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Evaluating ethics in planning:
A heuristic framework for a just city

A thesis presented for partial fulfilment
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Abstract

Many urban planners are engaged with the idea that cities should be 'Just': that is, planning should facilitate good outcomes for the people who choose to live and work in cities, particularly the least advantaged. The concept of a just city is an evolving planning paradigm which focuses on the needs of the least advantaged. This thesis revisits existing ideas of what constitutes a just city and explores why planners should care about the effects of ethics on its realisation. It extends conceptual understandings of what constitutes a 'just city', through a focus on care ethics and kindness. Then, by developing and applying the Just City Plan Evaluation Approach (JCPEA), it presents a heuristic framework to surface embedded ethics invoked in planning policy.

Ethics in urban planning have not been systematically considered in practice for decades. This inattention can be partially attributed to the distancing of planners from their role as public interest advocates, the multiplicity of competing views about what ethics should or could inform planning policy, and the lack of a systematic, formal approach to evaluate them. Yet normative views of what constitutes right and wrong are central to theoretical debates about planning and are used to inform arguments for or against policy. For decades, ethics of justice have dominated these debates. However, increasing calls for virtue ethics to complement justice ethics present an opportunity for the planning profession to reimagine its role as advocates for the public interest.

The JCPEA is based on a theoretical understanding of: (a) theories of justice (b) care ethics, and (c) Fainstein's concept of the just city and her three just city principles (equity, diversity, and democracy). It enables ethical arguments in planning discourse to be evaluated against four criteria – extent, focus, merit, and power, using both political discourse analysis and a Foucauldian-type discourse analysis. The application of this dual-method approach, to a suite of planning documents from Auckland, New Zealand, proved useful in identifying and evaluating ethics and power in planning. The current intention to replace the Resource Management Act 1991, provides an opportune time to begin a conversation about ethics in plans, to focus on particular ethics, to address the silences, ruptures, and subsequent power imbalances in planning discourse, and to take steps not just towards the realisation of just city ethics and principles in practice, but also to reflect on planning more broadly.

Drawing on and extending existing just city narratives, this thesis posits kindness, a practical response to the needs of others, as a principle to invoke in planning policy. This principle of kindness is grounded in an ethic of care, but also sits within an emerging post-secular and intersectional approach to address injustice. It is an ethic that was first signaled by New Zealand Prime Minister Ardern in a speech to the UN General Assembly in 2018, when she called for 'kindness' as a means of pursuing peace, prosperity, and fairness, and which subsequently became part of the New Zealand response to the Covid-19 pandemic. Invoking kindness represents a step-change in ethics informing government policy and was a signal to the world that there is another way of governing. It is also an ethic that lends itself to planning practice. This thesis argues that exposing and discussing the ethical basis of planning discourse using this heuristic framework provides the means to give agency to planners to act as non-neutral arbiters of the public interest, and as parrhesiastes focussing on the needs of the least advantaged.

In loving memory of Archie McIntyre (1935-2018) and Iain McIntyre (1967-2012)

May the road rise up to meet you.

May the wind always be at your back.

May the sun shine warm upon your face,
and rains fall soft upon your fields.

And until we meet again,

May God hold you in the palm of His hand.

(Traditional Irish Blessing)

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Whatever you can do, or dream you can, begin it;

Boldness has genius, power, and magic in it.

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Chapter One: Introduction

1.1 Justice, Ethics, and Planning

Planners have a central role in the organisation of cities. Spatial and land use plans are written to influence outcomes on the ground, and interventions are expected to contribute to the realisation of better future outcomes for communities and the environment (Campbell et al., 2014; Hoch, 2002). Central to the development of urban policy is considering when social concerns necessitate such interventions, which in turn raises questions of ethics and normative views of what is right or good (Alexander, 1986; Healey, 1994; Moroni, 2019; Wachs, 2013). The idea of both justice and virtue ethics informing urban policy resonates with the concept of a just city, an evolving planning paradigm which Fainstein (2005b) considers to be the “appropriate object of planning” (p. 126). However, the concept of a just city generally, Fainstein’s concept specifically (the just city), and the role of the planner in realising it, invite further consideration.

Seeking a ‘just city’ has been attributed to various philosophers dating back to Socrates in ancient Greece. Plato recorded that his teacher, Socrates, asked ‘what is justice?’ (as cited in Carlton, 2006, p. 41). With prescience, given the tensions that exist in modern cities, Plato suggested that justice “in its most general sense” is the most important virtue for humans “living together in ever-larger communities, cities, and nation-states” (as cited in Solomon & Murphy, 1990, p. 3). Since then, multiple other philosophers have presented views on what justice is. Drawing on some of these theories, Fainstein (2005b, p. 126), posits a concept of the just city in which she identifies guiding principles to move cities closer to being just. She is a leading just city scholar, and was awarded the ASCP Davidoff Book Award in 2011 for her book *The Just City*, in which she suggests principles of democracy, diversity and equity should inform urban decision making (Harvard University Graduate School of Design, 2019). Her concept of what constitutes the just city is being mobilised by planning researchers and scholars globally (further discussed in Chapter Four).

At various times over the past century different conceptions of justice have been invoked in urban planning. For example, for much of the 20th century, utilitarianism (a theory that prioritises public goods over private concerns) was the primary rule to inform and evaluate

public policy, including land use planning (Low & Gleeson, 1998). Since the 1980s there has been a libertarian turn in planning practice and theory with its focus on property rights rather than development control, which Pearce (1981), with some foresight, suggested might “attract a great deal of support in the future” (p. 5). Ethics of justice have long dominated policy discussions in Western politics (Botes, 1998; Fainstein, 2010; Tronto, 1995). Fainstein makes a distinction between a good city and a just city, stating: “I am not tackling a theory of the good city [emphasis added], one that would go beyond justice to create the conditions for human flourishing” (2010, p. 5). In Chapter Four, I suggest Fainstein’s focus on justice ethics made developing her just city concept manageable. While it is a deliberate exclusion on Fainstein’s part, in terms of my argument, it highlights a gap in the general concept of a just city.

As an adjective, the word *just* stems from the Latin word *iustus* meaning “lawful, legitimate, rightful, deserved, fair, impartial, in accordance with justice, equitable, justified, valid, prescribed or appointed, proper, correct” (“Oxford English Dictionary,” n.d.). When used in relation to a place, the origin of its meaning referred to being “consonant with principles of moral right, of equity, or of divine law” (“Oxford English Dictionary,” n.d.). This suggests that if a just city is to be the object of planning, decision-making should tackle the good as well as the just, and decisions will require an understanding of what is morally right. In this thesis, I develop and apply an evaluative framework to systematically assess ethics in planning discourse. Then, using an extended conceptual understanding of a just city, I argue that the realisation of a just city relies on both virtue and justice ethics.

1.2 Positionality Statement

In the early 2000s I returned to New Zealand from my “OE”, my overseas experience, working as a planner and living in London, England. I flew into Auckland International Airport and was struck by the view out my window of urban buildings and roads stretching right across the isthmus. The low-density suburban fabric was pierced by green volcanic cones and punctuated by green recreation zones. The coastline naturally constrained the urban expansion east and west, but the urban limits north and south were less distinct. After landing, I noticed distinct concentrations of affluence and deprivation as I traversed a spectrum of residential environments en route to the city centre – quarter-acre sections with early 20th century villas or bungalows, former state houses of the 1950s, infill development, the higher density but still low-rise terraced dwellings and the central city high-rise apartments complete with baby-buggies on the balconies. I wondered who lived where. After several years of living in a densely

populated urban environment, I reflected on the extent to which ethics of any kind were invoked in the urban policy that governed this space and whether such policy could result in outcomes that are fair and just.

On my return to New Zealand, I observed many cities had an increasingly indistinct urban edge, with proliferating peri-urban rural residential properties. The 1990s and early 2000s, was a time when district plans increasingly sought compact cities on the grounds that this was a more sustainable urban form. Concurrently however, there was exponential growth in the number of 'rural-residential' development (which has since been documented; see Andrew and Dymond (2013)). Planning for a compact city appeared to be a contradiction in terms.

Working in London and living in terraced housing grounded my expectations of high-density residential environments and planning for urban growth. My subsequent lived experience of infill development housing (part of the compact city strategy) in Palmerston North, New Zealand, highlighted the potential for wasted open space (i.e. yard sizes that rendered any meaningful use of them futile), a corresponding loss of urban biodiversity (less space for residential vegetation and habitat) due to an increased density of (larger) buildings on smaller lots (potentially without a corresponding increase in density of population), and increased overlooking and loss of privacy. This contrasted with my experience of urban England, where urban densities still managed to achieve residential amenity, and countryside was fiercely protected from development. I began to wonder why.

As a planning practitioner in New Zealand, I felt a growing sense of unease that aspects of planning were viewed by other disciplines as a tick-box exercise under the Resource Management Act 1991 (RMA), New Zealand's primary land use planning legislation, rather than the product of careful, informed, and critical thinking. This concern may have stemmed from my English experience of planning. Despite similarities between the two systems, borne of New Zealand's colonial past and the influence of England's "political, legal and administrative traditions" (Austin et al., 2014, p. 456), I felt the English system had more 'teeth'. The RMA's focus on environmental effects rather than social issues, such as affordable housing, was also a marked difference between the two systems. Planning in New Zealand was also viewed by many practitioners simply as a process. This view likely stemmed from the NZPI's definition of planning in its constitution at that time, which described planning as a "continuing, comprehensive process" (New Zealand Planning Institute, 2015). It led me to question the very purpose of planning. Reading Fainstein's (2010) critique on the focus in planning on process stemming from a communicative planning approach resonated with my thinking, leading me towards this research on ethics in planning and what might constitute a just city.

Understanding a just city required delving into a broad and varied literature. Further reading on the role of ethics in planning and how these in turn shape residential environments corroborated my view that planning could focus on substantive matters rather than process. I became aware of the narrowness of my own application of ethics in planning. Having been primarily exposed in my undergraduate planning degree to utilitarian theory, the view that planners worked to achieve the greatest good for the greatest number dominated my thinking. In hindsight this is not surprising given it also dominated policy development and evaluation internationally for many years (Hendler, 1995; Low & Gleeson, 1998). While the concept of planning a just city appealed, one of my challenges was to engage with political science literature to better understand what might constitute *just*, and how these connected to the planning discipline. It also required engaging with literature from other disciplines including geography, nursing, and sociology as I explored care ethics. Subsequently, this broad literature base led to my qualitative research on the content of urban plans to see if, how and why ethical dimensions matter in planning.

If we had needed a stark reminder of how ethical values impact our lives, we need look no further than various government responses to the COVID-19 pandemic. Internationally Government responses have ranged from the laissez-faire approach of Sweden to the populist approach of the USA, to the more interventionist approaches of China and Taiwan. Each approach demonstrated the manifestation of values in practice and provides a timely reminder that ethical values in political decision-making matter because of their impact on our day-to-day lives.

In New Zealand, the Prime Minister mobilised an idea of kindness in her Government's "go hard, and go early approach" (Labour, n.d.) to eliminate the coronavirus disease. In this Government's response, there are increasing calls for, and signs of, virtue ethics to complement justice ethics. Their Covid-19 messaging in 2020 implored the "team of 5 million" (Ardern, 2020a, 2020b) to "be kind". It is an approach that has largely worked, as demonstrated by praise from the World Health Organisation (Ghebreyesus, 2020), and reflects the Government's ongoing ethical rhetoric of a commitment to community well-being and the pursuit of a fairer, kinder New Zealand.

In a speech to the UN General Assembly in 2018, Prime Minister Ardern called for 'kindness' as a means of pursuing peace, prosperity, and fairness (Ardern, 2018a). Her speech was simple but also powerful and prescient. Prior to Covid-19, this vision had begun to be articulated, for example through the Local Government (Community Well-being) Amendment Act 2019, and the NZ Treasury's Living Standards Framework. The aim is to find ways to inform budget

decisions with values other than those derived primarily from measures of economic growth (Matheson, 2020). This step-change in the ethics informing government policy was a signal to the world that there is another way of governing and is one that lends itself to planning practice.

Tavory and Timmermans (2014) warn of two types of qualitative researchers. The first type draws heavily on detail with little connection back to theory and the other seeks to fit ideas into a predetermined theory. To overcome these faults, they suggest a “double story: one-part empirical observations of a social world, the other part a set of theoretical propositions” (p.2). Hence, my thesis is presented as a double story; it is a thesis of two parts. Following this approach, my personal philosophy of planning (section 2.2.1) evolved by engaging with literature from a multitude of disciplines, and I have increasingly found my voice. Although not yet “fearless” (Grange, 2017), it has shifted from that of neutral third party, to that of an advocate for greater transparency in planning about the ethics that inform plan and favouring ethics that resonate with just city principles.

1.3 The research problem

The consideration of ethics in planning practice is a major challenge for the profession. Planning scholars have been calling for a conversation about the lack of attention paid to ethics in plans for decades (see Campbell, 2012; Harris, 2019; Hendler, 1995; Udy, 1980). Part of this inattention may be attributable to the lack of any systematic process to evaluate ethics in urban policy. Without any accountability incentive, planners are unlikely to pursue complex ethical questions on top of all other workplace demands. It may also be partly attributable to difficulties stemming from the multiplicity of views about what constitutes right/wrong within communities. Even amongst planning ethicists there is no agreement on a single moral position (Hendler, 1995). Yet, the literature suggests a more concerning reason for this inattention; that “planners feel out of their own depth when confronted with the value basis of what they do” (Udy, 1980, p. 176), and that “planners, perhaps academics (especially theorists) more than practitioners, struggle to articulate and converse over matters of ethical substance and value” (Campbell, 2012, p. 394). Despite these reasons, considering the ethical dimensions of plans is an important conversation, not least because the success or failure of urban plans depends on whether they are “silent, ambiguous, or accommodating to alternative ethical positions” (Wachs, 2013, p. 102), and this has implications for the legitimacy of the profession. More importantly, this conversation is necessary at the local government level because of the effect of planning policy on the lived experiences of city residents.

