is only recently receiving satisfactory consideration according to Real Estate Association president Max Oliver (1998:4). Within New Zealand, changing demographics are predicted to reorient demand within the development environment. By 2021 New Zealand's population is predicted at 4.25 million, an increase of 646,000 (18%) over the present population (in Horsley, 1996:8). Strong growth is predicted in the main working age group of 15 - 64, and it is predicted that this will facilitate a growth in demand for commercial space, although not on the same level as the 1980's boom (Horsley, 1996:8). The 1996 census has produced statistics of interest to the development industry, particularly that: people living alone increased by 10% over the last thirty year period, from 13% to 23%; one parent families increased from 9.2% in 1976 to 17.7% in 1996, and; couples without children also increased from 28.7% to 37.3% during this ten year period. Max Oliver (1998:4) has claimed that these figures confirm why apartments, terrace houses, and townhouses have become increasingly popular in larger Cities over the last five years. Another oft-quoted demographic trend is that the younger age group is predicted to decline by 3% between 1996 and 2001, while the older age group will increase by 6%.

By 2031 it is expected that one in five New Zealanders will be over 65 years. Observing this, Horsley (1996:8/9) predicts an increased demand in the Apartment market, and in retirement housing. Home ownership is also predicted to grow as the 35 - 64 year age group (the primary market for own-your-own-home) is forecast to increase by 11% by 2001. As well, the Government's immigration policy is designed to encourage 35,000 new migrants per year, an increase to the New Zealand population by 10,000 annually (from Oliver,1998:4). Here, Horsley (1996:8) claims that "Many immigrants harbour a dream of home ownership, have the necessary savings, and consider New Zealand housing very affordable".

Local demographics reveal changes in the population dispersal throughout the country. Statistics New Zealand projected population changes from 1996 to 2021 show that the Palmerston North population is expected to show an increase of 14.6%, compared to a national average increase of 17.2% over that period. Comparably this figures well with Christchurch at 12.9% growth, and Wellington at 10.2% (*P.N.C.C. Economic Report*,1998:7).

#### 'Non-traditional markets'

While 'the property market' is often segmented into retail, commercial, industrial, and residential components, there is increasing awareness within the industry that these traditional categorisations are inappropriate for many development projects. The concept of "non-traditional markets" is increasing consequential to the industry. Roulac (1996), in particular, has sought to recognise these markets as key indicators of future demand and development.

Retirement housing is a commonly used example of a 'non-traditional market'. Another is 'Adaptive Reuse', where development companies can enter into joint ventures with businesses or public agencies to convert space for new demands. Education facilities are another recent trend, affected by increased demographics in this age group, and, in society's changing attitudes towards specialist and alternative forms of education (Horsley,1996:9). Dalzell (1998:14) also predicts the importance of the international health care market in future development. As he observes, "Real estate constitutes as much as 50% of the total net assets of typical health care providers. Despite its significance, real estate has long been an overlooked and under-utilised asset on providers balance sheets" (Dalzell,1998:14). Dalzell identifies a number of instances through which hospitals can anticipate and adapt to market changes and maintain a competitive edge. For example, the development of ambulatory services at Boothlane and Ellerslie, and the concept of a 'health supermarket'.

## Development Organisations

Globalisation has encouraged changes in the types of firms, and forms of organisation, constituting the contemporary development industry. This has impacted on existing national and local markets, but is also directing development agents toward an ever-present global field of operation. These changes have created new demands and opportunities, reflected both in New Zealand and internationally: "Overseas capital and development intermediaries have entered the U.K. property market, partly as a result of problems at home (e.g. for Japanese investment) and partly responding to U.K. government policy which has fostered an open, deregulated financial market... Similar tendencies have occurred in other parts of the world, producing new international actors in the construction and development field" (Healey, Barrett, 1990:95).

According to the World Bank, the cumulative effect of an extra 5000 MultiNational Corporations and multiple subsidiaries of M.N.C.'s currently account for one-fifth of the world's GDP together with one-fifth of the world's manufacturing output (in Higgins, 1998:21). New Zealand offers numerous attractions to M.N.C.'s as a base for the Asia-Pacific region (which comprises one-third of the world's population, and has rapid population and consumer growth). These attractions include competitive operational costs, compatible time zones with Asian markets, a skilled multi-lingual labour force, a modern communications infrastructure, and a good lifestyle (Higgins, 1998:21). Within New Zealand there is evidence of both an increased presence of international agents, and, evidence of moves within industry and government to encourage international development agents and business (Harten, 1997:23). There is also a clear focus to promote an environment more conducive and attractive to the presence of these corporations. Addressing Heads of Commonwealth Valuation Agencies recently, Foreign Affairs and Trade Minister, Don McKinnon repeated a common theme, that "At a fundamental level, New Zealand needs foreign investment because we are too small to go it alone". The Minister also emphasised past trends in terms of Asian investment and immigration, and, the maintenance of the economic environment by the New Zealand government (*NZIV Property Digest*, September, 1996).

A number of commentators have signalled some disagreement with the perception of New Zealand's internationalism, pointing out that the extent of Asian investment in New Zealand office property has reduced from the highs of the early-mid 1990's, and that "the importance of the Asian investor in today's market is often exaggerated" (O'Malley, 1998 Sector Review:3). Key points to be extrapolated from the volume and number of investment sales over \$3 million in Auckland and Wellington CBD's since 1988 (in O'Malley, 1996:6) are the reduction in the volume and number of sales, and the shift from overseas to local investors. McKinnon (1996:12) has also pointed out that in 1994 only 5% of total land transactions in New Zealand involved foreigners, and since 1991 less than one percent of total pastoral, arable, and forested land in New Zealand has been subject to applications for foreign investment. Nevertheless, the New Zealand Investment

Commission report that investors, predominantly from Hong Kong but also Malaysia, Taiwan and Singapore have been active participants in some of New Zealand's largest commercial property sales and construction (Crosby,1998:7). In 1995 Asian investment accounted for 18% of total international investment (down from 33% the previous year), while the United States remains the largest holder of New Zealand land, accounting for 28,574 ha of rural land in 1994, of which total land sales during this year accounted for 0.23% of New Zealand's land area (*Market Trends*, September,1996:19). What is already clear is that effects of the 'Asian crisis' are being felt in the New Zealand property and development industry, but the extent to which this is so, and whether these effects are detrimental, or can be usefully overcome, are yet to be seen. Neither is there any evidence that 'foreign' investment regards New Zealand property any differently than do 'New Zealand' investors.

It is also clear that international investment is differentially located. Auckland is now, more than ever (and especially as the location of the Americas Cup, and the Apec conference) the natural location for international companies. In contrast, O'Malley (1997:5) predicts international investment in Wellington, claiming that office growth is increasingly likely to be tied to Government. It is also apparent that international investors may find it more effective to work in partnership with local firms, or to employ local development agents so as to maximise their entry potential and organisational capacity at the immediate locality (Healey, Barrett,1990:95).

For New Zealand developers and property investors "with the resources and the ambition to go global, the international market holds great promise. Countries such as China are actively seeking investment by New Zealand and other foreign investors in commercial and industrial development" (Horsley,1996:10). The 'Asian crisis' has compounded these opportunities, for a number of reasons: Asian developers face credit squeezes and reduced finance availability due to banks' reluctance to lend for new property purchases: Thailand, Malaysia, and the Philippines' Real Estate markets have been crippled due to overbuilding, high interest rates, and expectations of the slowest economic growth since the 1960's (even in Hong Kong property prices fell 30% from October 1997 to January 1998): It is also expected that 'Asian' Real Estate companies will experience large asset write downs, that vacancy rates will rise as new supply enters the market, that Asian companies will become insolvent, and that government projects are likely to be cancelled (Horsley,1996:10). Politically, and to counter these effects, countries such as South Korea and Thailand have dramatically relaxed their foreign property ownership laws (Crosby,1998:7). The Australian property market remains relatively stable, although unsynchronised and diverse depending on location and type of development (for latest analysis see McAlister, van der Westhuizen, Churn,1996:12). The U.K. Property report predicts relative stability in that market, with Ian Whittock (head of property research for giant Dutch financial group I.N.G.) claiming that "In an uncertain investment climate, property currently offers a relatively low risk option" (*Propertyweek*, September 1998:13)

The forms and functions of companies involved in New Zealand land development is also changing. Christiansen states that “The developer, or the development company, whose only activity is property development is relatively new to New Zealand. Prior to the advent of specialist developers, the development function was more often carried out as an adjunct to some other property-related activity, or as a subsidiary company within a group of companies with a construction or building materials bias” (1996:132). Another trend here, as Horsley (1997:1) has observed, is that “organisations, ranging from large corporate's or S.O.E.'s to investment companies, are merging, acquiring, forming strategic alliances, entering into joint ventures and buying portfolios or real estate companies”. The benefits of these mergers and acquisitions may include: an organisation's ability to recapitalise by raising equity or debt; increasing liquidity; strengthening balance sheets; reducing risks; cutting costs; diversifying into new markets and increasing margins. Property investment has also come to represent a less significant proportion of total stock market trading, and the number of companies has declined radically since the mid-eighties. On 7 October 1987, Chase corporation had a market capitalisation of \$1,433 million, with Robert Jones Investments at \$1,309 million. Twelve companies had worth of over one hundred million, and 43 listed as over \$2.9 million. The total market capitalisation was at \$5,781.77 million. By September 1989 this total was reduced to \$1,278.36 million, at which time Robert Jones Investments represented 68% of the total sectors capitalisation, a value almost ten times that of the second largest company, Wellesley (from Newland,1994:119). By 1991 only three listed companies existed. Since then the number has risen to eight by May 1997 (Hobbs,1997:11). Over this period the listed property market, as a proportion within the overall stock market over time, has increased from a low of 0.65% in June 1993 to 2.36% of the Total Stock Market capitalisation as at 29 May 1997 (Hobbs,1997:11).

There is also evidence of a diverse range of agents and consultancies becoming increasingly active in the development field. This might be attributed to a variety of reasons, among them; an increased perception of the specialist skills often required with Resource Management Act legislation; the perception of the need for more thorough and secure market research following the lessons of the 1987 crash, and; the privatisation of various government functions, and the development of these functions in the private sphere. At the same time information that was once coveted by certain professionals such as valuers, the latest leasing and sale information for example, has become widely available. As a result McCulloch (1997:10) predicts the nonexistence of valuers, as we know them, in 10 years time. Internationalisation and specialisations of service have contributed to this production of information, the RealENZ Property market website (see Freeman,1997), and the regular presentation of legal decisions as a regular feature of the NZIV Property digest are two significant examples of this trend. Finance agents are also

becoming more diverse and specialised, and, as has been noted by real estate researchers, "Real estate is being usurped by money managers and there is a risk-spreading process that involves many more players than the traditional banker, investor, tenant relationship" (*Bayleys Research*, 1998:3).

The wider real estate industry appears increasingly politicised and coordinated, seeking to lobby government policy, and influence public perception. This was apparent in Real Estate advertising prior to, and following, local body elections during 1998. An explicit example was an advertisement placed by a local real estate company, expressing incredulity that a certain counsellor hadn't been appointed as Chairman of the financial committee, and that it was a shame that "politics could stand in the way of common sense". Collective political action was also identified by developers involved in this study: "*...(this council) haven't fixed the problem and we will either win that one in negotiation or we will see the Warehouse people, and the Mitre 10 people, and us, (and we'll) make arse's of the District Council. It's election year so I'll use that like hell...*" (Gunn,9). In addition, the Real Estate community is coordinated through a variety of organisations, notably the Real Estate Institute, the New Zealand Valuers Association, and the variety of Real Estate houses. These organisations have an articulate public profile, although the effects and extent of the industry's lobbying is uncertain.

#### National Government

Government is a necessary agent in the development of land, although its role and functions are constantly changing. Indeed, much of New Zealand's relatively short land development history is characterised by massive government funded, colonial development of infrastructure, and then large urban renewal schemes from the 1930's to the '60's. Through the 1970's the Government adopted more conservative and less disruptive Community Housing Improvement Schemes that sought to reorient the demolition and rebuild strategies of urban renewal. Following Muldoon's 'Think Big' projects, Government has again reoriented its role in land development within New Zealand. This period has been characterised by the privatisation and sale of previously state owned assets to the private sector. In particular the privatisation and sale of the Ministry of Works (separated into 'Works Consultancy' and 'Works Construction', and recently acquired by a private Malaysian consultancy, and Downer Construction company) has reduced central government's development capacity. Earlier this year, Murray McCully reemphasised government's devolution of development responsibilities, announcing an initiative for state tenants to purchase a state home on a 3% deposit.

Government changes have produced new agents, or altered the role of existing ones, in the land and property development field. Transit New Zealand is a prime example, charged with the maintenance of roading infrastructure. A multiplicity of other agents including The Heritage Trust, O.S.H., and various localised environmental organisations

have entered the development and property industry as the indirect result of government legislative changes. This appears an increasing trend as government announces more moves to privatise existing functions in national and local authorities.

While the Resource Management Act has been the most influential, other significant legislative changes have also affected the development industry in various ways. Among them are: the Treaty of Waitangi Amendment Act 1985; the State Owned Enterprises Act 1986; the Rating Powers Act 1988; the Local Government Reform 1989; the Reserve Bank of New Zealand Act 1989; the Smoke-free Environments Act 1990; the Building Act 1991; the Housing Restructuring Act 1992; the Health and Safety in Employment Act 1992; Te Ture Whenua Maori Act 1993; the Historic Places Act 1993; the Earthquake Commission Act 1993; the Overseas Investment Amendment Act 1995; the Residential Tenancies Amendment Act 1996; the Local Government Amendment Act 1996 (that took effect on 1 July 1998); The Maori Reserve land Amendment Bill 1988.

In addition, Parliamentary Acts have induced new relationships between various development interests. Among them are: the Fair Trading Act 1986; the New Zealand Bill of Rights Act 1990; the Human Rights Act 1993; the Consumers Guarantee Act 1993; and the Privacy Act 1993. Legislation has also impacted on the structures of companies implicated in development, the most significant being the Companies Act 1993.

#### The Resource Management Act, 1991

The introduction of the Resource Management Act 1991 consolidated broad ranging powers, and concentrated regulatory activity from central to local government. The wide responsibilities and requirements for process and consultation now embodied in the Act constituted major changes in the process and structure of development activity in New Zealand.

*“The Bill is not simply an amalgamation of current law; it provides a new process for the management of land, water, soil, air quality, geothermal activity, pollution control, noise and the coast...Unlike the current statute, it is not designed or intended to be a comprehensive social-planning statute...For the most part, decision makers operating under the Bill’s provisions will be controlling adverse effects, especially in relation to the use of private land. The Bill should be seen as legitimising intervention only to achieve that purpose...Benefits will flow from there being fewer but more targeted interventions...”* (Minister for the environment in his speech during the third reading of the Resource Management Bill in 1991).

The future of the Resource Management Act looks secure, although Resource Management Group manager, Ray Salter, accepts that much work has to be done to ensure that the Act operates effectively: “Business people are telling us that they want

clearer information about what they need to provide for consents, and greater certainty and cost-efficiency” (Salter,1998,1). Four amendments have been passed to the Act, the most recent in December 1997.

Fundamentally, the basic structures of the Resource Management Act look cemented, even with a change of government. Labour’s former spokesperson for the environment (and current local body Mayor of Palmerston North) Jill White has claimed that “The R.M.A. is most visionary and most sensible because it acknowledges that ecological sustainability is essential to underpin any sort of economic and social future for the people of this planet, including New Zealand” (White,1998:6). White claims that perceived problems are most usefully attributable to lack of funding and expertise, rather than the Act itself, or significant problems with it’s implementation. Janette Fitzsimons, formerly of the Alliance party is also of the view that the Government’s focus should be on making the Resource Management Act work, rather than focusing on what she perceives as its effective dismantling (Fitzsimons,1998:8). What form the Act takes in the future is dependent on the vociferous political climate that is presently developing.

The present debate surrounding the Act has tended to focus on key issues. These have been identified and addressed as three central problems in a recent Ministry report to the Minister of Commerce (obtained under the Official Information Act by *Property Journal*, February 1998). They are: a lack of accountability and/or expertise in consent authorities; obstructive or unreasonable conduct by parties being consulted; and excessively cautious approach by consent authorities. A significant recommendation from the Ministry has been the introduction of ‘contestability’ into the consent process (i.e. opening regulatory functions to the private sphere). This has been presented on the rationale that a regulatory operation undertaken by licensed professionals, at a greater distance from other local government responsibilities and activities, would lead to a more balanced approach. The report also suggests deterrents to obstructive submitters: to make it an offence to pay adversely affected parties to withhold consent at the non-notified stage; to make it an offence to seek financial reward grossly disproportionate to any identifiable adverse effects, and; to make it an offence to raise an objection at the hearing stage when there is no substance to the objection. The report also recognises a strong momentum towards public funding, or the provision of legal aid for community groups wishing to contest or appeal consent decisions, and that this would require further amendments to the Act, especially in light of the Ministry understanding that most New Zealand businesses are small, and that cost is a significant factor for even large businesses. The report also recommends tightening the regulatory process, the development of best practice guidelines, and amendments of certain key provisions so as to reorient overly cautious attitudes (*Ministry Report in the Issue of Resource Consent Procedures*). These issues and recommendations have become highly politicised. Labour spokesperson, Jill White, has called contestability a “silly notion”, identifying the potential for conflicts of interests for planning consultants, and that the notion is anti-democratic, and cuts certain groups from the process (White,1998:6). Fitzsimons (1998:8) has also attacked these proposals

as representing “a wholesale attack on the central concepts of the Act of local, democratic and objective decision-making on environmental and development issues, and public involvement in these decisions”. This is a view reiterated from certain planning professionals. Ward, for example, points to the potential for corruption and the effective ‘purchase’ of consents that would result from recommended changes, claiming that “the ‘solution’ will not address the ‘problem’. It doesn’t make sense” (Ward, 1998:13). A report by Owen McShane, commissioned by the Minister for the Environment, has added to the debate and contentious political climate. In it McShane focuses on 12 questions and recommendations. Of particular significance is the recommendation for the removal of Heritage orders from the Act. McShane claims that R.M.A. heritage provisions have enabled the over-regulation of property, and caused significant costs to developers. McShane also believes the definition of ‘amenity values’ is too wide and has diluted the environmental focus of the legislation. He further questions the right for Councils to operate regimes controlling colour and other matters which he considers relate to personal taste and preference (from Robb, 1998:35/38).

### Local Government

Government remains a critical actor in the land development field. Increasingly this is observed at the level of local government, which has become the principal agency through which central government policies are operated. As with similar political structures throughout the world (Barrett, Healey, 1990:97), local government faces increasingly powerful and contradictory pressures to deliver environmental quality, social facilities, and economic opportunity (especially in the wake of population increase), to reduce pollution, and to safeguard built and natural environments, while at the same time the costs of collective urban management are kept down to satisfy vociferous rate payers.

Local government also appear to be following a trend evident in the private sector, the consolidation and out sourcing of operations in order to concentrate on core services. This is usefully illustrated by one local Government Officer: “*Certainly, I would think 40 or 50 years ago the Government would have been a major initiator of development in urban areas (lists examples)...in recent times, in the last fifteen to twenty years it has primarily been private developer driven, and sometimes that can be advantageous because it means that Council does not have to tie up funds, rate payer funds for residential development on the speculation that it could sell them off. The other thing to bear in mind is that the residential development is not necessarily a Council key function under the local Government Act, that is one of the main reasons, certainly in the Palmerston North case, where Council hasn’t initiated major residential housing subdivisions simply because it’s not our job*” (Page:7). A recent controversy, symptomatic of this trend, was precipitated by the announcement that the local Council was investigating selling off its total stock of 108 Council homes, although guaranteeing that the 314 pensioner flats would remain with Council. The Council Manager claimed that, “while it sounded ‘cold’, the Council had no obligation to provide housing for those in need” (*Tribune*, 12/4/98).

The announcement was met with some public resistance, particularly from the Manawatu Tenant's Union. A spokesperson claimed that "... (the Council) believe the private sector can do a better job. They just can't cope with the fact that (the housing scheme) is working". A widely circulated petition promoted the link between public housing, economic benefits, and a stable community. A related issue of significance during the period of this research was the Council's potential adoption of the LATE's system (the contracting of Council's essential services to the private sector).

Heeding negative economic reports, a general tide of business discontent, and some public reporting of Council inadequacies, the Palmerston North City Council have implemented various changes through its Units. The thrust of these changes have been attempts to improve communication and links between Council and business, and to encourage and facilitate business development in the area. This function is usefully illustrated in the following description of these changes by one Council Officer: "*... (the aim is to) work together to improve the process and procedure. It's a certain amount of information that we ask to be provided, but the ways in which we ask for it and the timing of it can perhaps be altered if we understand the difficulties. We may be over stringent in some requirements and if we understand the effect that it may be having over other people, developers, then perhaps we can look again, if we understand the costs, if we understand the current climate in the development community, and if we understand that our vision is for a thriving community, then we can work together and say 'well now, are the actions that we are taking conducive to a thriving City?', and that's what we always got to bear in mind...*" (Bucket, 1/2). Significantly the Regulatory Services division have opened themselves to criticism through quarterly luncheons and discussion forums between Council Officers and members of the land development and property industry. This has been complemented by the Council's production of a Council/development industry newsletter ('Contact'), and a campaign to advertise business success and positivity in the local papers. Driving these initiatives have been the objectives of "*(encouraging) better economic growth in the City, (and) identifying both how developer's can maximise Council resources, and, how Council can provide better services...to meet developers needs...*" (from Council Officer's speech at Council/developer luncheon). In addition, the City Development Unit is increasingly allocated resources (in 1997 an additional officer, and \$972,000 on City Marketing, rising to \$1,320,000 in 1998, *P.N.C.C. Annual Plan, 1997/8:22*), and an Economic Development Officer has also made trips to Auckland to encourage business development in Palmerston North. Increasingly, these trips are funded by private business. In a recent speech to the development community this Officer claimed that "*...it is important to get outside the City to encourage business*", identifying his role as "*Supporting and retaining existing business, encouraging business investment, and, working against competition from other Councils...*" (from Economic Development Facilitation Update speech given at Council/developer luncheon).

Within the current political climate there is usually a role for the private sector, in partnership or otherwise, in implementing the public sector's plans and policies. This ranges from variously scaled residential developments to stadiums and airports. Increasingly, these facilities are integrated with private mixed-use developments such as hotels or shopping centres, and, as Horsley observes (1996:10) "In some cases, developers have built public facilities such as schools in exchange for economic incentives - for example, a school district might deed land to the developer for private commercial development".

In the U.K. and elsewhere a variety of 'partnership approaches' have seen a stream of initiatives, among them: Enterprise Zones; Urban Development Corporations; Urban Development Grants; Simplified Planning Zones; Public Land Registrars; Urban Regeneration Grants; Inner City Task Forces; Housing Action Schemes, and; City Grants (Healey, Barrett,1990:97). Within New Zealand, and particularly for the local Government implicated in this study, there is increased emphasis on initiatives aimed at facilitating private sector development. Specific examples collated throughout this research process include the fast-tracking of design, and a variety of rebate measures. The extent of Council Officer's discretionary powers was often vague. A useful summation however is the following description from one Council Officer: *"...(this) development was a partnership to the extent that there was a bit of land swapping going on in terms of our property people, in terms of relocating reserves, and there was issues with the reserve contribution and what would be open to the public...the Council has a lot of discretions like that...I'm not sure that we necessarily offer expertise to help, I've got to be careful how I say this, but we're not there as a partnership with them in (the sense of conspiracy), we see that they want to do something and we see that it has merit, and so we have some things in our power to help that, (if) this reserve doesn't necessarily have to be there, we can move it to this land slot if we believe it still meets our reserve development policy, it's not like, 'oh yeh yeh lets get into bed together and see if we can make a profit from it'..."* (Scott:16).

Local government face significant pressure both from development interests, and central government. Recent legislation, for example, requires that "revenue, expenditure, assets, liabilities and investments are to be managed prudently in the interests of the district" (Local Government Law Reform Act, 1996). This Act took effect on 1 July 1998, requiring local authorities to prepare and adopt a long term financial strategy, in line with private sector standards (Chung,1998:8). As Reid (1997:7) claims, "(the Act) will have significant implications for local authorities who are evaluating their property, and private developers considering partnerships with local authorities". Among the most significant implications is the recognised notion of a 'balanced portfolio', where many analysts suggest that between 10-12% of the total portfolio should be invested in property. In their current state however local authorities' property portfolios are commonly 50 to 90% of total assets (from Reid,1997:7).

Perhaps the issue of greatest single coverage within the contemporary development industry is the rampant criticism levelled at the interpretation and implementation of the Resource Management Act by Local Government. Among the most recent, and telling, admonishments has been an American Chamber of Commerce survey of 42 member companies. Its summary of business thought was that, although the philosophy of the Act was good, it was being poorly implemented, and that the major concerns “centred on delays due to lack of expertise or insufficient staffing in local authorities”, adding, with some foreboding, that “Resource Consent delays are a barrier to investment” (from *The Independent*, 21 January, 1998). In recent years this aspect of the Act has been subject to monitoring. Government initiatives and policy guidelines are emerging as a result of this ongoing emphasis. In 1997 the Government allocated an additional \$2.2 million over 3 years to monitor the implementation of the Resource Management Act and promote improved practice (from *Environment Update*, March, 1998:1).

### Social Issues and the Development Industry

Public expressions about development are often contentious, precipitated particularly by ‘undesirable’ and controversial development. It is correct, I believe, for the development industry to question and challenge opposition in these circumstances (as is illustrated by Gow, 1998, below). These disputes however should be regarded separately from the apparent lack of trust, and general suspicion and antipathy directed at the development industry. These feelings were ever-apparent as I discussed my research with friends, colleagues, and acquaintances. Many conveyed anecdotes of the ‘greedy developer’, or of ‘antics motivated solely by profit’. My general impression was that developers were accorded a similar social reverence usually reserved for politicians and car salespeople.

This public distrust is also expressed of the wider real estate industry (compounded, fairly in my view, by a recent television documentary on the real estate profession). A quote from a local paper summed up a common view, that “All I’ve ever found from my own experiences is that Real Estate agents make the process (of buying and selling) more difficult” (Evening Standard, 7/12/97), and, as Flint-Hartle and Carbell claim, it is attitudes like this that are driving the Conveyances Bill through parliament (1998:31). The residual effect of the fraud convictions and money laundering apparent in the property investment industry of the late eighties may also exacerbate this pessimistic public sentiment towards land and property development.

It is perhaps unfortunate that development issues often reach the public consciousness as the media address controversial and politicised cases. Throughout the period of this research there have been numerous media reports surrounding prominent development proposals, for example, the establishment of a youth sex offenders compound. Local headlines have included: ‘Hall Objectors Dismayed’ (Evening Standard, 23/6/98), and ‘Mayor Under Fire for Doctors Home’ (Evening Standard, 3/4/98). Here Lindsey Gow, Deputy Chief Executive of the Ministry of the Environment, has argued that “The ‘nimby’

(not in my back yard) syndrome is alive and well and living in our communities. And it results in lots of stories about how dreadful environmental management is” (1998:3). Maori land grievances also receive attention, particularly opposition from Taranaki farmers to proposed amendments to the Maori Reserved Land Amendment Bill 1996, but covering an increasingly wide-range of issues in ownership, conservation, and management.

It might also be expected that environmental issues focus public attention on the development industry. Two recent studies have produced divergent reports on this matter. International Environmental Monitor research, conducted in 1997, found that New Zealand had one of the highest levels of public concern about environmental problems among the 24 countries surveyed (Church,1998:3). Another study (Frieder,1998,4) found a high level of ‘denial’ about the reality of environmental problems in this country, especially in relation to expert concerns and opinions. The Resource Management Act was also designed to encourage wide participation in environmental issues, although, again, there is concern within government and industry that this has not been realised (see ‘*Environmental Update*’, March, 1998).

Throughout the period of this research, issues concerning regulatory authority and the Resource Management Act received considerable currency within the industry. This is usefully illustrated in a report from the Ministry of the Environment, stating that “the undercurrent of feeling is capable of bringing the Resource Management Act into disrepute” (from ‘*To notify or not to notify: Background Report*’, 1997). This perception is corroborated by other research that found that a lack of trust in both Councils and applicants may deter the successful use of dispute resolution techniques, that planning documents are not written clearly, and, that “it is generally unclear what Council’s responsibilities are to residents and rate payers,...(and that) the Council is perceived to be pro-development (‘*Public participation under the Resource Management Act 1991 - The Management of Conflict*’, 1996:68). In addition to these concerns, my own conversations with individuals contemplating or undertaking small-scale renovations to their sections revealed a general reaction of the overly bureaucratic nature of the regulatory process. I was also genuinely surprised at the extent of the perception of regulatory inequality that characterised these conversations. In Palmerston North this sentiment has been compounded by a variety of media reports identifying supposed favouritism.

The perception of a growing sense of history is a dominant social trend apparent in development literature. This is reflected in Christiansen’s dominant concerns for the future, noting that “In New Zealand we are lucky if we find anything that is even 100 years old” (Christiansen,1996:152). Already there is a trend towards preserving historical buildings for contemporary purposes. Wellington’s old wooden Government buildings house the Victoria University Law School, the old Dunedin Art gallery is now the Otago Early Settlers Museum, the old City-site Buildings of the University of Christchurch now house the Arts Centre. Heritage and protection have become significant issues not only

for the development industry, but also central and local government directed organisations. The Historic Places Act 1993, for example, empowers the Historic Places Trust, which may initiate heritage orders under the Resource Management Act.

### Concluding Reflections

An unavoidable conclusion to be drawn from this investigation is the characterisation of development as an increasingly diverse and rapidly changing industry, constituted by uncertain and eclectic influences. This draws obvious comparisons to Giddens' (1984) characterisation of the modern world in terms of 'time-space distancing', that individuals have greater access to each other, and that information and interaction is steadily more global in character. Already this is reflected within the industry as commentators predict the acceleration of market cycles (Australian Institute of Valuers and Land Economists, 1997, Horsley, 1996), and the compression of 'development time'.

Another striking feature to be drawn from this examination is the surprising level of disagreement and contradiction within industry commentary. This is, I suspect, a further symptom of the rapidity of change faced by development. Increasingly, commentators (Wetherson, 14/1/99, Spinich, 28/1/99) have pointed to the inaccuracy and irrelevance of traditional methods of industry analysis. In essence, time and space distancing has rendered the examination of past and current trends an increasingly less accurate reflection on the future of the development industry. This, in turn, provides a less accurate capacity to predict the built form of society.

This commentary reaffirms the necessity for the type of ethnographic research conducted for this thesis, and stresses the need for investigation that 'builds up' a description of the development industry from the actual forms of action, and the ideas and ideology, employed by the agents most actively involved in the production of the built form. It is at this level of enquiry that we can reflect on the ongoing process of development change. Rather than being redundant then, the above chapter provides a necessary backdrop to the forthcoming chapters, providing a context in which developers' actions and ideology can be usefully understood: 'Are there characteristic or dominant forms of investigation and conduct within this environment?'; 'How is legislation and regulatory authority actually manifest in the interactions between Developers and Council?'; 'What ideas direct and motivate developers conduct within the current environment?', and; 'What ideas and ideology are prevalent in the contemporary development industry, and how do these ideas reflect the development environment?'. It is to this form of questioning that I turn to in the following chapters.

**PART II**

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## Chapter 2: 'Risk' - Key Strategies In The Contemporary Development Game

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### Introduction

The purpose of this chapter is to explore the most significant forms of strategic action identified by developers within the contemporary development industry. The chapter draws extensively from interview texts with nine development agents. This information is complemented by reference to alternative studies and a range of theoretical propositions. The construction of the chapter has, necessarily, involved an element of subjective interpretation on my part, reflecting various levels of abstraction, 'built up' from the initial, mass collation of diverse information.

The encompassing level of abstraction for this chapter is the theme of 'Risk'. Throughout the research process the notion of risk was continually reflected, both in interviews with developers, and from other sources within the development community. Risk was the dominantly consistent factor in all forms of developers' conduct. My theoretical perception of 'risk' is best characterised as the conceptual bond that 'mediates' and 'connects' developers to the perceived social-structural environment in which they function. The first section of this chapter therefore, focuses on the notion of 'risk'. It briefly outlines the significance of risk to the development industry, addresses dominant theoretical approaches to the notion of risk, and explores the advantages of my own approach.

The seven sections that follow reflect the seven dominant issues characterising developers' actions within the contemporary development environment. These issues can be usefully conceptualised as the dominant 'factors of risk' characteristic of the contemporary development industry, or, the key variables involved in development. These issues are: 'Planning Strategies', 'The Assessment, Accommodation, and Realisation of Demand'; 'The Acquisition of Land'; 'Securing Finance'; 'Time and Land Holding Period'; 'Related Professionals in the Development Industry'; 'Competition and Cooperation with other Developers', and; 'Rental Income and Investment Yield'. Each section examines the importance of each issue, and assesses the dominant forms of strategic action that developers' take in relation to each of these issues.

### 'Risk'

Risk is a particularly apt theme through which to identify and examine the strategic conduct of developers. It is both fundamental to the manner in which developers relay accounts of their own actions, and provides a link with the previous chapter in which an inordinate spectrum of social, economic, and political forces were identified as contributing to the constant change, fluctuations, and inevitable uncertainty of the development industry.

Uncertainty is inherent to all development projects because of the simple fact that no developer can be sure of the environmental conditions when the project is complete. Every development is subject to a range of uncertainties. The greater the degree of uncertainty (anything unknown at the time when a decision is made) involved in development decision-making, the greater the degree of risk (as a measure of potential loss or gain). Clearly, some uncertainties can be avoided by gathering available information, and this reduces the risks involved in a development project. The chapter is not necessarily about the reduction of risk however. Often the dilemma for developers is calculating the advantages to be gained from increased certainty, and balancing it against greater risk but higher potential gain.

### Theoretical Approaches to Risk

Given what appears to be a dominant theme in the study of land development, it is surprising that the concept of 'risk' has, until fairly recently, received scant attention. Here Cadman (1984:2) notes that "(The) awareness, and acceptance, of uncertainty may seem so obvious as scarcely to merit comment, and yet it has been largely ignored by economists since the concept of the perfect market was formulated by Adam Smith in the latter part of the eighteenth century". Cadman records Shackle's (1961) 'Decision, Order, and Time in Human Affairs' as the earliest moment in which risk and uncertainty were regarded at all in the study of development deriving from economics. In the last decade a quantity of literature has emerged from the study of economics, preoccupied with the notion of 'risk management' (see Chicken, 1996:135-147, Rosenhead, 1989). In my estimation, there are three concerning characteristics to this genre: The first, is that they seek to inform developers of how to act, and are not an assessment of the strategic actions that developers *actually* perform: The second, is a preoccupation with financial resources, failing to recognise the diversity of developers' responses within an eclectic and uncertain environment, and, therefore, implicitly simplifying decision-making processes. This reductionism also has the effect of presenting the development industry as constituted almost exclusively through the flow of economic capital: The third concern is the degree to which these works are relevant to developers. For example, 'experience' was constantly identified throughout the study as the strongest basis on which to make decisions about strategic conduct, rather than development texts. Also, all the developers involved in this research, but one, came to be involved in the development industry as a result of following opportunities from other professions. It is only recently that the 'trained developer' is emerging from newly created academic institutions focused on producing development agents. The effects of these formal institutions, in terms of the strategic conduct constituting the development industry, are largely yet to be realised.

There has also been various attempts to theorise 'risk' from within the social sciences. This has largely been an ethnographic concern and may well be attributed to a traditional focus on the assumed relationship between 'man and his social and physical

environment', and the augmentation of the fundamental, and taken-for-granted features of human existence (particularly of 'exotic-' and 'non-Western cultures'). Perhaps for this reason, ethnographic conceptions of risk have entered discourse through discussions of sickness and danger, as in Evans-Pritchard's (1956:315) claim that "The test to what is a dominant motif is usually, perhaps always, to what a people attribute dangers and sickness and other misfortunes and what steps they take to avoid or eliminate them". The phenomenal contribution to this academic subdiscipline, is generally recognised as Douglas's (1966) 'Purity and Danger' in which Douglas observed that humans pay attention to a particular pattern of disasters, treating them as omens or punishments. Douglas follows by claiming that there is always a mutual adaptation of views about natural dangers and about how society works, and, therefore, that rewards and punishments are stored in the environment. A later work, 'Risk and Culture', seeks to interpret the new awareness of technological dangers in American society through a similar paradigm (Douglas and Wildavsky, 1982). Here Douglas and Wildavsky claim that "Cultural bias is integral to social organisation. Risk taking and risk aversion, shared confidence and shared fears, are part of the dialogue on how best to organise social relations...People order their universe through social bias, by bringing these biases out into the open we will understand better which policy differences can be reconciled and which cannot" (Douglas, Wildavsky, 1982:8). Halstead and O'Shea (1989) also employ the notions of risk and uncertainty as central to conceptualising cultural practices in both 'modern' and 'traditional' societies, referring to four dominant, culturally prescribed 'buffering mechanisms' - mobility, diversification, physical storage, exchange - employed to counteract the risks associated with scarcity. A useful feature of these anthropological approaches is their tendency to focus on strategies for long term survival, rather than simply maximising the potential gains in immediate circumstances.

Risk has also been a dominant feature of Giddens' more recent works. Here Giddens employs the notion of "disembedded social relations", referring to the 'lifting out' of social relations from local involvements, and their reconstruction across huge spans of time and space. The mechanism of disembedding depends on trust, where trust is defined as having 'faith' (of some sort) in the workings of systems, or processes, of which one possesses only limited knowledge. Giddens argues that 'faith' within local contexts of interaction depends on the existence of various 'disembedded mechanisms', abstract capacities such as money and professional knowledge, claiming that "...we can analyse feelings of security and danger in conditions of modernity by looking at how far disembedded mechanisms alter parameters of risk, both in respect of individual agents and larger social systems. In the balance between trust and risk can be located many of the contingencies which affect day to day life, but which also operate on a global scale" (Giddens, 1990:209/210).

Each of the above approaches to the notion of 'risk' are useful in conceptualising action in response to risk as a 'culturally-', or 'institutionally-prescribed' phenomena. In many respects it is useful to conceptualise risk through the notion that rewards and punishments

are stored in the environment, or, that there are objective possibilities of action when confronting situations or decisions involving risk. In a number of instances developers would conceptualise risk in this way, particularly as they made comparisons between the contemporary environment for development, and the development environment prior to the late eighties. This is particularly well illustrated in the following statement: “...*some of the unthinkable things happened in New Zealand in the late ‘eighties, things that were meant to be untouchable or could never happen, happened, so suddenly your whole warning system, your whole set of beliefs, everybody works to certain aspects of what is achievable and what isn’t, suddenly a whole method of analysing risk changed, we started to factor in things that, prior to, we wouldn’t have factored*” (Gunn:2).

My principal concern with these conceptualisations is the failure to adequately account for the level of analysis that identifies strategic conduct as the result of developers’ personal whims and choices. This level of explanation is also necessary, particularly in explaining the diversity of responses, and various contradictions in the way different developers confront similar situations. There are also innumerable levels of abstraction in between these extreme levels of explanation. Examples are: the ‘type’ of developer (clearly a large property investment company will have different risk strategies than an entrepreneurial builder/developer); the features of a particular development project (no two developments can ever be the same. Each involves bringing the variables of development together in different ways, if, for no other reason, than that no two pieces of land are the same, and only one development can occupy one piece of land at a time), and; a developer’s ability to act in regard to the resources to which he has access, and the ability to employ ‘rules’ (both the ‘rules’ of formal institutions, notably the law and regulatory procedure, and, the ‘rules’ of custom and practice characterising development interactions) relative to others.

### Strategic Conduct and Risk

My own approach accepts that, indeed, risk is an ‘institutionally-’, or ‘culturally-defined’ phenomena, but, with the reservation that social structures are both constituted by human agency, and yet at the same time are the very medium of this constitution. The theme of risk enables a useful reflection on this duality because it observes both the diversity, and the similarity, of individual responses to social phenomena. Certainly, risk is a medium which prompts change, individuality, and creativity, and yet it is also a medium which demands conformity and established patterns of behaviour.

Risk and uncertainty are also particularly appropriate conceptual themes through which to approach an examination of developers’ strategic conduct, because it is often this degree of uncertainty and risk that allows, or forces, creativity and imagination into strategic actions and decision-making. Indeed, Halstead and O’Shea (1989:125) have observed that “uncertainty itself is often a recurrent stimulus to change because of its inherent tendency to pose unusual, and often unexpected, problems”. It is important to this chapter to represent the potential for both stability, and change in the constitution of the

development industry. Thus, the similarities in developers' individual responses has enabled the extrapolation of seven key symbolic features to the constitution of the development industry. These are examined in the following seven sections of this chapter. The attempt has also been made to represent the fact that these symbolic features are constituted through particular human agency, and thus reflect individual whim, ability, and position of power within the 'culturally-prescribed environment' in which developers function. In each section, a range of responses are observed and discussed.

The conceptual theme 'risk' also allows some theoretical underpinning to the patterning of developers' strategic conduct, and to the structuring of this chapter, allowing the presentation of two dominant *forms* of conduct. Both are designed to increase the certainty of particular outcomes. In the first form, the problem is represented by a lack of knowledge, and the solution becomes a process of accumulating relevant information. A second form of conduct characterises scenarios of greater certainty, or, where the full extent of information has been acquired. Here, the problem is of a technical nature, and the solution requires calculation. This form of conduct provides an intimation to the themes explored in chapter four ('Motivation'), but also reflects on the differential ability of development agents. These two forms of conduct provide a useful structuring device for the following seven sections.

A focus on dominant forms of developers' strategic conduct is implicitly a reflection on the 'rules and resources' that constitute the contemporary development industry. An important dimension of developers' strategic conduct are the 'rules' that developers recognise and exploit, within the contexts of interaction in which they perform these actions. The acknowledgement and acceptance of 'rules' is particularly important as developers assess the parameters of risk in which their actions will be realised, and raises the questions of 'What 'rules' provide developers with the greatest degree of security?', 'How do developers draw on these rules?', and, 'What degree of flexibility do these rules allow for developers?'. While the focus of this chapter excludes the formal 'rules' of the regulatory procedure, the 'rules' characterising this chapter include those that are formalised in law (particularly in regard to formalised contracts, and certain legal precedents), and, also, those 'rules' that exist as the customs and practices constituting the development industry. These rules "express the specific form of the mode of regulation within which property development occurs, as manifest in the way rules are used and adapted by agents" (Healey, 1992:35). The methodological approach employed in this research is also useful, not only in identifying what resources are effective within the contemporary development industry, but also the circumstances in which certain resources are effective, and the manner in which resources are effectively employed.

## Planning Strategies

*"...before you do a development you just have to do a diligence..."* (Farrow,6)

Developers involved in this research identified preliminary and ongoing planning as a crucial strategy for their control of risk. Given the unavoidable diversity and uncertainty of any development project this is unsurprising. Not only did developers constantly emphasize the importance of planning for development success, but, also, identified *strategies of planning*, requiring skills particular to, and characteristic of, the contemporary development industry. Five themes appeared particularly consequential and are discussed below.

It was common for developers interviewed in this study to identify the strategy of 'working backwards' in their initial development planning. This common strategy is also reflected in industry guides and information, and here Dooley et al, (1989:282) advise that "In short, a well defined plan starts with and centres on results. A plan, in effect, begins at its end; implementation of that plan starts at the beginning and works toward the desired end". This strategy of planning was also reflected strongly from interviews with developers:

*"[I start with] the proposed profit, and go from there, simple as that... [working backwards], if you want to sell something then someone's got to want to buy it really..."* (Farrow,1), or that;

*"first of all you do a risk analysis, working backwards [from completion], you say 'what do I need ?'..."* (Gunn,6), or elsewhere;

*"It really comes back to who or where you're directing your market at to get to the profit that you want, and, therefore, we actually work backwards - what we can get for the thing at the end - and we work out what we can afford to pay for it at the start. And you have to do it that way"* (Booth,4).