1.4 Situating the research problem

This thesis explores the ideal of a just city and evaluates the ethical dimensions of planning discourse using Auckland as a case study. There has been over a decade of significant change in Auckland. Tangibly, this has included significant urban growth and growing housing unaffordability. Less tangibly was the process of local government reorganisation which saw the disestablishment of all or part of seven territorial local authorities and the creation of Auckland Council, a Unitary Authority, under the Local Government (Auckland Council) Act 2009. This Act also required (for the first time) the development of a spatial plan, the first of which was adopted in 2012 and subsequently revised in 2018. The Local Government (Auckland Transitional Provisions) Amendment Act 2013 introduced a one-off streamlined process to help deliver the first combined plan for Auckland (the Auckland Unitary Plan), which was adopted, in part, in 2016. These transitional provisions saw the introduction of an Independent Hearing Panel, whose role was to hear submissions and make recommendations to the Auckland Council on the proposed plan.

Given the acknowledged inattention to ethics in planning literature, these recent changes present a timely opportunity to evaluate Auckland's planning discourse, to explore whose ethics dominate, and to evaluate the effect it may have on the realisation of a just city. Recognising that planners do not have "the blueprint for a universally better place" (McClymont, 2014, p. 2) my thesis does not set to make a call on which "moral high ground" (Fainstein, 2010, p. 29) is best, or that one ethical dimension is necessarily better than another. Instead, it explores why it is important for planners seeking a just city to consider how different ethical dimensions (both virtue and justice ethics) inform urban plans. In light of forthcoming amendments to the New Zealand planning system it is intended that this case study will offer critical insights into the capacity of urban plans to deliver a just city.

1.5 Research question, aim and objectives

Taking Fainstein's concept of a just city as a starting point, this thesis aims to determine why planners should care about the ethical dimensions of urban plans. It evaluates planning discourse to answer the research question:

Why should planners care about the effects of ethics on the realisation of a just city?

This research has four objectives:

Objective 1: Identify specific substantive conceptions of the just city

This objective is comprised of three parts. First, acknowledging that multiple conceptions of justice may contribute to the ideal of a 'just city' this thesis identified characteristics of five Western theories of justice (see also section 1.6.2). These are theories that *inform* planning, rather than being theories *of* planning (Hendler, 1995). Second, using Fainstein's (2010) concept of the just city as a starting point, and specifically her three just city principles – diversity, democracy and equity, this thesis describes and extends her concept of the just city. Third, building on Fainstein's concept of the just city, this objective seeks to address a gap in the just city literature, in that it does not consider virtue ethics. From this theoretical basis, specific substantive conceptions of a just city formed the basis from which the arguments informing planning discourse were evaluated.

Objective 2: Develop an evaluative model to determine if and how justice or virtue ethics, invoked in urban policy, might affect the realisation of a just city

Following an abductive logic of inquiry and based on a broad and deep theoretical understanding of justice and care ethics, and Fainstein's concept of the just city, the second objective was to develop an evaluative model, the Just City Plan Evaluation Approach (JCPEA), to determine how ethics inform urban policy and how this might affect the realisation of a just city. This particular title for the framework is provisional. It could, equally, be called an Ethics in Planning Evaluation Framework (EPEF) approach.

Evaluation seeks to identify the effectiveness and value of a programme or policy, through a systematic process in order to guide or inform any changes (see Chelimsky, 2006; Clarke & Dawson, 1999; Scriven, 1991). Ideally, according to Fischer (1995), it "provides politicians and citizens with an intelligent basis for discussing and judging conflicting ideas, proposals, and outcomes" (p.2). The JCPEA is intended to be a useful framework for planners to evaluate plan discourse in a systematic and formal way.

Objective 3: Apply the JCPEA to planning discourse using a case study

The third objective of this thesis was to apply the JCPEA to urban policy in a case study of the city of Auckland, New Zealand. The approach was applied to a suite of planning documents and used to explore planning discourse over a six-year period, to develop a deeper understanding of how ethics informs urban plans and if they reflected any "mechanism[s] of social power" (Waitt, 2010, p. 233).

Objective 4: Offer critical insights about the role of planners to articulate and converse over matters of ethical substance and value

Having applied the JCPEA to current planning practice in Auckland, the final objective of this research was to offer critical insights on why planners should be able to articulate and converse over matters of ethical substance and value.

1.6 Research Scope

To address the theoretical complexity of a just city, a topic which traverses literature associated with various theories of justice, virtues ethics, neoliberalism and planning, the scope of my research has necessarily been narrowed to a subset of urban policy and to a selection of western conceptions of justice. Each of these parameters is described more fully below.

1.6.1 Urban Policy Subset – compact city policy in New Zealand as it relates to residential environments

Urban policy addresses problems as far-reaching and different as climate change, heritage, transport, and water allocation. Exploring the ethical dimensions of urban policy across such an expanse of topics would render this thesis impracticable, and this research has necessarily been contained to a subset of urban policy. I have chosen to explore planning discourse relating to compact city policy in Auckland, New Zealand (as it relates to residential environments). This aspect of urban policy is a contested notion, exemplifying the challenges for planners in steering a course towards what ought to be done and why.

Compact city policy is contentious. It is pursued as being what ought to be done in the interests of achieving a sustainable urban form; yet it is also blamed for rising house prices. Policy seeking urban containment and residential intensification has been described as “the shackles that are preventing cities from reaching their potential” (Equb & Equb, 2015, p. 53). As a subset of urban policy, compact city policy presents a useful case study to explore the ethical dimensions of urban plans given the competing opinions about what ought to be done.

1.6.2 Western philosophies of justice

My research frames justice entirely on western philosophy, resulting in a recognised contextual limitation of its application. Despite the existence of Māori practices and concepts that would add value to the New Zealand conversation on justice in planning, the evaluative approach I have developed does not draw on Māori epistemologies of justice. For example, the discussion

of just city principles refers to kindness (Chapter Five). This falls within the Māori concept of manaakitanga (which translates as “hospitality, kindness, generosity, support - the process of showing respect, generosity and care for others” (*Māori Dictionary*, n.d.). Other Māori words and concepts, such as ‘aukati’ (referring to discriminatory practices) and ‘tika’, meaning to be fair and just, also have a place in a discussion on what constitutes a just city in New Zealand. I believe research into Māori epistemologies of justice in planning would be add significantly to planning theory. However, such research would best be served by a researcher experienced in mātauranga Māori. My whakapapa (ancestor lineage or genealogy) is predominantly Scottish and Irish. I have no iwi affiliation and do not speak te reo (the language). It would be entirely inappropriate for me to speak for or about Māori on this topic, and thus this research draws only on Western philosophies of justice. However, given New Zealand's colonial history and the foundational significance of te Tiriti o Waitangi, with its commitments to Māori and tino rangatiratanga as an underpinning ethical principle, it is critical that Māori justice ethics are addressed in the New Zealand planning context. Some effort is underway to address this gap.

As early as 1987, Jackson wrote:

The justice system is rooted in the same cultural foundations as other major social structures such as the education system; it is inevitably influenced and shaped by the same cultural values and ideals. Indeed, the legal truism that the justice system operates 'one law for all' contains implicit seeds of institutional racism since it is one law based on the English common law with no acknowledgement of specific Māori rights or forms of social control. This foundation and the consequent permeation of monocultural attitudes throughout the justice system impacts upon Māori people in particular ways. An analysis of these consequences will unavoidably raise questions about the systemic fairness of justice operations. (Jackson, 1987, p. 12)

More recently, and writing about planning specifically, Walker et al. (2021) have described the lack of recognition of both Māori epistemologies generally and resource management and spatial planning traditions specifically. They note that this lack of recognition has “contributed to the erosion of iwi [tribe] and hapū [sub-tribe] relationships with the environment, and to a decline in the extent of, quality and access to customary resources” (p. 90). They argue “that the development of bicultural monitoring and assessment tools rooted in Indigenous epistemologies, ontologies and praxis of place are empowering and powerful expressions of tino rangatiratanga [Māori sovereignty] for Maori” (p. 90). Walker et al. (2021) describe the development of *The Atua framework*, using a research methodology to “braid together Māori and Western knowledge systems” (p.93). Their Atua framework is intended to be used as an

approach to monitoring the wellbeing of seven Atua, the “spiritual entities who hold guardianship roles and responsibilities over specific environmental domains” (p. 91). It is presented as “a schematic to enhance its ability to act both as a cultural lens and as a learning device” (p. 97). Unfortunately for this thesis the work of Walker et al. (2021) was first published in July 2021, post-dating the submission of this thesis for examination.

Yates (2021) also provides insights into how “colonial norms have disrupted, determined and defied the territories of our everyday lives, our homes, our neighbourhoods, our cities and rural–urban landscapes” (p. 101). She explores how by using “Indigenous ontologies and ethics for ecological care” could transform “colonised geographies and improve the holistic well-being of our more-than-human whanaunga (kin)” (p. 101). She presents a beautifully depicted and comprehensive visual of the “Mauri ora navigator” (p. 104) developed to “enable transformative analysis, dialogue and action” (p. 111). The work described by Walker et al. (2021) would have provided a useful introduction for me as a pākehā researcher to the idea of exploring justice and virtue ethics in planning through the lens of Māori epistemologies, ontologies and praxis of place. In terms of considering ethics of care in planning discourse, the approach described by Yates (2021) would also have been useful when considering how to evaluate Māori ontologies relating to wellbeing, however her work was also published in July 2021.

If an evaluative framework to understand and inform planning is to be truly useful in the New Zealand context, Māori epistemologies of justice and ontologies of care should be evaluated; they should be at heart of our bi-cultural planning profession. It was not considered as part of this research for reasons to do with my whakapapa (as described above) and other reasons including what has been described by indigenous researchers internationally as the “epistemic commitment to ‘no research on us without us’” (Fine et al., 2021, p. 441), and as a means of decolonising the research. While the lack of consideration of Māori epistemologies of justice and care in the conceptual evaluation approach developed in this thesis represents a significant gap, it remains a gap to be filled by indigenous researchers. As will be shown, the JCPEA is a heuristic and could be adapted to include indigenous ethical considerations, application of which could prove fruitful in recognising and redressing what Walker et al. (2021) referred to as the eroded relationship of tangata whenua with the environment.

1.7 Research contribution

Much has been written about justice and the city. Fainstein (2010) applies her work to Amsterdam, New York, and London. Medved (2018), also using Fainstein's framework, researched Freiburg and Malmö. Uitermark (2009) also explores the idea of Amsterdam as a just city. Fincher and Iveson (2008) explore justice and the idea of a just city in the Australian context. This thesis extends the conversation into the New Zealand context. At present, there has been some research by New Zealand scholars into housing justice with implications for the planning profession (see Amore et al., 2013; Bierre et al., 2013; Howden-Chapman et al., 2013). Another New Zealand academic, Reeves, has written about diversity in planning internationally and in the New Zealand context, but not specifically in relation to the concept of a just city (see Buckingham et al., 2005; Reeves, 2005, 2011; Reeves & Zombori, 2016). Like much just city literature, my research is seeking to make sense of the concept of a just city, including the various conceptions of justice that inform it, and how an ethic of care might complement this. It explores principles of a just city, and how the planning profession can, or is, actioning these principles. To this end, this thesis makes three contributions to the wider academy – a methodological contribution by way of the development and application of the Just City Plan Evaluation Approach; a contribution to practice/society by way of starting a conversation in the New Zealand context about ethics in planning discourse; and a theoretical contribution, by extending Fainstein's concept of the just city and including a fourth principle – kindness. These contributions are discussed further in the Discussion and Conclusion (Chapters Eleven and Twelve).

1.8 Structure of Thesis

This chapter has identified the context for this research, situating it within an evolving planning paradigm (the just city), and as a response to three apparent gaps in planning practice; inattention to the ethical dimensions of urban plans, a focus on justice rather than care ethics in policy evaluation, and the absence of a systematic, formal framework to evaluate the 'justness' of urban policy. The following chapter, Methodology, introduces a range of key concepts and outlines the methodological approach within an abductive logic of inquiry. It describes the ontological and epistemological approach to the research and the development of the evaluative model, the Just City Plan Evaluation Approach (JCPEA). It also explains the two specific methods of discourse analysis used as part of the JCPEA, political discourse analysis

and a Foucauldian-type discourse analysis. The remainder of the thesis then comprises two parts as described further below.

1.8.1 Part One: Conceptions of justice and the role of ethics

The overall purpose of Part One is to explore a wide literature, drawing on multiple disciplines to discern substantive conceptions of justice and other ethical principles informing a just city, and against which urban plan discourse can be assessed. Chapter Three critically discusses literature on five Western liberal and contemporary theories of justice as they relate to planning in order to develop a vocabulary of specific and substantive ideas, key words and themes later used to develop a set of evaluative criteria. Chapter Four critically explores Fainstein's theory of the just city and her key principles (democracy, diversity, and equity), providing context for the wider purpose of this thesis, and identifying a gap in the just city concept. Chapter Five explores emerging calls for virtue ethics to complement ethics of justice, and in particular an ethic of care and how this might manifest in planning. Recognising that the global community is characterised by communities of difference, Chapter Five also explores the small, but growing literature on kindness, which is then presented as an additional just city principle.

1.8.2 Part Two: Empirical analysis and insights from the NZ case-study

The purpose of Part Two is to present the context of the case study and, having applied the JCPEA to the case study, it presents and discusses the findings. Chapters Six and Seven provide contextual background to the case study, situating the case study within the changes currently facing the planning profession in New Zealand. Chapters Eight, Nine and Ten connect to specific steps in the JCPEA and present the results of the two discourse analysis methods used. Taking a step back from the detailed findings, Chapter Eleven looks at just city theory, discussing why planners should care about the ethical dimensions of plans if a just city is the object of planning. It also revisits the JCPEA, critically considering its strengths and limitations in light of key findings. Chapter Twelve concludes by describing a reimagined role for planners, in what I call the Extended Just City Project, in which an evaluative framework such as the JCPEA is central to reflexive planning praxis.