It is generally recognised in industry literature that a number of development appraisals are required throughout any development process (see Cadman and Topping, 1995:Ch.3, Soens and Brown, 1994:45). There is some discrepancy, however, as to the necessary quantity of reappraisals, or the various periods of a development when reappraisal is required. A fair medium is the recognition of three periods when reevaluation is necessary: an initial 'back-of-envelope' assessment; an assessment incorporating information relating to land and availability of finance, as well as information collected from various professionals; and a final assessment based on sale, letting, and Council agreements. Developers interviewed in this research evinced more flexible procedures and criteria for reassessments, underpinned by a recognition of change as an everyday occurrence and constant feature of the development environment. These points are

usefully reflected in the following commentary from one experienced developer:

*"...Sometimes, it's almost everyday [that] something happens, and it changes your outlook. You might have to give something away, or change your plans or something..."* (Horne:3). Implicit in this statement is a further interesting feature of development planning. This is that the further the development project has progressed, and the closer the project is to completion, then more information is available, and more certainty can be provided to the development project. The corollary is that the number of options, and the degree of flexibility, are increasingly limited.

As a general rule, the degree to which a development project has progressed is proportional to the developer's level of commitment in the project. Key events characteristic of all development processes were commonly seen as providing 'marking points' for this level of commitment by the developers involved in this research. These key events generally related to the security of the six key variables forming the basis of the following six sections of this chapter. One 'moment' that was generally identified with particular vigour, however, was the moment of financial investment. This event is *the* critical marker of a developer's level of commitment to a project, supported by the widely shared belief that *"once you've put the deposit on the land you're committed"* (Edwards,8), or that *"you've got to remember that the whole process of development is working up to that unconditional date, [that's] when you are committed, that committed date, so [you're] having your research and your domino's pushed by your unconditional, irretrievable date..."* (Farrow,10). This moment is also reflected in the fact that in some developments it is not simply the developer's own finance at stake, but also that of client's and prepaid tenant's: *"...[it is also because of] the residents that are already committed [that you don't walk out]... and in this game, in this [niche] industry, if you make a commitment to do a development that's it, come hell or high water..."* (Duncan:8).

The investment of funds should also be recognised as a powerful symbolic gesture of commitment to others involved in the development industry, and signifies that the developer has associated his reputation, development skills and preliminary assessments, with the 'success' or 'failure' of the development project. This is well reflected in such claims as *"once you've made the decision to go you don't walk out - the personal investment you've put into this which is not just money, but your reputation, your name..."* (Duncan,8).

There was little evidence of the use of formal planning strategies by developers involved in this study. Developers appeared more inclined toward a recognition of the need for flexibility in their planning strategies. This was reflected in immediate and short term considerations, exemplified in the statement that *"...I've always looked on problems as something to be solved rather than being a hassle, everyday in our business something crops up that has to be sorted out, it's just a fact of a day's work..."* (Booth,8). Flexibility was also a dominant theme in long term planning: *"...you've got to change on*

*a constant basis. New Zealand's got [changing demands]...so our future's been rechartered to some degree on a constant basis" (Gunn,8). A general perception to emerge from interviews was the unavoidability of subjectivity in assessing the probability of potential outcomes, and that all developments are subject to different social, economic, and political environments. These factors confuse the reliability and consistency of past development experiences, and, therefore, the effectiveness of relating these experiences to future development planning.*

Another significant feature of developers preliminary planning is the ability to prioritise the potential hurdles of development (the classic development ingredients such as finance, land, regulatory consent, but also including any number of diverse problems) in terms of the relative risk they present to the particular project. Developers appear to prioritise their planning based on this assessment, and, are often able to organise the development process in such a way that those variables that present the greatest degree of risk can be secured first. Throughout the research process numerous examples were given whereby the variables representing the least uncertainty and risk were safeguarded on a conditional, contractual basis, subject to the security of the most rise-prone variables. A particularly prevalent contractual agreement within the contemporary development environment were those subject to regulatory consent. In a number of case studies explored in this research the granting of Resource Consent marked the moment when other agreements became legally valid: *"once we got through the Consent Hearing [the non-completion of the project] wasn't an issue...nothing could have stopped it, could never have stopped it..." (Carter,7).*

A significant conclusion to be drawn from this section is that the process of development begins well before anybody, other than the developer, knows anything about it. This is particularly so for neighbours and members of the public, who may only become aware of a development when construction is initiated.

### **The Assessment, Accommodation, and Realisation of Demand**

*"...in some cases you go to the market, in other cases the market comes to you..." (Gunn:6).*

This section discusses the processes and actions undertaken by developers as they seek to assess and satisfy a development demand. Demand is often not immediately realisable (as with client driven development) and is necessarily anticipated as a *future demand* (speculatory development). As such, development is susceptible to risk and uncertainty. This is exacerbated because development aims at a narrow consumer market, and, once started, is relatively fixed in time and place. It is important therefore for developers to employ strategies designed to maximise the potential for demand. These are divided into two types: The first type relate to avoidable risks associated with knowledge. Here developers are able to exploit a range of investigative strategies designed to reduce the

uncertainties of demand; The second type are more technical, enabling developers to control the risks associated with demand. A third part of this section examines the implications, and strategies adopted by developers, when there are discrepancies between anticipated demand and the actual realisation of that demand.

### Reducing the Uncertainties of Demand

This discussion identifies and discusses the ways in which developers assess the social and business environment as a means of reducing the risks associated with securing demand. The discussion reflects a spectrum of formality. At one end of this spectrum are strategies that involve the formal analysis of industry data and statistical information, available from a range of sources. A corollary to this formality was 'seat-of-the-pants' analysis, identified by developers as involving the skills of entrepreneurial ability, foresight, and creativity, and reflecting the position of developers *within* an industry, and in competition with each other. The discussion also observes instances where these divergent methods of analysis might combine.

There is some evidence to suggest, as Byrne and Cadman (1984:23-26) do, that more formal approaches to assessing demand are becoming timely. The increased involvement of formal institutions and the greater accountability and institutionalisation involved in the contemporary property market, the greater internal security of investors in the property market, the improved framework of market data, and the involvement of computers, technology, and other sources of information that were previously not cost-efficient to access are reasonable indications of the accuracy of this view.

Throughout the research process, it became apparent that wide ranging sources of information were employed in the assessment of demand. Financial, land-use, and demographic information appeared particularly significant resources in this task. Of financial information, particular mention was made of regular Reserve Bank bulletins, Valuation New Zealand's Real Estate Market research paper, and Financial Focus information including regular bulletins on National Radio. On a number of occasions casual phrases such as "*keeping up with the play*" (Farrow,14, Horne,1) referred to the everyday assessment of business news in newspapers, radio, and television. It also appeared significant that a number of developers also referred to their regular contacts with prominent business people, and business related Council Officials as crucial to their ongoing knowledge of the local economy.

A deep probing investigation of developers' financial strategies and investigations is best left to the discipline of economics. Two prominent strategies were repeated throughout this research however. The first is the common perception of inflation, which is well illustrated in the following claim: "*...the property market is probably one of the few areas that really enjoys it when inflation is high, because obviously, when inflation's high the capital gain in property is high, and personally I don't see anything wrong with a bit of*

*inflation actually...*" (Booth,1). A second dominant concern was that of interest rates. Particularly in the residential sector, low interest rates were widely regarded as a sure sign of increased demand: *"If the interest rates are quite low, that's when builders are quite busy, as soon as it starts rising, people aren't loaning money so they're not doing alterations or doing new houses. It does affect it quite a lot"* (Allen,2).

Developers often revealed their reliance on formal land-use information, available from a range of sources: The Council's District Plan and Regulations (the recently passed 'Rates Valuation Act, 1998' requires local authorities to ensure regular revaluations are done in their area); The Land Titles Office (revealing the history of land use and transfers); Quotable New Zealand (which has recently replaced another crown-owned company - Valuation New Zealand - and is charged with the valuation of land), and; The Department of Lands and Surveys.

Developers also revealed the use of an increasingly available, and increasingly diverse range of formal demographic data as important in assessing demand. In particular, this was available from: Council sources; Census information; Statistics New Zealand's annual 'Key Statistics' publication; as well as data relating to, and available from, particular industries or consumer markets (such as 'the retirement industry', 'the sports community', 'the movie-going population'). I was often surprised at the degree of precision at which developers exploited demographics. This is well illustrated in the case of one developer specialising in cinema development: *"the first thing that I look at in the cinema [development] business is the demographics, and I get the hard facts out of the City Council as to what the breakdowns are, you then look at the breakdown of the larger groups, the under 25's account for about 60 or 70% of your audience on a constant basis...in more recent times you're able to apply the national averages of cinema attendance..."* (Gunn:6), stating earlier that *"[if] the demographics showed quite clearly that a cinema of a certain size or type could be developed, then we've gone there..."* (Gunn,1). Another developer, specialising in retirement developments was able to exploit local demographic projections: *"...the elderly people, they are increasing in numbers, in the next twenty years they will double, from about 400 odd thousand to about 800 odd thousand..."* (Duncan:3).

One of the striking observations of this section was the commonality and significance given to the price-categorisation of potential consumer markets during the assessment of demand. To some extent this is reflected in such statements as *"the prices for the houses was going to go up which would have stopped a certain level of person getting into the village, like those that may have had a home under \$150,000, which at the moment in [this other development catering to the same specialised consumer market] you can't get in, but here you can"* (Duncan,2), or elsewhere, that *"...[this development] the price being around three hundred thousand all up with a house, the one out at [that area], probably around the two hundred, two twenty mark, so you're dealing with two different markets..."* (Booth,4). The finding that price-determined categorisation was a dominant

characteristic feature of developers' assessment of demand has numerous interpretations. In one respect it reinforces the marketplace adage that capitalist development produces at *'the right price at the right time'*. An alternative interpretation is that it is simply because finance represents a powerful symbol of security for developers that it comes to be represented in the built form to such an apparently increasing extent. The fact is that any number of social realities might become reflected in the built form and that the manner in which the built form is created reflects the manner in which developers *perceive* social reality. The point here is that the congruence between 'society' and the built form is reflected *through* the mediating influence of developers, and that finance was the most common mechanism through which developers perceived this social reality.

I was also struck by the extent to which the developers involved in this research shared a popular preference to satisfy the demands of the middle to higher price-categories of the market. It was claimed on a number of occasions that an orientation towards these markets was a mechanism to control risk, that *"...you're still dealing with good people, dealing with people that know what they want and they can afford what they want. If you get back into that cheaper thing you just don't have that sort of thing"* (Booth,4), or that *"...people in the higher end, they're more concerned to protect their investment and they're more willing...[to resolve problems that might arise]"* (Horne,4).

These 'formal' process do not account sufficiently for the position of particular developers *within* an industry, and in competition with each other. Neither do they sufficiently account for the fact that developers are oriented toward a future, or anticipated demand, and that this future demand is subject to uncertainties that cannot be fully extrapolated from formal information based on the past and present environment.

Crucial to a developer's success in assessing and reducing the uncertainties and risks of demand is the ability to anticipate future demand: *"...You need to have some foresight as to where the city's going and what's happening..."* (Edwards,1). 'Creativity' was frequently expressed as an important skill in the development process. This reflected the ability of developers to be beyond the market signals shared by the general development industry, and is well illustrated from the experience of one research participant, who was of the opinion that *"people would say that, outside this area, anyone who would have done any sections would have been a bit of a fool because the market is not very good, so all the sections are available, [but] I would say [in] another year or so, maybe two years, all the sections will triple [in value]"* (Duncan,1).

The fact that demand is often only realised in a future, of which there must be a variety of uncertainties, renders formal information analysis to some degree redundant. In this respect claims such as *"It just comes from the seat of your pants, it's a matter of doing your own market research, of understanding the dynamics of a given business"* (Gunn,6), or that *"... your intuition, after a while, gets a fairly good feel..."* (Gunn,6) were common. These 'intuitive' skills were generally associated with developers'

historical experience, and this was reflected in claims such as "...you've got to have a bit of grunt, I mean you can't just go off the street. It's taken me, I've been self-employed for 24 years and it's taken me 19 years with an apron and a hammer" (Edwards,1), or that "you learn a lesson in every development, you gain more experience as you do more development" (Farrow,2). A similar discourse was revealed in a series of interviews with managers conducted by Bucklet and Chapman:

*"...issues of reliability to supply, trust, control, motivation and the like...were never discussed in the numerical terms necessary for computational, rational decisions, but were subject to a parallel discourse, one whose terms were verbal rather than numerical and that was suited to reasonable decisions. The mechanisms of decision were construed in terms of things like 'judgments', gut feeling', 'intuition', 'experience', 'knowledge'...Managers, if offered the idea that there might exist an 'objective answer' to the problems they faced, typically laughed. 'Everybody knows the world is not like that!', or words to that effect, were a common riposte...Even in discussion of a simple 'make or buy' decision, the comparison of numbers (internal costs and external prices) was accompanied by a kind of counterpoint of words and judgments" (Bucklet and Chapman,1997:240).*

The assessment and accommodation of future demand is a highly competitive discipline and, as one developer put it, "you've obviously got to have a bit of entrepreneurial ability, you've got to be able to see opportunities ahead of the field" (Gunn,2). In this regard, the language of 'foresight', and 'entrepreneurial ability' were often fused with the notion of achieving 'the edge' over other developers.

There are a number of implications and concerns to these strategies of subjective analysis. One concern is that 'entrepreneurial strategies' are generally recognised retrospectively: "because the movies really kicked in, and because history has proven that people like to get away from their misery, and they actually proved it in the 1930's with the great depression, and there was one in the early 'nineties, it's a phenomenon, an inexpensive night out in the main, people can go and loose themselves for a bit, escapism it's called" (Gunn,4). This concern is prevalent in a much wider business frame. For example, the success of companies is often attributed to 'innovations in the marketplace' or 'distortions of market rationale' (see Hawkes, in Carrier, 1997:142, or Fu Lai Yu, 1997:107), but only *after* some degree of success is realised.

Also, these highly subjective expressions of developers' decision-making procedures make it very difficult to clearly characterise the processes of land development, and offer no clear measurement as to the effectiveness of these strategies for assessing and reducing the risks associated with demand. Nor do they retain a useful degree of replicability. As such, the frequency of these subjective, 'seat of the pants', 'intuitive' expressions present a serious challenge to the discipline of economics, which, as Chapman and Buckley (1997:241) claim, "has made rationality into a central assumption". An additional

theorisation is that these subjective expressions provide a deliberate ideological function, the purpose of which is to discriminate the developer's particular ability and function in facilitating land development from other agents.

It is also clear that insightful developers combine the formal assessment of data with speculative and more subjective assumptions as to why those trends exist. It is important to developers not only to recognise demand, but to speculate on the reasons for that demand, and on whether these reasons will maintain this demand in the future. This formal/subjective mix is usefully illustrated in the following statements: *"As far as the housing market's concerned, the demand for that will always be driven by the increase in population of the area. One of the sad things about the housing market is that if it wasn't for all the marriage breakups and that sort of thing the housing market in Palmerston North would probably be stuck, the population growth would be small. If you've got a family and Mum and Dad split up, instead of needing one house, they need two, and as sad as that might be, that, to my view, is a large reason why you've got a demand for housing, it really is"* (Booth:2), or elsewhere, that *"...the demand level hasn't stopped yet, we take it as ten thousand elderly people living in the area...people are more conscious about security, and interaction with their own age group, they prefer to have intersocial interaction with their own kind..."* (Duncan,2). In this respect, developers are speculative social theorists, attributing social explanations for demographic trends, and testing these suppositions in a practical forum.

### Controlling the Risk of Demand

This discussion explores developers' ability to exploit resources in controlling the risks associated with demand. A dominant impression from interviewing developers was the extent to which a positive industry reputation was considered important in controlling these risks. This is clearly represented in the claim that *"...in some cases the market comes to you because you've got a reputation for being good at what you do, in other cases you suss out opportunities. In our case we've enjoyed a bit of both which I guess is the best way to be in that there's a certain amount of positive chat out there about you and that generates a flow-on of clientele as it were...[so reputation is very much a significant factor in our success]"* (Gunn,2). The strategy of exploiting reputation was particularly associated with commercial development, where, increasingly, 'successful developers' are employed by a commercial tenant to facilitate a development within a certain geographical area. A reputation of sufficient quality and quantity enables particular developers to participate in this relatively lucrative market (Real Estate Sectoral Review information claimed this market segment as the best risk: return ratio in Palmerston North, see Chapter one).

Sufficient financial resources also enable developers to pursue land-banking strategies, designed to control the risks associated with demand. The significance of finance and landbanking is particularly well illustrated in the following statement: *"I was earning*

*probably one hundred and fifty thousand dollars a year, so that gave me a break into the market, because the thing to be successful is that you need to own the land so that you can actually sell it yourself...I've got people coming to me because I owned the land...you've got to get the prime locations, you'll always get a tenant if you've got the prime locations" (Edwards,1). Landbanking was also powerfully illustrated by another large land owning developer, referring to his recent purchase of "...forty acres of industrial land, because what we've got, we're running out of land now, and I'll fill that land in the next fifteen years or so, it'll take that long to do it, but I'll fill it in that period of time" (Booth,9/10). Clearly, the quantity of financial resources and the degree to which a developer can afford to have those assets invested in land, will directly determine the successful financial return of this strategy.*

Mobility, specialisation, and diversification characterised another range of strategies employed by developers to control the risks associated with demand (this adds a further spin to Halstead and O'Shea's theorisations, referred to above, on the universal buffering mechanisms of 'mobility, diversification, exchange, and storage'). Throughout the research process I was struck by the *sense of mobility* that appeared characteristic of developers. In one sense this related to geographical mobility, or the expansion of the developers geographical domain of operation. This is reflected in various claims: *"I guess there's a lot more potential to generate revenue if we start going overseas, because I think the market in New Zealand is quite limited" (Ireland,4), or that "...the world's your oyster, if you're good at what you do you go nationally, if you've got a desire to go internationally then you probably could..." (Farrow:3).*

Increasing the domain of operation was often, although not necessarily, accompanied by a specialisation of potential consumer markets. Rather than facilitating development within a limited geographical area (associating themselves with a particular City), a number of entrepreneurial developers are becoming specialised in particular niche markets: cinema; infrastructural development; retirement housing, or; highrise apartment blocks, are examples taken from the developers involved in this research. Strategies of diversification were also employed by a number of developers. In these cases, developers were not confined to particular segments of the development market, but sought to spread their web to a variety of development opportunities. This strategy was favourably employed by a dominant local developer: *"...I've been involved in the property industry for probably thirty years, but most if it's been, and still is, in the commercial property area. We've only really got involved in some residential things when the commercial property, the market, slowed back in the late 80's, early 90's..." (Booth:1).*

Each of these strategies - geographical extension, specialisation, and diversification - allude to a *'culture of mobility'* that pervades the development industry. This prevailing culture of mobility is constituted through the actions and orientations of developers. Characterising the strategic orientations of developers involved in this research was a tendency to build on, and maximise opportunities provided by past development history.

A characteristic example is the statement that "...the reason why we started this development, which is quite a large unit, was because of the perceived demand which we could see after developing [a retirement complex] for six years, first four years with the village, which was then completed, we then started with the [related] apartments which took us another few years, and then there was a need to have more houses available, because we're chocker at [that complex], [but] there is still a demand for people to come in..." (Duncan:1), or elsewhere, that "we did this [development], and it was well received, and we got the opportunity to do a similar one in [another area],... and it's just built on from that really..." (Gunn:13). Another factor constituting this 'culture of mobility' is that developers tend to enter the profession of land development on a cumulative basis, and from other professions. It is only recently, as was observed in chapter one, that the property development professional has emerged as a distinct occupation. It is also only recently (particularly with the inclusion of land and property development at the tertiary level) that a requirement for specific development training has been recognised. A general conclusion to be drawn from this discussion is that developers tend to be highly flexible agents, but that this flexibility tends toward the path that lends the greatest opportunities to developers, both in quantity and quality of work.

#### Failed demand

The options identified by developers when their anticipated demand was not realised were limited. When questioned about this scenario most developers again stressed the importance of thorough preliminary demand studies. The fact that land is a finite commodity does offer developers who have failed to realise demand some degree of security in recovering all or part of their investment. Here Christiansen (1996:131) has claimed that "A form of insurance against failure is the likelihood that an unsuccessful developer will not remain in business very long. However, few development projects are, in the long run, total failures...(Land) seldom decreases in value and most buildings are capable of being adapted for alternative uses". Where demand is not realised, developers might reorient their strategies towards others in the development industry: "*Damage control is identifying what problems you are faced with - a mortgage, can't pay your rate contract, or whatever -you identify it and look at ways of getting it under control. You might try to find another developer and you might figure out your costs and try to flick it on to them and use some sort of entrepreneurial type deal, you know...*" (Farrow,10).

As was earlier claimed, land development is highly susceptible to risk because it is relatively fixed in time and place. Therefore, the extent to which developers can control the timing of the development in terms of demand can effect the degree to which a developer can ultimately realise return from the original investment. An assessment of the local area reveals a number of examples where better resourced developers can hold property for quite some time in expectation of market fluctuations. One developer reported that he had held on to a particular development project for ten years in anticipation of improving market conditions. The same developer indicated his purchase

of blocks of land without anticipated development and resale for fifteen to twenty years (Booth:6/13). A response from another well-resourced developer also reflects the fact that money buys time in land development: *“there has been the odd occasion when I’ve bought a piece of land and then thought ‘no, that’s not the right place and then put the land on the market and got out...(And that’s easy enough to do ?)...Oh, you might wait around to get [rid of it]”* (Edwards,7).

## **Acquiring land**

Securing the acquisition of land may be the first significant variable in some development projects, particularly where the developer is the end user, or where a client has approached a developer with specific criteria. In the majority of developments, land acquisition is often the first major investment undertaken by a developer. The following section is divided into two discussions. The first is oriented toward dominant strategies designed to assess and reduce the uncertainties regarding the acquisition of land. The second explores strategies designed to control risks associated with land acquisition.

### **Reducing Uncertainties in Land Acquisition**

The dominant theme of the following discussion is that strategies designed to reduce the uncertainties of land acquisition are intimately connected to the demand and requirements of other groups and individuals. Council requirements and the criterion posed by end users are particularly significant. A distinction must also be made between the manner in which criterion are posed in client-based development, compared to speculative development.

A commonplace assessment prior to the acquisition of land is what the local planning authority will permit in regard to particular land use, and what the authority expects in terms of land information. This later point will affect the sort, and depth, of land suitability studies engaged by developers. A wide variety of factors are potentially implicated here, including: topography; altitude; temperature; rainfall; accessibility; land use; vegetation cover; drainage; soil; geology; mineral resources, and; licences. Alternatively, developers might seek other sites, or may decide that these assessment requirements are not cost-efficient. Council zoning also places limitations on the acquisition of land.

Another dominant factor in determining the acquisition of land are the actual, or perceived, requirements of an end user. In some cases, a site that particularly satisfies the requirements of an end user will not directly comply with the requirements of the Council regulations. Developers must incorporate these potential incompatibilities into their acquisition strategies. There is some evidence to suggest however, that, within the current development environment (and particularly due to the Resource Management Act), the assessment of land and surrounding areas in terms of a physical and social form, is

increasingly important in comparison to the Council's regulatory definition of the area. This perception was reaffirmed by one development Consultant: *"...Sure...It's knowing what the clients doing, understanding the nature of the development and then looking at the land uses around it, and looking at the potential problems that might affect it"* (Ireland,6). The specialised strategies involved in this assessment are explored in depth in the following chapter.

The development requirements of possible end users are multifarious, although they generally reflect a particular segment of the development market. In commercial and retail propositions certain themes appear relatively common. They are: high visibility; easy access; car parking; centrality to demand in the retail sector; as well as access to rail sitings and main arterial routes in other commercial propositions. Certainly, as was observed above, there is enough generality in these requirements so that astute and financially endowed developers are able to identify and purchase 'prime locations' with a high expectation that these sites will quickly become filled. Where a developer has secured a client, or has established an end user prior to the acquisition of land, the possibility of refurbishment, or building from scratch is often the first consideration for developers: *"in some cases we're looking at an existing building and converted it to our use, changed it's use in other words, in others we've started with a Green fields site, in all cases we look at car parking, we look at ease of access and we look at locations in regard to how easy the majority of people in the town or City can get there. So it's central to demand, car parking, and it's economies of scale depending on the demographic size of population"* (Gunn,1).

A prevailing theme to emerge from interviews was concern about the longevity of compatibility between land and end user. This is particularly so in commercial and retailing propositions, and was often expressed alongside the fact of the enormity of a land or property investment: *"[companies] are going to want to be around for a while, they've done their homework too. It's important because there is a lot of money at stake, both for you and them, especially if they're going to renew their lease..."* (Horne:6). A useful reflection on the significance of this theme was the initial question posed by a company seeking to establish within the area: *"...do we have a need to be here?...because you have a long term commitment..."* (Carter,1). The long term requirements for development were constantly reflected in developers' land assessment strategies, and were typically expressed in vague statements such as *"...it's very important knowing where the City's going and what's happening [with the built form of the City]..."* (Edwards:2).

The acquisition of land for an anticipated or speculative demand is a more questionable and unreliable process. This was well illustrated when I questioned one developer about how he knew if people wanted to buy in a certain area: *"...if your going back to residential subdivision as an example, obviously the surrounding districts, you look at what's happening, what's happened, it's more demographic data, you look at what*

*people want, where they're going, and how many section sales are happening in that area...it's probably an information gathering exercise in the area, in the greater area...you just look at what people are going to demand, it's a demand thing really, what appeals to them, what would make someone want to go and live there, it all ties up with your marketing package, it's very commercial I know, but you've got to look at it that way"* (Farrow 1). A further concern with the assessment of land for speculative demand was addressed by another developer: *"...if you look at the latest statistics out, most sales in Palmerston North during the last twelve months have been in the Hokowhitu area. However, 'Hokowhitu' now extends from Longburn to Ashhurst just about (that's an exaggeration but you know what I mean). It's got outside the traditional Victoria Street/Pahiatua Street area...you've got one of your top areas around (this particular area), and one of your worst areas...is right in the guts of that ['good'] area"* (Booth,2). Not only does this claim reflect the ambiguity of land feasibility studies, but also the manner in which speculative developers attempt to exploit the 'good name' of an area as part of a marketing strategy, attempting to attract demand to their particular development.

A dominant perception amongst developers is the association of certain types of location with greater degrees of risk. This was reflected in terms of both the immediate vicinity of a development site, or in regard to the 'area' of the development. Both these factors are illustrated in the primary considerations of a speculative developer: *"it's got to be in a good location, like Hokowhitu normally sounds quite easy, so Hokowhitu is normally the best selling place...and you've got to look at what's beside it, whether it's an older type of house, an ex-state sort of house, or a nice new house...If it's in a good area, and it's got like a new house on each side of it, quite a big house sort of, you get a feel for what it should sell for, if it's in-between two state houses it sort of lowers the price...[the disadvantages] of this section would be that house there, looks a bit untidy, you can see down there that's it's unfinished, needs a little paint. So it sort of cheapens this one a little..."* (Allen,1). An interesting feature of this statement is that it illustrates the inherent conflict, theorised by Harvey (1972), between the spatial patterns of past eras, and the contemporary regeneration of the urban form. Similar expressions were reflected across the range of developers interviewed, and, surprisingly, all expressed a general preference toward acquisition in 'good' areas. Elsewhere it has been illustrated that this pattern of behaviour is symptomatic of capitalist development (Cox,1982).

Certain potential risks in land acquisition were commonly avoided entirely by developers. In particular, the position that *"A lot of that land was subject to Treaty claims so we would not have been interested in getting involved in any of that"* (Carter,3) was reiterated on a number of occasions.

## Controlling Risk in the Acquisition of Land

From the above discussion it is clear that the 'quality', and 'reputation' of an area are significant factors in the acquisition of land, and that development is usually subject to unavoidable risks in terms of what other land owners do (or don't do) on surrounding property. To some extent these risks can be controlled. A strong impression to emerge from the research process was that developers were more inclined, and more able, to purchase large blocks of land, and to develop large-scale residential centres ('communities', or 'villages') as a mechanism to avoid these risks of land acquisition. The logic of this strategy was particularly well illustrated on two occasions: "*We've gone out and largely bought an area of land and then we've been able to take control of the whole thing, and then you can do a proper development on the whole thing rather than being forced into buying a block of land up the road here, jamming it in-between what somebody else has got on the outside and having no control over what happens around you*" (Booth,1), or elsewhere, that "*If you decide to build a home in a street, the sections are cheap but you decide to build an expensive home, but you don't have control of anything else, and next door someone might say 'well, I'm going to build a very cheap house here'. That doesn't do much for your house and will actually devalue it...whatever you do always has interaction, everything is connected...*", adding that "*When we were persuaded to go here, one of the conditions that we said to Council was that we wanted the outside sections, and the only reason for that is that we can control what is being built there, the last thing we wanted outside the village was a cheap subdivision...*" (Duncan,1/2). Clearly, developers able to employ this type of strategy are in a much better position to control risks associated with surrounding land. One consequence is the development and marketing of residential subdivisions, villages, suburbs, and communities catering for particular lifestyles (i.e. large retirement villages, communities based around a new school), and incomes (a feature of these developments is standardised price-categorisation).

Simple legal mechanisms were identified by a number of developers as a means to control risk associated with land acquisition. One example is the claim that "*If you want to be really pedantic, and you've got a property, you do a proper diligence, you get a surveyor to do the proper boundaries, and you have to make sure that it's got a title, and if it's not a title it's a district plan, then you provide, as a term of your contract, if there's a variation of more than five percent then you get a credit, so there's different ways you can address things in advance if you're an astute person...*" (Farrow,9). As the research progressed, it became clearer that this type of action was symptomatic of a general partiality on the part of developers to exploit the authority of the law as a means to controlling potential uncertainties.

It is also not wise to simplify the purchase of land. Indeed, a prevalent theme from this research was the attempt by developers to secure a site without the investment of funds, at least for the period of preliminary feasibility studies. A variety of contractual strategies

became evident in this regard: option-to-purchase contracts, and; conditional contracts for sale and purchase (these are discussed in the following section). The ability to pay a greater purchase cost for land should also be recognised as an increasingly important strategy in the contemporary land development environment. This is not simply to be presumed because the acquisition of land is always subject to other limitations, particularly the Council's regulations and zoning. In some cases however, a developer will assess the acquisition of certain land as worth the alternative risks associated with the regulatory procedure, and will seek to negotiate the Council process thereafter. This was particularly well illustrated in one case study: *"basically the land was incorrectly zoned for its true value, for, as residential property, relative to its perceived value, it was too expensive for a developer to put multi-housing on it and get a reasonable return off it, or to have a reasonable risk element. In terms of our position it was relatively competitively priced in a commercial proposition, and so that was one of the positions we took, I mean it was highly attractive to us in terms of price relative to what we wanted to do"* (Carter,5). Council Officers generally reflected on the isolation of this particular case, but also provided a number of similar examples. An interview with one Consultancy agent also revealed a sense of relative disregard for Council zoning compared to alternative environmental tests under the Resource Management Act (Ireland,14). It is difficult therefore to speculate on whether the above example is indicative of a trend. If so, the implication is that the possession of finance is an increasing advantage in the contemporary development environment.

## **Securing Finance**

This section is divided into two discussions. The first examines the centrality of finance to development success, and the desire and requirement to accumulate finance. The second examines alternative strategies to secure adequate finance for a development project, and the mechanisms employed by developers to assess the security of these alternatives.

### **The Possession of Finance**

Finance is not only critical to any development project, but was often identified as the key resource in differentiating the relative success of development agents. A development may be sound in respect to the suitability of land, the anticipation of demand, and all regulatory criteria, but a developer may be forced to drop the project for lack of funds, rendering the development opportunity available for a better resourced developer. In essence, the possession of funds creates opportunities that would otherwise not exist for developers, and developers are generally oriented toward accumulating financial resources to avail themselves of these opportunities. In addition, adequate finance enables developers to avoid the risks and additional costs associated with the involvement of other agents such as partners, tenants, banks, lending institutions, and investors in the financing of a development. These points became particularly apparent when I questioned

participants as to why larger development agents were more 'successful', and as to what they possessed that research participants didn't. Developers invariably responded "...*Funds !*" (Edwards,3). In this case the developer added that "*the big boys like Fletcher Challenge...they're another step up from me, we talk about 5 and 6 million dollars, they talk about 3 and 4 hundred million dollar buildings, like the casino and so forth...they let a lot of finance in too, which is a big help, these developers don't have to go and find finance from the banks, the big boys [can] leave financing*" (Edwards,3).

#### Alternative strategies for Securing Finance

Often developers do not possess the adequate independent finance necessary for their development projects. One strategy to resolve this situation is to attract prepaying tenants or clients. Clearly, this type of opportunity depends on the developers' ability to accumulate, maintain, and advertise a positive reputation. This type of scenario is well illustrated by a successful commercial developer: "...*I could do a hundred million dollar development, but I'd have to get a partner, or some backing from a financial effort. It wouldn't be hard to do if you had a tenant lined up, I mean I could do a one hundred million dollar development but I'd have to have a tenant that was paying, it works on a ten percent cap most of the time so I'd have to have a tenant paying ten million dollars a year in rental*" (Edwards,3). Such arrangements can provide developers with opportunities that would otherwise be unavailable because they do not possess adequate funds themselves, and because banks are less inclined to lend on speculative claims.

To secure adequate finance, developers may have to involve other parties in the development process, as partners, investment brokers and investors, or as lending institutions such as banks and insurance funds. A dominant impression from interviews was that the assessment of the security of these relationships was crucially important to contemporary developers. For a number of developers this predominant concern was borne from experiences of the 1987 property crash: "...*we started to factor in things that, prior to, we wouldn't have factored,...business failure, who you were doing business with. We got hurt substantially because a lot of people went sour on us, it wasn't because we made a lot of money... but people went sour on us - their inability to pay us for work done, so that severely restricted our ability. We look very, very closely at relationships, we put a lot of store in relationships, we have a major thing about them, both good and bad. We look for strong relationships . We want to know about people before we're put in a situation where we're exposed to them. We would want to know that they have the ability to meet their commitments, just as we expect that they would want to know about our ability to meet ours ... relationships pulled us through [this particular development], the fact that the B.N.Z. walked away, we were able to overcome that and use the other relationships that we had to patch it up, to fill the gaps if you like, and to produce a completed project*" (Gunn,2). That similar sentiments were expressed by almost all the developers involved in this research reflects the greater concern 'across the industry' with security of finance and investment.

Developers involved in this research made direct, and almost proportional, comparisons between the ability for any agent to meet their development commitments, and the appearance of their financial resources. This rationale was a profound feature of developers' mechanisms for reducing uncertainties of development. The following statement provides an excellent practical illustration: *"I think a feature of large and successful [developers] is credibility, if you've got a resume that's huge and you've got a balance sheet that's huge then you might get deals that you wouldn't normally have got, so there's a certain credibility there, and with that goes a whole raft of things for development, for example we have a tenure on a property, a large redevelopment here in Palmerston, about \$700, 000, \$800,000 building contract and we had a local contract at one price and we had a national company give us the same price, well we took the national company, just because, you're less inclined [to have problems], if something goes wrong they'll fix it..."* (Farrow,3/4). The implications of the fact that finance appears to be the most recognised symbol of credibility within the development industry, and, that developers express a general predilection towards opportunities that retain greater financial credibility, are concerning. The most significant is the marginalisation of development for local, small-scale, voluntary, or public service operations, indeed, any organisation that cannot compete on a financial basis.

### **Time in Development**

*"everything has to be done yesterday in this game"* (Edwards,5).

Time is an important variable in land development for a variety of reasons. Firstly, as has been observed, the development environment is subject to constant change, from a wide variety of social, political, and economic forces. The period of time in which a development is completed directly affects the degree to which a development is subject to the uncertainties of this changing environment. Secondly, the period in which a development is completed directly affects the profitability of a development in a variety of ways, including: the period over which a developer pays interest on a loan; the period until a developer secures an ultimate return through sale or letting; and the variety of other land holding and marketing costs accruing on a daily basis. Thirdly, the length of time that land is identified by a developer prior to purchase increases the interest and competition from within the industry. In this respect "(a) reason for avoiding financial commitments at the inception of a project is that all outlays attract interest, whether actual or notional, and all such interest is capitalised. The greater the net outlay on finance and other holdings costs, the higher the total project cost, and the less profitable is the development likely to be" (Christiansen,1996:137). Finally, there are a number of other potential reasons that time is crucial to a development process, notably contractual obligations, advertising of 'grand openings', and meeting clients requirements.

Developers are constantly engaged in reducing delay in the development process. Before we examine how they do this however, it is important to address two findings of this research: Firstly, that time runs through different development projects in dynamic ways, and; secondly, that developers were nonetheless able to identify significant phases of any development process. These were: the period from the identification of land to its purchase (often coinciding with the start of construction); the period of construction, and; the period until the development is sold or let. This section is structured to reflect these three commonly perceived phases.

#### Identification of land - Purchase of land (Start of Construction)

The period between the identification of potential land, and the actual purchase of that land presents conflicting concerns for developers. Here the developers profit motive often conflicts with the desire to control risk during the selection and purchase of land. On the one hand, developers, in competition with other developers, must secure a site early, even before fully identifying its feasibility. This allows them to capture the maximum profit on the land. To do this however, the developer must generally spend money, thus increasing financial exposure. This Catch 22 for developers is further complicated because "the more the idea for development is made public and the more the idea takes shape and becomes believable, the more money the current landowner is likely to ask for the land" (Miles, 1997:190).

Developers involved in this study identified contractual strategies as useful means to eliminate the uncertainty produced by the time delay between the identification of land, and its purchase. Often contracts were employed as developers awaited the outcomes of land feasibility results, and Council decisions. In all cases, the purchase of property was conditional on the results of these other key factors. It appears these type of contractual arrangements are widely acknowledged within the development industry. Goodchild and Munton (1985:70), for example, present a useful synopsis of their basic nature: "A developer who holds an option [to purchase contract] can buy the land at any time during the duration of the agreement. A developer who holds a conditional contract **MUST** buy the land if the event on which the contract is conditional occurs. Thus, if planning consent is granted, the developer must purchase the land". Of these two dominant contractual forms, optional contracts (identified throughout this research) offer greater flexibility, although, as Adams et al claim (1992:212), "both options and conditional contracts reduce initial outlay, [and] restrict the power of any one owner to hold out for a ransom sum...they provide the developer with maximum flexibility with minimum cost".

#### The Period of Construction

The period of construction for a particular development, is subject to a variety of potential uncertainties mostly regarding the selection of builders and contractors, or if complaints by neighbours or Council Officers necessitate a reorientation in construction plans. This

latter problem occurred in two case-studies (two and three) whereby the developer was required to accommodate concerns regarding noise levels resulting from the extended working period each day, seven days a week. Both uncertainties are commonly contained through contractual means and other agreements prior to the initiating of construction.

The most powerful conclusion to be made of developers' attitudes towards construction is, again, an orientation at the shortest construction period possible. This reflects general concerns such as increased borrowing costs, but may also be a result of such factors as advertised opening dates, or contractual agreements with consumers. These issues are usefully illustrated as the developer involved reflected on case study one: *"...[we were on] a very tight frame of completion. So we were twenty weeks from the time we started on the land to the time we completed the building. In July we said we will complete on the twenty third of November, and we were geared to that, so we couldn't afford any delays and we were always worried that we might have to drop back...But we got there"* (Carter,7). A significant general impression from the research was that developers preferred to maximise all available resources in reducing the period of construction, including the employment of construction man-power, and, in the use of technology. The former concern is well illustrated in the following statement: *"...you get to know who is the best [builder or building organisation] for a particular job...they do the job well and they don't have too many hassles...because you want it done as quickly as possible a lot of the time..."* (Horne,3). My limited involvement with the construction industry throughout this research (a forum at a Council/developer luncheon, advertising brochures, and a brief conversation) revealed that speed and efficiency were among their most powerful contemporary marketing points. A startling impression from interviewing developers was the manner in which technology was revolutionising the speed of construction. This is particularly well illustrated by one builder/developer: *"...the techniques of building now, we're bringing stuff out from the States, like in my early days we would do four thousand square metres in coat, it would have taken us two weeks hard yakker, going for it. We did four thousand square metres in four and a half days with this [piece of machinery]"* (Edwards,8). On other occasions the five week construction period of townhouses was attributed to preplanned housing designs, and modern building techniques (Horne,5).

#### Period Until Letting or Sale

While the period of time it takes to construct a building is finite and relatively fixed, the period of time from the projects inception to its sale or letting to a tenant, is subject to a variety of variables and considerations in the development process, and is neither necessarily finite, nor fixed as a date of relative certainty. Increasing the period until a development is sold or let increases a myriad of costs associated with holding land, and forfeits potential revenue had the development been let. Delay in sale also increases the period of uncertainty in regard to the future social and economic conditions.

Developers involved in this research displayed a general preference, and ability, to lease or sell a development prior to its completion, and in this way, avoid the risks and costs of delayed sale. One developer distinguished this strategy as “pre-sales”, defining it aptly as “*getting something before you do anything...*” (Farrow,4). The logic of this strategy is described by another developer: “*...from the time I bought the land to the time it was operational was something like fourteen weeks and in that fourteen weeks I'd only made arrangements, I'd only paid a deposit of six thousand dollars on the land, and yet I was doing a three million dollar development, they were in and I was getting twenty seven thousand dollars a year, or whatever I get in rental, before I actually had to borrow the money. That's the key to being a good developer, you haven't got any holdings costs*” (Edwards,9). In another development, sections were sold while construction was going ahead, enabling the on-going financing of the development, the developer adding that “*...we have our first four residents already in, we have another in by next month. I hope to have one or two moving in every month. [The] first year is always the pioneers, the second year you get the pioneers and the people saying 'oh, it's going', and the third year all hell breaks loose and you do one house a week...*” (Duncan,8).

### **Risk and Relationships in the Development Industry**

*“...the success of a development is directly proportional to the expertise and ability of the people involved in it really”* (Farrow,2).

‘The development industry’ is hard to contain and identify, covering the construction and real-estate industries, as well as catering to the wider business community, and housing markets, and including public sector development. Miles' 1997 overview of the industry (1997:13-22), for example, lists other agents potentially involved in the development process as: Public sector developers; Architects and Engineers (and environmental engineers); Land use Professionals ; Contractors; Joint Venture Partners; Construction Lenders; Permanent lenders; Long-term equity Investors; Final users; Brokers/Leasing agents and Property Managers; Regulators: Public sector Partners; Lawyers and Accountants; and Corporate Real Estate Officers. A number of developers involved in this study also pointed out that they had permanent relationships with certain Real-Estate Professionals, involved in the marketing and sale of property. The diversity of the development game was also reflected in interviews. Indeed, it was extremely common for developers to stress the multiplicity of potential problems and concerns faced on a day-to-day basis. The range of these skills is well illustrated in the following statement: “*[a developer has to be]...thorough [and] well versed in diverse areas; commercial property expertise; securing lease; sale; [the] land building side; [the] practical side; straight out commercial number crunching; [the] regulation minefield; Council; zoning; Resource Management Act...*” (Farrow,2). The diversity of both agents, and the necessary skills for the development game reflect the impracticality of confining its study to a structural analysis, but also raises questions as to how developers engage this eclectic environment.

A particularly interesting finding of this research was the tendency for some developers to surround themselves with a reliable network of supporting agents. This is particularly well illustrated in the claim that *"probably one of the biggest understated [resources] would be the network, building the network of various people, of skilled people, [there are] a lot of skilled operators involved in any particular development..."*, adding that *"...the success of a development is directly proportional to the expertise and ability of the people involved in it really"* (Farrow,2). What was particularly interesting was how incidious 'the network' was, as a constant and ongoing consideration in development decision-making. Developers were not only concerned with applying 'their networks' effectively, but also with growing and maintaining these networks. *"Growing that network"*, *"look at the people you can trust"*, or, *"just go back to your network"* were recurring phrases. The notion of 'building the network' again underscores the sense of security characteristic of contemporary developers, and points to the fact that development relationships require long term consideration (reflecting developers long term orientation in the industry). It also illustrates the manner in which human relationships are usefully conceptualised as an essential basic resource.

The desire to maximise the potential of their network presents an interesting contradiction for developers. This is characterised by one developer in the comment that *"I guess it's like the situation of 'the devil you know'..."* (Horne,7). In general, developers involved in this research identified the constant evolution of their networks based on accumulative experiences. Some developers however were more oriented toward maintaining the relative certainties of ongoing relationships, while others were more fickle in their approach, seeking to eliminate poor performance from their network. This type of consideration is apparent in the following experiences: *"...we notice that some contractors will go off the boil, and they might go bloody well and then the next one, the air conditioning goes wrong and we say, 'well, stuff that, we're not going through that again', so we look at relationships"* (Gunn,8), or elsewhere, that *"...we like to give people a reasonable shot, sure, [but] if they don't work out then we have to move on"* (Horne,5). Both statements illustrate the fact that 'the network' is a dynamic resource.

It was emphasised on a number of occasions throughout the research process that the selection and employment of related professionals was one of the significant skills in contemporary development. It was difficult however for developers to make this point more explicit. One recurring theme was the general tendency to employ local expertise and labour, although this was constantly counterbalanced by a concern to contain additional uncertainties. Some general reflection can be provided in the following illustration: *"[we] have people that you use for certain design skills that we take to every part of the Country, everything else when we go to a City we use local, but it's a very disciplined thing, associated with engineering and sound and the whole lot that you'd be nuts to change it, so you identify who it is that's best to help for a type of development, and you've got fairly strong ideas about design and architects, certain types of designs you might use one architect, other types, another..."* (Gunn,8).

An extensive and well employed network can also lend credibility to any development project. This point has been alluded to above in regard to developers' preferential orientation towards partners or clients of greater financial resources. In another capacity it was ably illustrated through the experience of one developer where "*[in our first development]...the Mayor came aboard our Trust and gave it some credibility*" (Duncan,6).

Another interesting impression from interviews was the manner in which relationships were developed beyond the typically professional. This echoed a common theme throughout the research process, made apparent from such phrases as "*development is a personal relations thing like anything...*" (Edwards,6), or that "*...personal relationships are often the key...*" (Horne,2). On a number of occasions developers illustrated the divergence between the manner in which they *actually* employed related professionals, and, the manner in which one would *expect* particular professionals to be employed. An excellent example is given by one developer, who used his "*architect for things [relating to personal relations] with the Council because he gets on really well, he's got a great rapport with the Council, and gets on really well with the right people...*" (Edwards,9).

In some respects, the involvement of other agents to a development project places risk further from the immediate control of the developer, and adds another variable to the development project. Throughout the research process, the ability for a developer to assume a number of skills in the development process was widely conceptualised as a mechanism through which to *avoid* relationships and the risks associated with other parties. Often these skills were associated with alternative professional expertise prior to becoming a developer. This is particularly well illustrated in the statement that "*...if I can't get the right price I don't have to depend on anybody else, I build all my own buildings, and that's the difference between him and I. The difference with him being an accountant, when it comes to borrowing money they have always got time sitting over their desk getting a percentage better than what I [might get]. It might be one percent or half a percent but when you're borrowing one to three million on projects like we are, that's a huge amount of money*" (Edwards,2).

The question of employing professional expertise, or utilising their own skills presents an ongoing dilemma for developers. The dilemma is compounded because there are always costs associated with development related skills. Strategies that seek to reduce the involvement of additional parties are often undertaken with the consideration of reducing building costs, professional fees, ancillary costs, and letting fees. Each of these costs is subject to uncertainties (for example, building costs will depend on the level of inflation, and the competition within the industry) and so developers are constantly engaged in

assessments as to the relative costs and risks associated with these required skills. The dilemma is usefully illustrated in the claim that *"we don't just go and get help willy-nilly, there has to be a pretty good reason. We try to save costs, sure, but sometimes the job needs to be done properly..."* (Horne,5).

## **Risk and Competition in the Development Game**

Competition increases the degree of risk for developers operating within a finite consumer market. As such, a developer's conduct toward his competition is always strategically arranged. This section is concerned with the dominant forms of developers' conduct toward their competition. It is structured into two discussions. The first, 'Competition and Strategic Conduct', examines immediate forms of action in regard to competition. The second, examines the long term approaches to competition identified by research participants.

### **Competition and Strategic Conduct**

Throughout this research process, developers stressed the highly competitive nature of the development industry. It is also significant that discussions about competition were typically fused with references to limited consumer markets, and limited potential profit, and that these factors are vital to the way developers regard each other. It was also made increasingly evident throughout the research process that information is a powerful potential resource in the development industry. Each of these points contributes to the fact that secrecy was generally identified as extremely consequential in the strategic orientations of developers. This is particularly well characterised in the following experience: *"...if you're looking at a development like [a large retailer] coming to town and going on Main Street here, I would definitely not have discussed that with anyone because I could have lost that tenant and they could have gone to another site which another opposing developer has"* (Farrow,3). In another example, the dominant sentiments of developers are aptly summarised: *"You can't share anything in this game, it's a very, very close-knit shop. If you got a phone call from a national tenant you would not breathe a word, only the three people that work in the office would know about it, until you had them rubber stamped, you just can't, because [this other developer] would shaft you in five minutes, he'd be in on the bandwagon"* (Edwards,2).

Developers did discuss cooperative forms of strategic action, although the sharing of information was usually confined to situations where mutual benefit outweighed individual gains. One of the limited scenarios where cooperation was evident was in joint ventures: *"[another developer] had worked with [a client] for six years, he had a file on*

*them this big, but then they came to me and said they wanted to go in Princess street, would I pick the job up and I said I couldn't make it work, and then I said 'well what about going around in Grey street, there's a good site there, and I can do it for this amount of money', knowing full well that [this other developer] had the land but I had the tenant, so that's why we ended up with a joint venture" (Edwards,2).*

Developers are, at once, both agents operating within an industry, and, agents operating for an industry, a duality of constant significance (and often causing confusion and contradiction) throughout this research. Clearly, it is in the interests of all developers that 'the industry' is positively publicly perceived. It is also then in the self-interest of developers to assist each other in their development endeavours, and to build relationships of reciprocity. Developers generally reaffirmed this point, while stressing its limitations. The general sentiment is suitably summarised in the following statement: *"It depends on the development really, the development that's totally driven by sales, such as land, sections, your less information sensitive, so for example I can think of half a dozen developers out there just quickly, and I look after one of them, and I probably know four out of the six very well, and we all share information and discuss the various aspects relating to the Council, or road costs, or telecom costs, or sales, because it's not information sensitive..." (Farrow,3).* These observations of cooperation confound a dominant perception characteristic of much economic-, and market-based literature, which is the idea of the autonomous, independent agent, acting entirely through self-interest (see Carrier, 1992, for review of this literature). It also reaffirms the long term considerations of developers (and alludes to Halstead and O'Shea's identification of the universal buffering mechanism of 'exchange'). In claiming this however, it is also clear that cooperation amongst developers is limited, and is, more often than not, based on the assessment of relative individual gain.

### Competition and Longterm Interests

Competition within the industry is a significant variable in any development process. Developers are acutely aware of how competition affects them, and how their actions will affect other developers in terms of a finite consumer market. This was particularly apparent when I questioned developers about the disadvantages of their current projects: *"...I suppose for the builders who in the past were building town houses in town, they've had a hammering because they don't sell...it may have lowered the price a bit, which for a builder might have had a disadvantage because he has not realised as much profit, for every effect there's an equal and opposite..." (Duncan:3).* Developers generally regarded competition as inevitable, and often the primary solution to competition was 'better service', characterised generally as *"...growing market share by being innovative, being better than some of the others [in terms of] operating more efficient, and getting better results in the bottom line" (Gunn,2).* A number of developers also reflected on the 'market cycle' as a mechanism to assess their relative position in terms of competition. This is illustrated from the experience of one participant, where

"...we were one of the first to get into operation as a genuine developer in the City as such here in 1984, and we had a 2 or 3 year market start, and there was stuff all other people out there, and then it got really fashionable, god knows how many people got into it, some got really badly hurt and left the scene very early on" (Gunn,2).

Alternatively, a number of developers identified the constant adaptation of their development orientations as a strategy to avoid direct competition. This was particularly important to the continued success of one participant during, and following, the property development oversupply of the late eighties. Here the developer "...took ourselves away from that direct competition when we saw the opportunity..., and a lot of people have said 'what's happened to you'...I was still here but it was because we were doing so much [different type of] work out of town..." (Gunn,2). It is clear that competition contributes significantly to the 'culture of mobility' pervasive within the development industry.

### **Rental Income/Investment Yield**

While this research was not oriented toward deep financial analysis, nonetheless, rental incomes and investment yields emerged from interviews as important themes, and dominant factors of risk for agents in the development industry. Continually throughout the research process, the underlying dilemma of development risk was identified as the contradictory desires to *secure* profit from development (in rental income or investment yield), and to *maximise* profit from development. This potential contradiction has been apparent throughout the chapter. Strategies designed to secure demand, land, or finance, for example, are often accompanied by a relative decline in eventual profit. My general impression from the research process was that developers are preferentially oriented toward security of investment, and are more inclined towards the certainty of securing rental income and investment yields, rather than 'holding out' in anticipation of greater gains. As has been observed above however, the 'ability' to hold out is differentially distributed depending on the resources available to a particular developer.

Throughout interviews the subject of maximising rental income was unavoidably broached on a number of occasions. Here it was often revealed that developers may seek to exploit factors such as the relative enormity of development investment, and the long-term requirements of clients. This type of strategising is illustrated in the following example: "...If I had a ten year lease there, which I haven't, I've only got a six year lease which is a bit of a downside, but I'm taking the gamble that they'll be here [long term], it's a specialised building for them, and they're just centralising in Palmerston North so they won't shift in a hurry, so I'm just hoping that next time round I'll have the upper hand and say I'm not renewing it unless you give me nine years or something like that, that should be worth ten percent cap, so it's worth 3 million, most of the time you're selling them for 10.5, the [development] up the road I sold for 9.5 cause it was a national tenant, twelve year lease, so you know, I got reasonably good money for it..."

(Edwards,3). Developers retaining less resources are clearly in a weaker position in regard to this type of strategising. A financial strategy identified by two small-scale, speculative developers was that they were able to avoid G.S.T. if they claimed occupancy for a certain period.

### **Concluding Reflections**

An important conclusion to be made from the examination of developers' strategic conduct is that the ability to perform actions to control risk is differentially distributed - that some developers are more able than others to control risk. This differential ability appears symptomatic of a developer's access to resources that are effective within the rule-governed environments characterising the development industry. There are two dimensions to this possession of resources: the quantity of resources to which a developer has access; and the type, and range, of resources that are effective within the development industry.

Of the former dimension, there appears to be a direct correlation between a developer's ability to cope with risk, and the quantity of resources to which he has access. This is to claim that the greater possession of particular resources provides a developer with greater means to *control* risk, and is reflected in Bourdieu's theorisation of individuals in subordinate social positions, whereby the less resourced an agent is, the more they are driven by necessity (Bourdieu,1984). Douglas (1985:6) has also observed this correlation between risk and resources, particularly as it relates to the study of the American health system. The dominant conclusion to be drawn from these studies, Douglas claims, is that "the poor risk more" (Douglas,1985:6). Within the development industry also, those with greater access to resources have greater means through which to avoid or overcome institutionally defined phenomena such as market oversupply. Typically, it was the least resourced participant involved in this research that identified this phenomena as characteristic of his development experience: *"normally they go in groups, normally town houses, at one stage townhouses were the thing to build and they were selling heaps of, and all the builders come in and start building them, and then there's too many, and then they don't sell, and then you do family type homes and they sell real well, and then all the builders do the same thing, and then two years down the track there's too many family type homes"* (Allen:3). Those developers more endowed with appropriate capital are able to respond more imaginatively, and with greater scope and choice.

A number of conclusions can be made of the 'type' of resources constitutive of the development industry. The first is the real significance of a wide range of resources employed in the strategic conduct of developers'. Finance (or 'economic capital', Bourdieu,1984), while remaining a significant resource within the development industry, is increasingly superseded by 'symbolic forms of capital' (reputation, authority, prestige, respect), and by new and old forms of 'cultural capital' (knowledge, skills, education) (Bourdieu,1984), particularly in regard to the strategic conduct of successful

entrepreneurial developers' who have long term ambitions within the industry. In addition to these institutionally sustained and institutionally endowed resources (or 'forms of capital'), interpersonal relationships are also significant resources within the development industry. A second striking feature of developers' strategic conduct is the ease at which one form of capital can be used to employ or acquire another form of capital, and, that developers with similar overall objectives, but possessed of different resources, can maximise these resources in a range of strategies, within similarly structured interactions.

This research reaffirms the belief that finance is a prominent, widely recognised, and most malleable, resource within the contemporary development industry. This is reflected in the strategic conduct toward consumers and clients, as in such statements as "*...so you're dealing with two different markets, but you're still dealing with, you know, good people, dealing with people that know what they want and they can afford what they want. If you get back into that cheaper thing you just don't have that sort [of security and ease of process]*" (Booth,4). This was also the case in a wider range of business interactions, as is reflected in the claim that "*we look at their ability to meet their commitments, so that's their bank balance...*" (Horne,3). Giddens' notion of disembedded mechanisms (1990:209) is particularly apt in this regard because money appears particularly important in providing developers with trust in others, and enables other agents to have trust in developers. 'Trust' here refers to a sense of faith in the workings of systems or processes of which developers have a necessarily limited knowledge. Money functions as an important symbol of credibility within many of the interactions characteristic of the development process. This is a significant facet of the contemporary development industry, and is explored more thoroughly in chapter five. In some respects this represents a Catch 22 situation - developers require funds so as to present and sustain credibility within the industry, but funds and financial security are more easily attained by developers of whom it is already recognised, possess this form of credibility.

One of the striking conclusions to be drawn from this chapter is the extent to which personal relationships were regarded as a significant 'resource' by developers involved in this research. This experience, common to developers, is exemplified in the statement that "*you meet a hell of a lot of nice people in the right places and that creates the next opportunity for you or whatever. I mean it's like anything, you do a job and you're in it to try and make a dollar...*" (Edwards,8). Not only did developers recognise the significance of interpersonal relationships, particularly as they 'employed' these relationships within their strategically planned actions, but they also deliberately sought to acquire and cement these relations. This sort of conclusion represents a reasonable discrepancy with much neoclassical (and neoMarxist) writing, and appears symptomatic of a recent trend in studies of 'the capitalist marketplace', of which anthropology is at the forefront. Indeed, Roseberry's 'Afterword' to Carrier's collection (1997) claims this theme as a dominant reflection of all the case studies in which anthropologists investigated market situations. Here Roseberry observes that "The institution that seems

so asocial, (the) capitalist Market economy, relies not upon the autonomous and calculating actor surrounded by impersonal objects and impersonal actors, but instead upon the very social relationships and values that the market denies” (Roseberry,1997:328).

Another striking reflection of the constitution of the contemporary development industry is the degree to which developers identified symbolic forms of capital as significant aspects of their strategic conduct and development success. Statements such as “*It's getting known and people believing in you that you've got the grunt to do it ...*” (Edwards,1), or that “*In some cases the market comes to you because you've got a reputation for being good at what you do,...there's a certain amount of positive chat out there about you and that generates a follow on of clientele as it were... [and that] reputation is very much a significant factor in our success*” (Gunn:6), were frequently repeated by the developers’ involved in this research (a vigorous examination of ‘reputation’ and ‘identity’ is examined in chapter 5). The reasonable speculation here is that the significance of reputation as a form of capital within the development industry alludes to the increased security of the contemporary marketplace, and, the security that developers *perceive* of the industry, as they acquire and deploy cultural and symbolic forms of capital that are less transferable (particularly compared to economic capital) to other business ventures. The significance of this form of capital alludes to the fact that development has become a full time and long term professional occupation.

I was also surprised at the manner in which developers were able to draw on, acquire, and exploit, forms of cultural capital, and the degree to which developers considered various forms of knowledge as important in achieving their strategic objectives. There are two complementary elements to developers’ exploitation of ‘cultural capital’. The first is the increasingly specialised forms of knowledge that developers are able to draw on. There appears to be a link here between the specialisation of information, and the specialisation of development roles and development projects. Specialist information has meant that developers pursuing niche market developments are often offered greater security of investment. The second dominant aspect of developers’ knowledge as a form of cultural capital was the degree of subjectivity and intuition expressed by the participants in this research. These dimensions to the cultural capital of the development industry were often expressed concurrently, as in the statement that “*it basically comes down to the research that you do beforehand, and to the feel of the marketplace*” (Horne,1). These highly subjective expressions of ‘foresight’, and ‘intuition’ greatly confound the examination of developers’ decision-making processes, and renders any analysis of the replicability of strategic actions very difficult. This presents a serious challenge to the discipline of economics, which has made rationality into a central assumption (Chapman, Buckley,1997:241). These expressions reflect the necessary uncertainty, and the element of chance involved in the development game. However, in another sense, these expressions of ‘intuition’ and ‘foresight’ serve an ideological function in so far as they imply that successful developers possess some intangible, and

thus nontransferable, asset (similar to that which Mannheim, 1936:106/107, terms the '*je ne sais quoi*' element in the politics of the aristocratic elite) that justifies their exclusive authority to undertake development projects.

## Chapter 3: Strategic Conduct and the Regulatory Procedure

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### Introduction

This chapter represents both the investigation of the strategic conduct of development agents within the institutional structures controlled by the regulatory authority, and the investigation of the constitution of this regulatory structure. Both themes are represented by a constant and complementary engagement. The critical claim here, is that it is only in the actual manifestation, and application in practice, that the regulatory procedure 'exists', and that it is only through a theory of practice that this can be represented. Bourdieu, in particular, represents this position: "The critical break with objectivist abstraction ensuing from inquiry into the conditions of possibility, and thereby, into the limits of the objective and objectifying standpoint which grasps practices from outside, as a *fait accompli*, instead of constructing their generate principal by situating itself within the very movement of their accomplishment, has no other aim than to make possible a science of the *dialectic* relations between the objective structures to which the objectivist mode of knowledge gives access and the structuring dispositions with which those structures are actualised and which tend to reproduce them" (Bourdieu,1977:3). In essence, the chapter highlights this dialectic as a mechanism for critique of the regulatory process.

The methodological process proceeded along these two interrelated tangents: The first, to characterise the 'environment' of the regulatory process, and; the second, to examine forms of conduct within this environment. The aim was to capture the dialectic relationship between these two tangents from the investigation of a wide range of interactions constituting the regulatory environment - primarily between developers and Council Officers, but also including neighbours, and other professionals. The mediums through which this interaction occurs are manifold, comprising face-to-face meetings, written documents and letters, informal exchanges, formal meetings and hearings. Legislative and regulatory documents (The Resource Management Act and recent amendments, and the District Plan) provide a structural backbone to these interactions and were examined as part of the research process.

Particularly important to the process of investigation was the inclusion of a series of case studies. These comprised all written documentation (including informal transcription of, and notes about, meetings and Hearings) relating to particular development proposals (a summary of each case is provided in table 2). Cases were selected on the basis that they were deemed 'interesting' by Council Officers, and by myself. In essence, 'interesting' here meant that the development proposals had all progressed to the Resource Consent stages of the regulatory procedure. This selection criteria was directed by the theoretical goal of investigating not only *dominant forms of action*, but also the *potential for action* within the regulatory environment. The case studies were particularly useful because they

provided explicit evidence of the forms of conduct characterising the regulatory procedure, particularly the Resource Consent stages. I was then able to pursue this case study material in subsequent interviews and discussions with the developers involved: 'Why did you do that?'; 'Is that action effective at that level?'; 'Do you often do that?'; 'Is that action characteristic of a general strategy in those circumstances?'. However, case study material was of particular consequence when interviewing Council Officers.

The process of interviewing Council Officers built from an early interview where the notion of '*the best case*' was put forward as the basis for regulatory decision-making. This notion became a recurring theme throughout subsequent interviews. However, this simplistic explanation did little to allay my confusion about the contradictions that became apparent from the examination of case studies. Neither could I usefully or adequately comprehend these case studies with reference to those criteria stipulated in legislation and District Plan documents. The focus of the research turned to employing this confusion in subsequent interviews so as to render the notion of 'the best case' into a series of explicit criteria: 'Why was that decision made?'; 'What were the dominant distinctions between these proposals?'; 'Why was that proposal declined, while another approved?'; 'How effective was that form of argument?'; 'Why did you take those actions in that development?'. This methodological approach produced a series of dominant themes central to explaining the practical constitution of the regulatory procedure. These themes represent the fact that while 'the law' is constituted by a series of explicit prescriptive requirements (although in the Resource Consent stages these become more ambiguous), these requirements are enacted by active agents, and that this agency mediation is also significant in characterising the practical constitution of the regulatory procedure.

This chapter comprises nine sections, and is designed to progressively lead the reader into the regulatory process. The first section presents an overview of the basic framework of New Zealand's regulatory process. The overview identifies the manner in which regulatory legislation and documentation is composed as a series of layers, and that the regulatory procedure is constructed in a progressive series of stages. This overview however, tells us little about the implementation and actuality of development regulations, although it provided a useful basis for deeper investigation. These investigations revealed that, while constructed from the same regulatory and legislative guidelines and with the same overriding purpose, the manner in which this legislative purpose is enforced and determined in one stage is distinct from previous and subsequent stages. This requires, and/or enables, developers to pursue distinct forms of strategic action at each stage of the regulatory procedure. The following seven sections approach each of these regulatory stages as a distinct *context of interaction*. These sections are: Preliminary Interactions; Building to the Law; The Resource Consent Process; The Resource Consent Process and Neighbours: Mediation Processes; Resource Consent Hearing, and; Environment Court.

<b>Case</b>	<b>Type</b>	<b>Description</b>
One	International franchise	Commercial proposition seeking to establish in residential zoning. Two opposing submissions from neighbours. Resource Consent declined. Consent Hearing, accepted with conditions.
Two	Residential 'Village'	Large-scale residential complex. Opposition resolved with extensive cooperation from Council Officers.
Three	Quarry development	Opposition from surrounding neighbours. Consent Hearing approval with attached conditions.
Four	Inner-City Facility	Extensive communication with administrative Council Officers, and Councillors. Consent approved.
Five	Service Facility	Consent provided by all affected parties.

**Table 2: Summary of Case Studies.**

## **An Introduction to the Regulatory Development Procedure in New Zealand.**

*"...the essential thing is that everyone is treated the same, an elderly couple wanting to subdivide their property, they are effectively treated the same as the large-scale land development companies that are doing 50 or 60 lot subdivisions..." (Page:7).*

All development occurs within a politico-legal framework, established and enforced by various authorities whose job it is to balance the interests and concerns of the numerous individuals and concerned parties implicated in land development. Since 1991 Regulatory authorities have been empowered in this capacity under the Resource Management Act. The Resource Management Act substantially altered the ideology behind the laws, rules and regulations regarding the development of land, as well as the methods of regulatory administration. The Act repealed 57 statutes, and more than 20 regulations, the most significant being the Town and Country Planning Act 1977, and parts XX and XXI of the Local Government Act 1974 (Christensen, 1994:391). The purpose of the Resource Management Act is "the sustainable management of natural and physical resources" where this means "managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety, while:

- (i) Sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations, and;
- (ii) Safeguarding the life supporting capacity of air, water, soil, and ecosystem, and;
- (iii) Avoiding, remedying, or mitigating any adverse effects of activities on the environment..."

(Resource Management Act, 1991:Section 5)

The philosophical shift of the Resource Management Act most significant to this study is the change in regulatory and legislative emphasis from direction and control of development to *control of any adverse effects of activities on the environment*.

To achieve the objectives of the Resource Management Act local authorities construct and maintain a District Plan. The District Plan is constructed in a series of layers, the most fundamental of which is a series of *Issues of Significance* (a useful example is the issue of urban versus rural land use - the 'consolidation of urban form'). The following layer comprises a series of *Objectives* which relate to these issues (i.e. to maintain a compact Central Business District). From here the Plan sets out a series of *Policies* which are effectively statements of action designed to achieve the Objectives of the Plan (i.e. to promote commercial development on existing commercially zoned areas rather than allowing a spread). A series of methods are then identified so that the objectives and policies of the district plan are effectively implemented. Principally this refers to

regulatory methods, whereby a diverse range of rules are established, including: the zoning of particular land; controls relating to the height of buildings; setbacks from buildings and the road; landscaping; noise; car parking; access to site. These regulations provide a reasonably comprehensive coverage of all aspects of development.

The majority of developments interact with the District Plan at the regulatory level. The requirement here is that all developers must complete a 'Code of Compliance' (or 'P.I.M.', a 'Product Information Memorandum') relevant to the type of development being proposed. This identifies the relevant rules and regulations set out in the district plan. Proposals that meet these criteria are able to "*...more or less proceed as of a right...*" (Page:1).

The District plan is constructed as a guide for the entire area under its jurisdiction and it is anticipated, under the Resource Management Act, that, for some development proposals, it may be impractical or unnecessary to meet all regulatory criteria. Where this is the case, a developer must complete a Resource Consent application. In 1997 Local Authorities received 57,461 applications for Resource Consent. The purpose of the Resource Consent application is to '*avoid, remedy, or mitigate potentially adverse effects*' of the proposed development. A developer is asked to present key information within the application, such as elevations of buildings and floor layouts, and an accurate scaled site plan which shows all aspects of the development such as car parking, landscaping and the position of all buildings on the site. Developers are also asked to include an Assessment of Environmental Effects (AEE) which addresses the likely adverse effects that will be generated by the development, and proposes measures as to how these effects are to be avoided, mitigated, or remedied. An application must also give consideration to relevant *Objectives and Policies* contained in the District Plan.

It is the responsibility of the Council Planner to identify potentially affected parties and decide whether or not the application is to be publicly notified. Here section 94(2) of the Resource Management Act poses two considerations for Regulatory Officers to address. These are, that applications will be notified unless either, it is considered that the adverse effects of the proposal will be minor, or, that all identified affected parties have given their written consent (*Resource Management Act*, Section 94). Where applications are not notified it is the responsibility of the Council Planner to evaluate the application, review the assessment of environmental effects and draw up conditions to be attached to the consent. The development may proceed as of a right, subject to certain conditions of consent. Under the Resource Management Act, Council's have 20 working days to make a decision, although "*Council staff will always try to process applications in less time than this*" (Scott:4). Time frames vary however, and may be lengthened if further information is required by the Planning Officer. In 1997, 39% of all applications required further information, although there was a wide variation in the proportion of requests made by different local authorities (from '*Annual survey of local authorities*', 1998). All

development applications are subject to a \$100 lodgement fee, \$30 per hour for Planning staff time in processing the application, and a \$50 monitoring fee if the granting of consent is subject to conditions (from *'How do I apply for a Resource Consent ?'*, Council publication, 1998).

In 1997 5.2% of Resource Consent applications were notified (and of these 78% generated submissions). It is the responsibility of the applicant to provide affected parties with as much information as possible to help them make a decision on whether or not to give their written consent. In these circumstances, the applicant is also subject to additional costs such as advertising (approximately \$200), and the cost for expert advice required to help Council make its decision. These costs can be avoided if the developer is able to collect the necessary consent prior to the notification date. From the date of notification, affected parties have 20 working days in which to lodge a submission. Where submissions are received a hearing date is set within 25 working days of the final submission date.

A Consent Hearing may be avoided because of pre-hearing processes. Here, submissions and consultation offer a chance to identify potentially adverse effects and to negotiate measures through which these might be avoided, remedied or mitigated. Statistical evidence suggests that these processes are increasingly favoured by local authorities (the number of pre-hearing meetings increased by a third in 1997, with 37% resulting in issues being resolved and no hearing being held - from *'Annual Survey of Local Authorities'*, 1998).

Over 95% of all Consent Applications are dealt with as described above, without recourse to Hearings or the Environment Court (Ward,1998:A13). The outcome of the Hearing procedure is determined by a board of Counsellors, although they are usually assisted by Council Planners and expert evidence. The majority of decisions made in this context support the initial recommendation of the Council Planner. Appeals can then be made to the Environment Court, the outcome of which depends on a board of Judges with knowledge of the Resource Management Act. Outcomes from Environment Court decisions are determined entirely by reference to the Resource Management Act. Case law often results from these outcomes.

### **Preliminary Contact**

A significant point to emerge from all groups regularly involved with the regulatory procedure was the need for preliminary communication early on in the planning stages of a development project. This was a particular concern of Council Officers, and was a common theme as they distinguished 'good' from 'bad' developers: "...[problems occur if] they don't come in first, some of them do, there's a lot of sensible people and they'll go that track themselves, but there's others that try to bulldoze things through without taking time over issues, and they just want what they want..." (Scott,11), summarising

these sentiments in an earlier conviction, that "...when they come to see us first, it makes it so much easier..." (Scott,1).

Developers also stressed the significance of early interactions, although they tended to be more strategically minded about these preliminary communications. Two themes in particular have influence in this strategic orientation. The first is that developers expressed a general preference to avoid uncertainties, and potential complications with the regulatory procedure. Phrases such as "...its just not worth the hassle..." (Horne,6) summed up this general sentiment. One development Consultant stated, "*If I though there were some serious problems I'd make that felt quite strongly because most of the clients we deal with, as soon as there's a potential planning problem, they'd back away or look at a different site, or look at what they had to do to modify it, because I think the planning process can be really expensive and really time consuming, and a lot of developers will avoid problems as much as they can...*" (Ireland,6). In a number of cases this tendency was refined to the general propensity to avoid the expense and uncertainty associated with the Resource Consent process (particularly the Consent Hearing). This sentiment was usefully summarised when I questioned one developer about the Hearing stages: "*...if you want to deviate from the rules slightly you have to interact with [Council] very early on in the project and it's a long process generally..if you can't get it through with Council, if you're not going to get Resource Consent, then you may as well [get out], it's a very costly thing...*" (Farrow,4). In summary, preliminary investigations were generally regarded as a cost-effective means of identifying the risks of regulatory consent before further, and more expensive, commitments were made. This has been a common theme in much of the development literature. Goodchild and Munton (1985:69), in particular, have observed that "...the sites must either have planning consent already or the developer must anticipate that planning consent will be granted before he wants to commence development...".

An alternative, and in some respects, contradictory, theme to emerge from this investigation of the development industry was that assessment of the Council enforced regulatory procedure was often conducted *after* land availability, and demand studies. Here, one developer explained that "*...[the most significant factor in determining the location of a development]...would be the economics of what you're trying to do. Say you're a building developer - you find a tenant, find land, and build a building for them and sell it, now in that situation you'd look for a region that had a lot of tenants and you could sell properties, if you were doing land subdivision you're looking for where is the demand, so basic economics is the most interactive with geographics, [it has] nothing to do with Councils...*" (Farrow,6). This was also a sentiment shared within Council: "*...development hasn't dropped off as a result of the perception of more onerous prescription requirements under the District Plan...I think this [is related to] general*

*economic requirements where people might not be buying as much, or may not have as much money for building a house, and the flow-on effects...*" (Page,4). These statements reflect the possibility that planning restrictions may provide the main development restraint for certain development projects.

This was particularly apparent in the first case study examined. Here the developer conditionally purchased land, at an economical price, but within zoning restrictions that were clearly incompatible with the anticipated end use. This action was undertaken on the speculation of being able to employ strategic actions for the eventual acquisition of regulatory consent. The following statement from the developer involved is an interesting reflection on the current regulatory environment: *"...the land was incorrectly zoned for its true value. As far as residential property, relative to its perceived value, it was too expensive for a developer to put multi-housing on it and get a reasonable return...In our position it was relatively competitively priced in a commercial proposition...[and the owners] were trying to sell it [outside] the zoning, [outside] the council ordinance, and it was only with a company like ours that had the resources, that had the grunt in terms of dollars, to go through the process, to battle it, to get it to what it is today..."* (Carter,5). In this case the anticipated return, and original investment justified the perceived costs and risk associated with the acquisition of regulatory consent. The case also indicates that, given certain conditions, developers also perceive the potential for pursuing regulatory consent beyond the limitations set down as general rules.

Both of the themes discussed above reflect the fact that preliminary investigations of the regulatory procedure are best understood as an assessment of acceptable risk, the results of which are measured against other factors in development, such as land availability, demand, finance, potential return. One developer simply put it all down to, *"How achievable it is to get to that unconditional stage...and that means clearance [with Council]..."* (Gunn,7). The points above also indicate that, in some development circumstances more than others, a higher degree of risk is acceptable. The following discussions also reflects the wide range of circumstances in which developers confront the regulatory procedure, and the broad dimensions of acceptable risk in acquiring regulatory consent.

### Forms of Preliminary Investigation

At its simplest, developers identified preliminary investigations as a means of assessing the compatibility of existing regulations to the development proposal at stake. An interesting feature of this investigation was that developers were not only concerned with the legal structures of Council, but with the politico-legal structures, in terms of how these regulations were likely to be implemented and enacted. For developers, this was not only a process of identification, but, in addition, an assessment of the security and reliability of the personal/professional negotiations involved, or potentially involved, in the developers' interactions with Council. These points were colourfully illustrated in one

interview: "...[we] talk to Council good and early, suss out who you can deal with confidentially to, [you] take the chance that they're going to break the confidence, but at the end of the day if you've got key factors...fire regulations and safety regulations...and those have to be satisfied" (Gunn,7), adding that "...a lot of work goes in beforehand in such a way that the loose cannons don't destroy a perfectly good plan..." (Gunn,6).

Where practical, usually in mobile and specialist development enterprises, developers will conduct preliminary investigations with a range of Councils: "*originally we looked at [another area], and I talked with Council over there to start a development. Council was not very helpful, they put some objections in, [the development] came into the 'too-hard' basket so we flagged that one, we looked at other sites, we found that some Council Officers over here were very good, tried to make life easier, not difficult, and because of that we are here...*" (Duncan,7). At this point developers most commonly conceptualised Councils in black and white terms: "three out of ten, nine out of ten", "encouraging or unhelpful". Interviews with Council Officers also revealed a tendency to regard themselves in competition with other Councils, and to express their aims in competitive terms, particularly in respect of "*...getting things turned over as quickly as possible, being as efficient as we can...*" (Quin:1). In a number of cases throughout this research, Councils appeared active in encouraging developers. This was very apparent as one developer described a recent experience: "*...[the] District Council approached us, and one of the local patron clubs, and they were desperate to get a change of culture in their town...encouraged us there in the first place, the Council sold us the property, the memorial hall which we converted into the cinema, demolishing a very old hall next to the cinema to make way for car parks, then lightened the car park at their expense because they said the public would benefit...*" (Gunn,5), or elsewhere, that "*...I was expressing my desire to continue in the development industry, either in Palmerston North, or in other areas. The Council approached me and said they had a piece of land, they wanted to develop this area. In consultation, we arranged a sort of a partnership, they were able to say 'O.K., the City goes this way...and the City [Council] could be persuaded to invest money in the infrastructure to bring it up to speed...and we were able to have a number of conditions before we agreed...*" (Duncan,1). Mobility clearly enables developers greater opportunity to bring about 'partnership approaches', and special contractual agreements with more affable Councils.

Preliminary investigations also enable developers to assess the potential for regulatory consent within each of the various stages of the regulatory procedure. What is important to developers here, is that the focus of the regulatory requirements, both prescriptive and perceived, within each of these stages is altered from the previous or subsequent stage, if not by the legislative intention, then by the mechanisms through which these legislative intentions are enforced. As the regulatory requirements are altered, so too are the mechanisms through which these requirements can be met. Each stage in the regulatory process requires different knowledge, skills, and resources, and in different degrees. Preliminary investigations enable developers to match the resources in their possession to

the stage of the regulatory structure that most guarantees consent. This form of investigation accentuates the point that preliminary investigations of the regulatory procedure are assessments of risk, encompassing not only the question of *'if a developer should pursue regulatory consent ?'*, but also *'how best to pursue regulatory consent ?'*. It is useful here to quote at length:

*"...the first thing you do is identify your game plan for your interaction with the Council...[say] you've got a property in Wellington, we need a Resource Consent on the fact that we've got a lack of car parking, we need to [have] 150 under the District Plan, we've only got 112. Now, I don't know the Council very well, I'm just not experienced with that particular Council, so we go to a planning company, and we say 'who makes the decisions there, who has a lateral thinking mind, and lets look at our facts here, lets get a game plan and go and see [Council] and just bounce ideas off them, find points of resistance and points where they'll give, so it's an initial negotiation which you bounce a whole lot [of ideas around], then you come away and you analyse how your meeting went, what they did like, what they didn't like, what areas you reckon they'll give in on. You might want to look at taking the tack of existing use right - trying to argue that the use of the property previously is no different from your use - that would avoid getting a Resource Consent, [although] they may have this real fixture on getting a Resource Consent, so O.K. lets not waste too much time on the use, we'll go Resource Consent, lets see how likely they'll be to give us Resource Consent, what are the key factors that we have to prove, so it's that information collecting process...that's your initial meeting"* (Farrow,4).

The examination of Council files revealed, in two case studies in particular, that developers had entered into contractual arrangements with Council as part of the process of preliminary communications. Again this appeared to reflect the tendency to avoid, or at least simplify as much as possible, the Resource Consent process (particularly the Consent Hearing). It was often at the Hearing stages of the regulatory process that these contractual arrangements were restated so as to remind the Court that these issues had been previously resolved and were not a matter for Council to consider. An example is the statement from one Hearing: *"...the issue of roading was the subject of a signed agreement between the applicant and the City Council, and is not a matter that should be dealt with as part of the Resource Consent application before the committee"* (Final decision report, Hearing Committee, case study two). I employed these examples as the basis for interview questions. Here a Council Officer pointed to omissions and ambiguities in planning legislation in his explanation: *"...there's case law around that says Council can't put conditions on a Resource Consent that requires the upgrading of a public road, and so the alternative is to decline it because the access isn't up to scratch..."*, adding that *"...[it's] not 'deals' like cash in the pocket, but some of those deals come from the developer coming to us early and saying 'I want to do this sort of development, what's the story ?', and it may be a case of 'well, the sewer main doesn't go that far, how about we go 50/50 or something like that ?', it's things like that, they do*

*happen from time to time. We've had other quarry applications like that, roading upgrades and the like, but it's more of a means to mitigate potentially adverse effects, where the only other option would be to decline the application - 'there's no sewerage there so you can't do it', 'the roading is not up to scratch there so you wouldn't be able to do it otherwise', 'so, [developer], you come to us with a proposal to fix that, and have it sown up as part of your application'. That's what a lot of preconsultation results are anyway, we're concerned about that, and they'll include that as part of their application..."* (Scott,19). Contractual arrangements then, are not only a means to reduce risks associated with the Consent process, but are also a necessary requirement under present regulatory conditions.

### Developers and Consultants

Preliminary investigation involves a high degree of personal contact and interaction and so initial negotiations were commonly met with people-based strategies. Statements such as the following were commonplace: *"...go back to your network [questioning] 'who's qualified to deal with it, to argue your case?'...but you've got to make sure that you've got the right people, both for you and them..."* (Farrow,4).

Developers with larger financial resources also identified the employment of Consultancy agents as an effective and efficient way to conduct preliminary assessment of, and to follow through with, a development's progress through the regulatory procedure (similar trends are reported in Adams' study of British land development practices, 1992:209). On a number of occasions the negotiation of the personal/political environment of Council was represented as a specialist activity, typified in the statement that *"I think it's real straight forward. You find who the decision makers are. You then look at relationships, like if for example a professional company like Montgomery Watson, they're an international company based throughout New Zealand, they're a Planning company, they interact with Council all the time, that's their field, they're experts in that field, so you go to them and say 'right, how do we do this, what's the best way to push [the Council] buttons?', so you've really got to think about those interactions,...Talking to someone like a Planning consultant, sitting down and using their knowledge and expertise of how that Council is, and their contacts there, and directing that with your requirements on the development, and then just go and see them..."* (Farrow,4). Consultancy was particularly important to the first case study examined: *"...we got pretty expensive legal representation from Auckland...[We knew were it was going] because of the experience we employed...they had a lot of experience in saying 'if you go through this, these are the things you need to consider'. So we came to that meeting with a plan that clearly had concessions in it to start with, but also an additional plan that had 'what if...?', 'would we concede that?', 'yes/no/maybe?', and so we got there with that..."* (Carter:4).

These points were reinforced in an interview with a Consultancy agent. Here the consultant conceded that it was primarily larger development projects that guaranteed her employment, characterising a common experience as "*...where they have got into trouble...or have tried to start the process and realised that they didn't quite know or understand what the Council was asking, and I guess didn't have the skills to do what the Council was asking them to do, in terms of getting all the information the Council needed to assess their application...*" (Ireland,4). This Consultant also characterised the negotiation of the regulatory procedure as an increasingly specialised area of expertise, beyond the practical scope of most entrepreneurial developers, and acknowledging this fact as a primary reason for her continued employment, adding that "*I think an understanding of the basics of the [regulatory process] is very important [for developers] because they need to know what the likely restrictions are when they're at the planning phase of the project, but I don't think it would be cost-effective [to have a] detailed knowledge of it...*" (Ireland,1).

Council also appears receptive to the use of professional Consultancy. This is characterised particularly well in the following statement from one Council Officer: "*...certainly the Consultants are far more likely to come to us first, far more likely to put together a comprehensive application that covers all the issues, that suggests valid mitigation measures, all those sort of things, and an application will go more smoothly than a developer who comes in and tries to wing it themselves...when they are employing Consultants, the developer might still be a difficult person but the Consultant is the one running the interference, and talking the sense back to the developer. It's often difficult for the Council to fulfil that role because the developer doesn't see us in that role himself...*" (Scott,11).

## **Developers and the Existing Regulations**

Two themes comprise this section. The first explores a widespread sentiment to emerge from this research; that developers perceived compliance with existing regulations as a generally preferred strategy in negotiating the development process. The second observes 'the law' as a powerful, enabling resource employed by developers in interaction with affected parties, particularly neighbours.

### **Complying with the District Plan**

The most frequent interaction between Council Officers and developers concerns the code of compliance for the proposed development, set out under the District Plan. Throughout the research process, the code of compliance was ordinarily represented as a simple and straightforward procedure. This is aptly illustrated in the following statement: "*...a code of compliance is to make sure we comply with the activity that we want to put on that land, and that's car parking, fire restrictions and all that sort of stuff, and that goes to the City Town Planners. We do a little sketch, a draft of what we want to do, and we say 'is*

*there any problems ?', because we address the problems right at the start...once we've got all that and they say 'yes', and we've got our tenants tied up, then it's into working drawings, and it goes through, they might have a little engineering problem as it goes through, they deal with the Engineer and what-have-you, once we've actually got it through and paid the deposit, or paid the money for the permit, we very rarely see them apart from inspections, then at the end of the job they just write a code of compliance which means you've complied with the code..."* (Edwards,5).

In their interactions with Council, developers indicated a general preference to observe the existing rules and regulations set out in the District Plan. A typical reflection of this tendency is the statement that *"the whole thing basically comes down to this: you want to get on with your job, you know what the rules and regulations are and you just abide by them, and in development you learn to work with them. That way things will get done, slowly, but things will get done..."* (Duncan,5). As a result of preliminary investigations, and accumulated knowledge, developers were also often aware that some regulatory requirements were more important than others. Car parking, for example, was often identified as a negotiable regulation, while in certain development proposals, meeting the existing criteria was perceived as the only way to achieve completion. A useful illustration is provided by one Council Officer, concluding that *"Generally, developers put things in the zones that are allowed for them, the youth justice thing is a classic example, they've said 'we've got to get this in a zone where it's permitted as a right otherwise we're just not going to get it', and often developers will see that the writing's on the wall, and zoning is there for certain reasons..."* (Scott,18).