Chapter Two: Methodology

2.1 Introduction

This chapter begins with a brief overview of my particular understanding and use of concepts that are key to how the ideas of the thesis are framed. Drawing on existing literature, these explanations situate each key concept of this study within the context of previous research. This chapter also describes the ontological and epistemological assumptions I have used, and the logic of inquiry followed. It explains the process I used to develop an evaluative framework to then apply to a case study. This process enabled me to evaluate the degree to which justice or virtue ethics informs urban plan policy, and the connections between these ethics and the principles of a just city. Discursively analysing policy can result in policy being legitimised, or “liberated from the narrow play of interests” (Fischer, 2003, p. 46). It can also counteract misinformation and “rediscover and rejuvenate the humane and democratic values implicit in modern liberal institutions” (Fischer, 2003, p. 46). It is the idea of a rejuvenation of interest in the values and virtues of care that shapes my thesis.

2.2 Overview of key concepts

2.2.1 *What is planning and, in whose interests do we plan?*

In reviewing the literature about what planning is, it became apparent that the discipline of planning is complex and has been interpreted variously: its purpose has been described as being hard to pin down definitively, “slippery and amorphous” (Campbell et al., 2014, p. 47); a term so broad as to “recommend itself in practically every field of national endeavour” (Auster, 1989, p. 131). Despite this, there are multiple attempts at defining what planning is, or should be. For example, Bramley et al. (1995) define it as a “particular form of public policy intervention in the arena of private decisions with regard to the use of land, governed by particular legislation” (p. 38). Gunder (2016) refers to the purpose of planning as “a key statutory check and balance against negative market externalities” (p. 22), and Gleeson and Low (2000a) suggest planning should be “the activity of governance required to make sure that all services people need in a city are provided when and where the need occurs” (p. 12). They

define 'governance' as being "the activity of governing, directing, achieving goals and also representing the people of a place or territory" (p. 12). Their reference to goals and place reflects the work of others who describe planning as a discipline concerned with the achievement of goals, transforming knowledge into action, and which has a spatial component relating to the physical outcomes in the built environment (Fainstein, 2014; Friedmann, 1988; Hall, 2010). Planning is a combination of action and spatial elements, which distinguishes it from other social science disciplines, such as geography and public policy (Fainstein, 2014).

Attempts to define planning have become increasingly concerned with social issues. This shift was signalled by Faludi (1970) who, after describing the meaning of planning as it was in the 1970s, envisaged "[a]n increasingly sophisticated, comprehensive social-planning profession [which] would finally be explicit about value assumptions underlying planning policies, and it would take a stand on normative issues as a response to challenging social problems" (p.8). Fainstein's (2010) work on the just city is an example of this. She intended her work to be used as an "evaluative standard by which to judge urban policies" (p.36). This explanation became a useful *starting* point in this thesis. However, building on the earlier definitions of planning, and following a review of just city literature, my personal definition of planning evolved.

Grounded in earlier definitions of planning, along with just city literature, I use the terms 'urban planning', often shortened to 'planning', in this thesis as meaning:

The development and implementation of any policy, regulation, or planning instrument mandated through legislation that is intended to:

- (a) restrict the rights of property owners, or
- (b) promote spatial outcomes relating to equity, diversity, and democracy, or
- (c) respond practically to the needs of others,

for reasons based on the public's immediate or future interest and focussing specifically on the needs of the least advantaged, to realise a city that is just.

Including a reference to working for the public interest is deliberate. It is grounded in planning literature; for example, Campbell and Marshall (2002) refer to planning as being an intervention in the market in order to uphold the public interest. Friedmann (2012) is more specific, stating:

In a putative democracy, the city is ultimately "the people", and the cliché notwithstanding, it is the people who must find a way among themselves to define, time

after time, in what specific action agendas the “common good” of the city may be found.
(p. 93)

Fainstein and Fainstein (1982) are also quite specific about what it means for planners to work in the public interest. In this earlier research, the way in which redevelopment increasingly was for private rather than public benefit was highlighted. Privatisation of benefit is a trend that, if anything, has intensified. The Fainstein’s also noted that planners, “neither capitalists nor political leaders” (p. 17), needed to use their role to engage and give voice to the poor, while at the same time improving the information base for local government, pushing this stance “as far as possible ... without becoming unemployed” (p.17). Their reference to the potential of planners becoming unemployed is quite perceptive. Grange (2017) takes this a step further, referring to the silencing of planners. Working in the public interest is an idea that planners are grappling with according to Lennon (2017) and this has resulted from the increasingly politicised role of planning. Hence, the deliberate inclusion of a reference to public interest in my definition of planning. I argue that if a just city is to be realised there is a need for a renewed focus by planners on what it means to work for the public interest.

2.2.2 Planning in a neoliberal world

Neoliberalism relates to how governments govern (Christmas, 2020; Larner, 2000). As such it has significantly altered the work environment of planners. Reviewing literature on neoliberal ideology highlights that it embodies a set of ideas promulgated by the “new right”, a 20th century movement of “thinkers, commentators, and policy-makers” which includes “the promotion of ‘free markets’, deregulation, and privatisation,” (Harris, 2019, p. 4). It is an ideology that has been embraced by many western governments worldwide extending competitive markets into everyday life (Birch, 2015; Carmon & Fainstein, 2013; Harris, 2019; Larner, 2000; Peck & Tickell, 2012). Its implementation in Western societies reflects a significant shift from Keynesian welfarism and instead is anti-collectivist (Larner, 2000; Peck & Tickell, 2012). Prominent values include individualism, a lack of trust in the role of the state, and public service reforms (Harris, 2019; Larner, 2000; Peck & Tickell, 2012). As the framework within which planners operate this focus on individualism as opposed to collective planning and the pursuit of a just city raises two areas of concern for planners.

The first challenge for planners working in neoliberal settings relates to how it has undermined the role of the planner working in the public interest. Planning is often underfunded or downsized, while concurrently processes are sped up or simplified (Harris, 2019; Sager, 2011). It calls for increasing speed and efficiency in decision-making and is disparaging of policy interventions (Campbell et al., 2014; Clifford, 2016; Lawson, 2007; Peck & Tickell, 2012; Sager,

2011; Vigar, 2012). It is what Larner (2000) describes as “a set of practices that facilitate the governing of individuals from a distance” (p.5). As a consequence there is reduced opportunity for planners to contribute to development processes and subsequently less confidence in the profession (Clifford, 2016; Harris, 2019). In this “anti-planning age” (Harris, 2019, p. 1) the focus is on economic efficiency rather than “redistribution and fairness” (Sager, 2011, p. 180) and the pursuit of a just city. This is the second challenge for planners. Neoliberalism, as a policy framework is not future focused which leads to socially unsustainable and inequitable outcomes (Carmon & Fainstein, 2013; Harris, 2019). It detracts from the purpose of planning, to act in the public’s interest against negative effects of the market (Campbell & Marshall, 2002; Gunder, 2016). Considering the negative effects of neoliberalism led Campbell et al. (2014) to question whether there was a “space for *better* planning in a neoliberal world”? (p.45). They concluded that there was, but that this would rely on planners being concerned about doing better and pushing aspirational boundaries about what is sought to be achieved. In response to these challenges, I develop an argument that planners need to re-imagine their role as defender of the public interest and, in the thesis implicitly assume that planners will be motivated to adopt a position toward “better planning”.

2.2.3 *Virtues in planning practice*

In planning practice there is a “loud silence” (Forester, 2020, p.1) about virtues. This seems an oversight for an action-oriented, future-focussed profession infused with altruistic tendencies, seeking outcomes in the “common good” (Campbell, 2006, p. 93). When considering resource use and allocation in planning, tension is caused by the spectrum of different values informing what ought to be done. Resolving this requires not just an understanding of what is fair, as deemed by conceptions of justice, but also an understanding of what is good, as deemed by an understanding of virtue. One particular virtue that could inform discussions of a good and just city is the ethic of care; a consideration of what is needs to be done to repair our cities, to make them liveable, harmonious, and to meet people’s needs (Fisher and Tronto, 1991; Tong, 1998; Botes, 2000). Based on an ethic of care, this thesis extends Fainstein’s concept of the just city by introducing a fourth just city principle, the principle of kindness, to address the gap in just city theory (Chapter Five). By evaluating kindness in urban plans, this thesis goes “beyond justice” (Fainstein, 2010, p. 5) and looks for evidence of care in the decision-making process as embodied in the practical reasoning of the planners, the submitters, and the decision-makers. In doing this, this thesis starts a conversation, in the New Zealand context, about a just city that also incorporates consideration of a “good city”, where “human flourishing” (Fainstein, 2010, p.5) is also primary concern of planners.

2.2.4 *Practical reasoning informing a just city*

Urban plans matter because they set the course (policy) for future actions and outcomes. Decisions on actions are generally grounded in certain arguments for a particular course of action according to Fairclough and Fairclough (2012). They suggest that policies are chosen based on practical arguments within plans about how best to respond to certain circumstances, following a deliberative process. Each argument considered is based on different priorities or values of the parties involved in this process, and the practical reasoning is “the mental process” (Fairclough & Fairclough, 2012, p. 13), going from circumstance to outcome sought (goal). In planning, these choices result in “chang[ing] the nature of the world around us in uncertain situations when value differences dominate public debates” (Wachs, 2013, p. 103). Hence urban plans, setting out a specific course of action as to how a city should develop, form a type of contract, if derived following a participatory process involving deliberations about the land uses being allowed or restricted by the Council to achieve desired environmental outcomes. However, the multiplicity of interests in a democracy means disagreement about means and ends (Finlayson, 2007), and, as noted above there have been increasingly fewer places for democratic debates to occur since the rise of neoliberalism. In considering arguments informing policy choices, it is pertinent to consider whose arguments and whose choices are being followed. According to Fischer (2003), particular groups and institutional processes can shape policy. He describes how “policy analysts socially construct facts” that are then contested by other parties (p.46), and the need for discursive policy analysts to be sceptical and critical in order to either “legitimize policy” or “liberate it from the narrow play of interests” (p. 46). The need for contestation in planning highlights the need to evaluate how ethics inform the practical reasoning of policy, as it is the implicit ethical basis on which those arguments are framed that set the course for actions and subsequent outcomes.

For planners to develop their capacities for debate and improve their ability to practice in the public good they need praxis: the ability to reason and to act. As Schwandt (2005) suggests:

Practice in this view demands a dialectic process of working back and forth from the case at hand to established knowledge, values, and commitments. This way of reasoning is hermeneutic—it signals that what is involved here is an interpretation of the situation based on understanding or grasping the relevant features of the case at hand in concert with values, principles, and standing commitments, such that one is able to see an appropriate and effective way of acting. (p.98)

While Schwandt (2005) is talking about the practice of evaluation, his insights are relevant to the practice of planning as well as to helping determine that a non-instrumental evaluative approach might best serve this thesis. He writes, that “[r]educing practice to performance—that is, to the efficient and effective accomplishment of service based on scientific evidence of what works—reflects an exceedingly narrow conception of the kinds of evaluation knowledge, learning, and inquiry relevant to enhancing practice” (p104). In proposing a framework for evaluating plans, as I go on to do, I bring practical reasoning to the fore. While I interrogate the issue of practical reasoning in planning through Fairclough’s discursive terms, I also consider it as the process that underpins reflexive practice (Waitt, 2010) more broadly and what Freire describes as “critical consciousness” (Freire, 2017, p. 9) (described further in Chapter Four).

2.2.5 Evaluation in the context of planning

To understand the extent to which ethical dimensions are considered in planning discourse requires some sort of evaluation. Evaluation is “the systematic investigation of merit, worth, and significance” (Scriven, 1995, p. 51) of a “thing that is being evaluated ... the *evaluand*” (Peace, 2021, p. 1). While the meaning of evaluation has been attributed to French and Latin words value, valoir and valere, meaning “to be worth (something)” and “to work out the value of (something)” (Shaw et al., 2006, p. 7), its purpose is contested. For example, Clarke and Dawson (1999) suggest evaluation is not intended to create new knowledge, while Chelimsky (2006) suggests that creating new knowledge is one of three purposes of evaluation. However, notwithstanding Schwandt’s stance mentioned above, most evaluation theorists agree that evaluation is intended to identify the effectiveness and value of a programme or policy, through a systematic process in order to guide or inform any changes (see Chelimsky, 2006; Clarke & Dawson, 1999; Scriven, 1991). To do this in a robust and credible way, the programme or policy being evaluated requires systematic, formal, and defensible evaluation against a set of standards to provide the basis of evaluative judgements that may lead to amendments or improvements (Nunns et al., 2015; Shaw et al., 2006; Weiss, 1998). For the planning profession evaluation is particularly useful if future policy is to be informed by reflective praxis. However, it is currently a process and practice severely underutilised within the profession.

Within the planning literature on evaluation there is a thread describing the lack of plan outcome evaluation in planning practice (see: Alexander, 2002; Guyadeen & Seasons, 2018; Hoch, 2002; Laurian et al., 2010; Oliveira & Pinho, 2010). As Baer (1997) puts it, the lack represents a kind of “intellectual neglect” (p.329). This neglect is surprising given the statutory requirement for monitoring and review of plans within many planning frameworks along with an increased emphasis on efficiency of public services (see Guyadeen & Seasons, 2016;

Morrison & Pearce, 2000). It is also surprising given that evaluation in planning has a long history, from classic planning and its reliance on measurement (as in the survey-analyse-plan model), to rational-comprehensive planning (using cost-benefit analysis as a method of evaluation), to communicative planning where evaluation methods include goals achievement matrices or multicriteria analysis. A lack of plan evaluation represents a lost opportunity, given that plans are a planner's "primary tools to influence future growth and development" (Baer, 1997, p. 329). Without some form of informed practical reasoning, planners would not be well-positioned to critically consider the effect of urban policy.