Developers were also acutely aware of the long term consequences of compliance with the law, an attitude most colourfully expressed in the conviction that *"If you buck the system then you'll just be pushed aside all the time...if you start cheating the system it will come home to catch you up, kick you up the bum"* (Edwards,6). Certainly, as becomes clearer throughout this chapter, developers' conduct within the regulatory environment is as much about developing and maintaining a positive reputation, as it is about achieving the maximum potential in specific development projects.

Developers also expressed particular concern at costs (particularly 'hidden costs') associated with filing development applications, as well as delays in processing (sentiments that dominate the Council's own research, from *'Contact Group Summary Reports'*).

As was observed in Chapter One, the Council is increasingly responsive to the needs of developers, and is perhaps, therefore, more likely to define its objectives in development terms. The implications of this tendency appear more serious when we examine how developers employ the law as a resource in their interactions with neighbours.

## Developers, Regulations, and Neighbours

In the discussion above, I have described 'the law', or the regulatory requirements of the District Plan, as a set of requirements that developers must conform to so as to progress with their development proposal. Council is not, however, merely a passive structure. It is also useful to conceptualise Council regulations as one 'resource' through which Council Officers execute the objectives outlined in the District Plan. This conceptualisation gains practical credence from a description provided by one Council Officer: "...[Council employ] a series of methods, one of which is of course the regulatory method, the use of rules within the plan, and that's where we can identify what we can do, what sort of methods we would like to [employ] to achieve the desired outcome which are set out in what we call 'environmental results anticipated'..." (Page,1). Where the objectives of Council coincide with the proposed objectives of a development project, developers can effectively mobilise 'the law' as a resource to achieve their own objectives. To this extent the rules and regulations of Council function as a powerful enabling force with which developers can overcome potential or actual resistance from other parties.

In certain common scenarios, reliance on the legal structures of Council was a very common strategy, identified in the vast majority of interviews. In conflict over boundaries, for example, the almost universal strategy was to "*Just resurvey it...if you go back to the land and transfer office and get a new title...there's a court of law that can rule on it if someone's made a mistake...*" (Edwards,7). The common perception reiterated throughout interviews was that "*it's a legal field really, and I'm sure that almost all the cases you can think of there's a legal precedent, cases have happened and there's judgments on it...*" (Farrow,9).

It was in situations where developers were confronted with neighbours presenting obstacles or delays however, that reliance on the law was particularly evident. In this scenario the strategy of "*...just go back to what you can legally build...*" (Edwards,6) was commonplace. The general sentiment was summed up in one statement: "*I just get on with it...As far as I'm concerned we get on with our job, we've got a job to do, we prefer to work with people but if they don't want to we just get on with it*" (Duncan,9).

Also, existing regulations enable developers to avoid interactions and communications with neighbours. A significant impression from interviewing both neighbours and developers was that there was generally a shocking lack of communication between the two groups. In two case studies examined throughout this research process, as well as from a number of informal and anecdotal stories, neighbours arrived home to discover unexpected and intrusive developments next door. This anecdotal evidence is supported statistically in that the majority of developments are non-notified (not advertised) and so "the public have no knowledge of the application and probably won't know it has been

granted until work starts” (Ward,1998:A13). Developers are here able to exploit sentiments of powerlessness or apathy, that *“even if we made a complaint now they would never pull it down, so it feels very powerless from our point of view”* (neighbour interview2:4).

In summary, compliance with existing regulations is the generally preferred, and most effective strategy for developers when dealing with regulatory authority. While it provides restrictions to developers, it is also a powerful enabling resource that can be used to overcome other potential obstacles throughout a development. Council is not the only regulatory agent that can be implicated in the development process however.

### **Other Regulatory Authorities**

*“we found the council had a lot of restrictions on us, but one of the hardest was Transit New Zealand who operate the roading system, so they were able to put all those constraints on us as well”* (Carter:3).

*“[this client] works a twenty four hour shift, so we had a lot of trouble with OSH and noise levels and stuff like that”* (Edwards,3).

Council is not the only regulatory authority implicated in the development industry. Other authorities are empowered, usually under certain Government statutes and Acts of Parliament, to maintain special interests or infrastructure. One Council Officer identified the implications of this regulatory diversity for developers: *“...[while the] Resource Management Act and the Local Government Act [are] the main drivers in terms of legislation, [there are] others like the Transit New Zealand Act, the Hazardous Substances and New Organisms Act, so there are a lot of different pieces of legislation that one has to be aware of”* (Page,3). The role of the agents empowered by these various regulatory institutions was generally regarded throughout the research process as very similar to that of Council Officers, although their stipulation is more specifically defined. As in the previous section, developers generally conformed to the regulatory requirements set out by these organisations, although, as is explored in subsequent sections, there are a number of other strategies that developers can employ with regard to these interactions.

### **The Context of Interaction - The Politico-Legal Features of the Resource Consent Process**

*This examination of the Resource Consent process is organised into two sub-sections. The first is concerned with the non-notified Resource Consent process, or, where neighbours are not involved. The second examines the implications of neighbour involvement. In both sub-sections the intention (and structure) is two-fold: The first, is to map the key features of the Regulatory environment at the Resource Consent stages; The second, is to discuss the dominant forms of strategic conduct identified from this research.*

Underlying this section are two dominant intentions. The first is to explore the basis for decision-making in the Resource Consent Process. In the previous section this was straightforward, and largely involved a series of fairly explicit criteria set out in the Regulations of the District Plan. Developments that do not comply with these Regulations are able to proceed to the Resource Consent process in which a greater deal of discretion, and a more interpretative basis for decision-making is apparent. The following discussion seeks to question both, 'whether this process can be usefully conceptualised?', and, 'how decisions come to be made?'. The second purpose of the section is to introduce Council Officers as active agents in the process of development. As development proposals enter the Resource Consent Process, Council Officers become empowered with wider-ranging resources, designed to enable them to meet the Objectives of the District Plan, and Resource Management Act. Five themes in particular are important to the following discussion, and form the basis of the following discussion.

Council Officers, the District Plan, and the Resource Management Act

*"...the two main things we stack a development up against are the policies and objectives of the Plan, and the environmental effects..." (Scott,4)*

*"The council also has to respect the integrity of the District Plan by being consistent in the administration of the District Plan" (Council Officer, in an argument presented to the Resource Consent Hearing).*

The prescriptive regulatory criteria implicated in the Resource Consent process depends on the consolidation of three factors: the Resource Management Act; the Policies and Objectives of the District Plan, and; the interpretation of this legislation by Council Officers. The relative importance of each of these factors will depend on the nature of the development proposal, the strategic conduct of developers, as well as a certain amount of discretion on the part of Council Officers.

Previously, under the Town and Country Planning Act 1977, the legislative emphasis was on the "wise use and management of resources". This criteria was replaced in 1991 by the Resource Management Act. Its purpose was "the sustainable management of natural and physical resources" (R.M.A.,1991:Section 5). It is the third specific criterion of Section 5 that is most significant to developers entering the Resource Consent stages. This is the stipulated emphasis on the "Avoiding, remedying, or mitigating (of) any adverse effects of activities on the environment". The legislative emphasis has shifted from direction and control of development to the control of any adverse effects of activities on the environment.

The most common scenario in which Resource Consent is required is where a development proposal does not comply with one or more of the existing Regulations set out in the District Plan. In these cases the focus shifts to the consistency of the development proposal with the Policies and Objectives of the District Plan. A statement by one Council Officer provides a useful summary of the manner in which this legislative criteria is generally consolidated with the Resource Management Act: "...[it is] often by mitigating the environmental effects that you're going to be able to comply with the code, and that's where most of the cases go. Sometimes you can get a case where the proposal doesn't comply with all the Policies and Objectives of the Plan, but if the environmental effects were considered to be minor it's not the end of the world..." (Scott,4/5).

Ultimately, the process of decision-making rests with the Council Officer. This was a recurring concern to emerge from interviews with both developers, and Council Officers, as is illustrated in the claim that "...[the Resource Management Act] focuses on environmental effects. As planners, we have to put ourselves on the line and say 'do we think these effects are going to be minor or more than minor ?. If they're going to be more than minor and they can't be mitigated then that's the way we jump..." (Scott,3), or, elsewhere, typified in a developer's statement that "...it's a little bit more unpredictable, which Council Officers you get, and it can vary, the sort of service you get and the way it is processed can vary...If we had got a different Officer on that application it might have been fine. If a particular Officer has got a particular perspective about a developer, or a development, it's sometimes quite hard to change that, and it seems to me that they've got a lot of power...so it's a little bit unpredictable, which Council Officer you get, and it can vary, the sort of service you get and the way it's processed can vary..." (Ireland,7/8). As is often featured in the media, the ambiguity and scope of legislation, and the requirement that it be 'interpreted' by Council Officers, renders the regulatory criteria at the Resource Consent level highly controversial. Symptomatic are David Norton's comments, on National Radio ('Nine to noon': 5/11/98), that concerns should be addressed not "at problems with the Act, but problems with interpretation...". Such views are commonplace within the development industry, and in political debate (for a range of similar opinions see 'Environmental Update', January,1999).

### The Widening of Officers Discretionary Powers

"...we do have a series of regulatory methods available, [but] we can [also] use financial incentives, education, voluntary initiatives...we have diverse tools which are available to us to achieve the underlying purpose of the Resource Management Act, which is to promote the sustainable management of natural and physical resources..." (Page,1).

A prevailing theme to emerge from interviews with Council Officers was that their range of legislative powers is widened at the Resource Consent stages. In particular, Council Officers generally discussed their function in informal processes of dispute resolution, and in the facilitation of mitigation measures with particular enthusiasm: "...[the Act is]

*far more flexible: pre-hearing meetings; consultation; negotiation; even some of the provisions of the Environment Court with consultations and mediation rather than going to a full Hearing. There's all those aspects of it, and we here as a staff have really embraced that, it makes what we're doing more fulfilling, we're not just there to tick off criteria...Under the Act we've got a lot more tools that we can bring out to help resolve issues..." (Scott,3).*

I was also particularly interested in the notion of 'financial incentives' (used on a number of occasions throughout the research), and employed examples from case studies to question council officers. Generally they rebuffed by conspiratorial tone, but did admit that there was some scope and financial flexibility in arrangements between Council and developer. It is difficult to generalise about this flexibility and Council discretion. However, some illustration is provided in reference to one case study where "*[that development did not] pay a part of the reserve contribution, for two reasons: a) they were providing for a lot of their own recreational needs, and; they were proposing to open up some of those facilities to the population of the area, so that was the basis on which Council looked at it, the Council has those sort of discretions, I mean, if they said 'we're not going to do anything', we would have got the full amount"* (Scott:14). In a more general sense the Council Officer conceded that "*...[this] development was a partnership to the extent that there was a bit of land swapping going on in terms of our property people, in terms of relocating reserves, and there were issues with the reserve contribution and what would be open to the public. I'm not sure that we necessarily offer expertise to help, I've got to be careful how I say this, but we're not there as a partnership with them in that case, we see that they want to do something and we see that it has merit, and so we have some things in our power to help that, this reserve doesn't necessarily have to be there, we can move it to this land slot if we believe it still meets our reserve development policy, it's not like, 'oh yeh, yeh, lets get into bed together and see if we can make a profit from it..."* (Scott:16). At the least this example warns about being too dismissive of political intervention from forces within the Council as a factor in development decision-making.

### The Council and Experts

There is a tendency for Council to include a range of professional experts in the Resource Consent decision-making process. Officers' reasoning here is revealing: "*because they're experts in their field, what they say is pretty much taken as gospel. They're not there to bullshit. When an Acoustic Consultant says 'this is going to be bad', you believe him, and if he says 'this is going to be good if we use these mitigation measures', or, 'it's going to be good even without mitigation measures'. They're certainly taken far more notice of than say a neighbour who just says 'this is going to be noisy at night, it's going to keep us awake', or whatever. If there's an Acoustic Consultant that says 'this noise level is going to be acceptable for this house, in terms of noise level', then the Council is going to tend to believe the Consultant, because they're basing it on all sorts of noise*

*tests, and all sorts of things...*" (Scott,10). An expert landscape architect involved in this research reaffirmed this perception, alluding to the notion of professional courtesy: *"...I think one of the advantages with people using Planning Consultants is, if we say something, then [Council Officers] are more likely to believe us or take something on board. If we say 'look, in our experience this is not legal under the Act', or 'what your saying is [wrong]', they're likely to believe us because they know we've had experience, and they know we are knowledgeable. If some person off the street came along and said the same thing then I don't think the Council Officers would take them seriously..."*

(Ireland:9). There is some irony in these accounts of the Resource Consent procedure: although the Resource Management Act was designed to encourage wide participation in decision-making, certain types of participants are given more credence than others; the Council's dependence on 'expert' professionals is however, indicative of a trend found elsewhere in contemporary society whereby decision-making criteria are confined to the principals of expert, and scientific, knowledge, and that these criteria exist outside of the parameters of democratic control. As Beetham (1991:73) points out, "Wherever science serves as a source of legitimacy, it works in an anti-democratic direction, by assigning the power of decision-making to the expert at the expense of the citizen, and the professional at the expense of the lay person" (Beetham,1991:73).

#### The R.M.A., Precedents, and Cumulative Effect

*"A precedent effect does not apply if a site is unique..."* (Council Officer at Consent Hearing, from Case Study one)

*"Formally, under the Resource Management Act, we are not meant to take into account previous decisions with regard to considering further activities, but the fact is that what has gone before cannot be ignored. Certainly there can be cases where a major decision could have flow-on effects, and, in terms of, for example, major commercial development in predominantly established residential (areas), just because something has happened before doesn't mean it can't necessarily happen again..."* (Page,6).

The intention of the Resource Management Act is that the *individual merits* of each development proposal are assessed in regard to the Act and District Plan, without reference to other development proposals. However, precedents greatly complicate Council decision-making. This was often illustrated by Council Officers themselves:

*"...[Under the Act], precedent is not a reason to decline something and it's into cumulative effect. If someone came the next day and said 'well [this company's] there, we want [a similar company] right next door', we'd have to consider that as a whole new application...That argument is still there for the developer though - 'you let them do it, so why can't you let me do it?'. It's a tricky one from the Council's point of view [especially] if there is no good reason to distinguish between the two things, under those*

*circumstances you would be obliged to grant the second one, and under those circumstances it's starting to suggest possibly that the District Plan may need to be changed to a certain degree - 'there's no good reason to decline that one either?', What are we doing here ?..." (Scott,8).*

The obvious concern raised by this vague regulatory criteria is that, while one development may have a minor environmental effect, the effect of numerous individual developments may have greater significance. The difficulties of this issue were illustrated when I put this to Council Officers:

*"...in the early days of the Act, there was a lot of school of thought that said if everyone does this it will have a cumulative effect and therefore we are going to decline it, but the case law that has come out since, and a lot of the thinking that has come out of government is 'no,no, the first one isn't necessarily having the cumulative effect, it's the fourth one, and it's the role of the people assessing things [to decide] on where that threshold is arrived at. It's a really tricky one because it's much easier to say 'well if everyone did this it would have a cumulative effect over time', but that avenue has been taken away from us. We're grappling with that with rural subdivision at the moment. People are subdividing supposedly surplus houses and saying 'that's not going to have too much effect because the house is already there', and they're taking out a little bit of rural land. It's not as if it's having a huge effect on soil capabilities for producing food or whatever, but 'what if everyone in the road got a hold of that and everyone did it?'. Well, we wait until that happens until we start observing a cumulative effect, and if it doesn't happen, no harm done, if it does start happening at some stage, where are we going to draw the line ?..." (Scott,6).*

In summary, although the Resource Management Act states that precedents are not to be used when Council Officers make decisions about a particular development, it is possible for developers to exploit the notion of precedents on more informal grounds. This is aided by the fact that developers are required to assess their development proposal relative to the surrounding environment, of which preceding developments are a part. This is ambiguously considered under the Resource Management Act through the notion of 'cumulative effect'. A concern with this notion is that the criteria and considerations that pertain to a particular area will change over time, and as a result of changes in the physical environment resulting from developments. By the time 'cumulative effect' comes to be considered by Council Officials it may be too late: the original concerns of these effects may be irrelevant because of such social and physical reasons as residential neighbours shifting, or businesses reestablishing in predominantly residential areas. Another concern is that this factor of legislation exacerbates the 'rush for the honey pot' effect symptomatic of capitalist development.

Aside from presenting the ambiguities of the Resource Consent procedure, the above illustrations point out an important distinction in regard to the law: that Council's actions are confined to those activities which the law specifically permits, whereas developers may undertake any activity other than those which the law specifically forbids. The importance of this distinction can be observed in the subsequent section ('Developers and the Resource Consent Process') which discusses how developers deploy the law *strategically*.

### The Dependency of Council Officers

There are a number of legislative rules that render Council Officers dependent on the actions of other agents implicated in development. Therefore, Council Officers tend not to be *active* in accumulating information, but, rather, are *reactive* to the information supplied to them. This feature of the Resource Consent process is affected by three factors: the quality of argument presented by various parties; the quantity of arguments provided by various parties, and; the ability for different parties to have a say. The implications of all three points are best illustrated in the following statements from one interview:

*"...if you want to do something that doesn't comply with the District Plan you have to give us some justification, or help us consider that we can grant this, without any of this justification we are in the dark ourselves, we can't make a proper recommendation without that information... [development is] knowing how the game is played through the legislation, because the legislation drives us to consider effects and we need information to be able to do that..."* (Scott,12), stating also that;

*"...council staff get all this information and it puts us on a track. We have to recommend for or against, we can't sit on the wall and say 'see what happens in the Hearing', so we're down a track...It's on the basis of what we've got [that] we have to look like granting it or not. Sometimes at a Hearing a Planning Consultant can bring in a new perspective, and it does help. Sure [developers and Consultant Planners] are looking at it from one point of view, but it all throws light on the situation,...they're just all adding to a big picture, because the Council has to weigh up all sides, and to be able to do that they have to hear all the arguments. It's not like, 'well you're the most eminent Planning Consultants in the country so we will listen to you more than anybody else', it's just hearing all the sides and weighing it up, and that's not an easy role..."* (Scott,11).

### Conclusion

The basis for decision-making in the Resource Consent process is clearly not as straightforward and concrete as previous stages of Council regulatory procedure, although there is a sufficient degree of established criteria for Council Officers to have a notion of the 'reality' of certain development proposals, for example, *"...if it's a bad*

case, it's a bad case..." (Page,2), or that "...it was a reality that that site wasn't suitable for that proposal, and that's just the way it was..." (Scott:5). Nonetheless, it is clear that the range of significant variables of decision-making is widened at the Resource Consent stages.

What is important to developers about the Resource Consent stages is that elements of contestability are greatly increased. This can have two implications for a developer. The first, is that the process is more complicated, more costly, and has a higher degree of uncertainty. The second, is that the Resource Consent process widens the potential for developers' effective strategic action.

What becomes important in this context of interaction is not simply that the developer must seek to define their development against certain regulatory criteria, but they must also seek to establish and define these criteria to a much greater degree. Developers become involved in a process, not just of showing that the development proposal meets certain criteria, but also of strategically presenting criteria to Council Officers for the advantageous interpretation of their specific development proposal. An interesting feature of the points explored above is that they suggest that a developer's success at the Resource Consent stage will depend not only on *the presentation of specific information*, but also *the method of that presentation*.

### **Developers and the Resource Consent Process**

The purpose of this section is to explore dominant forms of strategic conduct characteristic of the Resource Consent process. The basis for this assessment are the Resource Consent applications for the case studies examined in this research. This assessment is complemented by supporting interviews with Council Officers, developers, and a development Consultant. An important feature of this discussion is that the range of strategies explored here are specifically directed at Council decision-makers and do not involve neighbours and other affected parties (these are discussed in the following sections).

There are four themes to this section: The first, focuses on the common notion of 'the robust Resource Consent application'; The second, examines the potential for the strategic deployment of the District Plan; The third, focuses on the strategic relationship between developers and the Resource Management Act, and; The fourth, explores the relationship between developers and 'environmental experts'.

## Producing a 'robust' Resource Consent application

*"...the developer did the right things, because it's a big application, so there's big things at stake. They got Lawyers, they got Planning Consultants involved, they recognised that they needed to do that, they got preconsultation with Council staff, they put in a robust application...so when the final application came in it was a pretty robust thing..."*  
(Scott,4)

The examination of Council files revealed that some Resource Consent applications were more substantial than others. Council Officers also indicated that some applications were more likely than others to be granted consent. Questioning the basis of these decisions produced the notion of the 'robust' application. 'Robust' applications are characterised by the accommodation of a wide range of potential future outcomes so that, either: the developer can change their plans and still be guaranteed of Council consent, or; the developer can preemptively counterattack the potential reasons for declining the application offered by Council Officers. The first of these strategies is particularly well illustrated in a Council Officer's explanation as to why he considered the Resource Consent application in one case study as particularly good: *"...the [developer] went through a lot of Resource Consents before they got to the final one, they had options, they had certificates of compliance for doing multilevel parking buildings, they all complied with the District Plan. We went through it and I think they had about six Certificates of Compliance and about five Resource Consents before they even got to the final Resource Consent. They included things like heritage buildings and things like that...Council itself is quite flexible in transitioning through all that, I mean they needed the initial Code of Compliance just to have the confidence to go and buy the land, and the parking issue was down the track, and they said, 'we probably don't want to build one of these parking buildings but if we do we can have a policy here'..."* (Scott,18, case study four).

A similar strategy is the presentation of preemptive counterclaims to the potential actions and arguments provided by Council Officers. This is well illustrated in a case study where the development agent anticipated a potential zoning change to the proposed site. The application argued the development's compatibility within existing Residential zoning, but also addressed two possible alternative changes - the Commercial Services zone, and, the Outer Business zone, presenting the case within the criteria for these zonings, and concluding that *"this zoning is also consistent with the nature of the activities carried out on the site over the past 80 years"* (Resource Consent application, case study one). Primarily, these strategies are designed to provide security with greater flexibility. Both, however, are also means to appease Council Officers, saving time and resources.

The cases above illustrate that quantity, as well as quality of argument is important at the Resource Consent stages. This point was reaffirmed when I interviewed the Consultant Planner involved in a number of large-scale applications: *"it depends on how difficult the Consent application might be. If there are potential problems with a particular development on a particular site, then you would pull out all the stops and look for everything that would give that developer an advantage. Clearly though, if I was satisfied that there wasn't any particular problems with this particular development on this particular site, then I wouldn't even bother going to the effort to find every little thing in favour of the application..."* (Ireland,6). Council officers were also clear about this fact, and, as one stated, *"...that's part of the game, because it was such a finely balanced thing they concentrated on the positives of it, and it helped tip the balance in their favour..."* (Scott,15).

### Employing the District Plan

In an earlier section it was observed that 'the law' was a powerful resource that could be deployed strategically at neighbours. Similarly, within the Resource Consent process, the written language of the District Plan is deployed strategically by developers at Council Officers. In part this reflects the legislative requirement that development proposals failing to meet one or more of the Regulations set out in the District Plan are required to demonstrate that *"...the proposed activity is 'not inconsistent' with the objectives, policies, and intent of the relative provisions of the Operative and Proposed District Plan"* (from Resource Consent application, case study 1). It is also useful to conceptualise this form of strategic manipulation as an *ability*, requiring skill and knowledge differentially possessed among development agents. These points are suitably brought to the fore in the following claim: *"...there are those provisions that aren't consistent and can lead to some interpretations and I guess that's where if you've got a good lawyer and a good planner working for you then you probably will be successful. I've got one client who had a zoning change on his property and I don't think he would have been successful if he hadn't have employed [us] to do the work for him. If he had done it himself he wouldn't have known how to use all those provisions, and the words and so forth...it's just going through the Act, and going through the District Plan, and reading what the words really mean and just providing a logical sort of argument against what Council [Officers] were proposing"* (Ireland,2).

The strategic manipulation of the District Plan was apparent in all case studies examined throughout this research process. However, one seemingly outlandish example highlights, particularly well, the scope for manipulation of the District Plan. The example draws from case study one, where a nakedly commercial proposition was seeking to establish itself in a residential zone. The application states that:

*"...[the] stated objective of the zone is to 'develop a residential environment of varied character offering a wide range of housing types and development opportunities in order*

to accommodate as many lifestyles as possible'...", also stating; "...that there are a number of objectives and related policies which are defined to give effect to the main objective. Of relevance to this application are the following - Land Use Zoning. Objective: To recognise through zoning and permitted uses a variety of housing forms and other uses appropriate in a residential area...". The application also identified the following Policy as particularly significant: "...to provide within the single residential zone for a variety of housing types and other uses which are compatible with and related to residential land uses". The thrust of this application was to stress the compatibility of the proposed development to the District Plan's definition of the surrounding area.

### Developers and the Resource Management Act

The Resource Management Act can complicate the regulatory environment for developers, as was vigorously claimed in a variety of interviews; that the Act was "...an absolute shambles for developers..." (Edwards,5), or; that it was "...difficult for mere mortals to know where it's coming from..." (Carter:5). A number of points of general consensus about the Resource Management Act emerged from these interviews, including: a general preference in comparison to previous legislation; an identification of Council Officers' interpretations as the primary hindrance to legislation, and; the need for flexible legislation (although this was commonly tempered by the simultaneous desire for regulatory certainty - a common expression at Council/developer meetings, for example, was the desire "to know where we stand with the Council" ). The general consensus is aptly captured in a single example: that "...the Resource Management Act - on the whole it's not a bad Act, however the interpretation of it which is with Council can be hampered, because they are not willing to take affirmative action against some Officers, you need regulations otherwise it can be adhoc, at the same time people should be able to make decisions and take responsibility for a decision, not to be afraid to stand up and be counted..." (Duncan,4). These concerns appear to reflect the general sentiments of development interests nationwide (reflected in various publications such as 'Environment Update', January,1999).

It also became apparent as case studies were examined that the Resource Management Act was regarded by developers as a strategic resource that could be employed at Council decision-makers. This conceptualisation of the Act was reaffirmed as I interviewed developers, and is particularly well illustrated in the following statement: "...now the developer can get hold of the Resource Management Act and, as long as he mitigates various affects, he can probably dictate what he wants to do. There's more flexibility in a lot of ways under the rules so that has a big bearing on it. Certainly, some of the subdivisions I'm involved in are easier now, even though we've got more rules and regulations these days, it is becoming easier to vary from the norm...I think we're under a more flexible regime now" (Farrow,2).

Developers exploit the flexibility of the Act in the 'Assessment of Environmental Effects (AEE) (a prescribed requirement under the R.M.A. for every Resource Consent application). The purpose of the AEE "*...is to identify the potential environmental effects of the proposal, assess the significance of those effects, and to recommend means of avoiding, remedying, or mitigating the potentially adverse effects...*" (Resource Consent application, Case study two). This offers developers the opportunity not only to describe and identify the proposed development, but also to describe the surrounding 'environment', stressing compatibility between the two. The Act acknowledges a manifold definition of 'environment', although three themes were prominent in the Resource Consent applications examined in this research: the Social environment (examined in the next section); the Physical environment, and; the Economic environment.

All Resource Consent applications examined throughout this research included an assessment of the Physical or locational 'environment'. Developers often casually referred to 'the strategy of existing land use' - stressing the compatibility of the proposed development to the surrounding physical environment. This dominant strategy was particularly well illustrated when I discussed the first case study with the Consultant employed for the proposal: "*...(I) was arguing that the Residential land use wasn't appropriate given the surrounding land use and the history of land use of the site anyway...What I was saying is that if you've got a residential site sitting amongst businesses, really, if you're going to look at the effects of this activity, you're going to have to look at it in the context of the environment in which it's sitting in, and not what the District Plan may or may not be zoning it as...*" (Ireland,8). It was also apparent that developers' environmental assessments were geared toward a variety of specific intentions: in most case studies this involved the granting of consent over and above District Planning Regulations and zoning; in another, it involved attempts to avoid certain Council costs if the development could be classified in particular ways; in one case study there was some attempt to describe the surrounding land in such a way that other sites could be deemed inappropriate.

Another striking characteristic of the Resource Consent applications examined in this research was the common invocation of the 'economic environment'. Consent applications commonly stressed the "*Socioeconomic effects*", and "*positive effects on the City*" including; '*the employment of contractors and suppliers*'; '*community employment by the end user*'; '*prestige for the City*'; '*presenting an attractive visual entrance to the City*', and; "*avoiding any adverse effects in terms of business confidence in (the City)*".

In one case study, Part II of the Act (dealing with 'Matters of National and Regional Importance') was invoked for an assessment of economic effects. The argument presented in this application, and reaffirmed in the Hearing committee's decision, was

that "gravel and rocks are two of the few natural mineral resources which are found within the City boundaries, and indeed, within the greater Manawatu. The ability to source and process such natural material is therefore, of economic significance to the City and region" (Case study two).

In another case study, the potential economic effects resulting from a development for a large international company appeared significant in the reasons for granting consent. The response to this proposition from the Consultant-in-charge provides an interesting reflection on the regulatory, and legislative environment: "...you have to look at all the effects on the environment, and that site had been run down for a long time and the owners had not been able to find another buyer who could afford the site for a long time. It seemed to me that if [this] development didn't go ahead then that site would continue to be run down, and continue to be a bit of an eyesore which I think is quite important in terms of the impression people get when they enter the City...that was quite valid...saying 'well, what would be the consequences of the environmental effects of them not granting consent and having that site being dilapidated and getting worse, that would be a genuine effect. Maybe, around the corner [there] could have been another buyer coming out of the woodwork, but it seemed to me that that site had been on the market for a long time and the owners were asking a lot of money for it and I don't think too many other people could have afforded it..." (Ireland,10). This perception is particularly interesting in light of the fact that it underscores the point (discussed in the previous chapter under 'The Acquisition of Land') that the ability to pay more for land should be regarded as an increasingly important strategy in the contemporary development environment.

In essence, astute developers recognise economic arguments as both a legislative criterion (... "at the end of the day I just come back to the Resource Management Act, and all I'm concerned about are the effects of the proposals, and there are economics of it, and you can consider economics as an effect..." , Ireland:7), as well as a special consideration for Councils, dependent on development so as to meet their social and economic obligations. The logic of this latter claim is convincingly argued in the following commentary about another case study: "[the Council] have to allow particular developments, even when you've got some adverse effects, because there will be an overall benefit. Some of the Transit N.Z. work we do, we promote insert projects where they might need to straighten a piece of road because there's a high accident rate, the only way to reduce that problem with deaths or injuries on this piece of road is to do these works, [but] at the end of the day, Transit has got a budget that they've got to work within, and sometimes they can't afford to do extra works to mitigate landscape [effects], or they can't protect certain trees, which is going to be a compromise. Now, if they had to mitigate all the environmental effects that would make the job an uneconomic one in terms of how they fund the project, and the project wouldn't go ahead...sometimes you have to compromise with some environmental effects because of the economics and I think that decisions are made like that. It's not a balancing act in terms of benefits and compromises, but I think that

*sometimes there are compromises*" (Ireland,11). Clearly, the presentation of economic effects is not a guarantee for the granting of consent, although the frequency of this form of argument by developers indicates its effectiveness in appealing to the Council's wider social and economic responsibilities.

Another feature of Resource Consent applications was the manner in which very specific issues (particularly those identified in preliminary investigations) were isolated and addressed as 'environmental effects'. In one case study where objections were lodged by two neighbours, the Resource Consent application included a *"Focused assessment of compatibility on the two properties on the rear where that approval was not given"* (Resource Consent application, Case study 1). A similar example from another case study was the emphasis in presenting *"the compatibility of the proposed facility with existing amenities..."* (Case study two). As I surveyed other Resource Consent files it became evident that it was characteristic of developers' conduct to isolate and specify issues of conflict (with Council Officers, and with neighbours), and to focus attention and resources at that issue. In this manner, developers were able to more effectively *"get past"* barriers presented in the regulatory procedure.

#### Developers and 'Environmental Experts'

Throughout the research process the employment of environmental 'experts' was often identified as necessary (or highly effective) to a developer's Assessment of Environmental Effects. This included experts in water, soil, noise, roading, or landscape depending on the nature of the development proposal at stake. It has already been observed that this type of evidence has substantial bearing on Council Officers' decision-making, and this is largely accredited to the perceived objectivity and scientific replicability of such information. This was most apparent in an internal memo summarising the 'Role of Expert Witnesses' in one case study, and supported in at least one industry report (McDonald,1997:23). These reports stressed such factors as "the establishment of credibility", or, "to establish critical facts and maintain position when questioned". Certainly, the dominant theme of these reports was the presentation of evidence in particular ways so as to promote its scientific validity. For some experts this is more easily achieved through the use of physically objective instruments, and the numerical presentation of data.

Some evidence emerged from this investigation to suggest that expert evidence is more prejudiced by aspects of the development process than is often recognised. This was most apparent in the first case study, where a Consultant Landscape Architect presented an environmental assessment, concluding that the *"building is compatible with the area"* (from 'Statement of Evidence', Case study one). The use of 'scientific' language and specific measurements was a feature of this evidence. However, the employment of a Consultant Landscape Architect by opposing submitters offered alternative and conflicting evidence, an example of which was that *"the building is utilitarian in nature and visually*

*out of character within the immediate context...and while the applicant proposes some landscaping, the obvious commercialisation of the facility cannot be avoided...*" (from 'Statement of Evidence'). While this is an isolated case study, it did raise questions as to the objectivity of experts.

I pursued the themes of expert objectivity, and the general relationship between developers and experts in subsequent interviews, and, as I examined further case studies. Two striking points emerged from these investigations. The first, is that the employment of experts was conducted under the brief of *'provide your expert opinion, but also employ your expertise to illustrate effective potential mitigation measures if the present proposal is inadequate'*. In this way, developers are always provided with 'useful' expert evidence that can be directed purposefully at Council Officers, and with anticipation of being granted consent. A practical reflection on this point is the following statement from a Landscape Architect: *"...I could never get up and say something that I didn't believe, so that way I always see myself as impartial, but I could view something from the point of view of a client, and that's not a problem. That's what we were talking about with the Act before, that you can interpret it in different ways..."* (Ireland,5). The second, is that developers have veto powers over the information that experts provide (all information is provided from the expert to the developer and then forwarded, by the developer, to Council Officers), and are able to suppress information or seek an alternative expert. Both points allude to a distinction made earlier: that developers are able to employ regulatory criteria strategically (anything that the law doesn't specifically forbid), while Council Officers are limited to actions which the law allows.

These issues of objectivity are understood by Council Officers. Their role is to balance the presented information with its source. This is recognised in the comment of one Council Official: *"[landscape architects]...like to think they are impartial and they'd tell their clients if it was a dead duck if it really was, but some of the realities for them are 'that's business, I'm not going to get paid if I tell these people to go away', that sort of stuff...The Council sit there, sifting through, knowing that's what the Planning Consultants are saying..."* (Scott,11). This informal mechanism fails to resolve potential inequities arising from Council Officer's general proclivity toward 'expert' evidence, and the fact that Council Officers are *dependent* on the type and range of information that is presented to them, from a range of sources. Primarily, the problem here is that the employment of 'expert witnesses' is expensive. Even when their employment is required by Council Officers it is charged to the developer lodging the application. The result is that, while 'experts' are a highly effective resource, they are also differentially available to agents implicated in development. Parties unable to employ experts are in a distinct position of disadvantage by not being able to attach their own bias to this type and range of information.

## The Context of Interaction - Neighbours Involvement in the Resource Consent Process

*"One of the key philosophies behind the R.M.A. was that all parties would have the opportunity to participate in its processes. The assumption of the Act is that environmental decision making is improved when decision-makers are informed of the views and preferences of the community"* (Ministry of the Environment, 1998).

The involvement of neighbours, and other potentially affected parties, to the regulatory process can both simplify and complicate the basis on which decisions are made. The primary reason for simplification is that, *"...under the Resource Management Act, if a neighbour gives their consent then we cannot consider effects on their property. [This] just makes things so much clearer for developers, and the Act is already doing good things in terms of that. It makes it so much clearer for Council as well - we don't know the effects on that site (but it could be quite bad on that site ?), well, that's life you know, the neighbour has accepted that. It might have implications for their property but that's fine..."* (Scott,20). The distinctiveness of this legislation is more apparent when compared to the supplanted Town and Country Planning Act: *"...Council Officers were literally able to save neighbours from themselves. If a neighbour says 'Yeh, we haven't got a problem with that', we can say 'Ah ha, but it's going to shadow your property and it's still going to do that', and we might decline something because of that..."* (Scott,20).

The involvement of neighbours can also significantly complicate the regulatory process. In particular, this is a result of the fact that the Resource Management Act stipulates that 'Amenity values' be considered as an 'environmental effect'. From early interviews, and from Council Officers notes in Council files, it was clear that 'Amenity' was an important consideration for Council Officers, although it was also clear that the notion caused significant confusion for many parties (particularly neighbours), and required a fair degree of discretion on the part of Council decision-makers. In essence, while the notion of 'amenity' was designed to encourage wide participation in the regulatory procedure, it has resulted in an extremely ambiguous criterion that significantly widens the basis on which grant or decline decisions are made. The most concrete reflection of the role of 'amenity values' in decision-making was the response from one Council Officer: *"...it's just hearing all the sides and weighing it up, and that's not an easy role..."* (Scott,11). This ambiguity is best illustrated by identifying the range of ways that various agents have implicitly or explicitly defined 'amenity':

*"The Resource Management Act defines 'amenity values' as those natural and physical qualities and characteristics of an area that contribute to peoples' appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes"* (Council Officer, in submission to Hearing supporting his decision to decline a consent, Case study one)

"...the existing amenity of those houses needs to be protected. This will be achieved through fencing, and the design and operations of the site and buildings generally, as well as the small landscaped area...the removal of dilapidated buildings and the introduction of a non-intrusive facility, which, through its design, will protect the character of the immediate neighbourhood..." (Expert Witness, Resource Consent application, Case study one)

"...My husband and I moved (here) 5 years ago, renting property approximately 250 metres from the proposed site. We have 3 children ranging from 9 months to ten years, we love the country lifestyle, fresh air, open spaces, with little traffic. We strongly feel that this should be preserved, and not just another company come in and plunder the countryside, leaving a bloody great eyesore in their wake. We have no intention of moving, our children feel secure here..." (Submission from affected neighbour, case study two).

Opposition from neighbours often activates the Council into processes of mitigation. Council Officers commonly identified mitigation as an increasingly important aspect of the regulatory process, often highlighting their role as the facilitators of mitigation. This role is usefully illustrated in the following statement:

"Often, why we would call a pre-Hearing meeting is [that] we've got submitters that have made points and given reasons why they're objecting to something, and we can see that there's real scope, that there could be negotiation, that the developer would be quite happy to mitigate or limit themselves to the extent that the submitter might [also] be quite happy. It's just to get all the parties happy, because often people aren't all, 'oh I don't like this ra ra...!', it's 'I don't like this because of this and this...'. It might be quite succinct reasons, and often reasons that can be got to the bottom of, and that's our role - to try to flesh those out - 'What would you prefer to see as an alternative to that?', 'O.K. developer, what do you feel about that?' - it's really facilitating. And it depends on the nature of the submitter, on how they see that [role] at the outset and the end of it. Some people view these meetings with suspicion because they think someone [is] trying to hoodwink them, others go into it quite open minded and see it purely for what it is, which is to get to a place where everyone is happy, and a lot of people come away from those meetings feeling very good about what's going on, because most people's human nature is that they don't like to stymie their neighbours, it's a difficult position because they don't like to be the bad guy, and we try to find ways where people are pretty happy themselves. [In] some pre-hearing meetings you just don't reach that sort of consensus, but we know what the real issues are now, and we know where there's no room for manoeuvre, and we'll just have to go to a Hearing, and in those circumstances we've just got to see what happens, when it happens...The pre-Hearing meeting is a valuable tool, even if it doesn't get rid of a certain issue, it does get rid of a lot of extraneous stuff and concentrate on the real issues, it helps both parties understand..." (Scott,12).

Processes of mitigation are also important because they provide a mechanism to resolve the relativity of such criterion as 'amenity values' on a case-by-case basis. In this regard, the importance of mitigation is particularly well illustrated from case study two: *"that was a situation where we were able to thrash [conflict] out in the pre-Hearing meeting, this is one of the concerns - 'blasting affecting lambs', and we were able to set up a regime, 'if we put this condition on consent, would you neighbour, and you, Mr quarry owner, be happy?', and we were able to negotiate something that could have otherwise been beating heads together at a Hearing, and at the end of the day we had a very good, logical situation to arrive at"* (Scott,4). This example superbly illustrates the fact that the Resource Management Act was designed with the notion of making 'commonsense', and mutual agreement as the basis for regulatory decision-making.

Neighbours also serve a practical function as watchdogs in maintaining established Council requirement. This was very apparent in a number of case studies, whereby *"...those people [involved in that case study] kept a fairly good eye on things - 'just dumped a piece of dirt ?, what's going on here ?', so that's the other thing [neighbours] can do - monitor what is going on. If they see anything contrary to what the developer was granted consent for they can certainly come back to us..."* (Scott,19)

### **Developers and Neighbours: Forms of Strategic Conduct**

Throughout the research process I was shocked at the lack of communication between developers and neighbours. A fact of general consensus to emerge from interviews with developers was that they would only involve neighbours in the development process if required to under regulatory stipulation. This tendency is particularly well illustrated in the statement that *"...the most significant interaction with a neighbour would be if they had some bearing on the outcome of the development, so, I'm trying to think if there's any other reason, it's unlikely that as a common courtesy you'd ring your neighbour and say 'I'm going to do this', especially in the big developments because you've probably got some information sensitive and maybe they'll find out. As far as interactions, generally it's if you're required to, so if you know that you might have a notified consent requirement on a proposed development you're likely to sound out your neighbours as a part of your information gathering process, so generally it's more if you're dictated to really..."* (Farrow,7). These regulatory requirements were often the subject of criticism by developers; that they were inefficient and held up the development process unnecessarily. This frustration is evident in the following narrative: *"...we had to conform with the District Scheme, a building that everybody wanted, but we still had to write to 30-something affected parties and asking them to sign. [We] made it easy for them, explained what we were doing, we got 100%, no not 100% back, because at the end of the day not everyone responded, so then you have to write them another letter saying that 'the final day is several weeks away, if we haven't received advise to the contrary then we assume, and the Council [assume], [that neighbours] have no problems*

*with it'...we didn't have one [submission against it]...just a couple of qualifications and clarifications...*" (Gunn,8). These sentiments are reflected at an industry level and have resulted in serious steps toward a Limited Notification Procedure that involves only the selective targeting of certain affected parties identified by Council Officers (Ministry for the Environment, 1998).

Essentially, there are three practical possibilities for developers in regard to the involvement of neighbours (and other affected parties): The first, is to collect the consent of all affected parties identified by Council Officers; The second, where neighbours are initially unwilling to provide consent, is to employ strategies of mitigation in consultation with Council Officers and non-consenting neighbours; A third possibility, where neighbours are unwilling to provide their consent, is to attempt to convince the Council decision-maker despite the lack of consent by affected parties. In essence, this involves adding elements of contestability to the decision-making process, particularly through the use of expert definitions of 'amenity', and by providing sheer quantity of argument (these points have been adequately addressed in previous discussion). Developer's may also attempt to represent the evidence of neighbours in particular ways (this form of strategy is addressed in chapter five). In addition, preliminary investigations may orient developers as to their tack with neighbours. Each of these forms of action are addressed below.

#### Preliminary Assessment of Neighbours

Neighbours and other parties are always a factor of risk for any development project, and developers are often inclined towards reducing the uncertainty of neighbours' involvement. In development projects where there is an expectation that notification would be necessary (i.e. where Council Officers specify neighbours' involvement), interacting early was a common recommendation for development practices.