Various explanations for this gap in plan evaluation exist. For example, Carmona and Sieh (2005) suggest this lack of evaluation in planning is "perhaps influenced by Wildavsky's (1973) contention over 30 years ago that, because planning is concerned with the control of the future, and because that future is uncertain, it is impossible to determine whether planning is good or not" (p. 306). Other barriers to plan evaluation were identified by Laurian et al. (2010). These included the difficulties selecting indicators of success and obtaining data on these, a lack of capability (in terms of both institutional commitment and capacity) to evaluate outcomes, and the methodological difficulties in evaluating plans (i.e., plan outcomes can be difficult to attribute to the plan or can take years to have an effect). Plan outcome evaluation can also be politically risky for decision-makers, if those outcomes are shown to be unsatisfactory (Laurian et al., 2010). Despite the practice of plan evaluation being well established in the literature, it is not necessarily so in practice, possibly due to these difficulties.

Planning literature also highlights the importance of evaluating plan content as well as plan outcomes. For example, Norton (2008) notes that understanding what factors influence the content of the plan itself is one of several phenomena in planning that requires evaluation. In his work, Norton differentiates between policy focus and plan quality. He describes plans as a "communicative policy act" (p.437) and suggests a need to analyse the plan policy message separately from how that message is conveyed (the quality of the plan). He evaluated the use of content analysis as a method of evaluating plans, highlighting the use of this method to systematically assess the "symbolic content of a local master plan both as a product of the plan making process and as an input into the local development management decision-making process" and "to measure the symbolic content of a zoning code as a key element of the local development management program" (Norton, 2008, p. 435). However, he cautions "[f]or that symbolic content to be meaningful in either case, researchers must have some well-grounded expectations about what elements constitute "good" or "poor" plans and zoning codes, which

in turn requires having some expectation about how plans once adopted might subsequently influence local development management decisions and outcomes” (Norton, 2008, p. 435).

Berke and Conroy (2000) (and later Conroy and Berke (2004)) provide another example of plan content evaluation. They evaluated whether principles of sustainable development are promoted within local land use plans. One of the conclusions reached by Berke and Conroy (2000) was that explicitly including the concept of sustainability in plans had no effect on “how well plans actually promote sustainability principles” (p. 30). They suggest one reason for this may be because references to the concept of sustainable development are superficial. Similarly, in response to the lack of evaluation in planning, Edwards and Haines (2007) evaluated the extent to which smart growth principles informed local comprehensive plans. They acknowledged that the policy being evaluated had not had time to embed, hence their focus on content rather than outcomes. Like justice, smart growth is defined variously, and Edwards and Haines (2007) highlight that understanding and considering all of its dimensions is necessary to its success.

Laurian et al. (2010), writing about plan evaluation in the New Zealand context, also highlight the importance of plan content evaluation as part of the broader task of plan outcome evaluations. They begin their plan-outcome evaluation method by tracking the logic of plan provisions to ensure the plan content is “logically capable” (p. 748) of success, before moving on to evaluate the success or otherwise of the plan – measured by the extent to which outcomes match objectives.

Writing about policy evaluation generally, Opfer (2006) suggests few evaluation researchers accept the political nature of policies. Opfer (2006), drawing on Greene (2003), describes three types of evaluation researchers:

- (a) those who aim for political objectivity and neutrality via methods that attempt to do the same, (b) those who acknowledge the value-laden quality of evaluations and endeavor to engage with multiple value perspectives to provide nonpartisan credibility to their evaluation practice, and (c) those who intentionally and directly engage with the values of an evaluation context to explicitly advance particular values and interests. (p. 272)

In evaluating normative values associated with justice within policy, the inherently political nature of these values is acknowledged. However, they may not be explicit. In my research, I aim to make the values explicit through “intentionally and directly engag[ing] with the values of an evaluation context” as Green suggests. I do this, in part, by exploring the practical

reasoning present within planning discourse, and evaluating the extent to which values relating to justice and care are present.

2.3 Methodology: A thesis of two parts

Currently there is no systematic, formal way of evaluating the 'justness' of urban policy and the extent to which various ethics inform the practical arguments of planning policy. Although Fainstein presented a way of evaluating policy based on her concept of the just city, the multiple conceptions of what constitutes justice highlights a wider approach to policy evaluation might be useful.

There is an important distinction between concepts and conceptions of a just city. According to Moroni (2019) a concept "poses and names the problem" while conceptions "propose and specify a solution" (p. 9). In the case of a just city the concept is justice and the conceptions, presented as political theories of justice, exist on a spectrum from the far left to the far right. Fainstein (2010), for example, draws primarily on Rawls' conception of justice, seeing justice as 'fairness' and advocating for those who are least advantaged. Other interpretations of justice as they relate to planning, have been espoused by scholars drawing on the work of Nozick and his view of libertarian justice (see Allison, 1986), Marx (see Gleeson & Low, 2000b) (Marxism), and Sen (a capabilities approach to justice) (see for example, Biswas, 2019), to name a few. Missing from these interpretations of a just city is reference to ethics of care. So, while communities, or communities of practice such as the planning profession, may agree on the general concept of pursuing a just city, they may markedly differ in their interpretation of how that concept might manifest.

To make sense of the complex reality of what constitutes a just city and why planners should care about the ethical dimensions of urban plans I use abduction as my logic of inquiry. Abduction, according to Karlson et al. (2020), seeks to make a "complex reality comprehensible" (p. 2), making it a useful logic to apply to the wicked problems urban plans seek to address. It is a method that seeks to connect everyday language and its effect on people's lives with existing theory, and from which a new theory may emerge, or an existing theory can be better understood (Blaikie, 2007). In my research, planning discourse is explored, and connections are made to existing theories of justice and care and just city principles, to better understand and extend the concept of a just city.

Abductive reasoning is situated within an “idealist ontology and the epistemology of constructionism” (Blaikie, 2007, p. 90). Ontology refers to the essence of what is real, things that exist, and how these things are understood and categorised (Blaikie, 2007; Harding & Blokland, 2014; O’Leary, 2010). For the researcher, this requires deciding and defining the evidence of what is real at a “conceptual level” (Mertens, 2007, p. 215). For my purposes, I interpret this as deciding and defining the evidence of what constitutes *just* and what constitutes *care* in the context of urban planning. The *idealist position* assumes that “social reality is made up of shared interpretations that social actors produce and reproduce as they go about their everyday lives” (Blaikie & Priest, 2019, p. 102). Putting this into the context of a just city, an idealist position is deemed appropriate given the variety of shared interpretations of justice and care that contribute to our social reality.

Epistemology refers to how knowledge of social realities can be obtained (Blaikie & Priest, 2019). The epistemology of constructionism relies on this knowledge being obtained from the “inside”, from the language of participants (Blaikie & Priest, 2019, p. 104). In the context of this research, the language of participants is obtained through written documents, including statutory plans.

My research uses abductive reasoning rather than inductive or deductive reasoning. Whereas inductive reasoning uses data to test an existing theory, and deductive reasoning tests a rule using data to produce findings (Eriksson & Lindström, 1997; Karlsen et al., 2020), abduction occurs when data is collected, and the results do not fit neatly into an existing theory. Shank (1998) refers to the expectation of seeing certain things in certain places as the “default, or ground state, mode of cognition” (p. 848). When that default is not found it is considered surprising and abduction seeks to explain why. Subsequent speculation (i.e., abductive reasoning) about this surprising data leads to new ideas that can further an existing theory, or result in the development of a new theory (Tavory & Timmermans, 2014). Returning to the idea that qualitative data be presented as a double story (Tavory & Timmermans, 2014), the first half of this thesis is dedicated to critically engaging with literature on justice, the just city and care ethics. From this base I developed the Just City Plan Evaluation Approach, that enabled me to systematically explore the extent to which various ethics inform arguments in urban policy and the degree to which just city principles are invoked.

Contributing to just city theory required making meaning from the findings. This required considering both parts of this double story. It was Peirce who coined the term abduction in the early 1900s (Rashid et al., 2019). Peirce wrote about “meaning-making-in-action” based on signs, objects and interpretants, which Tavory and Timmermans (2014) refer to as his

“semiotic triad” (p. 24). None of these three elements in the triad can exist on their own. The sign is “signifier” of an object, the “entity about which a sign signifies” (Tavory & Timmermans, 2014, p. 23). Part one of my argument draws on literature to establish the signs to be aware of, in order to then search for signs of various ethics in planning discourse.

Making meaning out of signs (indicators of justice, care or just city principles) required looking for the effect it had on the object (a just city). This effect, in the language of Peirce’s semiotic triad, is the interpretant: “the way the sign-object effects a change in the world, whether as the most complex act of textual interpretation or as the simplest and most unreflexive gesture” (Tavory & Timmermans, 2014, p. 23). The second half of this thesis looks for the signs of a just city in planning discourse and to understand the effect of these signs looks for these interpretant effects.

2.4 Part One: Generating a framework to evaluate the ethical dimensions of a just city

Central to abduction is a “broad and deep theoretical understanding” (Eriksson & Lindström, 1997, p. 198) of the research topic, and a shared understanding of the knowledge that participants (the “social actors”) use in a process (Blaikie & Priest, 2019, p. 99). To gain an understanding of both the topic and the language of a just city, Part One of my “double story” (Tavory & Timmermans, 2014, p. 2) presents a literature review, drawing on literature largely outside the planning discipline. From this literature specific and substantive conceptions and principles of what constitutes a just city are identified, and later used as the basis for developing an evaluative framework. Evaluation, as defined earlier, involves a systematic approach to judging the effect or significance of an evaluand (Peace, 2021; Scriven, 1995). In this instance ethics in planning discourse are being evaluated in order to make judgements as to whether they could effectively realise a just city. Hence, the outcome of the Part 1 review is the development of an evaluative framework that is then able to be applied empirically to obtain insights from the NZ case-study (Part 2).

2.4.1 Approaching the literature

Part One of my thesis comprises three chapters that review relevant theory and literature. It addresses two problems that Howe (1995) highlights:

While social justice can be a powerful principle for guiding public policy, it presents planners and others who would choose to use it with two significant practical issues or

problems. One is how to define it. This sounds like an academic quibble, but how one defines justice or equity significantly shapes the kind of policy interventions required to achieve it.

The second is what kind of obligation a commitment to social justice requires. ... Again, while this general formulation may seem rather theoretical, this is a central practical problem because in many cases the claims for social justice are politically weak and the duty to try to achieve it is a difficult one. (p. 125)

Hence, Part One provides the foundations to determine the evidence of a just city at a “conceptual level” (Mertens, 2007, p. 215) by identifying specific substantive conceptions of justice, equity, diversity, democracy, and kindness which might inform the language of urban planning.

Part One begins by exploring multiple conceptions of justice that may contribute to the ideal of a just city. The literature on justice is large, and each political theory could form the basis of a thesis in its own right. Nevertheless, it is common practice for just city scholars to include a brief overview of normative ethical theory principles and their intent in terms of judging the “the rightness or wrongness of specific social institutions, actions, plans, policies” (Harper & Stein, 1992, p. 106). I begin my exploration of what might constitute a just city by reviewing literature on five liberal and contemporary Western theories of justice. This was an essential task, not only to expand my own knowledge of normative ethics but also to begin the development of an evaluative framework. These theories were chosen on the grounds that they inform planning theory, as opposed to being theories of planning (Hendler, 1995). From this literature review a vocabulary of specific and substantive ideas was developed, key words and themes later used to develop a set of evaluative criteria. Figure 1 visually represents this first step into establishing a theoretical understanding justice ethics within a just city and is included as part of the evaluative model (refer Figure 5, section 2.4.3).

The second part of the literature review explores Fainstein’s (2010) concept of the just city. Critically exploring her ideas, and examining them within a broader literature, it describes, and defines the meanings behind her just city principles of diversity, democracy, and equity. Fainstein (2010) does not consider human flourishing in her just city, so by immersing myself in a “wide corpus of studies” (Tavory & Timmermans, 2014, p. 41) relating to ethics of justice and care in urban environments I seek to further develop just theory thinking in Part 1 of my thesis. In particular, it leads to the development of an additional just city principle against

which urban policy can be evaluated – a principle of kindness. This principle stems from an ethic of care and is one which I argue needs to be a critical aspect of planning practice.

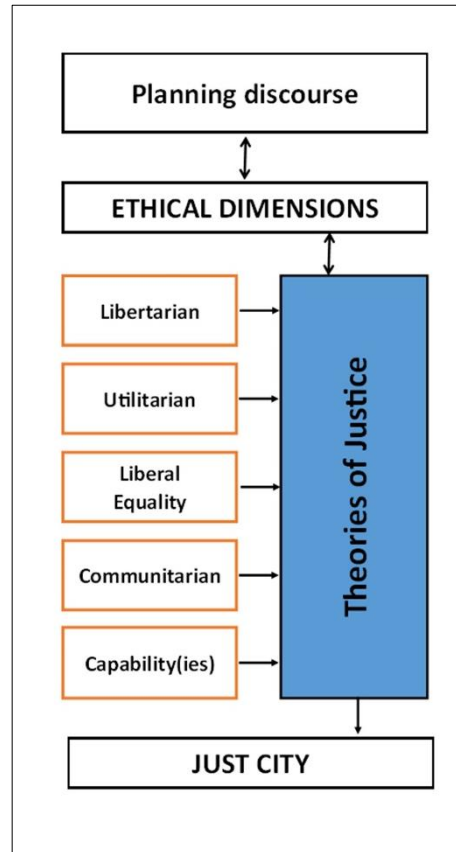


Figure 1: The Just City - Ethics of justice

Moroni (2019) makes that comment that:

on reading certain texts, one may gain the impression that the expression just city denotes in and of itself a specific normative theory of planning and of urban policies. ... Yet the reality is that each normative theory of planning and of urban policies assumes an idea of the just city. (p. 8)

This reflects one of the benefits of abductive research. By introducing new concepts existing theories are further developed (Maiello, 2014).

Figure 2 visually represents the how the theoretical understanding of just city principles were developed. It is also included as part of the evaluative model (refer Figure 5, section 2.4.3).

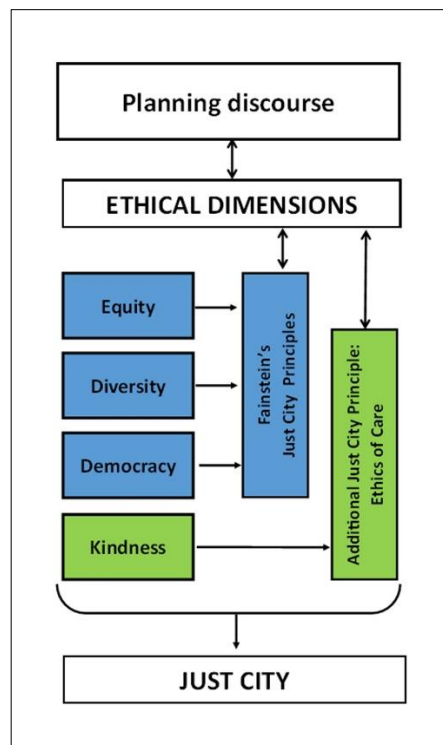


Figure 2: The Just City – Principles

2.4.2 Evaluating ethics in practice

Connecting the theory in Part One with Part Two, the “empirical observations of a social world” (Tavory & Timmermans, 2014, p. 2), was the next step in my research process. Adopting Scriven’s (1995) definition of evaluation (refer Section 2.2.5), I developed an approach to evaluate the merit, worth and significance of references to various ethical dimensions in urban policy, which I called the Just City Plan Evaluation Approach (JCPEA).

The JCPEA is deliberately named. Stufflebeam (2001) uses the term “*evaluation approach* rather than *evaluation model* because the former is broad enough to cover illicit as well as laudatory practices” (p. 9) and this is also how I choose to describe my evaluative approach. However, I acknowledge, again as with Stufflebeam (2001), that the representation of my approach reflects a type of model in that it follows a “‘model’ [view] for conducting program evaluations according to their authors’ beliefs and experiences” (p. 9) and this is how I choose to describe my evaluation approach. It combines aspects of what (Stufflebeam, 2001) identifies as an “objectives based study ... the classic example of a questions-oriented evaluation approach” (p. 17) and a “case study evaluation” (p. 34) which is a methods-oriented evaluation

approach. Prior to being able to make “empirical observations of a social world” (Tavory & Timmermans, 2014, p. 2), I needed to establish a systematic process that could lead to robust evaluative judgements.

The evaluation frame (Figure 3) follows Nunns (2016) five “interconnected” elements of evaluation to reach conclusions that are “defensible” (p. 144). These elements include establishing “evaluative objectives or questions, criteria or other comparator(s), defined standards, warranted argument, and an evaluative conclusion or judgement” (Nunns et al., 2015, p. 140). Read from top to bottom, Figure 3 presents the premise that understanding the justness of a city (regardless of which conception of justice is invoked), and its subsequent realisation, is dependent on a process of robust evaluation. In order to realise the evaluative process both Criteria and Standards are required. The diagram identifies criteria and standards relating to extent, focus and merit (orange) and a further criterion and standards relating to power (red). The dual methods of political and Foucauldian discourse analysis (visually represented with a dot margin) were used in the evaluation in order to examine the extent to which ethical arguments were invoked in planning discourse (political discourse analysis) and subsequently to explore if/how these arguments had been normalised, accepted as truth, and thus wielding power (Foucauldian discourse analysis). Evaluative judgements are then seen as plausibly coherent inputs into the development of a just city. I identify this flow from evaluation to judgement as a theory praxis nexus, that is, a visualisation of the practical processes involved in realising the theoretical argument that evaluation may impact planning. Sections (a) to (e) discuss each of these in turn.

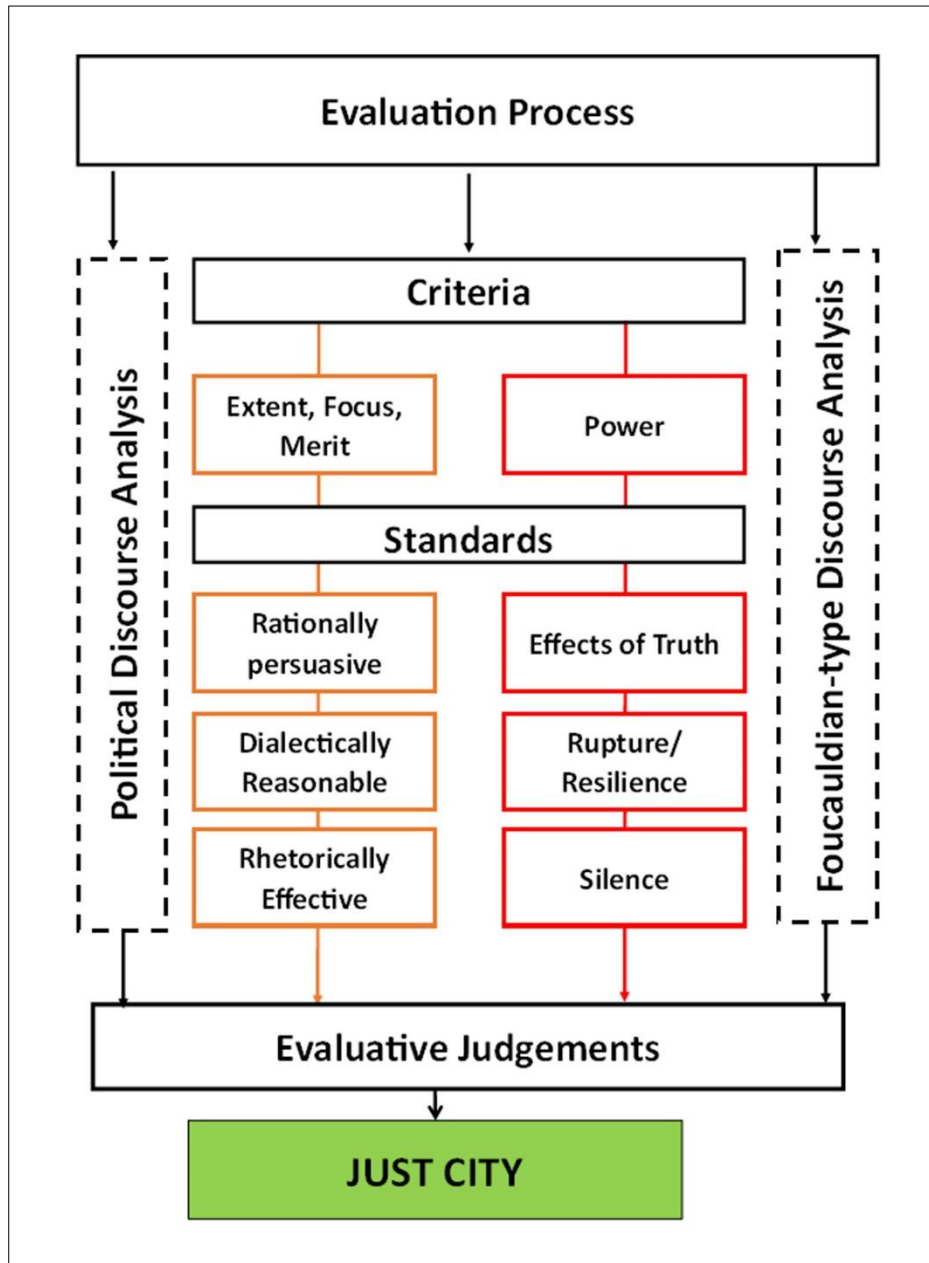


Figure 3: The Theory-Practice Nexus

(a) Element One: The purpose of the evaluation

Following Nunns (2016) approach when applying the JCPEA to the case study city and its planning documents, the first element in the evaluation process is to identify the purpose of the evaluation. The “purpose and focus” (Nunns et al., 2015, p. 140) of the JCPEA, are:

Purpose 1: to determine the extent to which ethics of justice or care inform the practical reasoning of urban plans by evaluating whether,

- the discourse is strongly aligned, silent, ambiguous, or too accommodating of a conception(s) of justice; and
- the discourse supports any / all just city principles?

Purpose 2: to evaluate which ethics prevail by exploring where the power lies within plan discourse.

(b) Elements Two and Three: Criteria and Standards

The second step in the evaluative process is to identify criteria and standards (refer Figure 3). Evaluative criteria relate to the purpose of evaluation (OECD/DAC Network on Development Evaluation, 2019). They are defined by Davidson (2014) as “the values (i.e., principles, attributes or qualities held to be intrinsically good, desirable, important and of general worth) which will be used in an evaluation to judge the merit of an intervention” (p. i). According to the OECD/DAC (2019), each different criterion assesses a different aspect of the evaluation and is used to “support accountability” (p. 5) through the provision of information, and to “support learning, through generating and feeding back findings and lessons” (p. 5). In my thesis, I applied four criteria to evaluate plan content – *extent*, *focus*, *merit*, and *power* (refer Figure 3).

The first three criterion, *extent*, *focus* and *merit*, refer to the extent each document references specific conceptions of justice or the principles of a just city, whether there is a focus on the least advantaged in the community, and the strength of the argument invoked in the discourse. I used political discourse analysis to explore these criteria using an approach developed by Fairclough and Fairclough (2012), which recognises the role of practical argumentation for or against particular ways of acting.

To reach an evaluative judgement about these criteria, different standards are used. According to Nunns (2016), criteria “require accompanying standards to explicate how quality [as evidenced through the criteria] is discerned in relation to better quality and poorer quality” (p. 143). These can be expressed variously. For extent and focus, the standards are expressed qualitatively. Although *extent* could refer to the number of references to ethical dimensions in a specific document, a quantitative approach has not been used in this JCPEA as, with discourse analysis, it is the words themselves that matter and where they are in a plan (i.e., a single ethical reference in an objective of a statutory plan would carry more weight than multiple references in the explanatory text of the same plan). Instead, the standard describes the extent of ethical discourse in the documents qualitatively, using a scale going from *not influential* to *highly influential*, as shown in Table 1.

Table 1: Generic standards – degree of influence

Quality	Descriptor
Highly influential	<i>Explicit or inferred references to a specific conception of justice or just city principle AND within an important provision of the plan (i.e., a directive, focus area, priority, issue statement, objective, policy, rule or similar).</i>
Partially influential	<i>Inferred references to a specific conception of justice or just city principle within an important plan provision (i.e., a directive, focus area, priority, issue statement, objective, policy, rule or similar) AND explicit references within explanatory text.</i>
Minimally influential	<i>Inferred references to a specific conception of justice or just city principle within the explanatory text.</i>
Not influential	<i>No explicit or inferred references to a specific conception of justice or just city principle.</i>

The standard used to measure *focus* is also described qualitatively. It is expressed in terms of whether the plan content focuses on the needs of those who are least advantaged, as per the extended Fainsteinian concept of the just city that I use, or on some other group/interest. As such, the scale goes from strongly focussed (on the needs of the least advantaged) to weak focus (refer Table 2).

Table 2: Generic standards – level of focus

Quality	Descriptor
Strong Focus	<i>Explicit references to planning for those who are least advantaged, and/or the role of planners as advocates for the least advantaged.</i>
Weak focus	<i>Inferred references to planning for those who are least advantaged, and/or the role of planners as advocates for the least advantaged.</i>
Not focussed	<i>No references to planning for those who are least advantaged, and/or the role of planners as advocates for the least advantaged.</i>

The standard used to measure the third criterion, *merit*, is more complex. Fairclough and Fairclough's Fairclough and Fairclough (2012) practical reasoning approach suggests that within a particular set of circumstances, an argument is based on a hypothesis that a particular action will achieve a particular (value-laden) goal, justifying the action that should be. Quite practical in its approach, as evidenced by their application of it to various political discourses, it provides a structured way of exploring the text, looking for the substantive reasons behind calls for action. Their approach provides a means of judging the *merit* of an argument in terms of whether it is (a) a rationally persuasive argument, (b) a dialectically reasonable argument,

or (c) a rhetorically effective argument (described further in section 2.4.2(c)(i)). In terms of the merit criterion, these constitute the evaluative standards, the “benchmarks of performance” (Nunns et al., 2015, p. 120). How the *merit* of the plan content was assessed is described further in section 2.3.2(c)(i) and was presented as shown in Table 3.

Table 3: Assessment of the merit of the argument

	Rationally persuasive	Dialectically reasonable	Rhetorically effective
Ethic / Principle examined:	✓ / ✗	✓ / ✗	✓ / ✗

The fourth criterion, *power*, relates to the extent that claims made in response to contextual and institutional circumstances have become hegemonic, legitimising interventions, or acting as cues for reader’s interpretation of plan texts. I use a Foucauldian-type discourse analysis to evaluate why particular ethics are invoked and by whom, in order to evaluate where the power lies – the second evaluative objective for the JCPEA. Using Waitt’s (2010) interpretation and approach to Foucauldian discourse analysis, I investigated planning discourse for “Effects of ‘Truth’”, “Rupture and resilience” and “Silence” (p. 220). These are used as evaluative standards for this criterion. These are described further in the next section (section 2.4.2(c)(ii)).