Characteristic of this general pattern were such claims as "*...it goes back to work you do beforehand...[you] don't bulldoze your way in, go and talk to them first and you can generally sort something out,...at the end of the day we buy a piece of land that will work in with; [a] what we're doing; and [b] with the regulations anyway. If it's not going to work we shouldn't have bought it in the first place*" (Booth,8), or; "*...firstly, before you do a development you do a diligence, you check it all out, and you see what issues your going to be faced with...if the neighbour's taking the worst case scenario position then you know, hopefully, what effect that will have. Sometimes you have unknowns that will happen, but you make a commercial decision...*" (Farrow,7). It is also clear that this general recommendation is widely promoted in industry and business literature (for example, see profiles in Miles,1997:169). By identifying problems early on in the development process, developers are in a better position to make alterations to plans, and to preempt the intensification of problems by proposing mitigation measures as part of their approach to Council and the regulatory process. This advantage is particularly well illustrated from case study one: "*...[preliminary investigations involve going] to the neighbours and trying to get all the neighbours' approvals, because if you get all the*

*neighbours' approvals then it wouldn't have gone through the notified process, but that one didn't get all the neighbours' approvals and they were unhappy about what was being proposed with the development. Also, as a part of talking with the neighbours and affected parties we could take on board their concerns and modify what [the end user] was proposing, for example, one woman at the front wanted the verge set back a bit from her boundary so we said that we'd put a garden to set it back a bit..."* (Ireland,1).

The local Planning Consultant interviewed in this research displayed a more sophisticated appreciation of these preliminary investigations. Given that larger developments are often notified, and that Consultancy Organisations are often employed in these projects, the following statement is an interesting reflection of the development industry: *"...you've got to be very careful talking to neighbours very early on in the development process, I mean if the developer was quite committed to the project I'd go and talk to neighbours quite early on, but if it was just an idea I probably wouldn't go and talk to the neighbours, because unless you've got a lot of information about what is being proposed you can scare people, and I think you don't do anybody any favours by going too early to talk to people...There are some cases when we do a pre-feasibility study, but you can scare people, and having worked as a Planning Consultant for some time you can sort of know, predict, when your developing a property, what people's reactions are going to be, if there's likely to be any problems...[because of my] experience on similar projects or understanding a community..."* (Ireland,6). One of the important features of this claim is that it implies that knowledge and experience within a local area are necessary skills for, and enhance the effectiveness of, the investigation of neighbours. A frequently raised example, particular to the New Zealand context, is the need for regular communication, and mandatory preconsultation with local Iwi groups (Ireland,9, Farrow 9).

Council Officers tended to regard preliminary contact, and communication in general, as extremely important to the regulatory process. A useful illustration is the claim that *"Some developers are very good at doing preconsultation, going around and talking to the neighbours. It's invaluable [but] I don't think some developers appreciate how important it is. It gives the neighbours a level of comfort when they do get confronted by a Consent form or a Notification application, they already know who they are dealing with, they know whether they think they can trust them or not, it's all those sort of things..."* (Scott,17). In many respects, preliminary investigations and preconsultation by developers make the job of the Council Officer easier, eliminating potential concerns from the regulatory process, or resolving issues before they escalated into major conflicts, aiding efficiency and reducing costs. These facts provoke speculation as to the degree to which preliminary consultation with neighbours is motivated by the need to represent the development proposal, and developer, as 'reasonable' and open-minded to Council Officers.

## Collecting Consent

*"Section 6.1 of the Resource Management Act 1991 requires 'Consultation with every person, who is known by the City Council to be either an owner or occupier of any land to which the resource consent applies...and (in Fourth schedule) other groups interested or affected'..." (Resource Consent application, case study two)*

*"...[Consultation] needed to be professionally done and these people had experience in doing this, that's the first issue...and we didn't actually think that we had anybody that had the skills - we knew what had to be done but we didn't want to bungle it, ...and the other [issue] is time [we wanted it done as quickly and as efficiently as possible]..." (Carter:8).*

An important restriction on the granting of Resource Consent is stipulated under Section 94 of the Resource Management Act, requiring developers to collect the consent of neighbours, and parties affected by the development. On the other hand, where written consent is provided, the effects on the consenting parties' property become spurious to the regulatory process. This enables developers to avoid concerns that could have been raised by Council Officers under previous legislation. Often, developers will attempt to collect the consent of neighbours prior to the lodging of an application so as to avoid the costs of notification and delay, and to eliminate this factor of uncertainty prior to further commitments. It is quite possible for Council Officers not to be involved in this process at all. Neighbours must deny their consent, and later, lodge a written submission, before Officers become involved with issues relating to that land. Again, this represents the dichotomy that developers are able to exploit the law strategically, pursuing any form of conduct other than what the law specifically forbids, whereas Council Officers are restricted to actions which the law specifically allows.

There is potential, under the existing Consent procedure, that neighbours' will only receive information about a development, or the development process, from the developer involved. Ofcourse, neighbours' can also deny their consent, or can be proactive about seeking Council input or further information. However, there is potential for consent to be granted at an early stage without sufficient understanding of the proposed development, or the development process. Some evidence emerged from this research to suggest that developers exploit these circumstances. In two case studies (one and three) examined in this research, neighbours, when interviewed, expressed shock at the difference between their expectations, and the actuality of the completed development. This is particularly well illustrated in the narrative of one startled neighbour: *"...I came home from [being out]...'eh ?, what's going on here ?. I said to the building guys:*

'what's the story?', and they said 'well it is five meters [which is what I had agreed to]...' (Neighbour,5). The point is also illustrated in this statement from a development consultant: "I guess it depends on how warned the objective parties might be, if they didn't feel they had the rights to object to it, or whatever, I guess they'd give it up..." (Ireland,11).

Examination of Council files, and interviews with developers, revealed that maps, plans, photographic evidence, and computer simulation were frequently employed in appeasing neighbours' concerns and uncertainties. Interviews with neighbours however, indicated that these resources, while alleviating initial concerns, did not always provide an adequate reflection of the completed development. In one case study in particular (case study one) the developer "*had plenty of evidence to show what we had built at other places, and [neighbours] were happy to have us...*" (Carter:6). However, a number of the surrounding neighbours shared sentiments similar to the following: "*we're just a little bit peeved really because [the developer] said it would be kept with the surroundings, [and] when we read the finer print later on, once the skeleton was up, we nearly had a heart attack, it says that it will be kept in line with the Central street surroundings [business and industrial area]...so we feel that [the development agent involved] did a bit of a dirty on us...*" (Neighbour Interview2:3).

One Council Officer also addressed cases of deliberately aggressive and deceptive tactics, in particular from one developer. In one case we discussed the "*...the standover tactics on one neighbour, [this developer] didn't even have a full set of plans, he had a set of plans that weren't even the ones he had the design for...*" (Scott,21). It was equally significant that this developer had a 'known reputation' with Council Officers. As a corollary, the developers interviewed in this research were very concerned with maintaining a positive reputation with regulatory officials.

Developers also have at their disposal the traditional mechanisms of "simple corruption and swindling" (see Roweis and Scott, 1981:132 for a description of British land development practices). This form of strategy was apparent in various degrees in two case studies examined throughout this research. Both examples are suitably represented in the following description taken from an interview with a neighbour: "*I felt that [the developer] was bribing us, [the developer] tried to give us presents...which I refused because I said I wouldn't be bought, it wasn't much, just a leather fountain pen and a leather [thing]...*" (Neighbour Interview2:3). Bourdieu's notion of 'symbolic violence' is suggested here - "the gentle, invisible form of violence, misrecognised as such, chosen as much as it is submitted to, the violence of confidence, of personal loyalty, of hospitality, of the gift, of the debt, of recognition, of piety - of all the virtues, in a word, which are honoured by the ethics of honour" (1976:192).

The most common strategy to emerge from interviews for securing the consent of neighbours was a combination of emphasising the potential benefits of the development,

and making altruistic offers. Taking responsibility for a fence was particularly common: "*[I] more or less say 'look, I'll do all the fencing for nothing but I need a favour out of you'... liaising with the people, tell them what you're doing and how you're going to do it, give them a little bit, then it's give and take stuff you know*" (Edwards,6). This strategy could well be effective because it represents the developer as 'reasonable' to neighbours, and provides the neighbour with the opportunity to 'cut their losses' or to 'make the most of a situation'.

The Resource Management Act anticipates the use of 'market strategies' in resolving development disputes. While infrequent, this remains a legal option, particularly for large-scale developments. A number of cases were illustrated by one Council Officer: "*...the Act also says that you can buy people's consents, as what happened in [one case], they helped a neighbour buy the house next door to them, they put some money toward it, as a result he said he was happy because they had paid for his loss of property value, so that's quite legal...compensation can change hands like that, it's all quite alright to buy people's consents off them*" (Scott,6). In general these strategies were discouraged within the development community. At a developer/Council luncheon, stories of neighbours' asking '*how much if I give my consent ?*' were provided. It was generally agreed that this was an unacceptable option for the industry, although it remains a legally viable and acceptable strategy for larger development proposals.

#### Strategies of Mitigation

*"Each of these effects when viewed separately may be considered minor, but when viewed accumulatively they are likely to be more than minor in my opinion"* (Council Planner at Hearing, Case study one).

*"[the] R.M.A. directs local authorities to control the effects of activities rather than the activities per se"* (Developer's response, and reiterated by Hearing Committee, Case study one).

A dominant perception from the examination of Council files was that developers are always able to specify and isolate points of conflict with neighbours, and are then able to resolve, or overcome, these isolated issues and proceed with the development in slightly modified form. The notion of 'getting past' conflict was raised in an early interview with a developer. To some degree these points appeared to render development inevitable. This was certainly the view held by a number of neighbours involved in two case studies (Case studies one, and two). Council Officers accepted this perception with reservations, pointing out that this strategy could only go so far, and that, in some cases, potential remedies raised further problems. Nonetheless, strategies of mitigation are clearly

important within the contemporary regulatory environment, not only as they are directed at neighbours so that issues of conflict might be resolved to a degree that neighbours' consent is granted, but also because mitigation, and the perception of compromise represent the developer as 'reasonable' to Council Officers and Counsellors.

Where neighbours don't provide consent to a developer they often become subject to strategies of mitigation. This was conveniently represented as a skilled activity when I interviewed a Consultancy agent: *"...I think that when people do say 'it's just not right, it probably is the smaller things. [When neighbours say] 'I don't want this development next to me', [I say] 'well, why not?', then they'll start to talk about specific things. I don't think you can mitigate the whole thing, I think that effects are quite specific, and to develop mitigation measures you have to get to those specifics...just talking through the proposal, and sometimes when people aren't very forthcoming about what they're concerned about you start suggesting mitigation measures, you start suggesting 'O.K., we'll put up a fence', 'we'll insulate it so it won't generate so much noise', and so you get them to think about those things and it helps to identify what they're concerned about..."* (Ireland,11). It is also true that these strategies of deliberate questioning and provoking responses place neighbours in a difficult position - where they refuse to participate in mitigation (because of suspicion, lack of time, or, indeed, selfishness) the development may still be granted consent, whereas participation offers neighbours a chance to cut their losses, but, in a practical sense, signifies a general acceptance of the development project.

Developers are also able to exploit the function of Council Officers as facilitators of mitigation, particularly where they perceive a lack of trust, or commonly held prejudices about developers, that are inhibiting a development's progression. This is a more accurate statement for some cases than others. In case study three in particular, the objectives of Council and developer appeared particularly compatible. For this development, Council Officers took particular steps to enable the development, including the sale of Council land, and the rezoning of parks reserves. From the Council file, it was apparent that neighbourhood meetings were frequent, as were discussions between neighbours and Council Officers. Neighbours' submissions about the proposed development were all symptomatic of Officers' intervention, each agreed with attached, 'specific conditions' of agreement. Objections were also withdrawn after Council intervention. One of these Council Officers summarised the case: *"...we had a number of pre-Hearing meetings and were able to dissuade people's concerns to the extent that they withdrew the requirement to be heard, and we didn't need to go to a full Hearing and that saved time for the applicant. In the end the people that had had concerns were quite happy as a result of the agreements that were reached..."* (Scott,3). This case again illustrates the common conceptualisation throughout this chapter that Council Officers (and regulatory authority in general) can become a valuable resource employed by developers to achieve the

completion of a development project, although this depends on the degree to which the objectives of Council and developer coincide - not only at the level of the District Plan, but also in regard to personal relations, and the underlying political ideology and direction of the Council.

Mitigation is also a mechanism of presenting a development, and the developer, in a positive light to Council Officers. This is reflected in such claims as *"If I had a client that wasn't prepared to go to the neighbours and sort out problems I'd always have to warn them that there may be consequences if they don't do that sort of thing because...the Council don't look too favourably on that..."* (Ireland,5), or elsewhere, that such actions were motivated because *"...half of what Council look at is community good"* (Farrow,2). This common perception appears linked to two forms of conduct characteristic of the developers involved in this research.

The first of these strategies was very conspicuous in Resource Consent applications. This was the emphasis given to identifying issues of non-conflict (either issues resolved in negotiations, or issues to which no objections were raised). Applications also featured accounts of resolution and compromise with affected parties. Initially there appeared little reason for such emphasis to be placed on these reports, except, possibly, that they enhanced the image of the developer. Later conversations with developers also revealed these strategies as a mechanism to eliminate extraneous material from the Consent process, and to save time and associated costs.

Another implication of the developers' acute awareness of strategies of compromise is that developers tend to afford some degree of flexibility and accommodation in their proposals, and this better enables the image of the 'compromising developer' (important for neighbours' peace of mind, and for Council Officers' perceptions). Phrases such as 'give and take', and 'meeting half-way' were common when discussing neighbours' opposition. A characteristic strategy of resolution was *"basically [to] sit down and sort out the problem, and meet them half-way - I'll meet you half-way, you go half-way, and sort the problem out...they may have made a few comments but nothing really to make a change..."* (Allen,3). Also widespread were statements to the effect that *"...we're always prepared to change our plans just slightly to suit our circumstances, and generally we don't have problems with that..."* (Booth,7). Allowing this degree of flexibility in original plans not only allowed developers further scope for producing contingencies to cope with a range of potential outcomes, but also made possible the greater potential for mitigation without compromising costs incurred through producing and altering tighter plans. This aspect of flexibility is clearly important to the way in which developers are represented to Council Officers and to neighbours.

## Pre-Hearing Mediation as a Context of Interaction

An expectation under the Resource Management Act was that informal processes of mediation would be important to its success. Statistical evidence suggests that processes of mediation are increasingly important in the interactions between developers and regulatory authority (*'Annual Survey of Local Authorities'*, 1998).

In one sense, the increased use of mediation processes is attributable to the preferences of Council Officers. On a number of occasions throughout the research process Council Officers identified mediation and intensive personal contact as more effective than other formal processes in identifying and resolving issues and conflicts, and important for saving time and resources associated with a Consent Hearing. In one interview, this preference was expressed in the following way: *"...In a lot of cases I've found that sitting down, talking to them, explaining our position, acknowledge their position, often, for the most part, they go away quite happy, and so really it is a case of making people aware that we are human, we're not there to be mean or completely bureaucratic, because, to be absolutely candid, it makes things hard for us, so we certainly try to acknowledge their concerns when they make a submission or come in and see us...sometimes there might be a compromise point or they might be completely correct in their assertion that there is something fundamentally wrong with the plan and it is something that we would need to investigate further in regard to a potential change or a variation..."* (Page,3).

Developers also generally perceived processes of mediation as a preferred context of interaction. Again, time, costs, and the productivity of an informal environment were mentioned. Typical were such experiences as *"...everybody got a good deal, we gave a bit of land, the Council gave a bit of money, the residents backed up a bit and everybody came away with something they were happy with"* (Booth,7), or that *"...you go through it bit by bit, sitting around the table in negotiations, give a little bit, take a little bit, really that's the only way to resolve it..."* (Edwards,5). In contrast to Council Officers however, developers were more inclined to represent mediation as an unanticipated bonus, that was both less certain, and less able to be relied upon, than formal processes. In their strategic planning, developers would often discuss the possibility of informal processes concurrently with planning based on formal procedures. This is illustrated in such statements as *"...there's a procedure mapped out, we hired a Planning Consultant and lodged an objection, had a Hearing date and got a decision from that, object to that and take that to the [Environment] Court, and in the meantime try to settle it out of Court..."* (Farrow,8).

## Resource Consent Hearing

*"...sometimes they'll take that path and try to play the political game and if that doesn't work they've basically had it, and the bigger developments can afford to do that...All I mean by 'the political game' is hoping that, despite what the Council says, the Council staff, they can sway the Counsellors which are the ones making the decision at the hearing, and it worked [in one case but not in this other case], it's really that simple, I mean I don't know what goes on other than that in the Hearing room, but there's not normally that sort of lobbying going on in New Zealand as far as I'm aware of, no hint of corruption or anything like that..." (Scott,5).*

Where strategies of mitigation and mediation processes fail to reach agreement, developers have the further option of pursuing their case through the Resource Consent Hearing process. The fact that 95% of Hearing outcomes support the decision made by the Council Officer in the Consent application stages suggests that this context of interaction is much the same as previous stages. A significant change is that decisions are made by a Board of Counsellors, although they do receive advice from a Council Officer. An interesting reflection about the Hearing context is provided from the experiences of a Consultancy agent, that *"...a lot of [Hearing] Committees will take a Council Planner's opinion, and it takes a lot of work to try to change that..." (Ireland,9)*. One Council Officer however defended the abilities of the Hearing Committee: *"...[it's] not just a case of Counsellors' going away blind, they really do put a lot of effort into reaching their decision, and it's not just these political people who don't know much about anything, they are pretty informed people..." (Scott,10)*.

The most useful mechanism through which to explore the divergences between the Consent Hearing, and the previous stages of Resource Consent, is to explore evidence of reorientation in developers' strategic conduct. One strategy, very evident from the examination of Council files, was the increased quantity of information presented at the Hearing. This was reaffirmed by one Council Officer: *"Often the evidence produced at the Hearing is a lot more exhaustive from the applicant's point of view than in the application, so sometimes Council staff can be at a disadvantage there..." (Scott,8)*. Another reorientation in strategic conduct, observed from Council files (which feature transcripts of Hearings), was the redirection of strategies. Rather than attempting to appease neighbours, or Council Officers, the developers full attention is given to convincing Counsellors of the merits of their case, and, the deficiencies and irrelevancies of the opposing case. This involves not only presenting an argument of sufficient quality and quantity, but also attempts to represent opposition in particular ways (see chapter five).

## The 'Political Game'

*"In essence, the political arena was that the Council was very much encouraged to have us come back to town...they were losing so much out, it was a small trickle in the opposite direction of what had been running away as a river, and they saw that as a small but significant change in the trend, but in terms of the Council [Officers], we had to battle to get onto this site" (Carter:2).*

The notion of the 'political game' was sparked by the examination of Case study one. Here, the recommendations of the Hearing Committee listed the economic benefits for the City as a primary reason for granting consent, and overturning the Council Officers' decision (from the 'Hearing Committee Final Recommendation'). I employed this example in questioning one of the responsible development agents *"...the Hearing Committee in that case, who were also local politicians, were also aware of effects of the site as it stood as a development on the City, that's one of the arguments that we raised, that economically it would be good for the City..."* (Ireland,10), adding that *"...in the present climate [referring to a strong perception of business disquiet, typified by a negative business survey of the Council, and condemnation in the newspapers] they need to be quite receptive to that..."* (Ireland,14). The case highlighted the perception that developers are also able to exploit the position of Counsellors as democratically elected representatives of a geographically defined area. The new Auckland City Council's reappraisal of the Britomark project has provided very public testimony to the fact that the politics of the constituency can have significant effect in the Hearing Committee boardroom.

A general implication of the 'political game' was also expressed by this development Consultant, facilitating a number of large-scale developments: *"...if your company's got a big reputation as being a good neighbour, for example, you use that,...if you had a client that had a really bad reputation as a neighbour or anything you just wouldn't mention it, you'd just leave it out, we wouldn't be trying to promote them as anything, it wouldn't appear in the application, but if you had a good client that was a particularly good neighbour and did a lot of good things in the community you'd certainly push that..."* (Ireland,5). This statement illustrates the manner in which some development agents seek to exploit the additional political interests of Counsellors. It also highlights the fact that, while Counsellors have to use the same legislative criteria, they may interpret them differently. This renders the Hearing process subject to additional uncertainties, and may account, in part, for the statistical fact (from 'Annual Survey of Local Authorities') that many developers are not prepared to pursue their proposal through the Hearing stages.

Indeed, it was extremely common for developers interviewed in this study to regard 'the political game' as indiscretion, and with some scorn. This was usually accompanied with references to supposedly 'objective' criteria (the District Plan and Resource Management Act) as the correct and expected features of regulatory decision-making. A useful illustration is the following statement:

*"most decisions, particularly those made by Hearing Committees are based on 'environmental effects' not on the best case, I was involved in an application down in Wellington and we presented a great case, had Lawyers involved, and Planning Consultants and Engineering Consultants, and our case was very strong but we didn't get approval because the locals didn't want this particular development in their neighbourhood, and the politicians weren't prepared to make the decisions to grant it...It was very logical, very thought out. In my opinion and the Lawyers opinion, we satisfied all the tests under the Act, and in terms of assessing the environmental effects, or whether this particular activity was sustainable in terms of what the R.M.A. says sustainable is, we felt that we did meet all those tests and it wasn't appropriate not to grant us consent. The locals just didn't want it and they petitioned the Counsellors, and they were very emotive and they presented a very emotive [argument]. The argument that they put up in the Hearing wasn't in the terms of the R.M.A., it was just 'we don't want this, it's going to generate all these effects', which was just rubbish, I mean they were just unhappy, but at the end of the day the politicians were not prepared to grant consent..." (Ireland,9).*

These comments highlight the fact that 'the political game' can be oriented away from the objectives and interests of a particular development, and that, in certain circumstances, Counsellors may be more concerned with appeasing the concerns of particular affected parties.

#### Developers, Finance, and Lawyers

The significance of finance and Lawyers becomes particularly evident at the Hearing stages of the Regulatory process. The examination of Council files made it quite clear that a certain degree of finance was necessary just to proceed to the Hearing stages, and provided some development projects with opportunities unavailable to others. One Council Officer accepted this point with reservations: *"...the bigger companies that are better resourced, it probably is fair to say that they have a bit of an advantage, but at the end of the day if what they're doing is not going to be good for the environment, the Council is still sitting there, the Council is there as the balancer. Sure you've got a poor little neighbour here, and a huge multinational here, the Council is sitting in the middle...the problem is that if we grant something for the developer, then the poor little neighbour is there, still not happy, that's where there can be the imbalance, but hopefully the Council has acted responsibly and objectively and there is good justification about granting it..." (Scott,8).*

There is some evidence that certain development agents deliberately seek to exploit the disparities in financial resources between themselves, and opposing submitters. This is illustrated from one case study whereby "*...the applicant...cautioned the [opposing] group [about] the costs that would be awarded against them, and because they weren't a Corporate Society the costs would be awarded against them as individuals, [so that was] whoever was signing the jolly submissions, so it was almost like it was scaring them off and I didn't like that because I would have liked it going to an appeal with the people that had the genuine concerns rather than the trade competition which it turned out to be...*". Here Council Officers conceded further that "*...there are situations like that where the more money you've got the further you can take it, to fight it...Take it to the appeal stage and it starts getting pretty expensive for just straight submitters...*" (Scott,13/14). These statements illustrate not only that finance enables certain developers to pursue the regulatory process further, but also, that it is often more relevant to measure the significance of finance (and 'regulatory resources' in general - knowledge and expertise for example) as relative to the resources of opposing parties.

Lawyers add intensity to the deployment of financial strategies. The examination of Council files revealed instances of explicit intimidation, such as "*...costs fall where they lie...If that offer is not accepted, then there is further cost implications for your client in respect of the appeal*" (letter from developer's Lawyer to opposing party, Case study two). In this case, the notes of the Council's solicitor are also revealing "*...The appeal was withdrawn to avoid further costs but was done under agreement with [the developer], involving a separate settlement to lower the payment sum of the original judgment...at the end of the day costs have a big bearing on such matters...*" (from Council file, Case study two).

Lawyers possess a legal and organisational nous suitable within the forum of Consent Hearings. In particular, the skill most apparent from the examination of Council files was the systematic identification of issues resolved, and issues remaining at stake. This appeared significant in saving time and focusing on specific issues without reference to other matters, and without compromising the whole development. This perception was reinforced by one Council Officer: "*Lawyers can sometimes be very useful because they're almost like a ringmaster, they're drawing all the elements of the applicant's case together...Lawyers are often brought in in controversial cases, where there are a lot of submitters. They're seen as, they sort of keep things on the straight and narrow, their rebutting at the end is often directed very much at the Committee who are hearing the application, where they are saying 'this person said that, you can't even take that into consideration under the Act...they just focus, they can sort out the sheep from the goats sort of stuff...*" (Scott,13).

The physical forum of Council Hearings is another consideration in which experience and expertise are usefully employed. While Lawyers will function more comfortably within the relatively frequent habitat of the Hearing Chamber, it is, as one Council Officer

claimed "...pretty daunting for straight submitters, it's bad enough getting up and having to give evidence as a Council Officer, let alone a lay person..." (Scott,14). This factor has significance in regard to the presentation of information, because it is only on information presented that Counsellors must make their decision. The ability for submitters to present information, and to present it effectively, is significant to decision-making within the one-off Hearing environment. Issues of sexism were raised in regard to this context also, although these are beyond the scope of this research. It is simply worth note however that a variety of factors contribute to the perceptions people carry into, and the ways in which they are perceived, within the formal Hearing context.

### **Environment Court**

It is rare that development proposals progress to the Environment Court. Where this occurs, issues are often highly politicised. Certainly, a common reason for developers to pursue their proposal to this stage is because of the perception that political influences have unfairly swayed the decision of the Council Officer, or the Hearing Committee. As such, these developments are often subject to much media interest and are more widely publicised than most. The granting of Environment Court consent to a Telecom cell tower next to an Auckland primary school, and the ongoing appeal in regard to coal use in Christchurch have been two prominent examples of how the Environment Court, as a context for decision-making, is distinct from those previously identified.

The overriding perception of the Environment Court to emerge from this research was that its decision-making criteria comply more formally with the legislative criterion of the Resource Management Act, and are less subject to political or personal influences than either the Resource Consent process, or the Consent Hearing. These points are reflected in the following statement from a development Consultant with some experience in this regard: "...if we'd appealed that decision we'd have been granted consent by the Environment Court because the Environment Court isn't interested in emotive arguments, they're only interested in the tests under the Act, because that's what underlies a decision..." (Ireland,9). Observation of the Environment Court were largely beyond the scope of this research, although it is clear that knowledge and scientific credibility are important within this context. Lawyers, Resource Management Act experts, and Planning Consultants are often employed, and "...certainly in front of the Environment Court, expert witnesses [are important], because they're experts in their field, what they say is pretty much taken as gospel..." (Scott,10).

### **Concluding Reflections**

In my view, two central themes emerge from this exploration of strategic conduct and the regulatory environment: The first, is the claim that the authority of the law 'enables' developers to perform actions, particularly when confronted with neighbours opposition; The second, is the extent to which the law is subject to flexibility in its procedures of legal

enactment which enables the disadvantages of rules to be overcome by the powerful. What is particularly interesting about these conclusions are that they concur, almost precisely, with Weber's characterisation of power in the modern world (Weber, 1968:217-219).

Both themes allude to the fact, characteristic of the regulatory procedure, that restrictions on opportunities operate differentially, affecting unevenly various individuals and groups. This is the observation that certain individuals or groups of individuals have greater scope and choice for action than others, or, that the potential, of this rule-governed environment, for *restraint and/or opportunity* is differentially distributed.

This notion, that regulatory law operates differentially, eclipses the conceptual debate as to whether institutional structures are 'enabling' or 'restricting' (Thompson, 1984:166-168). Clearly, they can be both. Certainly, this was the way entrepreneurial developers regarded Council regulations: "*It depends on the development, sometimes Council can be an ally in terms of the regulatory services, people actually [helping the] granting of consents, sometimes they can be an ally, but sometimes they can not be, they can certainly not be supporting the proposal...*" (Ireland, 7/8).

Before questioning the differential enabling character of the law, it is also important to reflect on the question of regulatory restraint. One particularly interesting feature of interviews was the propensity for developers to conceive of Council regulations as a *necessary* restraint on their conduct. I was often struck by the manner in which discussion of regulations combined a respect for authority with a sense of gratitude. This was particularly evident when I questioned developers about their views on section sizes: "...*I think it is too small. The Council I think can be congratulated, they could go back to 250 square metres for a house, and they've now bought that up to 350 in the latest plan, and even 350 is pretty small*" (Booth:3), or; "*it should be a certain size, and you shouldn't be allowed to go too small*" (Allen,2). These practical illustrations are symptomatic of the general sense of dependency that characterises much of developers' discourse about regulation (apparent in discussions about boundaries, zoning regulations, and neighbours objections). Continuing with the example of section sizes, my impression was that developers are faced with the ongoing contradictions of conflicting ideologies - the maximisation of land use (and profit), ensuring consumer demand with well-sized sections, and personal ideas about sensible living - and have a sense of trust in the fact that these decisions are beyond their control. In general, this research reinforces the claim (particularly from neoMarxist writing) that Governmental intervention is necessary to the sustainability and success of the capitalist development industry.

Returning to the differential operation, or effect of the law, it is clear that this issue cannot be grasped by the analysis of rules alone. A dominant, and understated feature of the regulatory structure then, is that the greater possession of certain 'resources'

(Giddens,1976), or 'forms of capital' (Bourdieu,1977) (and the willingness and ability to employ capital) enables greater *potential* to maximise the enabling characteristics of the regulatory procedure. The examination of the forms of conduct constitutive of the regulatory structure allows some reflection on the forms of capital that enable the operation of power within this environment.

Clearly, finance ('economic capital') is a significant resource enabling greater opportunity within the regulatory process. One Council Officer conceded this point, adding the traditional defence that Council Officers are there to balance this uneven distribution of power. A concern with this argument is that it does not address the fact that the ability to manipulate Council Officers depends, in part, on the type and quantity of capital at one's disposal - those with greater capital are generally more able to manipulate Council Officers.

A less obvious resource, but one that nonetheless emerged from the research process as a dominant form of capital to be accumulated and exploited by developers, was positive personal relationships developed with Council Officers over time. Repeatedly, these relationships were seen as the key to effective dealings with Council: "*...developing personal relations makes it much easier to get on, it's a public relations thing like anything...*" (Edwards,5), or elsewhere, that "*...they just treat you like a friend and it's easier you know...*" (Allen,3). A common example of the advantages of personal relations was the ability to communicate informally - a telephone conversation rather than a lodged letter. One developer identified a further, considerable, advantage: "*...we've been able to get under way with the building before the building permits actually come out, because they know that we wouldn't let them down, that we will actually do what we say were going to do, so yes, those relationships are crucial...*" (Booth:6).

The establishment and maintenance of these relationships was an everyday feature of developers' conduct. This became apparent through the consistency of expressions such as "*...you just try to work on your relationships...*" (Farrow:3), or in the claim that "*...you can't therefore afford to [wind up a Council Officer], if you criticise somebody up there you've got to be able to give them that excuse to be able to justify why they did something, or give them a way to back out of it, or they'll get you back in due course and make it awkward next time round, so it's a vicious circle...*" (Booth:6). More deliberate strategies were apparent from one developer who claimed that "*every six months I take the City Head Planner, and the City Head Engineer, and the City Building Inspector out to dinner and stuff like that, so it's all a bit of backhanding...[although] you don't get any special favours...*" (Edwards,9).

It is much clearer from the text of the chapter that relevant knowledge is a powerful, and increasingly specialised, form of capital within the regulatory institution. Both points are inadvertently illustrated in the following statement from one Council Officer, that "*...it's pretty important to understand the framework under which Resource Consents are*

considered. So you've got section 104 and 105 which are your separation criteria, you've got your section 108 which are your conditions, then you've got your part 2 matters which are National Importance, for most Land Use Consent applications that's what it's pretty much all about, and you've got Land Use Consultations and time frame and Consultations...certainly it helps developers knowing [about the Act]..." (Scott,13). The significance of this cultural capital is also reflected in the negative implications of a lack of knowledge, not only because it reduces the ability to effectively pursue a development proposal further, but also because it appears to damage the general perception Council decision-makers hold of developers or neighbours. Again, this is illustrated in the continuation of the above quotation: "...likewise a submitter, it helps knowing how it operates, it helps them to understand where they can hook into it, it helps them to understand where they can concentrate their energies in terms of establishing whatever reasons they have for objecting to something...to an extent some submitters do themselves an injustice by not concentrating on the real things that the R.M.A. concentrates on, they can hive off into areas of prejudice and irrelevancies that the Act doesn't even contemplate, and that can then damage their other arguments..." (Scott:13). 'Cultural capital' also implies an ability to employ regulatory knowledge creatively within flexible criterion. This reflects the opinion of David Jensen, a prominent American land-use professional, who claims that "tomorrow's entrepreneurs will be the people who can implement the public/private process in innovative ways" (in Miles,1997:17).

The significance and specialisation of knowledge relevant to the regulatory procedure is also reflected in the employment of Consultants, Environmental Experts, and Lawyers. The ability to employ these agents is a further reflection on the enabling character of economic capital within the regulatory procedure, as one Consultant stated, "*That is one of the problems with Consultants, is that we're expensive...*" (Ireland:4). Clearly these agents have greater access to cultural capital, not simply in terms of the knowledge that enables these agents greater potential to manipulate the law, but also in terms of the manner in which these agents are perceived by Council Officers. The claim here again resembles Giddens' notion of 'disembedded mechanisms' (1990:209), that Consultants and Experts are empowered with a form of trust (providing greater security and respect) that is embedded in the abstract capacities of professional titles and knowledge rather than the individual. This is illustrated in the following claim from one Planning Consultant: "*...they know that we will have the knowledge to go back to them and question something...just because we're professionals...*" (Ireland:12).

This examination of the constitution of power within the regulatory procedure, in terms of both the strategic manipulation of rules, and the resources constitutive of power, enables the identification of, and reflection on, the disadvantages of the relatively powerless. The evidence collated in this chapter suggests that, while wide participation is encouraged in the contemporary regulatory procedure, the ability for agents to participate is differentially distributed, and depends significantly on access to the forms of capital identified above. Cox (1996:70) reports similar concerns, that "The R.M.A. provides broad rights of

participation but does not address the problem of resources. The issue of whether legal aid should be available arises once a conflict has escalated and passed into the litigation stage. Resources would be more effectively employed at an earlier stage". The evidence collated in this chapter suggests that both neighbours to a development, and small-scale, first-time 'developers' have less access to, and are less able to accumulate, relevant capital, and are thus afforded less potential for strategic conduct within the institutional structures presented by the Regulatory procedure. In particular this relates to the forms of capital accumulated through regular involvement and recognition within the regulatory environment - symbolic capital (reputation and personal relationships), and cultural capital (knowledge and experience). Clearly, disadvantage is also possible in terms of the differential distribution of economic capital. Time involved in participation might also restrict the participation of neighbours. These findings appear indicative of speculative evidence provided through this research process, and supported by interviews with a number of neighbours, and from other research (Cox, 1996, Ward, 1998), that first-time developers, and neighbours to development, are less able to achieve their aims than either entrepreneurial developers, or large-scale development projects.







## Chapter 4: Motivation

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### Introduction

This chapter stems from the methodological approach of this research. In essence, the chapter represents the preeminent and prevailing themes characterising developers' immediate responses to questions of conduct, such as 'Why did you take that action?', and 'Why did you do that?'. Developers were always able to respond to these questions, often providing very direct reasons for particular actions. This indicated, at least, that the actions undertaken by developers were purposefully 'directed'. It was very difficult however to find coherence and consistency in developers general answers. On numerous occasions, developers would respond by illustrating the complex possibilities that situations offered, and by weighing up options and consequences in these situations. It was clear that some decisions to act were more difficult than others. Every decision involved a subjective assessment of relative merits fettered by contradictions and approximate compatibilities inherent to the development industry.

From this research process, three dominant themes emerged, summarising these diverse responses, and providing 'direction' to developers' conduct. These themes are: **Completion** of a development project; **Profit** from a development project, and; **Survival** within the development industry. Each theme represents 'development success', although through the differential and relative variable of time. 'Completion' is directly associated with the immediate and specific success of a development project, while 'Survival' refers to a developer's ongoing and long term success. The profit motive provides a mediating ground between these concepts, although profit cannot be understated as a standalone motive for conduct. The perplexity displayed in developers' decision-making is largely the result of the interplay of these prevalent themes characterising the constitution of the development industry. While each theme is, in many respects, complementary and mutually dependent, the importance of each theme necessitates decisions that may highlight 'development success' in one respect, while diminishing it in another. The purpose of this chapter is to address these themes, and to assess their interrelationship.

It is difficult to demarcate a cohesive conceptual or theoretical theme to this chapter. In one sense, the chapter focuses on the dominant 'motivations' for developers' conduct. In a related sense, the chapter addresses the dominant features characterising developers' 'processes of decision-making'. The contents of the chapter also reflect on the 'dominant values' generally held by developers. A useful notion of motivation is discussed below in order to add clarity to the forthcoming discussions. The relevance and usefulness of these latter conceptual notions is addressed in a final discussion which attempts, firstly, an

evaluation of the manner in which these dominant motivations crystallise to direct actions, and, secondly, questions the relevance of the relative profundity of these particular ideas to the constitution of the development industry.

The theoretical composition most closely resembling the thrust of this chapter is the flexible interpretation Giddens provides to the notion of 'motivation'. Here, Giddens loosely refers to the idea of 'wants', elaborating that just because someone has various 'wants' does not mean they have to act on them (except in exceptional circumstances). People are not 'driven' by their wants, Giddens claims, although they do have a generalising influence on action and provide overall plans or programmes for action (Crait, 1992:37). This vague theoretical notion is particularly useful as a backdrop to the examination of the following three sections addressing the dominant motives constituting the development industry.

### **'Completion'**

A dominant motivation directing the strategic conduct of developers is ensuring the completion of a particular development project. In the light of this consideration, development is ultimately about the satisfaction of a recognised need, or a perceived demand. In the case of recognised need, this is illustrated in the statement that "*It varies between my clients and who I'm actually physically building for because I don't do a lot of development unless I've got a tenant before I start*" (Edwards,1). The influence of perceived, or speculative demand as a dominant and characteristic motivation in development is usefully illustrated in the following representative example: "*the reason why we started this development was because of the perceived demand which we could see after [another similar development of ours]...there was a need for more houses available...there is still a demand for people to come in...*" (Duncan,1).

The conceptualisation of development as satisfying a demand immediately activates the actual or perceived considerations of the end users of that particular development. This became very apparent as I questioned developers about the primary considerations when initiating a development project. A general, and telling response was the statement that "*It goes on the particular clients ...It's determined 90% of the time by your tenants...*" (Edwards,1). This consideration focuses developers on the purpose to which the completed development is to be put. This immediately invokes a diverse collection of considerations specific to each development project. Some degree of generalisation is useful here, at least in distinguishing the types of considerations characteristic of retail, industrial, and residential end-use. These type of considerations are reflected in examples from this research, including: "*...main arterial route, ability to create high visibility, easy access...it is beneficial to have wide, shallow frontage...other benefits is that it faces north...because people are always looking at it with the sun over their shoulders*" (Carter,1) where the purpose of the development was a large retail centre, or; that "*...we need a rail siting, we need to be central, and we need to be on one of the main arterial*

*routes out of the City...*" (Edwards,1) where the purpose of the development was a large commercial distribution centre; or that *"they probably want to have a horse, so you'd make your roads quite wide, your road reserves, so the girls can ride their horse along the side of the road, you look at reserves, walkways..."* (Farrow,6) where the development was a rural residential subdivision. The interrelationship between completion and satisfying the needs and demands of end-users alludes to a second dominant driving force identified throughout this research, the developers' profit motive.

### **'Profit'**

The profit motive tended to permeate all aspects of conversation with developers. Throughout interviews, the idea of profit became manifest in various usages, represented as natural human desire, and as a central symbol of authority (Chapter five), as well as a dominant motivation for initiating development projects. At its simplest, the significance of the profit motive became apparent in numerous direct responses to questions of motive:

*"Well obviously, you may not want to hear this, but obviously profit, profit's probably the first one, whether you like it or not it's the truth of the matter...we obviously won't do anything if there wasn't a profit..."* (Booth,3), or;

*"...Cost, Money, Profit, it's purely monetarily driven..."* (Farrow:1), or;

*"...in the end, can I make a realistic profit at the end of it? You've got to have a realistic profit factor at the end of it, people don't go into it, go to all that risk, to make 10% on their money..."* (Gunn,6).

Reducing time factors in the development process was often articulated as a motivation for conduct, and usually as an indirect reference to the profit motive. At one level this was realised as it directly affected the capitalisation of a development, that *"some of the jobs, they go really well, there could be a matter of three million dollars in three months, some of them are not so flash, it fluctuates"* (Edwards:8). It was also clear that the time-period of a development had financial bearing in regard to extending the period of loan and interest, and as it protracted the variety of other costs relating to the day to day management of property. In addition, questioning developers about the effects of actions from neighbours or Council Officers would typically elicit the motives of time and profit: *"all it did was hold me up for three or four months, that's all. (And how did that affect you?) ...It just pushed the programme back three or four months...[financially] that was a deterrent"* (Edwards,6), or that *"...once there's delays like [neighbours objections], it usually just slows down the process, and ends up costing you a few extra bob, but that's part of the job..."* (Horne,5). It was also made apparent however that time delay generally increased the level of uncertainty in a development project, and thus the insecurity of completion. In essence, the significance of time and profit is summarized in the claim that *"[quickness] is a key to everything today..."* (Edwards:8).

Profit is contingent on the completion of a development, and the satisfaction of a need or demand, or, as one developer glibly stated, “*you’ve got to be able to sell the thing in the end*” (Farrow,2). The interrelationship between profit and completion is enigmatic, and often contradictory terrain. Decision making processes, while affected by general principals of profit-making, also reflect the developer’s subjective assessment of relative risks and returns. In essence, the interrelationship is characterised by processes of consideration typified in the following statements:

*“So really it comes back to how easy it’s going to be to achieve that profit, and if it is that you can buy a piece of land in a cheaper area and sell it and end up with a good profit, or you’ve got to pay more money for a piece of land, and you get a higher price per section, well then that’s a consideration...we obviously wouldn’t do anything if there wasn’t a profit, but on the other side of it, we look at where the area is, which relates back to profit again, because if it’s in the wrong area we’re not going to sell it...”* (Booth:3), or, that;

*“...some of the bargains are not always the best [investments], there might be a reason that they’re bargains...it’s about making sure of all the facts so that you can make that profit at the end of the day...”* (Horne,1).

Certainly, the fact that profit is only guaranteed by the sale, lease, or rent of a development is important to decision-making processes. In general, developers are directed to those options that most guarantee the sale of a development, although, this is often counterbalanced to some degree by the general desire to maximise profit. During the period of this research, this contradiction was resolved in the commercial market by the fact that most industrial and commercial development was pre-leased (i.e. a client had paid up front and ‘ordered’ a particular development). In the speculative residential market the potential discrepancies between the profit motive, and development sale were more apparent. The most conspicuous idea providing a solution to this contradiction was that of ‘security of investment’. Simply, it is assumed within the development industry that it is a universal human value to regard the security of ones investment in development as a value above, or equal to any other. This is best illustrated in the following claim: *“...a house is the biggest investment your make in you life...if there are covenants on the land (i.e. they can only build to a certain size, a minimum size, certain minimum standards), then I guess people are confident that they can build there to a higher standard and invest that kind of money, compared to another area...”* (Duncan,2).

The interrelationship between profit and consumer satisfaction represents profit not only as a dominant motivation for conduct, but also as a powerful symbol of the legitimacy of previous conduct, conferred on developers by consumers and clients. The extreme of this conceptualisation is captured in a new wave of business, and entrepreneurial rhetoric. The essence of this rhetoric is characterised by one of its founders, entrepreneur and lecturer B. Hawken, who claims that “Being in business is not about making money, it is a way

of becoming who you are” (Hawken,1987:19). Carrier’s commentary of this ‘new wave’ in business provides a useful summary, that “... profit is not a self-evident goal that the good entrepreneur struggles to achieve in the manner of Weber’s accentic Protestant capitalist. Rather, it is almost an afterthought, the consequence of being a good entrepreneur, and a good human being...”. Interview statements from this research suggest that this view as misleading, and significantly underplays the significance of profit as a standalone motivation in the development industry, and, indeed, in the wider Real Estate industry. The usefulness of this ‘new wave’ is to focus empirical concern of the development (and business) community beyond profit. When this occurs, as in this research process, it becomes very unclear that one ‘motive’ is paramount. It appears that what is more important are the conceptual linkages between profit and development completion, and, profit as a means to survival within the development industry.