(c) Element Four: Warranted argument

Nunns et al. (2015) explain that a warranted argument in evaluative reasoning “articulates the inference that links evidence to an evaluative claim” (p. 142). They describe the “warrant” as “the ‘because’ part of the argument” (p. 142), noting the importance of evaluative argument given that the results of an evaluation are inferred rather than deduced.

The JCPEA connects the practical reasoning within the documents to conceptions of justice and just city principles. These connections provide the basis of a “warranted argument” about the ethics that inform plan content and establishes “the case [for] an evaluative conclusion/judgement” (Nunns et al., 2015, p. 140). A case study evaluation approach tends to use multiple methods in order to interrogate a programme in a variety of ways as well as providing “an overall characterization of the program” (Stufflebeam, 2001, p. 34) and the JCPEA, therefore, uses a dual-method approach. Each method used is described further below.

(i) Political Discourse Analysis

The first purpose of the JCPEA was to determine the extent to which ethics of justice or care inform the practical reasoning of urban plans. This required an understanding of “practical reasoning” (Fairclough and Fairclough, 2012, p. 35), the reasons why a course of action had been chosen in response to a problem in a particular context, in order to achieve a certain outcome (refer section 1.3.6). Fairclough and Fairclough (2012) consider that critically evaluating political discourse requires “argument reconstruction and analysis” (p.23). I suggest they do this by *deconstructing* the text, pulling it apart phrase by phrase, looking for evidence of “claims for action, the goals, circumstances [and] values which support the proposed action” (Fairclough and Fairclough, 2012, p. 120), before then *reconstructing* the core of the argument (or indeed arguments) without the distraction of other words and phrases (refer Figure 4). It establishes what Stufflebeam (2001) describes as the “characterization” (p. 34) of the programme being evaluated.

There are three reasons that Fairclough and Fairclough’s (2012) analytical framework is useful to apply as part of the JCPEA. First, it focuses on collective rather than individual goals, which makes it useful for assessing urban plans. Fairclough and Fairclough (2012) define ‘goals’ as future states of affairs, the “futures we imagine” (p.45), and this definition lends itself to planning, particularly under the RMA, which requires regional policy statements and regional/district plans to state objectives. Second, it is practical in its approach, as evidenced by their application of it to various political discourses. Finally, it provides a structured way of exploring document text, looking for the practical reasons behind calls for action. In terms of exploring the ethical dimensions of plans, and how these might affect the realisation of a just city, understanding the practical reasoning is a useful first step, hence its use in the JCPEA. The textual data collected can be coded and examined for evidence of the following:

- (a) **Claims for actions:** “Claims for actions” are “a presumptive means to an end or goal” (Fairclough and Fairclough, 2012, p.39). They are what the author of that document thinks ought to be done, for example Auckland Council (2012) considers that the pursuit of a “quality compact urban form” (p.42) is what ought to be done to achieve the “world’s most liveable city” (p.42). While claims are generally accepted, sometimes there might be “stronger, overriding reasons against it” (Fairclough and Fairclough, 2012, p. 39), which are referred to as “counter-claims” (p. 47).
 - (b) **Circumstantial premises:** Claims for action are influenced by circumstantial premises, hence the second step in the argument deconstruction was to identify
-

narratives about an “existing state of affairs and the problems it poses” (Fairclough and Fairclough, 2012, p. 11) which would justify the claims for actions. Circumstantial premises include facts that might relate to the natural or social environment, for example the rate of urban growth, but also includes institutional facts, such as institutional barriers to change.

- (c) **Goal premises:** These are “the ‘imaginaries’ for desirable states of affairs” (Fairclough and Fairclough, 2012, p. 4), described as being “generated by some source of normativity” (p. 43).
- (d) **Means-goal premise:** The means-goal premise in an argument “says that the action will deliver the goals but also that the action is necessary in view of the goals” (Fairclough & Fairclough, 2012, p. 126).
- (e) **The values:** The values that are evoked in an argument which support proposed actions were also identified. As Fairclough and Fairclough (2012) note, “something only becomes a problem to resolve because of certain things that matter to us, because of what we value or care about” (p. 41). This is important in practical reasoning because it is often based on “a problem-solution type argument” (p. 40).

In my research, the argument *deconstruction* began by mining each document, or set of documents, for evidence of compact city policy (the subset of urban policy evaluated as part of the case study approach, refer section 1.6.1). These data were coded, and then used to reconstruct the argument.

Figure 4 represents the process of deconstructing the argument. The process began by looking for evidence of claims for action and counter-claims as shown at the top of Figure 4). Evidence of the circumstantial premises within the argument were sought, before examining the goal premise within the argument, and the means to achieve those goals. Although the visual representation of this process has been described top down, the arguments invoked in policy are bottom up. The sheer scale of documentation rendered the complete reconstruction of the arguments for each document impossible. Instead, Chapter Seven presents a condensed and consolidated overview of the reconstructed arguments behind compact city policy. It is the value premises within the arguments that are of most interest in my research (coloured blue in Figure 4), and Chapters Eight and Nine present the evidence of these.

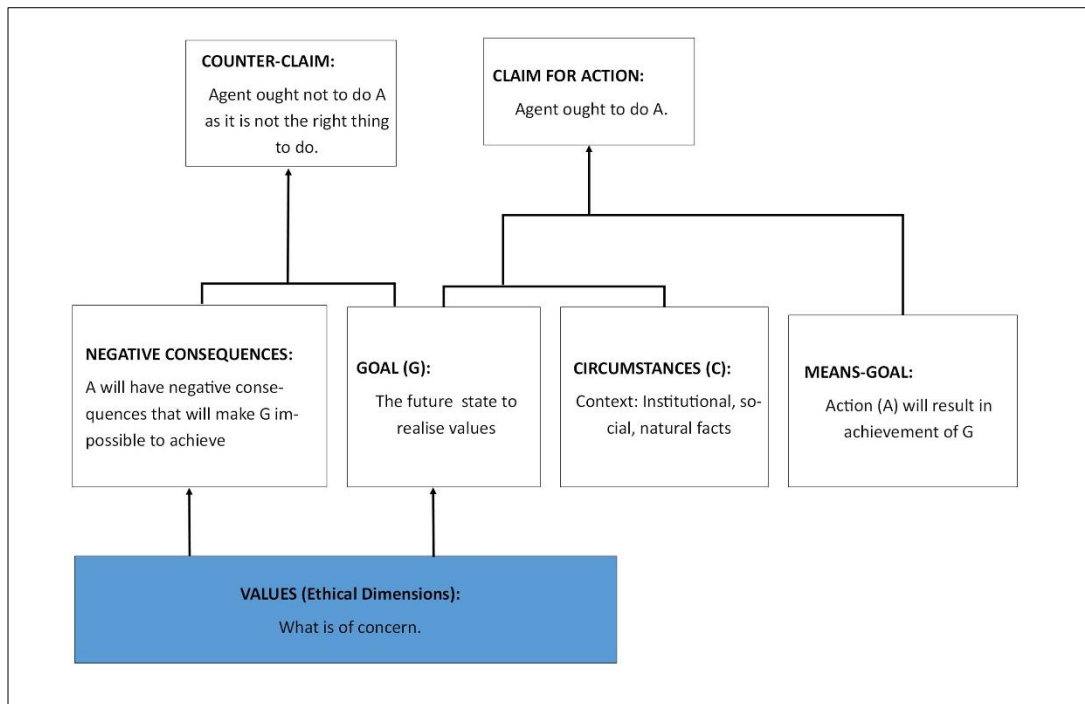


Figure 4: A Practical Reasoning Framework

(Adapted from Fairclough and Fairclough, 2012, p. 45)

As noted earlier, as a means of determining a good argument, or one that has *merit*, I draw on Fairclough and Fairclough’s approach of exploring whether it is a rationally persuasive argument, a dialectically reasonable argument and/or a rhetorically effective argument. It is these three perspectives that are used as the evaluative standard for the *merit* criterion. Fairclough and Fairclough define a rationally persuasive argument as one “that provides ‘good reasons’ or ‘rational support’ for the conclusion, such that belief in the conclusion is ‘justified’” (p. 52). A dialectically reasonable argument is one evidenced by differences resolved through dialogue, where undertaken via a process of critical questioning (Fairclough and Fairclough, 2012). The rhetorical effectiveness of an argument is when it can be shown empirically that it has “actually managed to persuade a substantial number of people for whom it was intended” (Fairclough and Fairclough, 2012, p. 57). For an argument to have *merit* it should be sound from each of these perspectives.

Following Fairclough and Fairclough’s (2012) approach, evaluating arguments relies on critical questioning. These questions might challenge the acceptability of the premise, that is, an “argument based on a false assessment of the situation ... might lead to a hypothesis for action which does not correspond to what the facts actually are” (p. 65). They note that while the

argument may not be sound this does not necessitate rejecting it as unreasonable. Critical questions can also defeat the argument, or they can rebut the claim. Each question is contextually dependent. Fairclough and Fairclough (2012) specifically acknowledge that exploring values as premises within arguments can also be evaluated as reasonable or not, making their approach a useful method for this research. For each of the conceptions of justice described in Chapter Three, and the just city principles, described in Chapters Four and Five, these properties are explored, by critically questioning the basis on which the arguments in their favour, or against, are made. For example, Fairclough and Fairclough (2012) suggest questions such as:

- Is the situation described rationally? (p. 129)
- What exactly is the nature of this future ... as goal or vision? (p. 130)
- Is there any reason to believe that it will not be such as to lead to [negative consequences]? (p. 130)
- Should other possible goals (imaginaries) be examined? (p. 130)

Critically questioning the data (the claims for action, circumstances, goals, counter-claims and values) then leads to the basis on which an evaluative judgement is reached about the *merit* of the arguments in plan contents.

(ii) Foucauldian-type Discourse Analysis

The second method in the JCPEA uses a Foucauldian-type approach to discourse analysis to evaluate and determine whether particular conceptions of justice have become normalised, the effects of these ‘truths, and where the power lies. A number of planning theorists, drawing on their personal experience, have lamented the lack of discussion and consideration of ‘power’ in planning (see Flyvbjerg, 2002; Friedmann, 1988; Metzger et al., 2017). Policy-making is inherently argumentative, and when influenced by communicative planning theory, can be particularly vulnerable to the manifestations of power, and “manipulation and control, confusion and exclusion, and other distortions, [can] disrupt the process” (Richardson, 1996, p. 280). In reflecting on power in the discourse of urban plans, I use a Foucauldian-type discourse analysis. Foucault defined ‘discourse’ variously, giving implicit, rather than explicit, methodological guidance. Because of this, I follow Waitt (2010) interpretation of Foucauldian analysis. Drawing on the work of geographers and social scientists, Waitt (2010) describes seven steps of discourse analysis. How these were applied in the JCPEA is described further, following a brief overview of Foucault’s view of discourse and the role of power and its application to planning.

Foucault (1981) stated that power:

must be understood in the first instance and the multiplicity of force relations immanent in the sphere in which they operate and which constitute their own organisation; as the process which, through ceaseless struggles and confrontations, transforms, strengthens, or reverses them; as the support which these force relations find in one another, thus forming a chain or a system, or on the contrary, the disjunctions and contradictions which isolate them from one another; and lastly as the strategies in which they take effect, whose general design or institutional crystallisation is embodied in the state apparatus, in the formulation of the law, in the various social hegemonies. (pp. 92-93)

Foucault makes a number of propositions about power, including that power does not come from a single point, but rather that it is omnipresent; that it is not “acquired, seized or shared” but instead comes from a variety of points; and that it comes from below (Foucault, 1981, p. 94).

Considering power in planning discourse is not straightforward. Sharp and Richardson (2001) have explored the use of Foucauldian discourse analysis in planning. They note that for Foucault “‘a discourse’ is not a communicative exchange, but a complex entity that extends into the realms of ideology, strategy, language and practice, and is shaped by the relations between power and knowledge” (p. 8). Richardson’s (1996) earlier work in relation to policy development states, “the insights offered by Foucault appear to be very germane to our understanding of issues of exclusion, governance, power and truth—all fundamental to policy making” (p. 280). Foucault, according to Richardson (1996), viewed “modern power” as “insidious”, “masked as forms of truth”, its source hidden (p. 281).

The value of a Foucauldian approach to discourse analysis is summed up by Waitt (2010) who writes, “[a]ccording to Foucault, to believe at face value what one hears, reads, or sees as truth would lead to the serious error of overlooking the social circumstances within which particular sets of ideas are produced, circulated, and maintained” (p. 217). Therefore, Foucault’s approach to discourse analysis is useful for applied research. It relates to “how particular knowledge systems convince people about what exists in the world (meanings) and determine what they say (attitudes) and do (practices)” (Waitt, 2010; p. 218). Waitt (2010) describes Foucault’s approach as constructionist, one that requires researchers to ask questions about why certain discourses have become naturalised, and that they remain alert to the way various knowledge

systems (such as the planning framework) categorise various activities. Waitt's (2010) approach to discourse analysis involves seven steps.

Step one: Choosing texts

The first step in discourse analysis was to choose the source texts. Waitt (2010) notes that the research project may "dictate" (p. 221) this choice, as was the case in my research. The chosen texts, as described in section 2.5.3, included several statutory planning documents. One aspect of a Foucauldian-type discourse analysis, as Waitt explains, is to be aware of intertextuality "the assumption that meanings are produced as a series of relationships between texts rather than residing within the text itself" (p. 222).

Step two: Suspend pre-existing categories: become reflexive

Waitt's (2010) second step is for the researcher to "[s]uspend pre-existing categories: become reflexive" (p. 223). This involves "looking at your texts with 'fresh' eyes and ears" (p. 223) while "shelving preconceptions" (p. 224). Waitt (2010) refers to Foucault's acknowledgment that this is an "impossible task" (p. 225) and suggests three ways researchers can implement Foucault's approach. Waitt (2010) suggests that critically reflexive researchers should outline their positionality statement (refer section 1.2), discussing why the research topic was chosen, an "explicit report 'locating' their lived experiences (embodied knowledge) within a project" (Waitt, 2010, p. 225), and their initial ideas about the topic.

Step three: Familiarization: absorbing yourself in and thinking critically about the social context of your texts

Step three requires the researcher to become familiarised with the text, and its social context. He suggests that "thinking critically about the social production of your text, becoming alert to its authorship, technology, and intended audience" (p. 225) is a useful first step.

Earlier in my research process, I had explored census data spatially and quantitatively. I used factor analysis to identify whether there were specific socio-economic variables, or clusters of variables (factors) associated with particular land use zonings. My concern about the statistical validity of extrapolating zoning data for the factor analysis led to postponing this aspect of my research. It was, however, a useful preliminary exercise that contributed to my familiarisation of the social production of Auckland's

statutory plans. In addition, I explored the authorship of urban plans in a conference presentation titled, *Authorship: who claims the narrative of urban plans* (Ross, 2019).

Step four: Coding

The fourth step entails coding the data. Waitt (2010) suggests that Foucauldian discourse analysis involves “analytical codes”, quite often theme related, in order to “provide insights into why an individual or collective holds particular sets of ideas by which they make sense of places, themselves, and others” (p. 232).

Steps five to seven: Investigating power, knowledge, and persuasion

Using the coded data, the fifth step is to “investigate [the] text for effects of ‘truth’” or “persuasion” (p. 233), where “particular knowledge is deployed by institutions as a mechanism of social control” (p. 234). This investigation sought evidence of “discursive structures” (p. 233) which Waitt, drawing on Phillips and Jorgensen, defines as “the relatively rule-bound sets of statements that impose limits on what gives meaning to concepts, objects, places, plants, and animals” (p. 233). Waitt notes that Foucault sees discursive structures as underpinning “the mutual relationship between power and knowledge” (p. 233), referring to them as “a subtle form of social power that fix, give apparent unity to, constrain, and/or naturalize as common sense particular ideas, attitudes, and practices” (p. 233). In the JCPEA, identifying discursive structures involved exploring the texts for the “dominant or common-sense understandings” (Waitt, 2010, p. 233) of the world.

Purpose 2 of the JCPEA sought to evaluate whose ethics prevail and this was undertaken by exploring where the power lies within plan discourse through evaluative judgements. To this end, in a sixth step, the texts were examined for evidence of ruptures and resilience. Connected to the discursive structures, ruptures occur when those “dominant or common-sense understandings” (Waitt, 2010, p. 233) are “changed” or “challenged” (p. 235). They present as “contradictions and ambiguities in texts”, (p. 235).

The seventh step involves examining the text for silence, an aspect of discourse that he suggests is “as important as being aware of what is present” (p. 235) when doing discourse analysis. Waitt (2010), drawing on Foucault, explains two levels of silence – the first being silence from particular voices, and the second the silence of minority understandings.

The results of my Foucauldian-type discourse analysis are presented in Chapter Ten, focussing on these last three steps.

(d) Element Five: Evaluative Judgements

Evaluative judgements are legitimate and defensible” (Nunns et al., 2015, p. 144) judgements made about the “merit or worth of a program” (Fournier, 1995, p. 15). The two-method approach, described above and applied via the JCPEA, is intended to gain insight into if and how the ethical dimensions of urban plans are being discussed by various parties involved in the planning process, in order to inform evaluative judgements on how the ethical dimensions of urban policy might affect the realisation of a just city.

2.4.3 The Just City Plan Evaluation Approach (JCPEA)

At this point, in Figure 5, I introduce my overall framework – the JCPEA as a visual representation of my approach to plan content evaluation. As noted earlier, this particular title for the framework is provisional. It could, equally, have been called an Ethics in Planning Evaluation Framework (EPEF) approach or similar. The diagram is complex and colour coding, and subsets of ideas have been used to attempt to simplify what the model entails. It is intended to be flexible; the colourisation of various elements is intended to be reminiscent of Lego pieces which can be switched out for other theories of justice, just city principles, or methods other than discourse analysis (see also section 2.7).

Reading from the top, the subject of the evaluation appears as planning discourse. The JCPEA then suggests that, for planning discourse to effect influence on a just city, ethical dimensions (coloured bold green) need to be considered. The two subsets of ethical dimensions (justice and just city principles) are indicated in blue. Establishing a “broad and deep theoretical understanding” (Eriksson & Lindström, 1997, p. 198) of these ethical dimensions is the first step in the JCPEA.

Under Argument Evaluation, a case study is indicated (coloured orange) and the nature of the policy being evaluated (also coloured orange), is established. This is the second step in the JCPEA.

As described above, the JCPEA draws on two methods of discourse analysis, political discourse analysis (coloured purple) and a Foucauldian-type discourse analysis (coloured red). To compare the different ethics and principles guiding the discourse, four different criteria were used. Political discourse analysis was used to explore three criteria; *extent* (the extent to which various ethics or principles of a just city are invoked), *focus* (the degree to which the least

advantaged are considered), *merit* (the merit of the reasoning behind those ethical dimensions). This is the third step in the JCPEA. The fourth step, the Foucauldian-type discourse analysis, was used to explore the fourth criterion, *power* (which ethical dimension dominates and where this view comes from). Each criterion is then able to be assessed against specific standards (steps three and four of the JCPEA). The degree to which ethical dimensions influence the realisation of a just city depends, in part, on the argument, and the JCPEA evaluates this content using the evaluation framework (coloured pastel green), ultimately to determine the extent to which ethics of justice or care inform the practical reasoning of urban plans, and to evaluate which ethics prevail by exploring where the power lies within plan discourse.

Methodologically, the JCPEA was developed heuristically. It reflects my learning journey; my raised awareness of ethical theories for planning, my exploration of various research methods (both qualitative discourse analysis and quantitative spatial analysis), and then my inquiry into evaluation theory and methods. Combined, these elements morphed into the JCPEA, a systematic process to explore ethical dimensions of planning discourse.

According to Nunns (2016), “[t]o evaluate is to compare” (p. 128), and the JCPEA provided me with a framework to organise a systematic comparison between contemporary planning discourse and just city theory and literature. The intent of using something like a JCPEA, to systematically draw attention to the elements at stake, is to understand why ethics in urban planning discourse matter in the pursuit of a just city. According to Shank (1998), making sense of the world requires that “patterns of ordinary meaning” (p. 845) be synthesized, leading to greater understanding of a concept or theory. As an approach to abductive analysis, the JCPEA provides a means to identify new insights into the planning practice as it relates to the pursuit of a just city. It seeks to identify or expose underlying political philosophies, values, discursive structures that inform the content of urban plans. In particular and drawing on the words of Richardson (1996), the application of the JCPEA presents a systematic way of exploring the way “power appropriates knowledge and weaves it into discourses” (p. 280).

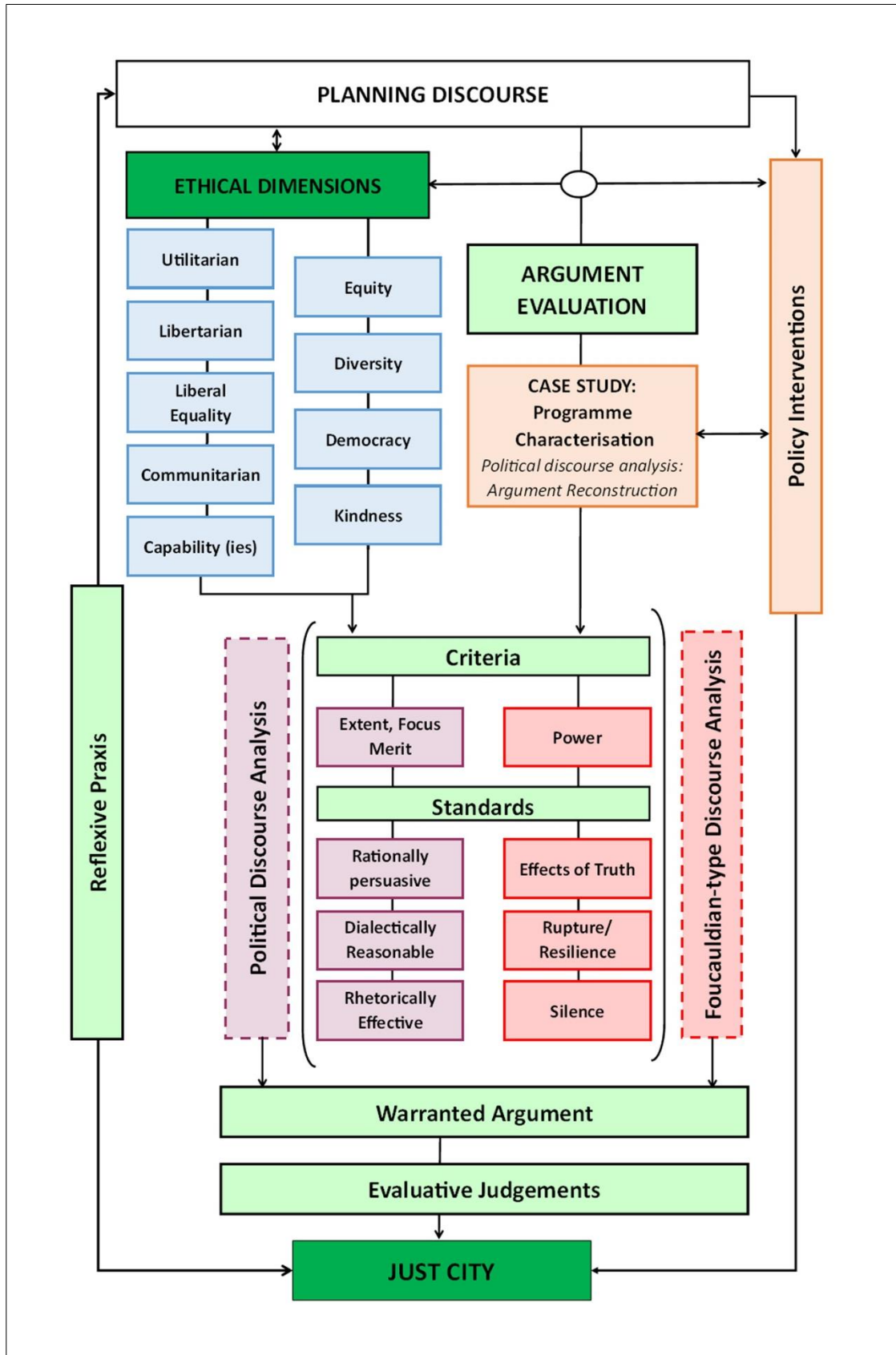


Figure 5: The Just City Plan Evaluation Approach (JCPEA)

2.5 Part Two: Insights drawn from Empirical Observations

Part Two of my “double story” (Tavory & Timmermans, 2014, p. 2) is the application of the JCPEA to a case study; planning discourse relating to compact city policy in the city of Auckland, New Zealand. The rationale for selecting this case study is described, as are the documents examined, data collection, coding, and analysis methods (section 5.3).

2.5.1 Case study research design

A case study is defined as an empirical inquiry investigating complex, real-life phenomena, using multiple data sources (Robson, 2002; Yin, 2009). It is not just a narrative account of such a phenomenon, but rather “must also involve analysis against an appropriate theoretical framework, or in support of theoretical conclusions” with the intention of drawing theoretical conclusions from it (Blaikie, 2010, p. 195). In the case of evaluative case studies, Stufflebeam (2001) notes they are “a focused, in-depth description, analysis, and synthesis of a particular program or other object” and typically used to “delineate and illuminate” rather than “guide the development” or judge the “merit and worth” of a particular program (p. 34). However, as is described later, by using multiple methods in the JCPEA, I hoped to do both.

The JCPEA uses a single case study evaluation approach. This approach is commonly used to evaluate government policy and practice and provides “valuable and focused evidence for particular policies, programs and projects in specific contexts” (Davies et al., 2006, p. 176). Single study evaluations have been criticised on the grounds that they are unbalanced or provide “an unrepresentative view of the total available evidence on a topic or policy issue” (Davies et al., 2006, p. 176), and the lack of generalizability about a single case (Blaikie, 2010). However, in this instance, my application of the JCPEA is not intended to identify a combination of arguments that are ‘right’ or ‘better’ or ‘more just’ than any other combination. Instead, it systematically evaluated the extent to which a discourse of justice, or other ethical dimensions, inform the content of the documents (if at all). According to Stufflebeam (2001):

The main limitation of the case study is that some evaluators may mistake its openness and lack of controls as an excuse for approaching it haphazardly and bypassing steps to ensure that findings and interpretations possess rigor as well as relevance. (p. 35)

The use of Nunns (2016) approach to evaluation practice, following each of her five elements (as described above), was intended to overcome these limitations.

2.5.2 Case Study Selection

Auckland sits on the Tāmaki isthmus, separating the Waitematā and Manukau estuaries in the northern half of the North Island (refer Figure 6). To the west is the Tasman Sea, and to the east, the Hauraki Gulf and the Pacific Ocean. Urban growth in the Auckland region is naturally constrained by its geography. Its topography is dominated by small, dormant volcanic cones, discontinuous ridges, and small valleys (Pownall, 1950), and its urban environment is characterised by development stretching beyond the isthmus to the north and south, having engulfed “a number of historically-separate settlements” (McArthur, 2017, p. 79). It is New Zealand’s largest city, the urban area (as defined by Stats New Zealand / Tatauranga Aotearoa) being some 608km². As New Zealand’s “primate city” (Spoonley, 2015, p. 655) it warranted selection as the case study because of its history, its diversity and recent governance changes.