### **‘Survival’**

Perhaps the least expected of the dominant motivations to emerge from developers’ interviews was that characterised as ‘survival’. Indeed, for the majority of developers involved in this research, development was a longterm undertaking, and a professional occupation. As a result, developers were directed toward outcomes that secured their survival in the development industry. This is decisively emphasised in the following characteristic statements:

*“...it’s a long term involvement, I mean I’m involved in this industry and once you’ve made a commitment to this industry your stuck with it, it’s long term, I mean you’re not here one day and then gone, it takes seven years to build, and you continue to be part of the [development] forever and a day...”* (Duncan:4), or, that;

*“...I hope to be around for a while yet, especially while it’s paying its way...the longer you’re around the better it gets really...”* (Horne:5).

The observations of developers’ strategic conduct (in chapter’s two and three) alluded to the significance of the survival motive. A powerful conclusion to be drawn from both chapters is the significance of cultural (various forms of knowledge), and symbolic (reputation with various groups) forms of capital to the strategic conduct constituting the contemporary development industry. Developers are generally inclined to accumulate and maintain these forms of capital which are, relative to economic capital, more specific to the development industry, and less transferable to alternative ventures or occupations. Similarly, economic capital is usefully conceptualised as a necessary means to survival within the development industry, as well as a motive in itself. These observations parallel a similar anthropological investigation of managerial ideology conducted by Chapman and Buckley (1997), who conclude with the claim that “Profit was always understood to be the ‘sine qua nou’ of corporate survival, but scarcely anybody we interviewed was prepared to pursue profit at the ‘cost’ of corporate survival. In this context, issues of cost

clearly came secondary to what an anthropologist might like to think of as symbolic features” (Chapman, Buckley, 1997:240, the notion of ‘symbolic authority’ adds to this discussion and is explored in detail in chapter five).

The motive of survival is reinforced by a relatively frequent discursive feature in the discourse characteristic of developers. This is the notion that developers ‘hold a position’, and are oriented at maintaining and extending this position. This becomes very directly evident in the following claims: Firstly, that “...*you’ve got to get to that position, and you just don’t get to that position just sitting on your bum...*” (Edwards,9), and; secondly, that “...*my position as a developer [is] mostly determined by my clients, so that’s word-of-mouth sort of stuff...*” (Horne,4). An important feature of the developer’s perception of ‘holding a position’ is that it requires constant action on the part of the developer. The consequence of inactivity, or staticity, is a loss of position within a social environment of constant change. Maintaining ‘a position’ therefore requires that developers enter a constant process of accumulation. At a theoretical level this observation is interesting in so far as it reinforces observations made elsewhere of capitalistic systems (Gibson-Graham, 1996), or of hegemonic authority (Gramsci,1954), that power necessarily exists as a constant process of reproduction and growth. If we employ the conceptual model introduced at the outset of this thesis, that developers seek to occupy a position of power within contemporary social structure, then we can characterise ‘power’ as never attainable (although this perpetual struggle is characterised by the developer’s accumulation of the resources that can be employed to attain this power), but as always something to be attained in the future (‘power’ is characterised as the potential to act). Indeed, this theorisation complements Giddens’ characterisation of ‘motive’ as referring to the potential for action rather than action itself.

The interrelationship between survival and completion (or satisfaction of a development demand) is often expressed as a matter of ethics. The maintenance of ethical standards was often expressed concurrently with the notion of reputation, not only for the individual developer, but also as it pertained to the reputation of the development industry and profession. These concerns are particularly well illustrated in the claim that “...*once you make the decision to go you don’t walk out...[for] two reasons; one, the personal investment you’ve put into this which is not just money, but your reputation, your name; but also for the residents that are already committed to coming here, you can’t leave them, you have a commitment, and in this game, in this [niche market], if you make a commitment to do a development that’s it, you’re stuck with it, come hell or high water, I’m very much in the industry, executive of the association, and it’s a very important aspect that you build, that you continue. There is a concern that there are other developers out there who may go in there for a quick buck and get out, it ain’t that type of industry, it’s a hard industry, it takes a lot of guts, it takes a lot of money, and it takes a hell of a long time...*” (Duncan:8).

## Concluding Reflections

The above discussion provides the closest proximation to a general definition of 'development success'. 'Success' for developers is maintained both in a perennial and continual dimension, but also as it relates to particular development projects. In many respects these notions of success are compatible and mutually dependent, but this is always compatibility by degree. Every development decision requires judgment as to the relative gains and losses pertaining to each motivation.

There appears to be no calculable process or formalised procedure that characterises the manner in which individual developers make decisions about action. The precarious nature in which decision-making criteria can be established is further confounded by developers' own subjective grasp of reality, particularly as it is expressed as 'intuition', or 'seat-of-the-pants' analysis (refer to Chapter two). If this appears an inadequate conclusion, it is interesting to revisit Douglas and Wildavskys' ethnological exploration of risk. Here, Douglas provides a useful summary of this discussion, claiming that "It seems that rational human behaviour does not use elaborate calculations for making crisis decisions, nor does it separate out risks one by one or two by two. Rather, it focuses on the infrastructure of everyday comportment, setting up the conditions for surviving crises by building flexible, feasible aims into a way of life" (1982:81).

The relative dominance of the ideas of 'completion', 'survival', and 'profit' provides an interesting reflection on the social order characterising the contemporary world. The claim here is that motives are less a reflection on why developers engage in particular acts, but reflect the kind of justifications for action that are legitimised in a society at a given time. In addition, the primacy of these ideas reflect the groups of interest to which developers are most aligned. Both claims are supported by C. Wright Mills, who states that "As a word, a motive tends to be one which is to the actor and to the other members of a situation an unquestioned answer to questions concerning social and lingual conduct. A stable motive is an ultimate in justificatory conversation" (1984:15), adding that "...What is reason for one man is rationalisation for another. The variable is the accepted vocabulary of motives, the ultimate of discourses, of each man's dominant group about whose opinion he cares..." (C. Wright Mills, 1984:19). These theorisations hint at two further aspects of the dominant ideas of *completion*, *survival*, and *profit*: The first, is that these three central ideas are often the fundamental and assumed basis for ideological legitimations and rationalisation for developers' conduct; The second, is that these three ideas provide a useful indication of what groups of people developers align themselves with most. The ideas of completion, survival, and profit point to the fact that relationships with consumers (related to the motives of completion and survival), and relationships with Real Estate related professionals (related to the motives of profit, survival, and completion) are *most* significant to developers.

The particular significance of the ideas of completion, survival, and profit also provides a useful reflection on the dominant *values* constitutive of the development industry. Here I refer to 'value' as the measure of the contribution of an outcome to each of these three motivations. In this sense, the value given to objects, outcomes, and actions in land development is a subjective, incalculable realm. However, it is these dominant ideas which provide a *system of values* from which the relative merits of outcomes, actions, and resources can be measured. It is these values which provide a backbone to the greater and general ideology characteristic of developers. The force of these ideas is maintained as the thesis moves to chapter five, and a closer examination of developer's ideology.

## Chapter 5: Legitimation

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### Introduction

This introduction provides a theoretical framework through which the notion of 'ideology' can be constructively reintroduced to this study of development. Three interrelated themes are explored. The first theme is 'Power' and here I simply reiterate on a conceptualisation of power employed throughout this thesis. This discussion of power provides a backdrop to the second theme, which is to reintroduce a useful conceptualisation of 'ideology'. The third theme observes the particular utility of these conceptualisations of 'power' and 'ideology' to this study of development.

### Developers and 'Power'

Central to this thesis has been the basic notion that power is exercised by developers, within specific contexts of interaction, as they attempt to achieve specific aims. In this chapter 'power' is more specifically defined as the ability to achieve aims in opposition to the conflicting aims and interests of other agents. This is to suggest that 'power' involves a series of 'relationships of power'. In addition, and as has been observed in the previous chapters, the 'exercise of power' involves the strategic deployment of certain resources, or forms of 'capital'. These are basically distinguished as finance ('economic capital'), knowledge ('cultural capital'), reputation ('social' or 'symbolic capital'), and interpersonal relationships (Bourdieu, 1977), and are specific to the immediate context in which this capital is employed, both in shape and form, and as they are 'strategically employed' with anticipated outcomes. This is to claim that the exercise of power is dependent on certain socially determined 'rules', conventions, and 'schemata' (Bourdieu, 1977) characterising this interaction. Thus, the developer's ability to achieve aims against opposition, within specific contexts of interaction, depends on the developer's ability to draw on, and exploit certain rules and resources.

These relationships of power are maintained and extended over time when those agents in subordinate positions within power relationships are unable to accumulate the resources appropriate to the exercise of power, and are unable to exploit the 'rules' characterising 'social structure', or 'social and political institutions' in such a way as to achieve their aims. Those in dominant positions of power are more likely to maintain and extend their domination (or their relative ability to act) over time because they have greater access, and are constantly involved in processes of accumulation that provide them with greater ability to act in future situations. It is clear, particularly of entrepreneurial developers, that they maintain a long term interest in development, and seek, through the accumulation of resources, to occupy, maintain, and extend their potential position of domination over other agents who may present opposition to development. In this sense, 'power' depends

on the social structures that enable some groups and types of agents to achieve their aims more readily than other groups. At this level we can claim that developers seek to occupy positions of power within the social contexts characterising their daily conduct.

A conceptual relationship between 'power as action' and 'power as social structure' is maintained through the notion that the reproduction of social life is characterised by the exercise of power, and that power is inseparable from the rules and resources that characterise a particular social context. 'Rules and resources' cannot be regarded as merely the characteristics of an environment in which action takes place, but, rather, are *constitutive of action and interaction* (Giddens, 1984). Developers necessarily and routinely draw upon, and employ these aspects of social structure in the course of acting and interacting with other agents. Social structure is thus reproduced, most often unintentionally, through the actions of individual agents. This basic conceptual idea appears as appropriate to the analysis of actions and resources, as it does to the analysis of 'rules' and ideas. The dominant claim of this chapter is that the ability to act in the face of opposition is dependent on the struggle between words, symbols, and meanings, as well as through the use and threat of force and physical violence.

#### 'Ideology' and Power

*'The ideas of the ruling class are in every epoch the ruling ideas'* (Karl Marx and Frederick Engels, from *'The German Ideology'*, 1970:64)

*"Believing, with Max Weber, that man is an animal suspended in webs of significance that he himself has spun, I take culture to be those webs, and the analysis of it to be therefore not an experimental science in search of law, but an interpretative one in search of meaning"* (Clifford Geertz, from *'The Interpretation of Cultures'*, 1973:5)

A useful notion of ideology is inseparable from the notion of power. But, it must also make sense within an eclectic world in which ideas and resources cross previously determined boundaries. Under these criterion the most useful and impressive theorisation of ideology is that developed by Thompson (1984, 1990). Thompson seeks to combine the conceptual apparatus of Geertz's focus on questions of meaning, symbolism, and interpretation in the study of 'culture', with the critical dimension to Marx's latent concept - that ideology serves to sustain relations of domination - without resorting to notions of a 'dominant ideology', or 'false consciousness', or the reductionism of class relations as the only axis around which relations of power are produced. Thompson proposes to conceptualise ideology in terms of "the ways in which the meaning mobilised by symbolic forms serves to establish and sustain relations of domination..." (1990:58). More explicit, and appropriate to this research however is the claim that "...ideology operates, not so much as a coherent system of statements imposed on a population from above, but rather, through a complex series of mechanisms whereby meaning is mobilised, in the discursive practices of everyday life, for the maintenance of relations of

domination... [and it is of the] utmost importance to search for ways in which the theory of ideology can be linked with methods for the analysis of the discursive forms in which ideology is expressed" (Thompson,1984:63/64). Shapiro (1984:2) offers a similar conceptual frame in his investigations of language and politics, claiming that "Seemingly neutral accounts of activities deliver, by dint of their grammatical and rhetorical structures, implicit political arguments, either legitimations for entrenched authority or polemical critiques which seek to demystify or disestablish existing structures of power and domination".

A useful analysis of ideology should be developed at three levels: The first involves not simply the identification of ideas, but the various discursive features of their expression; The second involves the situating of meaning within the particular social-historical conditions of their expression; The third requires a level of interpretation as to whether, to what extent, and how (if at all) symbolic forms serve to establish and sustain relations of domination in particular social contexts. Thompson deals extensively with 'The Methodology of Interpretation' (1990:Chapter 6). A brief summary is that the interpretation of ideology (or, more specifically, the ethnographic reinterpretation of a developers interpretation) is the explication of the connections between the meaning mobilised in the expression of social phenomena, and the relations of domination which that meaning serves to maintain. This provides the initial two phases of investigation - discursive, and social-historical analysis - with a critical intent, that of explicating meaning mobilised in the service of power. Simply stated, this involves the methodological question as to what ideas are mobilised by developers so as to achieve their aims in the face of opposition.

### Developers, Conflict, and Ideology

The expectation of conflict is an integral component of the entrepreneurial developer's experience. Developers adopt numerous ideological strategies through which to convey certain meaning of this conflict in a manner conducive to their continued exercise of power. Often, as is observed throughout the subsequent sections, this involves the allocation of the cause of conflict to certain features of the development environment, particularly those characterised with the 'personality', and 'politics' of opposition. In addition, a number of discursive features are commonly employed through which the expectation of conflict is trivialised and normalised. This becomes apparent through simile, such as in the statement that "*...I've always looked upon problems as something to be solved rather than being a hassle, everyday in our business something crops up that has to be sorted out, it's just a fact of a days work, it's like if you drive a car, it's going to use petrol, no point moaning about it, we usually go fill it up again, it's that simple*" (Booth,8). Another interesting discursive features through which meaning is mobilised around the idea of conflict was the routine utilisation of the metaphors of battle and war. This can be observed in such references as "*...we're going down there at the end of the week to fight another battle...*" (Gunn,9), or that "*...[having] gone through the battle*

*with Council...we were still suspicious we were going to get railroaded...*" (Carter,6), or references to the industry as "...a bit of a minefield..." (Farrow,1). These are complemented by other associations with war: "...that killed a hell of a lot [of developers]..." (Gunn,3), or that "...the Council will shoot you before you've started..." (Gunn,6). The associations conveyed through this metaphor serve, I suggest, to convey conflict as an unfortunate, although necessary and unremarkable factor in the developer's everyday conduct. Conflict assumes a status of less gravity when positioned within the metaphor of battle and war.

The obvious significance of conflict to developers is symptomatic of the motivations, strategies, and consequences which characterise their daily conduct. Developers are engaged in the transformation of the built form, and thus, in the disruption of existing social patterns developed around the physical features of social interaction. This connection between social relations and the physical environment has been thoroughly theorised. Castells (1977:15-19), for example has defined urbanisation as the 'social production of urban forms', while Rotenburg claims (1993:xiii) that "In cities, people force the spaces around them to take on meaning. No space is permitted to be neutral. People's understandings transform space into place". The societal circumstances of development are often a catalyst for potential conflict, and a contributing factor in why developers appear constantly subject to criticism and challenge, particularly from neighbours, civil organisations, and the political representatives of the state and local authority. This expectation of conflict renders the above conceptualisation of ideology particularly appropriate to the study of development. This is because challenge necessitates that developers draw on certain ideas so as to construct meaning in particular ways conducive to achieving their aims (i.e. as having their actions recognised as legitimate or worthy of support, or in presenting opposition as hopeless, or wrong). Ideology appears particularly important to the exercise of developers' power.

In summary, *developers seek to occupy positions of domination within the social contexts in which they seek to achieve their aims, and are thus engaged in the mobilisation of meaning so as to maintain and extend existing relations of power.* The following sections explore this ideology through five interrelated themes. The first section explores developer's 'Claims to Legitimacy', focusing on three ideas: legitimacy based on universalisations; legitimacy based on naturalisation, and; legitimacy based on reference to 'the law'. These three ideas are carried through to the second section, which is a discussion of 'The Representation of Actual or Potential Conflict'. The third section examines key ideologies employed to sustain existing relationships of power within the institutional structures of the regulatory procedure. The fourth section is concerned with self-conceptualisations and 'Expressions of Identity'. The dominant theme here is to conceptualise identity as a mechanism that provides developers with a sense of authority

in establishing and sustaining relations of domination. The final section continues the theme of identity and authority. It explores the manner in which the ideology surrounding development capital (Bourdieu, 1977) provides a form of 'Symbolic Authority' for developers.

### **Claims to legitimacy**

The 'claim to legitimacy' was the most common mode of ideological expression characterising my interactions with developers. However, what is meant by 'legitimacy' requires some explanation. Most importantly, a claim to legitimacy is 'powerful' because it provides acceptable explanations for conduct. A given power relationship is not 'legitimate' because people believe in its legitimacy, but because it can be justified in terms of their beliefs. That is, it conforms to established 'rules' of the social context in which the interaction occurs. Thus, developers draw on particular ideas so as to establish and sustain their particular relations of domination through the representation of these relations as legitimate, that is, "as just and worthy of support" (Weber, 1968). This is to suggest that particular claims to legitimacy are more or less appropriate to the various contexts of interaction in which developers are involved at the moment of expression, and, that developers draw on, and employ particular claims to legitimacy within different contexts of interaction. This is particularly apparent in the third section of this Chapter ('Ideology and the Regulatory Procedure') where certain universalisations are very effective in achieving developers' aims within the regulatory process. This interpretation is supported by research elsewhere. Hindess (1988), for example, observes that dominant agents are engaged in 'Processes of deliberation' as they employ ideas specific to particular interactions, while the chapters in Dilley's (1992) collection testify to the fact that actors deliberate over various styles of reasoning available to them, and that specialised ways of thinking are employed in different social settings. Strauss has also observed the connections between legitimations and context in his concept of a 'negotiated order', which is "the outcome of a process in which the participants deploy such power and legitimising resources as they possess in their attempts to change or interpret the rules in their favour" (in Thompson K., 1986:86).

### **'Universalisations'**

Developers often made claims to the effect that their actions and interests were also in the interests of a wider group or community, or, that development was in the interests of 'everybody'. In particular, these universalisations centred on three particularly prominent claims: that development is 'good for the City'; 'good for related industry', and; that consumers demand or require development. In addition two further claims were apparent: the idea of 'the market', and; the idea of 'the win/win situation'. In the following discussions, examples are provided as to the manner in which developers draw on, and exploit, these ideas in their daily conduct.

*'Good for the City'*

A frequent claim to legitimacy made by developers was that development in general, or a particular development, had positive benefits for the City. Such claims generally rested on key features such as increased employment, and greater circulation of income. In addition, establishing business in an area was commonly viewed as providing status to the City. This ideology is usefully illustrated in the following statements from a variety of sources:

*"...[benefits of development are] jobs for the City, a centralisation of the product that those particular people are dealing with, the City's open to getting as much development here as possible because it brings jobs and opportunities..."* (Edwards,3);

*"There will continue to be benefits for many local businesses which will service [this development]...The [development] will employ up to 20 people...The new jobs will come into the City at a time when other significant companies are closing or down sizing...[the development] will provide residents with greater choice and will attract money into the local economy..."* (Resource Consent application: Case study 1);

*"...The centre will employ 20 people and has a projected annual turnover of about \$10 million..."* (Evening Standard, 14/8/97);

*"...it then has continued employment, like at [a similar development] we employ about 55 people, part-timers, full-timers, type of things, then of course you have the advantage of the elderly people, instead of leaving the City and going to other areas like Waikanae or other centres where there are retirement areas or where they are more secure, this actually brings people to Palmerston North and so these people stay here, live here, shop over here, spend their superannuation over here, which is good for your community because it increases your amount of trade, and every dollar spent has a flow-on effect"* (Duncan,3).

One mechanism through which this claim to legitimacy becomes particularly convincing is where there is evidence of demand for a development by the political representatives of a City. Where this occurs, developers are able to claim more effectively that development is in the interests of the 'whole community'. It is difficult to illustrate this claim, although one example is that *"...it's [public] ownership, it's a place that people want to go, and as I say, communities like [this one] are desperate to get their own, and that's very satisfying..."* (Gunn,8). Again, these claims usually rest with the creation of employment, and increases in population and flow of income: *"...the City Council obviously gets extra rates that it wouldn't normally get on a bare piece of land. So I can't give you any downside at all"* (Booth,4). Often these representations conflate the meanings of 'Council', 'City', and 'Civil society', and are particularly deceptive when used interchangeably, as in the claim that *"we were persuaded to go here...the City could be persuaded to [invest money into infrastructure]..."* (Duncan,1).

*'Good for the development industry'*

Another common claim to legitimacy was that development was in the interests of a much wider development community, and that developers were responsible for the employment of builders, contractors, engineers, and even Council officials. Essentially this involves the claim that developers are responsible for, or at the forefront of, a much wider community of interest that are reliant on developers for employment and wellbeing. Useful examples include the following statements:

*"Well I can't think of one disadvantage, it's got to be good for everybody. It's good obviously for the business community because all the builders and sole contractors get a job, or employment out of it..."* (Booth,4);

*"For Palmerston North, the biggest benefit of course, first of all we're going to develop an area that has a \$40 million dollar price tag which means that more people are employed, a lot of companies have to supply products, which gives employment, it's about a 5 - 7 year process, so that's the first area..."* (Duncan,3);

*"The development of the site will involve a large number of contractors and suppliers, many of whom will be local to the [area]. It is anticipated it will cost up to a million dollars to develop the site which will bring employment and money into the local economy during that time"* (Resource Consent application: Case study 1).

It is also useful to suggest that maintaining this claim to legitimacy is a factor incorporated in developers' decision making and risk analysis, and, where the risk is acceptable, it is most usual for developers to utilise local labour so as to employ this claim to legitimacy with greater effect within particular locations. Certainly, developers expressed their employment of local contractors with some vigour: *"[we have agents with] certain design skills that we take to every part of the country, everything else, when we go to a City, we use local..."* (Gunn,8).

*'Consumer demand'*

That the 'demands' or 'needs' (powerful discursive symbols of dependence) of consumers can be met by developers is not only a motivation to act, but is also a powerful claim to legitimacy for developers. This is apparent in the manner in which customers are represented: with both a commercial, and a moral dimension. A particular example is a chapter in Dooley's (Ch.15:1989) collection, titled 'Clients and Customers: Cherished Commodities'. This type of expression is also evident in statements from developers:

*"...I feel proud that I've actually gone ahead and done this particular thing, it looks good so it's got a good feel about it, and the people that are all there are all happy, and that's part of it, doing something that's gratefully received..."* (Booth,4), or that;

*"...the residents that are already committed to coming here, you can't leave them, you have a commitment, and in this game, in this [niche development] industry, if you make a commitment to do a development, that's it, you're stuck with it, come hell or high water..."* (Duncan,8).

The legitimacy conveyed by consumers may well be expressed in quite personal articulations, or in more general discourse surrounding the notion of 'the market'.

#### *'The Market' as a claim to legitimacy*

Often with developers', actual and potential interactions were represented as a consequence of 'the market'. The idea of 'the market' is particularly deceptive, yet it is also an idea that is easily exploited within a wide range of circumstances. In part, this deception derives from the fact that a wide range of interactions become conflated, and glossed over, when this generic term is used. The idea of 'the market' is also an important universalisation because its use implies that a developer's action has consequences for, and is influenced by, a much wider 'market system'. Examples from this research include the following expressions:

*"...in some cases the market comes to you because you've got a reputation for being good at what you do, in other cases you suss out opportunities..."* (Gunn,2);

*"...you put a hundred sections on the market..."* (Farrow,10);

*"...[this Council] are giving out all these approvals, and the market's a cracker, but [the Council] haven't fixed the problem..."* (Gunn,9);

*"...that gave me a break into the market..."* (Edwards,1).

A powerful feature of the idea of 'the market' is that it maintains a 'polysemic quality', standing for a range of referents: not only market transactions, and marketplaces, but also market principals and the very 'rules' which are recognised as governing these relationships. As such, 'the market', as it appears in developers' claims to legitimacy, assumes the appearance of a source of power of itself, and as independent of, or at least displaced from, the relationships to which it originally referred. This is an observation made elsewhere, whereby "the agency of the individual constitutes the market; the market itself constitutes an agent over and above the individual" (Dilley,1992:17). As reference not only to relationships of power, but simultaneously to the rules that govern those relationships, 'the market' assumes the quality of a source of authority not unlike that of

'the law'. The idea of 'the market' becomes particularly powerful in deflecting responsibility for actions away from the developer themselves because, as Harvey (1981:134) claims, it takes "the spatial patterns of land prices and uses as a direct outcome of exogenously given consumer tastes and preferences, whereas both are certainly part of a single explicandum".

One of the ideological mechanisms through which 'the market', as a potentially powerful and available idea, is sustained is that perceived failures in the existing social order are rarely allocated to 'the market' itself. This is unequivocally illustrated in one developer's depiction of the massive structural (and 'market') changes characterising the late eighties: "...That killed a hell of a lot, we had a hell of a lot of people saying "shit, this is bloody good stuff", but in the end they weren't applying the right disciplines and the right risk analyses and of course, boom, boom, boom, they got hurt and went off the scene" (Gunn,2). This ideological feature is also apparent in simple statements such as "you're a bloody idiot [if you don't perform certain strategies of investigation]" (Booth,7). Carrier and James (1997:17) have noted this tendency in a broader reference to 'market discourse', claiming that "practical criticisms are kept narrow, for the undesirable aspects of real markets tend to be seen as individual failures and aberrations and rarely form the basis for the condemnation of the Market itself".

#### *The 'Win/Win Situation'*

Narratives were also a common mode of expression through which development actions were presented as legitimate, based on universal interest. A common feature of these narratives, as expressed by developers, was the idea of the 'win/win situation'. The frequency of this expression indicates its availability as an idea that developers draw on and apply to specific circumstances. The hegemonic implication of this expression is clearly that the interests of those in subordinate positions can only be met through satisfying the interests of those in dominant positions of power. Useful illustrations include the following statements:

*"...The best resolution to any issue is the win/win, because everyone goes away happy, because they're part of the community which is part of the selling tool, you've got to weigh up the whole picture..."* (Farrow,8);

*"...We've had things where people have objected, and in the end we've just given up, because in the end it's not worth the cost of winning, because there are no winners..."* (Duncan,5);

*"...I more or less say 'look, I'll do the fence for nothing but I need a favour out of you'. So they win then, everybody's got to be a winner..."* (Edwards,6).

## Naturalisations

An important aspect of developers' ideology are strategies of naturalisation, whereby contemporary development processes are represented as quasi-natural expressions in such a way that their social and historical character are eclipsed. One common manifestation is the assertion of the 'objectively correct' procedures conducted by particular developers. References such as "...ensuring that you do it right..." (Duncan,2), or that "...I can do it all properly..." (Horne,2) were recurring, although inconspicuous, features of developers' interviews. This was complemented by claims to 'truth', of knowing the "true value of the land..." (Carter,5), or the "real cost of development..." (Ireland,7). Chains of reasoning founded in the language of 'commonsense' were featured in a number of interviews, exemplified in the example that "...if inflation is driven by wages for arguments sake, I don't see any problem with that, because the more money people have got to spend, the more they come back to us, and the more that we can do the greater the overall benefit, isn't it. It's common sense to me" (Booth,1), or that "...you've got to wonder whether common sense will prevail..." (Horne,3). Strategies of naturalisation seem particularly important for developers, but are also to be found elsewhere in dominant rhetoric. Armstrong's (1984:136) study of managerial ideology, for example, found that "frequently, practices were accounted for by an appeal to 'self-evident commonsense' ...[and where] opposition to them appears almost as 'nonsensical' ...". Here Gottdiener (1985:276) also quotes an American government report from the late eighties which assigns capitalist development patterns to "a natural ontological status...organicist reasoning to accept the status quo as natural...", while Bassand (1990:62) identifies and critiques numerous studies in urban ecology, which largely confine development patterns to a state of nature (see also Ambrose,1994:7).

These strategies of naturalisation are made more persuasive by the reasonable fact that society could not exist without some development, although the manner in which this development occurs could well be differentially arranged. As it comes to be represented by developers, the necessity of the one serves to conceal the contingency of the other. In addition, and as is observed in the subsequent section, to challenge development is often presented as a moral transgression, outside of, or opposed to, the natural functioning of human existence.

Strategies of naturalisation are particularly cogent as they combine with the discourse surrounding 'consumer demand'. Often development is represented as the inevitable outcome of natural characteristics in human behaviour and one of the discursive features through which this is evident is the general equation, or conflation, of demand for development with demographics, that "*demand for development will always be driven by the increase in population in an area...*" (Booth,2), or that "*the demographics showed quite clearly that a [type of development] should be built here...*" (Gunn,1). The ideological characteristics of this common discourse serve to ascribe demand for development with natural human desire.

This is only one application, and context-sensitive manifestation, of the powerful and durable idea that human beings are driven by a natural desire for ‘progress’ and ‘self-improvement’. Indeed, Heilbroner has documented the historical association of this idea with the maintenance and extension of capitalistic systems (Heilbroner, 1985:142-154). It was extremely common for developers to draw on and apply this idea as a means of legitimation in a myriad of circumstances. In particular, the idea is evident in such claims as “...it’s like anything -you do a job and you’re in it to try and make a dollar...” (Edwards,8), or that “...we all tend to look at ourselves...” (Duncan,4), or implicitly in statements such as “...it’s dog eat dog out there...” (developer at Council/developer luncheon), or that “...we all start out from the same place...” (Booth,10). This idea is also apparent in the common legitimation that “it certainly increases the value [of] the house around [this development]...” (Duncan,3), or that “...Housing prices will rise, it’ll help sell the other two sections here, having a new house here” (Allen,1).

Developers’ use of the term ‘market’ is particularly apt in assuming a ‘natural’ quality. Through the conflation of a variety of meanings under the term, and its subsequent displacement from its original referents, the term ‘market’ appears as a ‘thing’, a phenomena of itself. This is the effect of its use in such statements as “...You look to the market which may become buoyant in your estimation...” (Duncan,1), or that “...basically it’s a matter of reading the market...” (Horne,1). Reference to ‘the market’ presents development patterns as ‘natural’ because it denies all subjects and agency from the relationships that produce development. This has been observed elsewhere, Miller (1997:10) for example, states that “the term ‘market’ appears to achieve another stage in the naturalisation of capitalism and the replacement of politics by economics. The term ‘market’ evokes a sense of an innate propensity to exchange, and is less open to challenge, which probably accounts for its current prevalence. A ‘market’ sounds much more like a given, natural phenomena that simply exists in the world and that must be allowed to manifest it’s own inherent logic”.

As a result of, or interrelated to, these discursive features, developers would often conceptualise their actions as restoring the built form to the ‘natural’ state of human progress. This can be observed in a variety of statements from developers, for example, that “...I’m not being egotistical, but some of these [other operations] might need our assistance, although obviously we’d try to put ourselves in there, to revamp their operations and again, get them moving forward...” (Gunn,3), or elsewhere, that “...the City goes this way, we all go forward, we have an end user so that the City could be persuaded to invest money in the infrastructure to bring it up to speed...” (Duncan,3).

## 'The Law'

In the previous chapter it was observed that reliance on the law was a ubiquitous strategy employed by developers when confronted by certain opposition, and when questioned on certain issues. Particularly, 'the law' was referred to in regard to the process of creating legal boundaries of land (see also Keith, and Pile, 1997:Chapter 1), the need for regulations in making sensible decisions about property sizes, and as an ultimate source of legitimacy in overcoming opposition by neighbours. These legitimations are usefully revised in the following statements:

*"...at the end of the day you can't fight City Hall"* (Carter,4);

*"...you just can't do anything about it, it's the law"* (Edwards,6);

*"you know what the rules and regulations are and you just abide by them, and in development you learn to work with them and that way things will get done, slowly, but things will get done..."* (Duncan,5);

*"..you just go back to what you can legally build..."* (Edwards,9).

Here, developers' relationship to 'the law' appears symptomatic of modern power relations. Indeed Beetham (1991:67) has generally observed that "The much readier access of the powerful to the law, and the fact that it provides both the source and protection of their power, makes appeal to the law as the ground of legitimation a particularly favoured strategy for dominant groups. Indeed, respect for the law is insisted on as the first duty of the subordinate, and legal activity is made to appear not only as the necessary, but also the sufficient, condition of legitimacy, its ultimate, rather than merely its proximate source".

Reference to 'the law' as a claim to legitimacy is distinct from strategies of reification and universalisation because it displaces responsibility for legitimacy with the law itself. The law is only a primary or provisional source of legitimacy and, thus, to be maintained as a recognised source of authority, the agents responsible for its protection and enactment must make their own claims to legitimacy. Central to these claims is that the law serves to protect a range of interests. This can often be observed from interviews with Council Officers, reflected most clearly in the statement that *"I consider there is a community expectation that the Council has a role to protect the public good"* (Read:1). As such, the law is both a powerful, enabling force, as well as a force that restricts developers actions. In the previous chapter we have also observed the flexibility afforded with current regulations that enables the powerful to overcome disadvantageous rules within a rapidly

changing environment. This presents a contradiction in the ideology of developers: how to maintain 'the law' as a recognised source of authority from which their actions are recognised as legitimate, while challenging 'the law' as it stands in opposition to development.

The problem of challenging the law while maintaining its status as a source of authority from which developers will claim legitimacy to pursue future actions is often overcome by the fact that 'the law' requires enactment by institutionally empowered officials. 'The law' itself, and certainly its authority, is rarely subject to rebuke by entrepreneurial developers, although the interpretation of law, or the position of authority occupied by Council Officers in regard to the law is, more often, subject to criticism and challenge. This is particularly well illustrated in the narration of one developer:

*"...[we were stopped] one morning at half past seven, pouring concrete for a job in Mills street, when I chased that up I was told that the Council didn't have the consent of the landowner next door, and when I checked into it I said 'the landowner next door is me, I own the piece of property next door'. 'Oh yeh but you've sold it to somebody else', and I said 'well have I?', and they said 'Well yes you have, we heard you had', and I said, 'even if I had, whose name is it in, it's my name', and I had on-sold it, but with the consent of the person with what I was doing next door, and to me that was none of their business, we had 6 guys up there waiting to pour a concrete floor, and two concrete trucks sitting there, and here's some little pimpsqueek at the Council telling us we can't pour concrete, we've had a bit of that..."* (Booth,6/7).

In addition it is frequently the ability of Council Officers' interpretation of the law which is the subject of criticism, rather than 'the law' itself. We can observe this tendency in a number of statements that typically refer to situations where some deviation from existing regulations was required. Here, one developer stated that *"...again, we're dealing with the law, the R.M.A., on the whole it's not a bad Act, however the interpretation of it which is with Council can be hampered because they are not willing to take affirmative action against some Officers, you need regulations otherwise it can be adhoc, at the same time people should also be able to make decisions and take responsibility for a decision, not to be afraid to stand up and be counted, life is not a consensus, someone has to be willing to stand up and say this is the way it is going to be..."* (Duncan,4/5). We can also observe this ideological characteristic more subtly in an alternative expression, that *"clearly, [the Council Officer] went back to the book and said 'it's residential', you can't have this in this area..."* (Carter,3). Such discourse is particularly pervasive because of its constant dissemination from a much wider development populace - not only from within the building industry and regulatory institutions, of which one example is Hardie's *"satisfaction [in citing] the flexibility afforded by the Building Act and Building Code, and to help those people achieve results that would have been virtually impossible under the former prescriptive system"* (Hardie, BIA News, 1998:1), but also as a dominant feature of current political debate (Upton, Ward, 11/98). Indeed, the ability of Council

Officers to provide flexibility in interpretation of law has become a quintessential feature of contemporary discourse within the wider development industry. Ideologically, this discourse provides protection of the authority of the law in situations where it acts as an enabling force for development, while facilitating challenge in situations where the law acts as a restrictive mechanism.

A useful conclusion to this section is to claim that these legitimations are 'true' in the sense that there is evidence of their truth. By 'evidence', I mean that the truthfulness of these claims is reaffirmed by the actions and expressions of other agents. Developers promote this acknowledgment, and, on a number of occasions, were able to illustrate examples. Useful here is the statement that "*[our opening night] was enormous, it far exceeded our expectations, we believed we'd get 500 people and they just kept on coming. That was just an acknowledgement that we were back in town...*" (Carter,7). It is sensible also to suggest that these claims are reaffirmed on a daily basis by various groups and individuals because they are related, and interconnected, to the relations of dependency characterising contemporary land development practices, particularly between consumers and clients, builders and contractors, and Council representatives, toward developers. These relations of dependency are reflected in the dominant claims to legitimacy made by developers. This is to claim a direct link between legitimacy and dependency, and this exists in such a way that the greater the degree of dependency, the more that development actions appear acceptable and worthy of support. This leads me to the speculation that as dependency increases, claims to legitimacy based on this dependency become both more compelling and widespread, and perhaps, at the cost of alternative claims to legitimacy.

### **The Representation of Actual or Potential Conflict**

The main agents of opposition to developers and development are neighbours and civil organisations. As well, Councils and Council Officers occupy significant positions of power in regard to developers. For developers then, expressions concerning conflict are often associated with these groups and are constructed in such a way to impose limitations on the effect of actions in opposition to development. It also appears that these representations are linked with those claims to legitimacy that appear most frequently in interviews with developers. As such, these representations operate coterminously with the claims to legitimacy identified above, and as mutually supportive ideological mechanisms. These representations of opposition are often mechanisms through which the legitimacy of a developer's conduct is maintained by reference to counterfactual claims - not that developer's actions are legitimate, but that opposition to development is 'illegitimate'. The implication - that developers' conduct is legitimate - is thus maintained.

Similar to the claims to legitimacy observed above, there is evidence that these representations of opposition are selectively deployed depending on the particular context

of interaction in which they are invoked. This is to claim that these expressions serve to establish and sustain various relations of domination as they contribute to the creation of alliances based on the allusion of a common threat or shared interest. In this sense, representations of neighbours and Council Officers serve to sustain the relations of dependency characterising the market system and development industry. The following discussions observe the mobilisation of idea of 'General Interest', and idea of 'Naturalisation', as they appear in Developers' representations of Council Officers and neighbours.

#### Opposition and the General Interest

It has been observed through out this thesis that Council Officers occupy a significant position of power in regard to development, and can both enable and restrict developer's ability to perform actions. As such, Council Officers are often subject to representations that claim common interest or unification with developers. As a source of opposition however, the 'Council Officer' is more often subject to expressions designed to pose limitations on their actual or potential opposition to development. Often these representations exist concurrently with claims to legitimacy founded in universalisations - that Council Officers were opposed to the general interest, particularly the 'good of the City'. We can observe the mobilisation of this ideology in the following statements from developers:

*"Counsellors or Officers of the Council, those who can look long term ahead may see that the City needs growth, you can have certain people that can look at the immediate effects and feel that this may impede on their patch or on their thoughts and they cannot change. Same as Counsellors too, there are Counsellors that will look at the success of the City and others that will look at the success of the day, but the City could have been far better utilised if they had had a bit of foresight, and planning...every time it's the short-term and popularity, no long term gains..." (Duncan,4);*

*"...national tenants like Coca Cola or any of the [big tenants], like the student bloody benefits that they pay out, there's 90 jobs coming to [this City] at our building at Department of Social Welfare and the Council have just got to get in behind and say 'no rates for two years', and give a bit of incentive to get people here....get turnarounds on the permits quicker and everything more efficient, because everything has to be done yesterday in this game..." (Edwards,5);*

*"...the culture that is brought up in a company or a Council, it's driven by certain principals and a culture - inward or outward looking...[the Council] has the backyard mentality, the Council is there to get themselves elected while the place is a petty narrow vision about what they want for their little backyards, instead of a City-wide vision, and regional outlook..." (Gunn,5).*

In addition, the representation of Council Officers presenting opposition to developers (and the general interest) is often more subtle and implicit. For example, similar ideology is evident in such claims as “[this Council] haven’t looked at the infrastructure...pissed everybody off, and they tried to say it wasn’t their fault, if they can’t get rid of the stormwater fast enough whose bloody problem is it !...” (Gunn,9), or that “the Council can hold it up for everybody, because a lot depends [on efficiency]...” (Horne,4). These representations are powerful immediate justifications for conduct. Also however, the constant dissemination of this ideology is important in maintaining the idea that development is in the general interest, and thus maintaining the potential for developers to draw on this idea in future circumstances.

Images of selfishness and opposition to a general interest were also common in representations of neighbours. Again, this often implicitly accompanied those universalisations identified above, although here the ideas of ‘the market’ and ‘consumer demand’ were more frequently implicated. A particularly good example is the claim that “...sometimes one or two neighbours can upset it for everybody else. If you let that affect you you can forget about business because not everybody is nice, so you just get on with the job to do, you don’t take things personally, you look at the bigger picture and understand that some people cannot grasp the concept, that they have to fight their little battles, that it makes their day...” (Duncan,5). It was also noted of Resource Consent applications that a frequent strategy in representing neighbours’ opposition was to present it in the context of those neighbours that had provided consent (i.e. ‘54 neighbours gave their consent, and only two had objections’), and thus to represent objecting neighbours as standing alone against general consensus and common interest. It is more likely that, through this strategy of representation, images of irrationality and subjectivity are conveyed on neighbours presenting opposition to development. Such images posit limitations on the way in which opposition is perceived, and in providing legitimacy to the actions or conduct in overcoming this opposition.

On a similar vein, a common justification associated with overcoming opposition were claims to the effect of “...proceeding with the bigger picture...” (Farrow,8), or of “...getting on with the larger goals of life...” (Horne,3). In these expressions, opposition is implicitly represented as opposed to general (and more consequential) interests. The implication is that overcoming these minor incursions is a petty and insignificant obstacle to what is a much greater and more significant general outcome.

### Opposition and Naturalisation

Often, the representation of actual or potential opposition from neighbours and Council Officers is conveyed concurrently and implicitly through strategies of naturalisation. Representations of this sort belittle and limit Council opposition to development, often conferring actions to an unfortunate state of irrationality, or, at least, to a lack of ‘real’ knowledge. Two useful examples are the statements that “there are some stupid things

that come out of there, absolutely crazy...it's just crazy some of the things that come out of there..." (Booth,5), or that "...I think that [Council Officers] aren't with reality sometimes, that they are quite insulated from a lot of factors in the community..." (Ireland,12). This form of ideology, serves to represent potential opposition as 'outside of reality', or as 'unnatural', while reaffirming the hegemonic idea that the social structures which maintain developers power exist beyond society or history, and as a state of unquestionable reality (numerous theorists have noted this as a feature of hegemonic ideology, see Bourdieu, 1984:68, or Marx, 1970:xi).

Commonly, 'the market' was attributed with a 'natural' status through the representation of Council Officers as insulated or unaware of this 'reality'. This becomes clearer in the following statements: "...[Council Officers] just have to be a bit more realistic to make things work [in the code], so that builders can work. They ask for so much planting on a site and it's just unrealistic, you just can't, with the way land's being developed throughout the City, in one hundred years it's just not feasible to make them stack up anymore" (Edwards,5), or that "[the Council Officer] went back to the book and said 'it's residential, you can't have this in this area'. I think if you look around the area here it's already been muddied and greyed and that it's probably time to look at the real, the reality of life and what's happening here..." (Carter,3). The effectiveness of this strategy can be observed at an immediate level in downplaying the authority of the actions of Council Officers. These expressions also carry grander implications because they implicitly convey a 'natural' and 'real' status to the authority of 'the market', and this enables developers, and other capitalistic agents, to mobilise this idea in future circumstances. Certainly, it appears implicit to the idea of 'the market' that it has always carried a constant conceptual dichotomy, most notably as a "discipline conceived as an alternative to the ill-disciplined, corrupt morality and ill-conceived rationality of planned state socialism" (Jameson,1990:x).

Representations of neighbours often accompanied strategies of naturalisation, conferring this potential opposition to an unnatural or irrational status, or to a failure to acknowledge the 'reality' of contemporary development practices. This can be observed in the following description of objecting neighbours "*who, in principal, were reluctant to accept change, I think is the only way you could say it. This principal was that they would have sooner had housing next door to them and you can understand that, but the practical reality was that that wasn't going to happen...*" (Carter,5), or, from discussions about conflict at a Council/developer luncheon, the claims that "...you can't stand in the way of progress...", or that "[those neighbours] had it too good for too long...".

Throughout interviews it was reasonably common for developers to attribute conflict or opposition to the individual, without identifying, or glossing over the actual reasons for conflict. This is exemplified in the commentary of one developer, that "*I think it's a stigma thing, they don't want the neighbours sitting on the boundary, and it doesn't really hurt anybody, in some cases it actually creates a lot of shelter for people and stuff like that*

*you know, but it's just the individual*" (Edwards,6). Through confining conflict to 'the individual' such opposition more easily assumes a state of irrationality, devoid of valid reasoning, and opposed to generally accepted reality'. In addition, as has been previously observed throughout this thesis (particularly as a feature of the Resource Consent process), it is common for developers to isolate opposition, and that this can be a useful strategy in negotiating or overcoming obstacles to development. Simple examples include; "...of the 54 people consulted only two had any objection...", or; "...the other three owners of the flats did approve the proposal..." (Resource Consent application: Case study one). The ideological features of these strategies of isolation serve to confine this opposition to a state of irrationality on the part of the individual, representing this opposition as obstructive to the 'general interest'.

In summary, there are clearly connections between those legitimations observed above, and the particular meanings conveyed through common representations of Council Officers and neighbours. Indeed, general claims to legitimacy, and specific representations of opposition might be conceptualised as different expressions of the same hegemonic ideas. A conclusion to be drawn from these previous sections is that developers tend to conflate relations of dependency characterising development, while reducing and constricting relations of conflict characterising development. Foucault has observed a similar theme as characteristic of capitalist regulation: that modern government rationality is simultaneously invoked in the dual processes of individualising and totalising (in Burchell,1991:3). Such a conclusion here is useful because, as Stanley (1996:44) claims, it "encompasses the tension between the political economy of the market and the governance of the individual".

### **Ideology, Power, and the Regulatory Procedure**

The purpose of this section is to examine the ideas employed by developers within the regulatory procedure, and to offer some interpretative analysis as to whether, and how, the expression of these ideas serve in the interests of developers' power, both in the immediate context in which this idea is expressed, and as ideology becomes implicated in the power relations apparent at a more general level of social analysis. The section also reflects on the manner in which these two levels of abstraction are interrelated.

Within the institutional environment of the regulatory procedure, five ideas appear particularly powerful in maintaining the power relations characterising the regulatory procedure. Each of these is necessarily and directly related to the means through which the regulatory procedure is represented as a legitimate institution within contemporary society. These are: 'That the regulatory procedure serves equally a range of interest groups'; that 'Council Officers possess the ability to perform special actions that justify their position of authority'; that 'Council Officers possess special knowledge that justifies their position of authority'; and; that 'The regulatory procedure is an 'objective'

institution'. In addition the prevalence of certain labels also appear important in maintaining existing power relations. This section explores each of these ideas in turn, focusing on the 'existence' of the idea, its relation to developers' power, and the mechanisms through which the idea is drawn on and exploited by developers as they attempt to achieve their aims in the face of neighbours' opposition.

## Background

It has already been observed that Council Officers and Councils are the subject of representations that belittle and downgrade their actions. However, it also became clear in Chapter three that 'the law' is a powerful and ultimate source of legitimacy expressed by developers in the maintenance and extension of their position of power within society. This dichotomy presents an interesting reflection on Aglietta's (1979) observations of the constant state of dynamic tension between the allocative rules of capital, and the authoritative rules of the state. It follows then that there are important ideological implications in such statements as "...[that] if you want to get anywhere as a developer, you have to have the Council on your side, so that's a key issue..." (Farrow,1).

A compelling and ubiquitous ideology characteristic of modern society is that legitimate action is only that which is conducted through the structures of regulatory authority. This can be observed in ideas structuring current legislative debate; that *"most people have genuine and legitimate concerns that the proposed activity will have some adverse environmental effects on them which they are reluctant to agree to or accept compensation for. Where these applications are notified, these people set the reasons out in a submission. This is how the Act is expected to work and these legitimate effects become part of the consideration of the Consent authority in making its decision, and deciding on the appropriate level of mitigation"* (Ministry for the Environment,1998(b):2). The implication here is that neighbours' concerns and actions are legitimate in so far as they proceed through the processes defined by the regulatory procedure. This is a central concept to much academic writing, for example, that "...political structures and processes are an unavoidable point of entry through which cultural and ideological representations of reality mediate the social and economic transformation of Cities..." (Smith,1992:8). The hegemonic rule here has been well observed by theorists (Gramsci, 1954, de Certeau,1984), who have offered theorisations similar to the following: "the central strategy of authority is to force people to play its game, to make sure that the game is played by its rules..." (de Certeau,1984:18). An implication of this theorisation, is, that while resistance may start in civil society, battles are fought on the battlefield determined by the state (Castells, 1984).

In the first chapter of this thesis it has been observed that local government in New Zealand (and indeed, elsewhere in the world) have 'devolved' previous development obligations to the private sector. As a result, local government in New Zealand is increasingly dependent on private sector developers to maintain the built form of their

constituencies. What has accompanied this changing relationship of dependence, has been a growing body of circumstantial evidence to suggest the increased separation of civil society from the political institutions representative of the state and local authority. Certainly, this has been the finding of a number of international reviews (Barlow,1995:7, Winter,1995), Winter's overview concluding that processes of public involvement in capitalist development are generally side stepped (1993:46). In addition, this apparent separation has been of particular concern within a number of recent studies of New Zealand's 'pioneering' Resource Management Act environment. Ward (11/98), for example, has addressed access to the consent process as problematic, and "a huge impediment to public participation", especially if proposed changes are legislated, while Cox's 1996 review observes "a lack of trust in Council and applicants...", and that "the Council is perceived to be pro-development" (1996:68). These findings were frequently reaffirmed in interviews and discussions with neighbours involved in development conflict. A dramatic, but representative illustration is the statement from one neighbour, that "*...they're not considering the residents point of view, simple as that. All the avenues are there but they're so easily crossed over and not adhered to, not considered even...*" (Neighbour Interview 3:4).

It has been prudent to this research to examine the circulation of ideas within the regulatory procedure, and to question their impact on the maintenance and extension of the relationships of power and dependency, between developers, agents of local Government, and neighbours, characterising the contemporary environment. My own view is that the circulation of ideas appears important to the maintenance and extension of these relations, or, as Jameson (1990:263) has observed, "The fundamental level on which political struggle is waged is that of the struggle over the legitimacy of concepts and ideologies". The contribution, made by developers, to the legitimacy of concepts and ideologies, can be observed in two ways: at a directly political level, and; as developers 'draw on', and exploit ideas in their daily conduct, particularly as they seek to overcome the opposition presented by neighbours, within the social institution of the regulatory procedure.

At the political level, a number of developers involved in this research were active participants within a larger 'community', characterised by business and 'right-wing' politics, and active in lobbying Council. The type of ideology typical of this lobby is reflected in such claims as "*...The innovative Council should go back to what Council should be looking at, what Council should do is distinct from what the community can best do for itself...*" (Gunn,8), or, that "*...the needs of the community can be better [achieved] when specialised people can get on with it...*" (Horne,4). Similar sentiments were prevalent amongst entrepreneurial developers, perhaps because of the fact that the issue of contracting previous Council functions to the private sector (through the LATE's concept) was politicised during the period of this research. Similar lobbying at this political level has also been observed of land developers in other Countries (Ambrose,1994;15).

Five key ideas appear particularly prevalent *within* the everyday discourse between developers, and Council Officers, and which are particularly implicated in the maintenance of relations of power characterising the regulatory procedure at the general level of social analysis observed above (particularly the separation of civil society from local Government). These ideas can be linked by reiterating the notion that ‘the law’ is only a provisional ground for legitimacy and requires justification by reference to factors that lie beyond it. The ideology that maintains current power relations is linked to the ideas that legitimate the role and function of Council Officer’s within contemporary society. These are: ‘That the Council serves a recognisable general interest’; ‘That Council Officers possess authority to employ special actions’; ‘That Council Officers possess a special knowledge’, and; that ‘Council Officers hold a position of objectivity in society’. These ideas appear particularly important in legitimating the role of Council Officers, and the need for the regulatory procedure, within contemporary society.

However, these ideas can also be linked to the power relations characterising developers and neighbours within the regulatory procedure, by examining the means through which they intersect with the developers ability to act in opposition to neighbours. The claim here is that, to achieve their aims within the regulatory procedure, developers attempt to mobilise the institutionally endowed power of the above ideas, through language, particularly in their representations of actual and potential opposition from neighbours. In drawing on these ideas in their pursuit of power within specific interactions, developers reproduce (most often unintentionally) the potential of these ideas so that they may be employed in future interactions. In this sense, the ‘ideological structures’ of the regulatory procedure are reproduced as developers draw on and exploit these ideas as acts of power.

#### ‘The Regulatory Procedure Serves a Range of Interests’

An historically consistent and necessary claim to legitimacy made by the representatives of any governmental institution is that the institution satisfies the concerns of a wide range of individuals and groups. There are many ways to express this idea however, and the manner in which government representatives do so is often a reflection of the power relations characterising that institution. Of particular prominence throughout this research was the degree to which the idea of ‘the City’, as a representative term for the ‘common good’, was in constant circulation. The regular expression of this particular claim to legitimacy by developers has been documented above. The ubiquitous circulation of this notion among agents of Council was also readily apparent. Interviews with Council officers revealed a noticeable tendency towards ‘the City’ as a claim to legitimacy, particularly well illustrated in the following statement: *“if we understand the effect that it may be having over other people, developers, then perhaps we can look [at our action] again, if we understand the costs, if we understand the current climate in the development community, and if we understand that our vision is for a thriving*

community, then we can work together and say 'well now, are the actions that we are taking conducive to a thriving City?', and that's what we have always got to bear in mind..." (Quin,1). In addition, 'the City' was often invoked as a preferred claim to legitimacy in Council information. One useful example here is that "...Improving working relationships between Council and [the] development community was the objective prompting formation of the Development Contact Group. But, it has quickly become clear that there is a need to improve communications between all sectors of this large and important community so that we can all help our City thrive" (CONTACT newsletter, 31/July/98). The dissemination of this ideology was also complemented by its active articulation at Council/developer luncheons, and in Resource Consent Hearings.

Clearly however, 'the interests of the City' is a misnomer, as what is in the interests of one group of people (often the business community and development interests) is not necessarily in the interests of local neighbourhood residents faced with a change in their social environment. The point here is that the prominence of this language and claim to legitimacy makes it easier to justify certain types of actions, particularly "...encouraging economic growth", or "...attracting industry to the City" (Council Official at Council/developer luncheon), and development generally, as in the popular interest, while implicitly recognising opposition to development as opposed to the wide range of interests that the Council serve. Here, Gottdiener (1985:270) has claimed that "In addition to economic and political considerations, the production of space precedes through the deployment of ideology, specifically through the fix on economic growth as the principal goal of local areas. The pro-growth ideology equates the well-being of place with its ability to foster economic development". From his research, Cox (1981:445) also observed this idea as symptomatic of regulation within capitalistic environments, stating that "community was defined as the whole metropolitan area rather than the immediate suburbs". In addition, 'the City' can, more easily, be represented in a 'commodity form', uniting a common interest in opposition to competition to other Cities. Again, this is a feature of the current discourse between Council Officers and developers: "*the need to get outside the City,...to attract business to the City...[because we are] in competition with other Councils...*" (Council Officer, Council/developer luncheon).

Another related idea of significant circulation within the regulatory procedure is the degree to which 'the development industry' is regarded as a source of legitimacy for Council Officers. This is reflected in an increased emphasis on "...facilitating the process as best we can..." (Scott,7), or the "*provision of better services, the cutting back of red tape (so as) to meet your needs*" (Council Head, Council/developer luncheon). This ideology is particularly apparent from Regulatory Officers who displayed a tendency to regard their position as *within* the development community. This can be observed in such statements as "...we have to get together and work out how we can assist the development community, while at the same time meeting all our obligations, so the more we work together on this the better...everyone's involved and everyone should be because the more we're working together and talking together the more we're going to achieve and

*the less hassle we're going to have achieving it"* (Quin,1), or elsewhere, that *"...essentially we try to facilitate a partnership, we are on the same team in many respects...we are an essential part of the development community..."* (conversation at Council/developer luncheon). Universalisations such as these tend to conflate the idea of 'common interest' with the actual interests of the pro-development segment of the population, more so than the interests of other groups. As has already been observed, developers are able to play on this ideology by referring to their common interest, and the shared special knowledge associated with restricted membership to the 'development community'.

#### 'The Idea of Special Action'

An important idea through which Council Officers claim the legitimacy of their position of authority is that they possess the ability to employ certain unique actions in the public good. The claim here is that the performance of these actions, or maintaining the potential to perform these actions, is a powerful mechanism through which Council Officers legitimate their social function. To some extent, this is apparent in Council Officer's characteristic discourse, reflected in the statement that *"... there's all those aspects of [the R.M.A.], and we here as a staff have really embraced that because it makes what we're doing more fulfilling, we're not just [ticking off] criteria, because in the Act, we've got a lot more tools that we can bring out to help resolve issues..."* (Scott,3). In particular, Council Officers appear to perceive their role as facilitators of mitigation as significant to the legitimacy of their authority.

There is sufficient evidence from this research to suggest that developers exploit this idea in their interactions with Council Officers. This becomes apparent when neighbours are represented in such a way that it appears they cast doubt on the legitimacy of Council Officers' special actions, especially mitigation. This strategy was evident in the emphasis provided in anecdotal stories at a Council/developer luncheon: that *"...a neighbour didn't have any real intention of compromising and would rather waste everybody's time..."*, or; that *"[that neighbour] wasn't even prepared to pay for half a fence..."*. Similar ideas became apparent in interview situations in the form of anecdotal evidence, and prevalent beliefs, for example, that *"...some people just dig in and say 'No!'..."* (Edwards,6). In addition, the circulation of this idea is apparent in Resource Consent applications: that *"...[this neighbour] would not discuss any mitigation measure as he did not believe the Council would enforce any conditions placed on the consent. He refused to give his consent to the application unless [part of the development] was moved from its present location. He also indicated he was not interested in lodging a submission in opposition to the application, but would 'sue the company directly through the courts'..."* (Resource Consent application, Case study 1). The immediate purpose of these representations is the unification of the relative positions of developers with Council Officers, in regard to common opposition, and in such a way to convey the appearance that the legitimacy of Council Officers is reinforced by the developer, and challenged by the objecting

neighbour. It is also reasonable to suggest that the circulation of these ideas throughout the daily interactions involved in the regulatory procedure has a cumulative effect in establishing and maintaining the idea that neighbours in similar positions, or civil society in general, are more likely to be 'set in their ways', 'unreasonable', or 'selfish'. This is reinforced through labelling of the neighbour with such terms as 'game-breaker', 'stymier', and 'stick-in-the-mud'. This form of ideological mobilisation also reaffirms the dependency that Council Officers have on developers to affirm their legitimacy.

#### 'The Idea of Special Knowledge'

A dominant idea carried by Council Officers within the contemporary social environment is that their possession of special knowledge associated with the regulatory procedure ('cultural capital') provided a legitimate basis for their position of authority within society. This observation carries connotations of Bourdieu's notion that those in 'intermediate' positions of power within social environments tend to be engaged in strategies that preserve limited economic capital while maximising cultural capital (1977).

Again, it was common for developers to draw on, and to mobilise this idea so as to achieve their aims. This is effective for entrepreneurial developers and development Consultants because it can be seen that they can accumulate this special knowledge in much the same way as Council Officers, that is, through experience and long term association with the regulatory procedure. Thus, in expressing the legitimacy of their own position of authority on the basis of the possession of special knowledge, Council Officers are simultaneously engaged in justifying the relations of power between developers and neighbours, and are more inclined to recognise that the actions performed by agents who are assumed to have this special knowledge are legitimate, and that these actions carry some authority and weight which is generally not perceived in the actions of neighbours. The unintended consequences of these self-legitimations is that both developers, and Council Officers become engaged in expressions of mutual validation: "[Council] know we are knowledgeable, if some just lay person off the street came along and said the same thing then I don't think the Council Officers would take them seriously" (Ireland,9); or from Council Officers, that "...neighbours can hive off into areas of prejudice and irrelevancies which the Act doesn't even contemplate, that can damage their other arguments...[whereas] Lawyers (a 'resource' powerful in certain regulatory contexts, because of their assumed possession of appropriate cultural capital)...they can sort out the sheep from the goats sort of stuff..." (Scott,13). In essence, the circulation of the idea of assumed special knowledge adds authority and status to developers' actions within the regulatory procedure.

The idea of special knowledge was frequently mobilised by developers through strategies of derision in reference to neighbours. By this I mean that developers commonly represented neighbours as lacking, or unable to grasp, the special knowledge required for development and the regulatory procedure. This becomes evident in statements such as

*"If you don't know what's it's all about it's easy to object because you don't know it, and I think, part of the neighbourhood had to go through a learning curve to see what [this development] is all about...some people misunderstood what we we're trying to do, we try to accommodate but in the end, you know..."* (Duncan,6/7), or that *"...sometimes people get a hell of a shock when what's been beside them for fifty years is suddenly going to disappear, but generally we go and talk to them first..."* (Booth,7), or again in the perception that *"...quite often neighbours don't understand what were trying to do, and we try to explain, but [they still don't understand]..."* (Horne,4). The mobilisation of the idea of special knowledge through this strategy of derision is effective, not only because it belittles the actions of neighbours while uniting the positions of Council Officers and developers, but also because it does so in such a way to reaffirm the idea that special knowledge is a legitimate basis for asymmetries in power relations.

The idea of special knowledge is also employed in a strategy of representation that distinguishes the possession of a neighbours' knowledge from the *legitimate* possession of knowledge. Again, this strategy unites the positions of Council Officers and developers. This ideological strategy is usually employed in reference to situations where neighbours continue to object to a development in opposition to a Council Officer's decision to grant consent. This distinction is implicit in such statements as *"sometimes we have a few people around Palmerston North that are professional submitters, and they're pretty good at what they do, you know, and they've got legal backgrounds, they're lay people but they're very professional about things..."* (Scott,13), or, that *"I've got a client now, the client's Transit N.Z. so it's a roading project, there's some affected parties that won't sign off on a particular project because they want a section of the highway adjacent to their place fixed up, I mean they've got absolutely no objection to the particular project that we're trying to get their approval for, but they're using the withholding of their approval to try to get [our client] to do other work, which is a little bit tricky, because you can't actually do anything about that"* (Ireland,2). Again, these strategies of representation are designed to separate neighbours from the effective possession of legitimate resources, and in such a way as to reinforce the unification of Council Officers and developers through the notion that special knowledge is a legitimate basis for differential distribution of power within the regulatory procedure.

#### 'The Objectivity of the Law'

A powerful, contemporary, and historically consistent, claim to legitimacy made by agents of local Government is the 'objectivity' of the law, and the assertion that Council Officers have the exclusive right to exercise this law 'objectively'. We can observe this frequent idea in such claims as *"...where the Council comes in [is that we] take aboard what the submitters are saying and we investigate [whether] what they are saying is fair or not, so they're getting help to an extent, plus we're always here to give people advice"* (Scott,13), or that *"...the Council is there as the balancer, so sure you've got a poor little neighbour here and a huge multinational here, well the Council is sitting in the*

*middle...so it sort of balances up a bit...*" (Scott,13), or elsewhere, that *"even a member of the public, they may not be a Planning Consultant, or Legal Consultant, or have specialists at their disposal, but if they can put forward a compelling argument, if they've done their homework, it is certainly possible for a major development to be declined"* (Page,6).

In some circumstances, developers are also engaged in maintaining the idea of Council Officers' exclusive perquisite to 'objectivity': *"...[Council Officers] are servants of the Council who don't have emotional opinions about it, they administer it by the book..."* (Carter,5). The maintenance of the idea of the 'objectivity of the law' is particularly important for entrepreneurial developers because, as was observed in Chapter three, they often perceive the Council as an enabling force in so much as it provides an element of reasonable certainty to the various interactions involved in development. This has been a dominant finding from Council/developer discussions where "maintaining consistency and 'objectivity'..." (from 'Summary of Contact Meeting', Council file) have emerged as some of the most important concerns for developers. The circulation of these ideas by developers reflects their dependence on regulation (and therefore the role of the Council Officer) in providing some degree of reasonable certainty and stability within a conflicting and contradictory environment, and in overcoming the potential opposition of neighbours.

In addition to these blatant reinforcements of the idea of 'the objectivity of the law', developers commonly mobilised this idea through other means conducive to their daily exercise of power. For example, a feature of developers' representations of neighbours was the degree to which the subjectivity, individuality, and irrationality of neighbours was stressed. This can be viewed as an implicit feature of many of the examples of representations of neighbours provided above, but also in the anecdotal claims made by developers at Council/developer luncheons, such as *"...the problem when you've only got one neighbour that has a problem, and it 'just so happens' it's the neighbour that gets on least well with the client..."*, or that *"...this guy was a bit strange..."*. The circulation of this idea is powerful as a strategy with Council Officers not only because it belittles any actions a neighbour might take, but also because it posits the neighbour outside of the 'objective rationality' defined by the ideological structure of the regulatory procedure. It also unites the relative positions of developer and Council Officer in opposition to neighbours. The cumulative effect of these type of representations is to reinforce the notion that 'the law' has objective authority, and that those agents that challenge the law (particularly neighbours) are implicitly 'irrational', or 'lacking objectivity'.

Another idea commonly expressed by developers, and reinforced by Council Officers, was the degree to which the personality of neighbours' opposition was associated with reference to 'the political', and the degree to which 'the political' was allocated the perceived failures and aberrations of the regulatory procedure. This is very apparent in the following statement: *"The locals just didn't want it and they petitioned the Counsellors*

*and they were very emotive and they presented a very emotive case, the argument they put up in the Hearing wasn't in terms of the Resource Management Act, it was just 'we don't want this, it's going to generate all these effects', which was just rubbish, I mean they were just unhappy, but at the end of the day the politicians were prepared to grant consent" (Ireland,9). It was common for developers to attribute perceived failures to 'the political', particularly where this involved the presentation of unity with Regulatory Officers: "...the problem is that when you've got that type of mentality in there, the Council staff have to adapt to how they cope with them, so they get all protectionist, it brings about a whole change in attitude. They're very good people up there [in Regulatory Services], but constantly when I talk to them, they're all the time having to compensate [for Counsellors]..." (Gunn,6), or that "...I think we're very fortunate with our local Council, people knock them but, the actual employees I'm talking about, the regulatory services, are very user friendly and I take my hat off to them...[but the political side]...I think they're incompetent. I think we've got the wrong people there....As a developer and looking at some of the commercial decisions made, looking at where the City's going, looking at what's happening to the economy locally, looking at quite a lot really, there's a bit of unrest amongst the business community, about the Council, about Counsellors. It's a matter of getting the calibre of people on the Council, but there's so much bullshit that goes with the Council that I don't think quality people are standing..." (Farrow,5). We can also observe similar effect in the claim that "...the point was we weren't the party involved, it was still with the Council and the residents out there, and it was a political thing with some of the Counsellors, especially those that are politically motivated..." (Booth,7).*

There is also some evidence that 'the political' is also a source of derision for Council Officers, illustrated, for example, in the claim that "...[with this City] we have a Council, certainly a Resource Management Committee that is very aware of the law, the Resource Management Act ,...the scope of the Act and sometimes whether or not they would be overstepping their bounds. This would certainly contrast with a smaller Council where something may be purely politically driven, and something could go in just because the CEO and the Mayor say that it will. But I must say, here, in Palmerston North's case we have got some very professional Counsellors that certainly weigh up all the pro's and con's and don't just do something because we want it to happen" (Page,5). It appears that reference to 'the political' is a shared strategy of derision through which the interests of developers are unified with those of Council Officers. At the same time, these expressions reaffirm the idea that 'the law is ultimately objective'.

### The Neighbour as 'Stymier'

Much of the above discussion indicates the existence of a language unique to the regulatory procedure. An aspect of this language are a series of labels that can be applied in the representation of neighbours, which convey negative connotations without explicitly examining the merits or otherwise of their actions. The force of these labels lies

in their general ambiguity and their easy application to a wide variety of situations, as well as their acceptance and use within popular and political (as well as business) discourse. There are two such labels regularly used by developers and Council Officers to describe civil actions. The first is the old adage of 'NIMBYism', prevalent throughout the eighties (see its use in Cox, 1981:444), or more recently in Gow's (1998:3) public comments (see Chapter one). More recently the label 'stymier' has become common, its use reaffirmed not only by developers, but also by Council Officers, as in the claim that "*you might have a stick in the mud whose just out for stymying the developer and that's one of the sad parts of that, most neighbours aren't like that, they're either giving their consent or they're not giving it for good reasons, it's just the odd occasion comes up, and when it does that's when the Limited Notification Procedure is very helpful -we just target and notify that one person, and the expense and time is far less, and if they don't make a submission then we know that consent is likely to be granted*" (Scott,19), or that "*most people's human nature is that they don't like to stymie their neighbours, you know, it's a difficult position because they don't like to be the bad guy, and we try to find ways where people are pretty happy themselves*" (Scott,16). Such discourse is also evident as legislature changes are being shaped, apparent in comments from the Minister of the Environment, that "*...the Act gives you the right to be consulted but not to be paid to be consulted...people have told me about developers trying to get consent and the neighbours saying 'well, the meters ticking, how much are you going to pay me?!...you shouldn't be able to stymie development like that...'*" (Environment Minister, 11/98-Interview Kim Hill). The prevalence of these labels provides developers with a powerful resource that can be used to convey negative connotations to the actions of objecting neighbours. Developers are able to draw on the idea of 'the stymier' as they seek to overcome the opposition of neighbours within the regulatory procedure. The use of these labels was apparent in a number of interviews as neighbours were referred to as 'game-breakers', or as 'stymying developers', but, were more frequently observed as part of the anecdotes of alleged bribery by neighbours at a Council/developer luncheon. The idea of 'the stymier' accumulates meaning through its specific mobilisation, and as it is applied to describe more circumstances. This can be effective for developers by increasing the scope of circumstances in which this ideological label can be employed, but developers must also be careful not to spread the idea 'too thinly', reducing its persuasive capacity with too general a reference.

It is interesting that the idea of 'the stymier' is prevalent in the immediate and specific interactions between developers and Council Officers, and, at the 'grand', and structural level of social enquiry and in political debate. In terms of changes to legislature, the notion of 'the stymier' appears to be a significant underlying ideology driving this change. These levels of social enquiry are interrelated: developers draw on and exploit this label and its associated meanings, and, in so doing, reproduce the recognised 'existence' of this label so that it becomes acknowledged in political debate. There is also a process of disconnection here however because it is my perception that 'the stymier' has become the bogeyman of the development lobby, and the ultimate in counterfactual

references - '*we must do this to undermine the stymier !*'. The claim here is that the label appears to carry greater manipulative power than a more explicit description of the events and agency which the label is used to describe. The obvious concern is that the involvement of civil society in the regulatory process will be undermined when civil action is unduly associated with this label and its negative, although vague, connotations.

### **The Developer and Expressions of Identity**

The aim of this section is to explore the connections between expressions of Developers' identity, and the conceptualisation of ideology developed in the introduction to this Chapter. The structure of this section involves, firstly, assessing the merit of this conceptualisation to expressions of identity, and to identify the limitations of this research for the following discussions. This discussion provides an opportunity to explore developers' expressions of identity through two distinct but interrelated approaches: The first, is a brief discussion and involves a very general model of identity; The second, an extended discussion, involves a more specific conception of identity.

#### **Background - Identity and Power**

The expression of identity is usefully conceptualised as "the meanings mobilised by symbolic forms to establish and sustain relations of domination" (Thompson, 1984). This is a fairly general claim and raises two questions: 'How does meaning mobilised by symbolic forms serve to sustain relations of domination?', and; 'What relations of domination do expressions of identity serve to maintain?'. One way to resolve these questions is to identify the limitations and scope of this research.

In response to the first question, two potential 'uses' of identity become apparent. The first is that identity exists as orchestrated displays to others. The second is that identity exists as the ideas that developers draw on to provide themselves with a sense of authority within relations of domination. This research offers some grounds to speculate on the first of these uses, although it is the second (developers' perception of self) which this research focuses on. A focus on this aspect of identity is based on the methodological premise that one component to establishing and maintaining relations of domination is establishing and maintaining a sense of authority within relations of domination (Beetham, 1984:12-15). This component to the current conceptualisation of ideology appears particularly apt to the study of development because the nature of developers' conduct engenders challenge. It is also clear that developers are 'not mere cultural dupes', but are quite aware that, as a profession, they are not always held in the highest regard by all people. It is not surprising then that my overriding impression about developers' expressions of identity is that such expressions are formulated, and enter the social

world, as a defensive (although hegemonic) discourse of self-legitimation. Thus, the primary focus and claim of this section is that identity serves as an ideological mechanism that provides developers with a sense of authority within different relations of domination.

The significance of the second question is reduced in light of the approach taken to the first question. The fact is, the manner in which the identity of the developer is 'recognised' by other agents is beyond the scope of this research. The primary aspect of this section is that developers *do* express identity so as to establish and sustain relations of domination, and that this identity provides developers with a sense of their own authority to act within particular contexts of interaction. These issues are usefully explored, firstly, through a general conception of identity, and, secondly, through more specific conceptualisations characterising the establishing and sustaining of relations of domination with Council Officers and neighbours.

#### The General Conception of Identity

*"...number one it's very rewarding, if you're a very successful developer, I kind of rate myself as a 'builder/developer, not just a 'developer', and you go out there and it's just a hunk of long grass and old bloody barbed wire fences, and twelve weeks later I've got a three and a half million dollar building sitting there..."* (Edwards,8)

*"...we were one of the first to get into operation as a genuine developer in the City as such here in 1984, and we had a two or three year market start, and there was stuff all people out there..."* (Gunn,3)

All forms of identity are constructed from a number of contributing factors, including; a past record; recognition from others; and a sense of self. The culmination of these factors for the majority of development agents interviewed in this research was the notion of 'being a developer'. The idea of 'being a developer' relates particularly well to the current conceptualisation of ideology in that developers express their identity 'as developers' so as to establish and sustain a range of relations of domination. Here I refer to 'domination' as the ability to influence others so as to achieve the developer's desired aims.

Throughout this thesis evidence has been provided to support the fact that developers are able to exploit their identity 'as developers' so as to sustain relations of domination with Council Officers. Within this context of interaction it is generally the association of 'the developer' with experience of development and the regulatory procedure that provides developers' with a greater ability to achieve their desired outcomes more effectively. We can also speculate that developers mobilise the idea of 'being a developer' to establish and sustain relations of domination with bankers, builders, tradespeople, retailers, consumers and clients. In each of these circumstances the developer seeks to exploit a variety of ideas associated with 'being a developer'. Often this is simply the assumed idea that 'a professional developer' is more competent in development activities than other agents.

The perception, held by some neighbours, that 'developers' are 'greedy, have lots of resources, and won't back down', is also a powerful idea that developers can exploit to achieve their aims, contributing to a neighbour's resignation. However, it is important that there is a disconnection between what connotations other agents attach to the assertion - '*I am a developer!*', and the way the developer perceives this exact same assertion of identity. For them, there is an expectation that 'being a developer' provides greater authority to act than someone seeking the same objectives who felt unable to claim this identity. This sense of authority from 'being a developer' is compounded by the frequent use of signs on development sites, as well as the common fact that the business name is often the personal name.

### Specific Conceptualisation of Identity

We can also approach the questions above by confining the interpretation to expressions of identity common to developers in establishing and sustaining relations of domination with neighbours and Council Officers. Certainly this has been the focus of, and is where this research offers the strongest insights. The dominant claim to the forthcoming discussion is that identity is an ideological mechanism that provides developers with a specific sense of authority when they deal with neighbours and Council Officers. This claim is supported by the fact that expressions of identity often entered the social world as *assertions of authority to act* - that developers expressed and perceived identity as *evidence* of their authority within these relationships. This is related to the further observation that developers often expressed identity through 'strategies of distinction' (Bourdieu, 1984) in which Council Officers and neighbours become subject to derision and condescension, and often in such a way as to ascribe and praise some aspect of the developer's perceived identity. In essence, identity becomes the locus at which relations of domination with Council Officers and neighbours are established and sustained, in the sense that it is identity that provides developers with a sense of their greater authority within these actual or potential relationships.

These specific aspects of identity are bought into the social world through a range of modes of expression and discursive forms, particularly as narratives, and as self-analysis. These expressions complement strategies of distinction, reaffirming the identity of 'the developer', and thus reaffirming their sense of authority within these relations of domination. Five concepts were frequently employed as developers mobilised ideology to express their identity. These are: Ideas pertaining to 'creativity', and 'productivity'; Ideas pertaining to 'the will to succeed'; Ideas pertaining to the developers' possession of a special knowledge; Ideas relating to security, autonomy, and minimum dependence on others, and; Ideas pertaining to long term commitment and an ability to defer gratification. The following discussions observe each of these factors of identity, and assess their contribution in providing developers with a sense of authority in establishing and sustaining relations of domination with neighbours and Council Officers.

### 'Creators and Producers'

Notions of 'productivity' and 'creativity' were frequent in the assertions of authority made by developers. These ideas, above all others, appear significant in the construction and maintenance of a developer's identity. We can observe these notions through such expressions as "*...If I got into that area I'd rather go and sell my piece of land and make a bit of a loss and get on with something else that's more productive...*" (Booth,9), or through strategies of distinction, evident in expressions such as "*...Bureaucrats, unfortunately the world is run by bureaucrats, but in the end they do not bring in any dollars, they cost. It's the person who goes out there and actually produces and with production creates things, and bureaucrats just spin off on it, but you learn to live with it*" (Duncan,5), or elsewhere, that "*...[the Council should be]...getting outcomes, instead of actually trying to run things...*" (Gunn,8). The observation to be made here is simply that ideas of creativity are mobilised in providing a greater sense of authority to the developer as he seeks to establish and sustain relations of domination with Council Officers.

This is complemented by common expressions of personal satisfaction. Ideas of 'production' and 'creation' are generally accentuated as factors in a developers' sense of self. This can be illustrated in such statements as "*...seeing an area over a large period of time, as far as a residential development goes, seeing it evolve into a very attractive place to live, seeing a large building that you put together and knowing that you went through that minefield, that personal satisfaction of finishing something, you can get to the ninety ninth rung on a ladder and still get toppled, so getting to that hundredth rung is very satisfying...*" (Farrow,10), or that "*...we do derive a lot of pleasure out of driving past something and thinking 'well, that's something that we did'. I've got photographs out there of things before we started, shitty old plywood looking things there, and we ended up with something nice there at the end of the day, and to me, well, I do get a lot of pleasure out of driving past something and saying 'oh, we did that!', I really do...*" (Booth,9), or elsewhere, that "*...[I derive personal satisfaction] in seeing the finished product, as long as it's a different sort of house, I don't like doing plain sort of houses. Especially if it's a bit of a challenge, a bit different, something unusual*" (Allen,4). Clearly, past developments are a powerful symbol of identity for developers. Bassand (1990:9) has contributed significantly to this notion, claiming that "Whether it involves conflict or not, the appropriation of space allows individuals and social groups to express their identity and to realise their projects. Concretely, appropriation of space implies building the environment and rehabilitating or destroying old built environments. Appropriation of space is also frequently a process by which groups and individuals take symbolic possession of space...". A further reflection of the significance of this 'symbolic possession' for developers was the degree, in interview situations, to which developers referred to 'my land', 'my development', or to 'our people that moved into the

*development*', long after the financial exchange for profit. Given the ubiquity of these expressions it is reasonable to speculate that the notion of 'creating and producing' provides developers with a sense of their authority to act within a much wider range of relationships than merely with Council Officers and neighbours.

#### 'The Will to Succeed'

Another expression of identity common to developers interviewed throughout this research was the association of the 'successful developer' with the possession of the 'will to succeed'. The mobilisation of this idea can be explicitly observed in strategies of distinction in which developers assert their greater authority to act in relation to Council Officers and neighbours, based on the possession of 'the will to succeed'. This becomes apparent in such assertions as "...[the Council have] the culture of bringing in experts...because they haven't got the guts to make their own decisions..." (Gunn,7), or that "...there's no real urgency in their position, there's no real spark..." (Horne,3), or, of neighbours, that "...You have to put up with this tall poppy syndrome...If people carry on like that they're not going to get anywhere in life..." (Booth,8). These expressions appear symptomatic of 'strategies of distinction' (Bourdieu,1984) because they attribute asymmetries in the distribution of power as due to some incapacity on the part of neighbours and Council Officers, while implying that this aspect of identity is an acceptable basis for power distribution. It is therefore also useful to examine a number of alternative modes of expression through which 'the developer' is associated with 'the will to succeed'.

A common discursive form through which the identity of developers interviewed in this study was established was through the 'internalisation of capital'. This is a particularly powerful discursive form because it conflates the various forms of capital associated with development to an internally generated desire and ability on the part of the developer (i.e. the will to succeed). This can be recognised in such statements as "...if you're good at what you do you go nationally, if you've got a desire to go international you probably could, it's all about growing that network and your asset base, and making some good decisions, *probably skill and desire I guess...*" (Farrow,3), or that "...*one of the most painful experiences [was this development, but it], is still our proudest achievement, not just the final result but what we had to beat to get there, our investors were wonderful, they stayed with us, and we dug deep and beat the odds...*" (Gunn,3) or elsewhere, that "...*if you do it right there's a big ticket in it, you know. But you've got to get to that position, and you don't just get to that position just sitting on your bum, I mean I worked really hard, I chased it, I worked hard, I got money behind me, and made some good decisions*" (Edwards,9/10). These expressions are powerful in the sense meant above - that they enhance the ability for developers to maintain a sense of greater authority within relations of domination with Council Officers, and neighbours - because they emphasise the possession of power as due to internal, and non-transferable features of the developer

themselves, enhancing the exclusivity of 'being a developer'. In addition, this discursive form provides the capital involved in development with an intangible, and thus less challengeable, appearance.

Another common feature of interviews with developers was the degree to which identity was expressed through narratives of 'the developers' success story', as it related to the developer personally, or to other developers. The significant ideological feature to this characteristic discourse is that 'success' is attributed to a developer's 'will to succeed', or, that 'success' is a result of some internally generated, and non-transferable feature of the developer. This is illustrated particularly well in the narrative of one developer:

*"...I used to go to school to eat my lunch and play sport, I never used to try one little bit, and the only thing I tried at was Building School because I enjoyed what I was doing. Those certificates behind you are the highest certificates you can get in building, they're first and second qualification, Trade Certificate, and New Zealand Certificate, and those two over there are two I won with Electrico, but it's the satisfaction, I've said to someone that I'd like to write a book on starting at sixteen with fifteen dollars, to getting to the wealth that I've got today, I mean if someone had said to me that at [this] age you'd be driving a [flash car] and your wife would be driving a [flash car], and you'd live in a million dollar house I would have said that's not feasible but..."* (Edwards,9/10).

This type of expression was particularly evident with those developers that had been in the industry for some time. In addition, the acknowledgement of other developers complemented these self-conceptualisations. This can be observed in such expressions as *"...[these two other developers] both had enough foresight to get into the property game..."* (Edwards,5), or that *"...there was some very good people that [came through the eighties]...(lists other local developers)...people like that that are exceptionally able, do a great job, and have done very well..."* (Gunn,3). These sort of expressions are also typical of development literature. An appropriate reflection is the claim that "Equally important and equally unteachable is the drive that makes developers persevere through problems and obstacles to the desired end. Developers tend to be single-minded: they do not like to stop. This quality, perhaps more than the profit motive, accounts for the negative public view of some developers. Yet the same single mindedness can lead to the design and construction of innovative projects" (Miles et al, 1991:8). In each case it is some internal, although often unstated and ambiguous, ability, desire, or manifestation that is central to the identity of 'the successful developer'.

In summary, it is suggested that the 'will to succeed' is central to the concept of 'the developer', and that developers draw on, and express this idea, through a variety of discursive forms, to ascribe their development success. The prevalence of this idea, from interviews, and within development literature, suggests that this notion contributes to the developers' sense of authority well beyond their relationships with Council Officers and neighbours. A further observation to be made of the prominence of this particular self-

conceptualisation is the degree to which conceptual space exists so that romantic and mystical associations (including the notion of 'luck') are apparent in many of the above statements. This ideological feature is most certainly related to observations made in Chapter two: that there is always an element of subjectivity in development decision-making. It also reflects alternative anthropological studies associated with capitalism (a particular example is Geschiere's essay on South and Western Cameroon, and the association of capitalism and the Cameroon spirit model, 1992), and suggests that 'Western capitalism' is not as 'rational, calculating, and scientific' as assumed and asserted.

### The Possession of Appropriate Knowledge

The 'will to succeed' is often associated with the possession of appropriate knowledge. This is another common aspect of developers' identity and is commonly expressed as an assertion of the authority to act in establishing and maintaining relations of domination with Council Officers and neighbours. This idea was often the basis for the condescension of Council Officers, suitably illustrated in the statements that "*...the Consent department are absolutely brilliant, but the moment your set of plans goes through the wall, to the faceless people that you can never get to, that's when things all go wrong with the system...and you end up with some absolutely ridiculous queries that come back. People haven't read the plan, or if they have they haven't understood what they're reading, and that goes back to what I was telling you before, that in my view the building inspectors are broken down builders that have never succeeded in their own thing, how the hell are they going to succeed with anything like that ?!...*" (Booth,5/6), or that "*...many of the people at Council, it goes over their heads, there's this fortress mentality, 'this is the way it should be'...*" (Gunn,8).

A similar distinction frequently appeared in general discussions about neighbours: "*...if you've got a group of public servants, they're pricks to deal with, whereas if you've got a group of people involved in business, they understand all the day to day hassles that people have...*" (Booth,7), or; "*I think in the residential development you've got a different attitude towards developers...the developer has a lot more money, they should be able to do it...commercial neighbours are more commercial, more informed, how will it affect the value of my property ?...*" (Farrow,7). Again, these expressions are typical of strategies of distinction because they represent power relationships as a result of some incapacity on the part of neighbours or Council Officers, while simultaneously praising certain symbolic forms associated with 'the developer'.

### 'Security, Autonomy, Dependency'

Themes of autonomy, minimum dependency, and security were also characteristic of developers' assertions of identity. Claims such as "*...with me as a developer, I'm hands on and I've got a backup building company so that just gives me a bit of an edge...*"

(Edwards,1), or that “...*the bigger developers...they don't have to depend on the banks as much as [the smaller builder/developers]...*” (Horne,2) are useful in showing how the myriad of statements associated with the reduction of risk, identified in Chapter two, often double as assertions of identity. In more general studies, Kahn (1997), and Campbell (1987) have documented the significance of images of autonomy and self reliance to the identity of the entrepreneur, linking these expressions of identity to features of the social environment, notably middle-management layoffs and the reconstruction of public welfare systems. This is a useful analogy to developers within New Zealand's current social environment. Also interesting is Carrier's (1997:8) summary of 'market discourse', which concludes that “...an important element is the notion that market actors are autonomous individuals who deal with each other at arm's length”.

A number of statements from this research suggest that ideas of autonomy and dependency are mobilised by developers so as to provide themselves with a sense of authority in establishing and sustaining relations of domination with Council Officers. This can be observed in such expressions as “...*they bring in somebody else to hold their hand and to help them make a decision, and that guy needs protection too, so he charges an enormous fee, and it's all part of his protection*” (Gunn,7), or, that “...*at the end of the day we're the one's that have to be accountable...[and Council Officers] don't often seem to understand that...*” (Horne,4). In addition, these expressions are reflected in development literature: “The entrepreneurs willingness to tolerate variability in returns in pursuit of a larger return to equity (both capital and sweat) is an important distinction between the entrepreneur and public and private sector professionals who simply receive salaries or clock billable hours...” (Miles, et al,1991:6).

### Long Term Involvement and the Ability to Defer Gratification

A significant factor in the self-conceptualisations of developers interviewed in this study, and a recurring theme throughout this thesis, has been the degree to which assertions of identity are linked to notions of commitment and the long term maintenance of a position within the development industry. At it's most explicit, this was clearly reflected in claims such as: “...*all those [developments] take time to get together and people just don't realise the effort that went in to what you finally see at the end of the day, there's just so many things. We just thoroughly enjoy it and hopefully we can continue for some time*” (Booth,9), or that “...*for us, a [development] like this, it's a long term involvement, I mean, I'm involved in the industry and once you've made a commitment to this industry you're stuck with it, it's long term, I mean once you're [not] here one day [and then] gone, it takes seven years to build, you continue to be part of the development forever and a day...*” (Duncan,4). These expressions appear significant in providing developers with a sense of their authority to establish and sustain relations of domination.

This becomes evident through strategies of distinction in which Council Officers were often associated with failure and derision, on the basis of their lack of long term orientation. This is to be observed in such claims as “...like any organisation, Counsellors, or Officers of the Council, those who can look long term ahead may see that the City needs growth, so you have certain people who can look at that, others look at the immediate effect and feel that this may impede on their patch or on their thoughts and they cannot change, same with Counsellors too, there are Counsellors that will look at the success of the City and others that will look at the success of the day, but the City could have been far better utilised if they had had a bit of foresight, and planning. It tends to be, every time, it's the short-term and popularity, no long term gains...” (Duncan,4), or that; “...it depends on how innovative and how expansionary, and how visionary the people in local authorities are, and they're less than expansionary and visionary as I've explained” (Gunn,7). The implication here is that developers long term commitment and orientation, and their ‘ability’ to defer gratification is, or should be, a basis for domination in their relationships with Council Officers.

This characteristic theme in developers’ identity is also implicit in common distinctions made through representations of neighbours. Of particular prominence within the contemporary development environment is the notion of the ‘greedy neighbour’, which fuses notions of commitment and long term maintenance with notions of legitimate profit creation. The circulation of this idea was a particular concern at a Council/developer luncheon. Here, a number of anecdotal claims were actively circulated, as in the story of the neighbour “...who asked ‘how much this developer was going to pay him for granting permission?’”, or elsewhere, ‘the neighbour who asked the price for providing Resource Consent’. The significance of this idea was also apparent in interview situations; that “...Greed is a bit of a problem because people suddenly think ‘well, I might be able to get a bit of money [for something that the developer wants]” (Booth,7). A similar ideological function can be observed from the narrative of one developer, describing a common perception held by neighbours, that “...a developer has a lot more money, they should be able to do [a driveway], that kind of a response...” (Farrow.7). These expressions provide authority to the developer as they seek to establish and maintain relations of domination with neighbours. Two implications of these expressions are worth noting. The first, is that, implicit within these narratives, is the idea of neighbours’ inability to defer gratification, a contrast to the developer’s longterm commitment. The second, is that, through these expressions, economic capital is also reaffirmed as a reasonable, natural, and universally accepted, basis for distributions in power.

In summary, the identity of a developer is not merely a reflection of the social environment in which they act, but is a reflection of the occupation of positions of domination within this social environment. Identity is an expression of this position of

power, but also, developers' expressions of identity often enter the social world as assertions of authority. The theme of 'identity' therefore highlights the notion of the duality of agency and structure central to this thesis.

The effectiveness of 'being a developer' in establishing and sustaining relations of domination is also dependent on the degree to which this identity is deemed appropriate to a particular agent. This suggests that 'being a developer' is an aspiration that is acquired by degree. Here the notion of 'symbolic authority' is usefully introduced to the discussion of developers' identity.

### **Developers and Symbolic Authority**

This section is concerned with another dimension to a developer's sense of authority. This relates to the particular developer's accumulation of capital, and the meanings conveyed through expressions of that capital. The section is divided into three interrelated themes: The first observes that '*acts of display*' appear to be common features in a developer's sense of identity, and in providing a sense of authority; the second pursues this concept further and suggests that those developers with greater capital display a greater authority to act; the third examines discursive features characteristic of the manner in which developers discuss capital. Here I am concerned with the ways in which the meanings conveyed through these expressions serve to establish and sustain relations of domination.

#### Acts of display

This section is based on the general theoretical model established at the outset of this Chapter, that dominant ideology is significant to modern 'social structure', and, that society is constituted 'by' human agency, while at the same time is the very 'medium' of this constitution (Giddens, 1976). The dominant, and related, claim to this section is that, in social structures where power is differentially distributed, the accumulation of capital is accompanied by the accumulation of the symbolic authority to act. In other words, as they employ certain forms of capital, developers are also engaged in drawing on widely recognised ideology associated with this capital. Therefore, developers are constantly involved in maintaining (or asserting) the idea that particular forms of capital enable particular actions. The accumulation of capital is 'ideological' within social contexts because it provides evidence of legitimate conduct, and, because it provides those associated with this capital with symbolic authority to employ this capital in future acts.

The reason for this theorisation is that developers exhibited a propensity for repeated, and often unprovoked acts of display. I mean here that developers sought frequently to present evidence of their possession of accumulated resources *as evidence of their authority to act*. Certainly, this was a significant overall impression from almost all interviews with developers. Notable were; the quantity of developments undertaken by a

developer; the length of ('survival') time developers had been involved in the industry; authority conveyed through association with other individuals occupying dominant positions of power; as well as evidence of accumulated assets in land and finance. These expressions are explored in the following discussion.

The quantity of developments undertaken by developers was often provided as a symbol of developers authority to act. This was apparent in interview situations where developers would often list, in reasonable detail, a record of their previous developments. The point here is partially lost in transcription, although some reflection is provided in the following statements: *"...we've done two very large subdivisions...another twenty odd units around [another site]..., another seven units there, another nine at McBarner Court, another eight or nine [in another area], so we've done quite a few of these sort of things, but on the other side of it, that's only a minor thing compared to our commercial markets, that's our main area"* (Booth,1), or that *"...I think we've achieved most things. I've built 192 houses in this town and I think I may have been turned back once, so it's not a big percentage..."* (Edwards,6), or that *"...we did this development in New Plymouth...and then we went to Hastings...and Napier and we did a joint venture...and we took over in Wanganui...and then we went to Blenheim...[and added to previous developments]...when you think about it, that's a lot of [development]"* (Gunn,4). Quantity of developments undertaken is a particular powerful symbol of authority because it implies the accumulation of economic capital, as well as accumulated knowledge and reputation.

Expressions of developers' length of 'survival' within the industry was another common mechanism through which developers provided symbolic evidence of their authority to act. This becomes apparent in such expressions as *"...you just can't go off the street. I've been self-employed for 24 years and it's taken me 19 years with an apron and a hammer [as a contractor]..."* (Edwards,1). A developers' length of stay in the industry implies the possession of cultural and social capital, reinforced through such statements as *"...you definitely improve, you learn a lesson in every development..."* (Farrow,2), or that *"...we've had to change enormously from the crash at the end of the eighties, and we nearly got badly hurt and it was a matter of rising above that, and in doing that we gained some disciplines that we certainly didn't have before, we certainly learnt a lot from it, you're a fool if you don't learn..."* (Gunn,), or, of social capital, that *"...you meet someone in every development and that creates the next opportunity if you like..."* (Edwards,5).

In addition, authority bestowed through association with other agents was another mechanism through which developers presented their authority to act. In some cases this involved expressions of the developer's associations with agents in dominant positions of power within the wider society: *"...I've spoken to the Mayor about it..."* (Booth,5), or that *"...the Mayor came aboard our Trust and gave it some credibility..."* (Duncan,3). Commonly this strategy involved expressed associations with other 'successful'

developers: "...[this other developer] and I have actually built a few together...he's been in it a lot longer than I have..." (Edwards,2). An observation made in a previous Chapter, but also relevant here, is that developers can also associate themselves with particular clients; that "...if you had a good client that was a particularly good neighbour and did a lot of good things in the community, you'd certainly push that" (Ireland,5). The ideological function of these strategies of association is clearly designed to link the capital possessed by other individuals in positions of domination to the capital associated with the developer's authority to act.

The expressed possession of economic capital, as land or money, was another feature of interviews with developers. This can be observed in such statements as "...we've ended up with a very large business, infact, a lot of people don't realise the size of what we've got...In terms of land-owning in [the City] we are the largest landowner in [the City], and yet when I started in business it was never our intention at all..." (Booth,9), or that "...some of the jobs they go really well, it could be a matter of three million dollars in three months..." (Edwards,6). The possession of economic capital appears particularly important for developers and is a widely accepted symbol of legitimate conduct. The accumulation of economic capital often also implies the possession of knowledge, and can contribute significantly to an effective industry reputation.

In summary, it appears important to developers to present evidence of their authority to act, and this involves the symbolic presentation of a developer's ability to act. As such, developers seek to collect evidence of their legitimate conduct (often in a very deliberate and precise manner), particularly in the forms identified above. The accumulation of resources is usefully conceptualised as the building of a bank of authority, and it is with this in mind that I turn to the next theme of this section.

### The Accumulation of Capital and Authority

The logic of the themes being pursued in this section suggests the proposition that those developers possessed of greater capital, display a greater authority to act. A useful approach in seeking to establish the utility of this proposition is in the reexamination of the control rhetoric expressed by developers of greater means. Here we can reiterate a number of statements, such as; "*the more control you can exercise the more successful a development will be...*" (Duncan,2), or that "...*We've gone out and largely bought an area of land and then we've been able to take control of the whole thing, and then you can do a proper development of the whole thing...*" (Booth,1). These claims associate greater 'success' with greater access to capital. Important to these claims is that 'capital' is associated with the developer themselves, and implies the possession of appropriate knowledge (cultural capital), as well as the possession of financial means, although no real differentiation is made of these two forms of capital. It follows then that the accumulation of certain resources enables a reasonable expectation of development success and that this expectation provides developers with a belief in their authority to act.

We can relate this notion to Chapters one and two by introducing a favourite, although relatively unexamined, commentary within the development literature. This is that “The most important device to control risk is developers’ curb on their ego’s: they must not let runaway ego and excitement carry them beyond what is rational” (Miles et al,1991:201). A practical illustration of this claim was the Mayoral rebuff following the developer’s aggressive and authoritatively phrased letter demanding an end to delays in a Resource Consent Hearing (Case study two).

It is also clear that the greater possession of resources adds efficacy to the claims to legitimacy that a developer makes. At its simplest, developers of greater financial means are more inclined to invoke the more powerful and general universalisations such as the claim that their development is ‘good for the City’, or ‘good for industry’. The significance of these claims is clearly related to the quantity of capital being invested ‘into the City’, or ‘into the industry’. Further evidence of this finding is that smaller developers, involved in speculative residential dwellings for example, appear more likely to legitimate their conduct by claiming that house prices will rise, and less likely to invoke those grand universalisations associated with larger developments and entrepreneurial developers.

The notion that those with greater symbolic capital have a greater sense of their own authority to act is also interesting when analysed alongside the relations of dependency, and claims to legitimacy characterising contemporary land development. The hegemonic implication to the interrelation of these factors is that the more control over resources a developer possesses the more their actions can be claimed as a public service (as opposed to an extortion racket characteristic of a dominant position of power).

### The Conflation of Capital

A further discursive feature appears particularly important to developers as they mobilise ideas associated with capital so as to achieve their aims in the face of opposition. These can be characterised as the ‘conflation of capital’, and refer to the manner in which power is represented as a single entity. Thus, to challenge the possession of one aspect of power, or the accumulation and differential access to one resource, is more easily represented as a challenge to the entire existing social order. In addition, the conflation of capital is a mechanism through which the legitimacy of capital within one context of interaction is more effectively presented as a legitimate basis for power distribution within another context of interaction.

Metaphor provides a powerful discursive feature for the conflation of the capital appropriate to the exercise of power. Particularly evident from this study was the conflation of various resources through references to ‘grunt’ and ‘backbone’, that “...[larger businesses]...if something goes wrong, they’ll fix it, they’ve got the grunt,

*they've got the backbone, they're very professional, they've been there, done that...*" (Farrow,4), or that "...it was only with a company like ours that had the grunt in terms of dollars, to go through the process, to battle it, to get it to what it is today" (Carter,5), or elsewhere, that "...first of all you've got to have a bit of grunt...it's getting known and people believing in you that you've got the grunt to do it..." (Edwards,1). These strategies serve not only in compounding various forms of capital but also accentuating certain features of the possession of this capital, namely its enabling characteristics in providing the power to act.

Complementary to this metaphor, metonymy and synecdoche were frequent modes of expression through which developers were able to draw on ideologies associated with capital so as to more effectively present their objectives, and thus their position of power, as legitimate within a variety of social contexts of interaction. In particular the language of 'efficiency', and of 'progress' were commonly employed by developers as metonymy for profit-creation. Similarly, Armstrong's (1984:136) study of managerial ideology observed "a tendency to describe profitability as 'efficiency', serving to represent opposition to the most profitable course of action as the advocacy of inefficiency, an attitude which some managers, in moments of stress, characterised further as 'luddite'". The 'power' associated with this mode of expression can be observed not merely because it conveys positive connotations to the developers' conduct without explicitly stating it, but also because of its easy application in discourse and the range of circumstances to which it can apply. Thus, the conflation of capital serves as a mode of expression through which the capital appropriate to particular contexts of interaction are conveyed the appearance of universal legitimacy within a range of contexts. At the least, this provides developers with a sense of their own authority to act when challenged by a range of interest groups, and in different social contexts. The point here is that it is more difficult to challenge 'efficiency', and 'progress' than blatant profit-creation.

A useful summary to the previous two sections is that identity is a significant ideological resource for all developers, contributing to a developer's survival, profit-creation, and the completion of particular development projects. In one sense, identity is a defensive discourse of self-legitimation, and this aspect of developers' ideology appears related to an expectation of general hostility and skepticism toward developers. Developers' identity also reflects their associations with the business community, and the dominant motives of achieving profit, and maintaining survival. Here, a common identity is formulated primarily around the language and ideology of (development) capital. This later point (and to a lesser extent, the first) appear to affirm Hawken's theorisation (1987:19) that being in business is not about making money, but rather is a way of 'becoming who you are'. Hawken's claim is misleading however because it assigns a primacy to one aspect over the other, whereas it is more useful to claim that both identity, and the accumulation of capital, exist in a state of continuity and mutual dependency.

However, Hawken's claim is also useful because it focuses attention on the dominant groups (or 'community') of interest with which developers create their identity. The claim here is that identity provides an indication of the power relationships between groups characteristic of contemporary society. This chapter highlights the manner in which the identity of a developer is constructed and accumulated from the interactions with the 'community of interest' (a group of agents with some shared sense of values) to which developers are more inclined, that is, the community that comprises their business dealings (the business and development community, and, in a related sense, consumers). It is these 'communities of interest' which provide developers with the symbolic authority to pursue their development ambitions, and it is primarily with this community that developers construct and accumulate a shared identity (and through which they foster a sense of belonging). In contrast, 'neighbourhood community's' are generally relegated the role of the 'other' - serving the symbolic function of reaffirming the authority that is perceived to derive from the developer's 'cultural' associations with the business and development community, and justifying the domination of the 'neighbourhood community' by the developer (and therefore implicitly, by the development community).

It is also clear that developers' 'identity' is chameleon-like: developers portray themselves differently as they interact with different groups of people. This became apparent as developers discussed the dilemmas in the way they presented themselves to Council Officers: "*A lot of Council Officers think that the developer can gold plate everything, and that's often not correct..., certainly it's not advantageous to the developer to be presented this way...*" (Ireland,15). What is particularly interesting about this statement is that it almost represents the antithesis of the type of identity that developers promote for themselves within the business community (i.e. greater capital is a symbol of credibility, security, and success). In addition, identity should also be distinguished on the basis of those forms of identity that are displayed and expressed to other people and groups (the legitimate 'relationship', justified in terms of shared beliefs, regulated according to understood conventions, and confirmed through the expression of consent), and, those forms of identity that exist as unpublicised legitimations that reconcile the consciousness of developers.

### **Concluding Reflections**

In conclusion, it is useful to take a step back from the specific examination of the ideology characteristic of developers and to reflect on the suggestion that we study ideology not to find out why a given person engaged in a particular act, or why other agents act in such a way that conveys legitimacy to a developer's actions, but to learn about the kinds of justifications for action that are legitimised in a society at a given time (Mills,1984:13-20).

When the Chapter is reviewed in this light, one overriding aspect of developers' ideology is revealing. This is the degree of similarity in the construction and content of

'developer's ideology' with the ideology expressed within a range of social circumstances characteristic of capitalistic enterprises (see ethnographic collections from Dilley, 1992, or Carrier, 1997). It is impossible to summarise the shared ideology characteristic of capitalistic enterprises in an entirely comprehensive fashion. However, Carrier's summary of his collection is equally appropriate for this chapter, claiming that, "for individuals, winners are autonomous, rational, and calculating: losers are dependent, muddled and cannot defer gratification...such a view not only justifies the success of the winners, it also motivates (or at least legitimates) policies that weaken the position of the individuals who are losers)...For organisations on the other hand, winners shape themselves to market demands and keep up to date, losers think that all they have to do is build a better mousetrap and wait for the world to beat a path to their door" (1997:28). Such similarities tend to reaffirm the notion that "The shape of talk found in a specific site thus reflects the context-sensitive (and thus particularised) application of a more general, context-free (and thus anonymous) interactional mechanism" (Boden, Zimmerman, 1991:8). It is also prudent to suggest that there is much potential in the ethnological task of formulating models for our understanding of the contemporary global condition that are based in deeply empirical and ethnographical data.

## Conclusion

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This research presents a substantial body of descriptive material that, in most respects, defies summation without substantive references to the text. Neither is the interpretative process adopted throughout this thesis sympathetic to a predetermined completion. Indeed, it is the exhaustion of the ethnographer rather than the exhaustion of ethnographic information which determines the production of ethnography. Geertz's writings to this effect are reassuring: "Every serious cultural analysis starts from a sheer beginning and ends where it manages to get before exhausting its intellectual impulse. Previously discarded facts are mobilised, previously developed concepts used, previously formulated hypotheses tried out; but the movement is not from already proven theorems to newly proven ones; it is from the awkward fumbling for the most elementary understanding to a supported claim that one has achieved that and surpassed it. A study is an advance if it is more incisive - whatever that may mean - than those that preceded it; but it less stands on their shoulders than, challenged and challenging, runs by their side" (Geertz,1973:25), adding that "...Nor have I gotten anywhere near to the bottom of anything I have ever written about...Cultural analysis is intrinsically incomplete. And worst than that, the more deeply it goes the less complete it is" (Geertz,1973:29).

In a general sense the thesis offers both an insight into the actions and ideology characteristic of developers, and, a perspective on the contemporary development process and the construction of the built form. The research is useful in understanding the role that developers play at the nexus of the wider real estate market. There is also rich material here for the social critic.

Particularly I am concerned that the research contributes to a growing body of ethnographic material exploring domains relatively neglected in anthropology, and that, as a body of work, has accepted the challenge defined implicitly by Roseberry (1997:259): "anthropologists.....have accepted Market ideology for recognisably market situations at face value. They therefore have no critical intellectual tools with which to argue against the bizarre and frightening fantasies and politics of the anarcho-capitalists or policy-makers who wish to reduce social and political questions to a cost-benefit calculus". Roseberry, I think, identifies what is actually a concern stemming from a much wider academic paradigm. This concern is the general conceptual separation of the notions of 'business', 'culture', and 'society' (Deeks,1993:20), perpetuated by the segregation of academic disciplines in political economy, business studies, sociology, and anthropology.

The central critical tool for anthropology (although often unrecognised as such by anthropologists themselves, and assumed as such by colonial powers for example) has traditionally been the conceptual notion of 'culture', yet anthropologists have been wary

of imposing themselves onto the traditional concerns of political economy and business studies. Also, if anthropology has been committed to the description of the everyday and the taken-for-granted, then it has compensated with the examination of the 'exotic', the 'different', and the 'isolated', rather than those forms of life characteristic of 'modern (Western) society'. The notion of 'culture' has also proven enigmatic. Kluckholm and Kroeber (1952), for example, have catalogued 164 definitions of 'culture', and then added their own. For anthropology however, and where other disciplines have borrowed the notion of 'culture', this ambiguity has possibly been its most attractive feature, and it is typically the least discriminate definitions that prove most felicitous.

The disciplines of political economy and business studies have generally disregarded 'culture' as a useful notion. Indeed, both Adam Smith, and Karl Marx assumed that the inevitable evolution of capitalism was founded in the *natural* scheme of human existence. It is characteristic of these disciplines to regard business practice as possessing its own internal logic, and to regard other aspects of social life as impinging on this logic (i.e. it is always 'business *and* society', or the relationship *between* 'business and society', 'business and the environment', 'business and social responsibility'). In some respects these assumptions have been compounded by the 'collapse of the Communist States', and the globalisation of capitalist relations of production. Fukuyama's (1992) 'End of Ideology' thesis is a good example, symptomatic of the political and academic trend to reduce global capitalism to a state of 'inevitable nature', while Individual Rational Choice Theory has emerged as a conceptual tool sympathetic to this general view. Other theorists (Bloch and Parry, 1989) however, predict that this political and economic collapse will lead to a search for greater analytical and critical mechanisms to characterise global finance and production.

In general this confusion has led to something of a political and conceptual void in which to address the question as to whether there is a useful theoretical framework to interpret the results of this research, and (by way of example from my own particular concerns) that might be applied constructively to the concerns over public participation precipitating this thesis.

### Developers and Culture

The quintessential aspect of the notion of 'culture' as a conceptual tool is that it seeks to explain *collective patterns* of action and ideology. Indeed, it is this aspect of the notion that is most consistent among diverse definitions, and, where Rational Choice Theory creates only confusion. 'Culture' is the most appropriate and useful conceptual term for the *patterns of action and ideology shared by developers* that this thesis explicates.

A particular conceptualisation of culture compatible with this research is that supplied by Geertz (1973). Geertz moves beyond the post-modern obsession with the eclectic and fragmented, and responds to the questions of consequentiality posed by

ethnomethodology (Boden, Zimmerman, 1991), by rendering ethnography as a process of interpretation: “(the investigation of culture is) not an experimental science in search of law, but an interpretative one in search of meaning. It is explication I am after, construing social expressions on their surface enigmatical” (Geertz, 1973:5). The methodological process employed throughout this research has indeed been a process of increasingly informed interpretation, involving the explication of shared patterns of meaning, not just *what matters*, but *what matters for a developer*. Another basic, but useful and compatible elucidation of the notion of ‘culture’, in terms of *what the anthropologist is looking for*, is that supplied by Deeks (1993:13-15), who defines the notion in terms of ‘symboling’, ‘language’, and ‘ideology’. Deeks claims that cultures attach meanings to actions and objects that *to outsiders* are not readily apparent from the behaviours and objects themselves. By this simple claim, Deeks reinforces the notion that human beings necessarily ‘see’ the world through cultural lenses. Language is the primary vehicle for communication and it is through this medium that the intrinsic associations and connotations attached to objects and actions are communicated. The aspect of symboling also depends on some system of beliefs, an ideological component to culture, so that the meanings provided to objects and actions make sense. In my view, both Deeks and Geertz provide conceptualisations of ‘culture’ that are compatible with the jointly held ideologies, forms of language, and mutual understandings of developers.

I have been concerned throughout this thesis not to predetermine or reduce the role of agency (particularly the role of the developer) from the study of development. I am also particularly concerned, like a number of cultural analysts (Douglas, 1989) not to present ‘culture’ as something imposed on individuals from ‘outside’. This concern has led to innumerable definitions of culture: from Hofstede (1980:25), that “culture...is the collective programming of the mind”, or; from Spindler (1977:4), that culture is “the shared designs for living”, “the shared models people carry in their minds for perceiving, relating to, and interpreting the world”. It is Geertz, again, who moves the concept of culture from the unresolvable issue of control and being controlled. Geertz moves the concept to a more useful paradigm, claiming that “...culture is not a power, something to which social events, behaviours, institutions, or processes can be causally attributed; it is a context, something within which they can be intelligibly - that is, thickly - described” (Geertz, 1973:14). A subtle, yet important, distinction in this conceptualisation is that culture is not something that explains individuals actions, but something with which useful explanation can be provided.

What I cannot do is to represent these *patterns of action and ideology shared by developers* in an absolute, functional, or necessarily cohesive sense. Again I draw on Geertz: “Nothing has done more...to discredit cultural analysis than the construction of impeccable depictions of formal order in whose actual existence nobody can quite believe” (Geertz, 1973:18), adding that “The force of our interpretations cannot rest, as they are now so often made to do on the tightness with which they hold together, or the assurance with which they are argued” (Geertz, 1973:18). If the interpretation of culture is

the explication of meaning it is clear that some aspects of symboling, language, and ideology are more important *to developers* than other aspects. If culture is a context for understanding then it has a collective node and an infinite periphery that extends to the relatively meaningless *for developers*. If ethnography is a search for meaning, then four ideas are *most* central to this cultural node. These are the ideas of the exigency of completing developments, making profit, maintaining sustainability and survival in the development industry, and controlling risk.

It can also be observed that these four ideas are those 'social rules' (in the sense meant by Giddens, 1984) most significant to all developers. Giddens' theorisations enhance the notion of culture employed here. Particularly, this is because Giddens draws attention to the manner in which 'rules' have two aspects: they relate both to the constitution of meaning, and; to the sanctioning of modes of social conduct. This has been apparent throughout this thesis. For example, profit (as with 'completion' and 'survival') is a way of perceiving and acting in the world, but it is also a way of legitimating conduct, expressed in many ways: that 'profit is a natural human desire'; that 'profit is good for the City', or; that 'profit is a primary symbol of personal/professional success'. Giddens draws attention to the symbiotic relationship between action, ideology, and social conditions, and thus, the tendency for dominant cultural patterns to become repeated: that the social legitimacy of rules are reaffirmed in the performance of actions, which those rules can be seen to 'direct'.

Both Giddens and Geertz implicitly critique one of the most alarming aspects of much traditional anthropology, that is, the general failure to recognise change as a fundamental aspect of *all* cultures. This has been particularly absurd because the notion of 'culture' provides so many ways of envisaging change: as a process of evolution; acculturation, or; diffusion. The notion of 'culture' is a particularly constructive conceptual tool because it provides a way of predicting and stimulating change. However, this is an aspect of cultural analysis on the verge of mainstream anthropology, associated more with applied anthropology, and with cultural analysis in schools and prisons for example.

Often the failure to recognise that culture exists in a perpetual state of change stems from the elimination of socio-historical context in ethnography. Anthropologists have assumed social organisation as a consequence of locality, or the isolation of a distinct community. It is more difficult to succumb to these tendencies with the ethnography of developers. Firstly, this is because 'developers' are not easily isolated, and, secondly, to define 'developers' as a cohesive group is not necessarily appropriate given that a developer's interactions with other developers are often minimal in comparison to, or inseparable from, their interactions with a range of other agents. Cultural analysis necessarily requires some explication of this social context so as to explain *why* it is *these* ideas, symboling, or 'social rules' that are most significant to the way developers organise and legitimate their social conduct.

Both the notions of 'culture' and 'social organisation' provide important insights into the development process, yet they are most useful when regarded as in a complementary relationship of interdependence rather than, as Marx and Althusser have assumed, that culture is dependent on, or reducible to this mode of social organisation. Like Douglas (1987:13) I perceive the relationship between culture and other aspects of society and nature as more intricate and interdependent. Culture evolves through public expression, and as a means of coherency in social relationships then it makes sense to say that a group's ideology, language, and symboling will be a reflection on these relationships. Yet it is also reasonable to suggest that, as culture provides the mechanisms for interpretation and communication, then established patterns of ideology and symboling will posit limitations on the manner in which developers are inclined to communicate and interpret the world. This latter point is better expressed by Ross and Heap (1992:8): "In a word, it is 'culture' that provides us with reasons for preferring one convention to another, and in this way culture makes its own contribution to shaping social institutions". This general notion implies a tendency for perpetuation of existing culture and social organisation, or, at least, that if culture evolves as public expression and in communication, then it is those relationships of most frequent interaction that will have the greatest impact on the evolution of culture. Neither is it difficult to regard the continuous process of 'becoming a developer' (and particularly a 'recognised developer') as a process of acculturation, or, at least, that there is considerable pressure for budding developers to participate in established forms of social organisation, and established cultural forms.

### Developers and Social Organisation

Like the notion of 'culture', the explication of what constitutes social organisation *for developers* comprises a series of social structures and social institutions that are *more* significant than others, and with which developers interact with more frequently than others. This relative significance extends to a periphery of interactive social institutions and social structures that have decreasing significance *for developers*.

If developers are the nexus of the mode of social organisation responsible for the construction of the built form, then chapter two provides a model of the prioritised social relations involved in this organisation. It is those social structures and social institutions representative of land (the land market), finance (the finance market), competition from other developers, related professionals (the wider real-estate industry), demand (the consumer market), and (from chapter three) the regulatory procedure, that are *most* responsible for the production of the built form. This is not surprising. Most neoMarxist, and neoclassical approaches take these social institutions as a starting point for analysis.

This research casts some doubt over two of these predominant institutional relationships. The first is the 'relationship' with consumers. While the idea of 'consumer demand' (Chapter five) is a common claim to legitimacy, it could also be concluded (from Chapter

two) that there is very little empirical basis to the notion of 'market equilibrium' between supply and demand, and, that the popular notion of 'consumer sovereignty' (Friedman, 1980) is a falsity. Indeed, the significance of the 'consumer', particularly in speculative development, reflects more on the significance of alternate relationships. By this I mean that, firstly, 'consumer demand' is a *perception* that often reflects the dominant values of the developer, of the wider investment market, and of related professionals, such as security of investment in development, and, secondly, that the notion of 'consumer demand' becomes entangled in concepts such as 'the marketing package', which are distorted by the need to sell product, and primarily involve relationships with Real-Estate agents and marketing professionals.

It is also clear that the Regulatory Institution occupies a contradictory position in development culture. While the relationship between developers and regulatory agents is enforced by law, and while developers also depend on the authority of the law to achieve their aims, it is reasonable to conclude that cultural ideas (particularly the degradation of 'the personal', and 'the political') posit limitations on the *type* of relationship that developers have with the regulatory institution. These contradictions are also apparent from the examination of the regulatory institution itself, resembling what Jurgen Habermas (1954) described as the 'crisis of legitimation' inherent to the modern capitalist state.

The upshot of this discussion is that, in general, developers most significant interactions occur within a primary set of social institutions and social structures that are most accurately characterised as 'business institutions', and it is primarily this set of social institutions that determine the constitution of the built form. Not surprisingly, a similar perspective is represented by the neoMarxist notion of 'The Growth Machine' (Logan and Molotch, 1987): "The City is called the Growth Machine and the growth coalition is comprised of those actors who attempt to create the growth" (Hall and Hall, 1995:34). However, an underestimated aspect of the fact that it is these social institutions that are most significant *to developers* is that it is within this set of social institutions that developers interact with other agents most, and, therefore, it is primarily within this set of institutionally arranged interactions that 'development culture' evolves.

### The Development/Business Community

A useful way to examine the interdependency of culture and social organisation is to characterise the dominance of the 'business' relationships identified above in terms of both social organisation, and 'cultural community'. This signals my divergence from the neoMarxist perspective, because, based on the results of this research, a wide range of cultural mechanisms serve to maintain this 'business community' (and therefore, the dominant mode of social organisation for the development process). Chapter five, in particular, illustrates the cultural construction of identity in terms of this business community, a shared sense of community membership established through the accepted

'rites of passage' of accumulated experience, reputation, and resources. It is also this 'business community' with which developers are most concerned about 'public image' and reputation. Most explicitly, this community affiliation is evident in expressions of expected mutual understanding and acknowledgement: "*business people...they understand all the day to day hassles...*" (Booth,7), or that "*commercial [enterprises] are more informed [making the job easier]...*" (Farrow,7). It is reasonable also to suggest that developers share a detailed sense of common purpose and history. The primacy of the business community to the social organisation of the development process, reinforces the tendency for developers to be active agents in the reproduction of 'business culture'. It might also be stated that this 'business culture' enables developers to conduct these business relationships effectively, with cohesion and a greater degree of mutual understanding and benefit *for this community*.

In essence, this 'business community' forms a 'sub-group' within society. One of the features of this 'business community' is that it is constituted by both "those profit-seeking organisations that are set up to provide a product or a service, together with those institutions funded by such profit seeking organisations to represent their interests" (Deeks,1993:9). The 'business community' then is easily represented as both an organisational structure, supplying 'rules of meaning', and as a political movement, supplying 'rules of sanctioning modes of conduct', although this distinction is often blurred. This duality is important because: group membership is maintained by a series of sanctions, or rewards and benefits bestowed on individuals as a consequence of group membership, and; also because it is this community that supplies the terms and ideas on which developers draw in maintaining their position of power. There are two interesting implications to this general discussion. The first, is that it represents a challenge to the solely individualist assumptions made of 'culture' in capitalist societies where "rank and group count for nothing" (Ross and Heap,1992:12). The second, is that the notion of 'business culture and community' has particular relevance to the question of public participation in the development process.

#### Public Participation and Development

Despite its usefulness, the notion of development/business culture is absent from the general discourse of public participation in development. Generally, the discourse is short on criticism. Ambrose and Colenutt's (1973) critique of *The Property Machine* is a notable exception, though it is limited in its attempt to define the property industry in strictly Marxist terms. A significant claim of *The Property Machine* is that the essential and inevitable conflict of capitalist development (defined in various ways: between rent and wages; capital and labour; the business community and low-income residents) is obscured by various means, including censorship (1973:161). However, Ambrose and Colenutt's critique is symptomatic of the basic, but mistaken, paradigm that 'business' is a discrete entity separate from 'society' and 'culture', and that social explanation is best framed in terms of the forces that periodically impinge on business/development

decisions. There are three dominant themes which characterise the general discourse of public participation, each a consequence of the above paradigm. The first, is that this paradigm tends to manifest a pro-growth perspective, implicit in much of the current literature (a perception reiterated by Barlow, 1995). Secondly, most research and literature takes, as its primary subject, those neighbours imposing on, or resisting, the development process (see Introduction). This focus is implicitly reinforced because many of the best contributions involve specific case studies which have a tendency to associate the specificities of place with the residents of that area (i.e. Spiegel's collection, 1969); Thirdly, much of the literature concerned with public participation stems from a planning perspective, and its focus is often rather narrowly aimed at regulatory officials, and is largely concerned with the implications of bureaucratic interference (i.e. DeGroves' collection, 1991). An associated stream of material is oriented at the development industry (i.e. Stein, 1992), designed to educate developers on measures to maximise the effectiveness of public participation for their own advantage. Ironically, it appears that very little attempt has been made to specifically address a public audience.

A general conclusion of this thesis is that neighbours are peripheral to the development process, and that the involvement of neighbours in contemporary development is entirely a function of political intervention and regulatory requirement. In effect this resembles an assumption typical of neoMarxist approaches. Harvey (1972) in particular has employed Marx's notion of '*alienation*' as explanation for the inevitable exclusion of neighbours from the development process. My own divergence from this Marxist paradigm is the notion that the exercise of power involves the symbiotic relationship between action and ideology, and, where shared patterns are apparent, between culture and social organisation. As social explanation, the notion of 'development/business culture' adds significantly to the general discourse of public participation.

In a general way, the explication of 'development culture' is necessary for moving development conflict beyond the generalistic dichotomies in which it is often couched: 'social versus economic', 'moral versus immoral', 'enterprise versus dependency', 'change or progress versus stability or stagnation' (see also Uyl 1984:1-7 on the counterproductive dichotomies surrounding the corporate social responsibility debate). However 'true', 'untrue', or appropriate these stereotypes prove to be in particular conflicts, they are usually, as Council Officers pointed out throughout this research, unhelpful and often counterproductive.

One of the most alarming aspects of the absence of the notion of 'development culture' from the general discourse of public participation is that much of the negative community posture apparent in LULU (Locally Unwanted Land Use), NIMBY, and 'Stymie' controversies becomes attributed to resistance to change, apprehension, and outrage on the part of neighbours, with minimal reference to 'development culture' and existing social arrangements. It is also reasonable to suggest, based on the results of this thesis, that such behaviour reflects not only the absence of a means for effective communication

with developers, and the absence of a means for neighbours to exercise power constructively, but, also, that a general sense of exclusion is exacerbated by cultural 'barriers' (in the form of stereotypes, prejudiced generalisations) to effective participation in the development process. These factors are significantly understated in the discourse of public participation.

A distinct advantage in the perspective that ideology, symbolising, language are mechanisms of power that serve in maintaining existing power relations between neighbours and developers (rather than merely the consequence of these power relations) is that it provides the conceptual apparatus to envisage change as a process of cultural evolution, rather than revolution of social organisation. It is the ethnographic process - of rendering explicit that which is implicit, assumed, unacknowledged, of making tangible that which is vague and elusive, of bringing the undiscussed into discussion, and of destroying self-evident practicality, or, as Bourdieu (1977:168) suggests, bringing what is undiscussed into the universe of discourse, and hence criticism, impelling the dominant agent or group to step out of their silence and to produce a defensive discourse of 'orthodoxy' - which underscores counterhegemonic struggle. If we could find a developer to read it, the thesis provides a tangible basis for self-critique: Cultural change is best stimulated from within the industry, and from those that practice (and thus constitute) - consciously or unconsciously - the cultural forms this thesis explicates.

To better explain the power relationship between developers and neighbours it is necessary to extend the notion of 'business culture'.

### Social Legitimacy and the Development Process

An explanation of the hegemonic relationship between developers and neighbours is contingent on the social legitimacy of the contemporary development process. For my part, I see Marx's paradigmatic notion of 'false consciousness' as unsatisfactory, and propose that the social legitimacy of power is best explained at the *intersections of interaction and ideology*. This opens up the explanation of the developer-neighbour power relationship, and allows for explanations of social legitimacy that do not depend on the duping of social actors. An important point for this approach is that the 'acceptance' of a developer-neighbour relationship is not necessarily a consequence of 'voluntary' agreement, but is a consequence of the actions (or lack of action) that publicly express consent to those circumstances. These are important because they 'confer' legitimacy on the developer, not because they provide evidence about people's beliefs. What is most important about these circumstances is the interpretation by the developer, and that this interpretation is 'powerful' because it reaffirms, for developers, the legitimacy and functionality of existing power relations. At a general level this theorisation highlights the self-confirmatory cycle at work between social arrangements of power, and the process of their legitimation.

A related general explanation for the stability of the existing social order is that it is maintained not by a 'dominant ideology', but rather by a lack of consensus at the very point where oppositional attitudes could be translated into political action (Thompson, 1984:63). This is a particularly appropriate proposition in relation to the development process, of which it is apparent that oppositional attitudes do not necessarily generate a coherent alternative view which would provide a basis for political action. Often, neighbourhood conflict is quickly tempered by a sense of resignation or inevitability, and by conservative values.

The notion of 'business culture' is a useful mechanism to explore how the sort of ideas that developers draw on, in maintaining existing power relations, are dissimulated throughout wider society, and provide a veneer of public acceptability to contemporary development processes. In one sense, the social conditions for this public acceptability are maintained by the 'asserted ideology' of prominent individuals, business people, including the developers interviewed in this research, and politicians, and that these expressions become a part of dominant discourse simply by their repeated verbal expression among the general populous (Bloch, 1990:237). In another related sense, and as Deeks (1993) argues, the notion of business culture is appropriate in an extended - national, and even international - sense, and that this characterisation depends on the analysis of the social institutions which structure and inform our everyday lives. Deeks defends this extended meaning of 'business culture' through six perspectives: "First, that business institutions and organisations were the most powerful and influential in the society. Second, that the positions of highest social status and prestige in the society were dominated by business men and women or their representatives, and that key economic, social, and political roles, were allocated to, or acquired by, this business class. Third, that business had a dominant role to play in the process of socialisation, both in education and in the acquisition of skills and experience. Fourth, that the principal media of socialisation and enculturation -that is, the media through which social and cultural values were communicated and reinforced - were under business control. Fifth, that business organisations were primarily responsible for the development, utilisation and diffusion of new technologies. Finally, that business symbols, business language, business beliefs and business ideologies pervaded all aspects of the culture, material, intellectual, and spiritual" (Deeks, 1993:20/21). It is reasonable to speculate that the pervasiveness of business values and ideology into such a range of dominant institutions, which undoubtably inform and structure our everyday lives, has some effect in weakening the resolve to oppose the actions and ideology characteristic of business practice. Primarily however, it is within the regulatory institution where neighbour-developer conflict is played out.

## The Regulatory Procedure

A bold, but not unreasonable conclusion based on the results of this research, is that the cultural evolution within the regulatory institution, that is, the values, forms of ideology and language, and the symbolic recognition of actions and objects, is increasingly inclined toward those cultural forms characteristic of the culture of developers, and the business community. To some extent this is explored in chapter five with reference to dominant forms of language and ideology characteristic of regulatory interaction. The outcome of chapter three is that the regulatory institution provides greater potential opportunity to participate for development and business interests endowed with sufficient resources. As with development/business culture, the consequences of this cultural evolution is, I suggest, the increasing marginalisation of neighbours from effective participation in development decision-making.

The question as to why these changes are occurring can be answered with reference to processes of evolution and revolution, including: the 'momentum' of cultural change based on existing social conditions; the 'asserted ideology' of powerful business elite (Bloch, 1990:237), and; the interrelated ideologies of various Counsellors and Council staff and the fact that they are increasingly dependent on a market system of organisation. However, one of the most ostensible impacts on regulatory direction are those imposed from Central Government, particularly the Local Government Act. The consequences of these legislative changes amount to a process of cultural imposition or acculturation, requiring Council to reorient values and objects, and to redefine language and ideology in a manner more compatible with the business community, and the cultural forms characteristic of this community.

Regardless of the imposition of business culture, political intervention remains the most effective and salutary mechanism for public participation in development, although the research also reaffirms the potential dangers of the 'illusion of public participation', and the reality that mandating citizen participation in social legislation does not automatically guarantee significant involvement and effective commitment.

## Public Participation and the Future

Two proposed legislative changes are particularly alarming given the general results of this thesis. These were outlined in Chapter one, and are: the proposal to introduce a Limited Notification Procedure, and; the moves to privatise the regulatory function. A reasonable speculation is that this latter move would displace the development process even further in the business community, subjecting the process of development even more to the cultural forms associated with this community, and effectively rendering the interests of neighbours even more peripheral. The former proposal is also contrary. It makes more sense to increase the potential for communication between developers and

neighbours, and thus to stimulate the development of the means for communication and compromise between developers and neighbours, although it is also sensible to suggest that this communication involve a mediating influence such as the City Council.

Given the significance of these changes it may well be that alternative mechanisms for the facilitation of effective participation are required. One possibility is the establishment of neighbourhood organisations that maintain a long term interest in the development and planning of the community. Certainly there are additional considerations for this proposal, particularly the desire for, and commitment to, such organisations. And these concerns are linked to the wider social system - Gottdiener (1985:272), and Wellman et al (1983:63), for example, theorise that an inevitable consequence of capitalistic development is the erosion of a sense of community. A second possibility is the development of sufficiently resourced agencies, designed to represent neighbourhood interests, although independent from regulatory decision-makers. Such institutions seem to be the most constructive possibilities in balancing what is a growing void in development decision-making. This research provides information with which such organisations might assert themselves in the process of development.

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