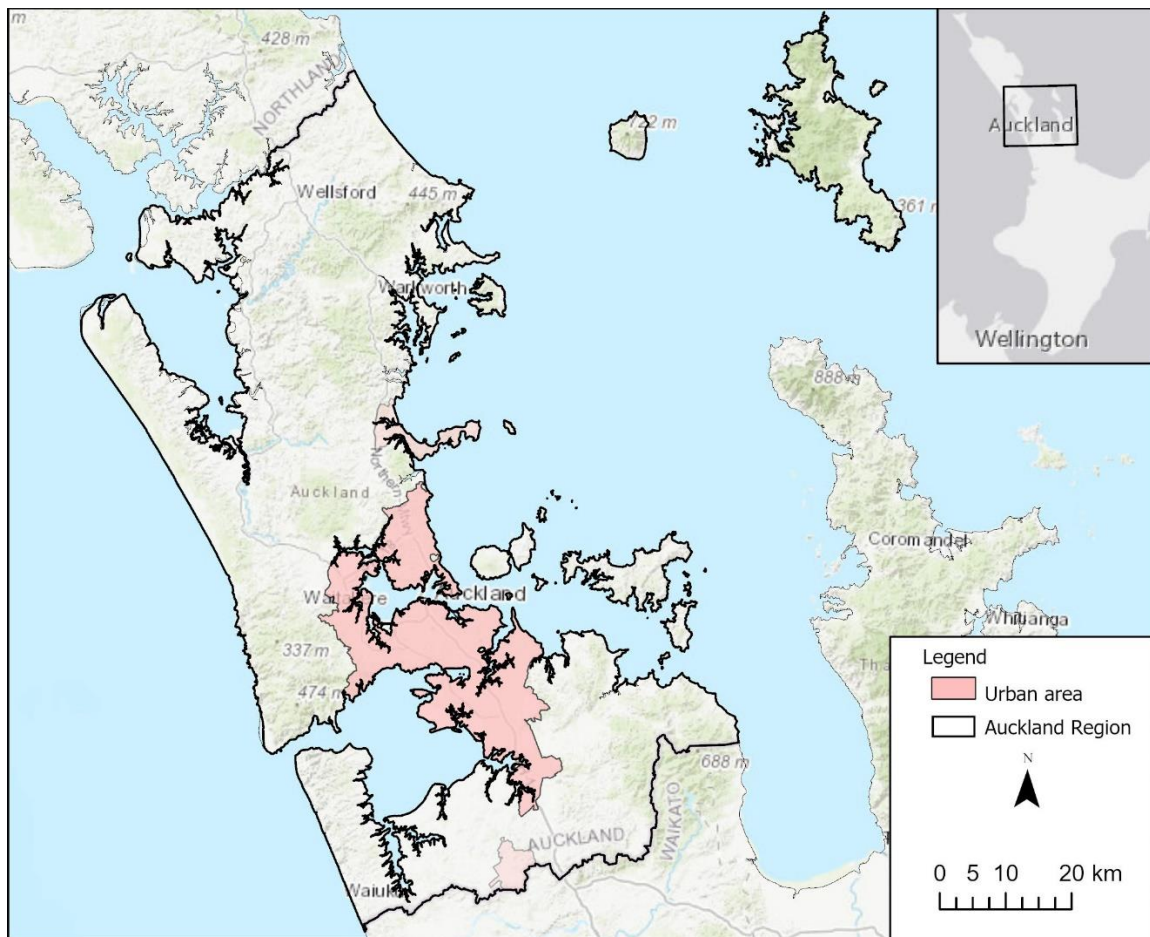


Figure 6: The Auckland Region

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The reasons for selecting planning discourse from Auckland were fivefold and each is discussed in more detail in what follows. First, Auckland's urban plans have been shaped by a Western style of planning, beginning with the Town-planning Act 1926. Porter (2017), although writing specifically about Australian planning, states, "Western planning has never shared its authority and responsibility for place with Indigenous societies" (p. 557), and that it has resulted in the "alienation of land in the interests of colonial possession and domination" (p. 558). This is a view echoed by Thompson-Fawcett et al. (2017) who refer to the restricted rights of New Zealand's Indigenous groups to participate under the RMA. To situate this view, part of Auckland's history is briefly outlined here.

In 1740, the Tāmaki isthmus was "a nodal point of Māori routeways in the North Island" (p. 108), and home to approximately "10,000 Māori living between the Tāmaki River and the Whau Creek" (Pownall, 1950, p.108). Settlement of the isthmus, due to its function as a junction was also a result of it being a natural food basket; Epsom, Remuera and the present Auckland Domain area, for example, were all sites of kumara cultivation (Pownall, 1950; Stone, 2001). This wealth of resources inevitably led to contestation, so much so that its name Tāmaki-makau-rau translates to "Tāmaki [the maiden contended for] by a hundred lovers" (Stone, 2001, p. 7). Pownall (1950) refers to "tribal warfare" (p. 108) in the mid-eighteenth century reducing the population living in this location so that by 1826, although the land was still cultivated, nobody was recorded as living there. Stone (2001) also refers to the contestation of the isthmus, but questions whether this was a constant state. Ngāti Whātua (a confederation of four tribes occupying the isthmus (Taonui, 2017)) took control of the isthmus around 1750 (Stone, 2001, p. 8). Further wars took place following the introduction of muskets in the 1820s and 1830s, resulting in significant casualties, particularly for Ngāti Whātua (Stone, 2001; Taonui, 2017). In 1840, the Treaty of Waitangi was signed. Described as New Zealand's "founding document" (Orange, 2012) the Crown offered partnership to Māori. Yet, Ngāti Whātua Ōrākei (2018) report that within 20 years of the signing of the Treaty, Ngāti Whātua had lost control over the majority of their lands.

The handling of the 700-acre Orākei block is an example of injustice and hope. In 1868 the Native Land Court affirmed ownership of this land to Ngāti Whātua Orākei, declaring it to be "absolutely inalienable to any person in any manner whatsoever" (Ngāti Whātua Ōrākei, 2018, p. 8). In 1898, 20 years later, Ngāti Whātua Orākei described how tribal ownership was "extinguished" (p. 8) by the Native Land Court and land was divided into individual titles. Ngāti Whātua Orākei "followed a strict policy of peace, law and order" (p. 8) following the signing of the Treaty, protesting only through the Courts. However, following "extensive land alienation"

(p. 8) over the following decades, it was the Crown's decision, in 1976, to sell undeveloped land within the Block which led to the Bastion Point protest. Ngāti Whātua Orākei describe how the occupation of this site lasted for 507 days, before being dispersed by the police and army. Protestors were arrested for "trespassing on their ancestral land" (Ngāti Whātua Orākei, 2018, p. 8). Signalling hope, a later claim to the Waitangi Tribunal was settled in 2011, the Crown apologised to Ngāti Whātua Orākei for its state of virtual landlessness, and redressed this through sites being transferred, statutory acknowledgements, financial and commercial redress and other actions. Being aware of historical events of a place, and the effects decision-making processes in the past is central to the idea of the JCPEA, as they constitute circumstantial premises. Understanding the premises of actions based on circumstances, as the JCPEA does could mitigate planning practices that perpetuate "colonial authority" (Porter, 2017, p. 558) and that exclude or undermine Indigenous groups.

There is *hope* for the involvement of Indigenous groups in New Zealand planning. Thompson-Fawcett et al. (2017) acknowledge that "recent years have seen examples of meaningful effort in planning thinking and practice to understand Indigenous values and, sometimes, to enable Indigenous communities to work towards their own planning aspirations" (p.176), and in the forthcoming review of the New Zealand planning system is signalling an expanded role for *mana whenua* in decision-making (Randerson, 2007). Hope is critical to the idea of a just city, as is discussed further in Chapter Five, but as I argue, it is a concept that needs to be anchored in practice.

The second reason for selecting planning discourse from Auckland as a case study is relates to its spatial development history. Concurrent with the signing of the Treaty, Auckland, as a British colonial settlement, was founded in 1840 by the Governor of New Zealand, William Hobson (Auckland Regional Council, 2010). It was New Zealand's original capital city (Auckland Regional Council, 2010). Following surveys and the sale of European settlement began in 1841, primarily in the Commercial Bay area (the northern end of what is now known as Queen Street) (Auckland Regional Council, 2010). Transportation via newly built roads and waterways facilitated movement by the 1840s (Auckland Regional Council, 2010). Subsequent settlement of Auckland occurred rapidly.

Gu (2010) describes four distinct periods in Auckland's urbanisation, beginning with "pioneer development between the 1840s and 1880s. During this time a British Port was established on a previously occupied pa site at Point Britomart, housing 10,000 soldiers during the land wars (Auckland Regional Council, 2010). Later settlement periods included the late Victorian and Edwardian period (1890s-1900s), the interwar period (1920s-1930s) and the early post-war

period (1950s–1960s) (Gu, 2010). Even though it is small (population-wise) by international standards, Auckland has a land area that in other locations would accommodate two to three times its population (Memon et al., 2007). Spatially the city manifests as low-density, car-dependent residential environments (Memon et al., 2007), which is at odds with Auckland Council’s vision of being a quality compact city and suggests compact city policy is underpinned by conflicting values.

The city’s population composition is another reason for choosing Auckland. Immigration to New Zealand, and specifically Auckland, has been a constant feature since the 1800s and has continued at pace in recent decades. Spoonley (2015) describes the effect of this immigration as resulting in an “intensification of superdiversity” in Auckland (p. 650). The 2018 Census data shows a large number of Auckland’s population were born overseas, 41% compared with 27% nationally. Of the residents born overseas, these included 19.1% of Aucklanders born in Asia (mostly China and India), 7.8% born in the Pacific Islands, and 5.7% born in the UK or Ireland (NZ Stats / Tatauranga Aotearoa, 2018; StatsNZ, n.d.). The city accommodates ethnic, age-related, gender, family size and income diversity among others to create a superdiverse city. The mosaic of intersecting population variables affects “where, how and with whom people live” (Spoonley, 2015, p. 605) making Auckland a challenging case through which to explore if and how ethics might inform the realisation of a just city.

The fourth reason for choosing Auckland relates to its recent local government reorganisation and legislative changes (including the introduction of a requirement for a spatial plan, and the changed procedure for preparing and adopting its first unitary plan). At the time Auckland’s first spatial plan was adopted the city was expecting growth in the magnitude of an additional one million people and 400,000 new homes by 2040 (Auckland Council, 2012). It is New Zealand’s largest and fastest growing city. As a case study, it is useful to reflect on Auckland’s planning discourse, not only because it is the only local government with a statutory spatial plan but also because Auckland’s one-off unitary plan development process is being used as an exemplar, subsequently influencing other planning processes (refer section 6.5).

Finally, it is a city facing significant housing affordability issues (Eaqub & Eaqub, 2015), known ethnic segregation (Johnson et al., 2014), and recognition of inequities (Rashbrooke, 2013). I expected that discourse within Auckland’s statutory plans and other documents would in some way address these issues, and therefore present a thought-provoking case study when considering the just city concept and evaluating (i) the extent to which the content of Auckland’s plans reflect an ethical dimension or dimensions, (ii) whether the focus is on those

who are least advantaged, (iii) the merit of the arguments invoked, and (iv) where the power lies.

2.5.3 Data Collection and coding

Planning discourse over a six-year period was explored to develop a deeper understanding of the ethical dimensions of plans. The JCPEA, as applied to Auckland, used a purposive method of selecting documents. Criteria for inclusion were that it was a statutory plan written after the creation of Auckland Council (i.e., 2009), or that it informed the development of a statutory plan since 2009.

The selected documents (or sets of documents) are listed in Table 4. This case study is limited to four of Auckland Council's statutory plans – its inaugural spatial plan, the Auckland Plan (2012), the Proposed Auckland Unitary Plan (2013) (PAUP), the Auckland Unitary Plan (2016) (AUP), and the revised spatial plan – Auckland 2050 (2018). However, as Fairclough and Fairclough (2012) state, “it is more illuminating to take as our object of analysis and evaluation not just the reports [plans] themselves, but also reactions to and evaluations of the reports by other participants in the public debate over government strategy” (p. 117). Hence additional documents were explored to gauge reactions outside of Auckland Council to plan content. Documented input from other participants in the AUP development process included submissions on the PAUP, the Section 32 Evaluation Report written/compiled by the authors of the PAUP (Auckland Council, 2013), and various relevant reports of the Independent Hearings Panel on the Auckland Unitary Plan (IHPAUP). These documents were chosen as: (1) they represent a suite of documents developed immediately following local government reorganisation in Auckland; (2) they traverse a period when there was a change in political power in central Government, from the National-led Government prior to 2017, to the Labour-led Government, post 2017; and (3) during this time there was significant awareness of planning processes due to rising housing unaffordability in Auckland, as evidenced through increased media coverage. For these reasons I felt that planning discourse generated over this time would provide a feasible foundation from which to consider ethics in political decision-making.

Within the case study documents, it was only compact city policy that was evaluated. Various social constructs of the ‘compact city’ have become entrenched in our ideas and understanding of what constitutes a sustainable city. Compact city policy has generally been framed in one, or more, of four ways: the economically competitive city, the sustainable compact city, the compact city as an urban renaissance, and the compact city as a constraint on the supply of residential housing. Framing has long been used in policy analysis as a means of exploring

complex issues, and as a way of presenting knowledge. These frames were used to identify the policy / content to analyse.

Given the size of the statutory plans and the wide range of resource management issues considered within them, the evaluation was limited to compact city policy relating to residential environments. I acknowledge that by limiting the scope of the study what Whitford and Ruhanen (2010) describe as “contextual misinterpretation of the document even though the researchers were familiar with the broad context of each policy” (p.482) could occur. However, a focus on residential environments was considered appropriate for two reasons. First, tensions in urban policy are most evident between the claim a compact city is sustainable and *ought* to be pursued and the counter-claim that it *ought not* to be pursued as it constrains residential land supply and results in unaffordable housing. Second, it was a way of applying the JCPEA to a manageable amount of data.

Data was collected from written texts as described above, using a qualitative data management program, NVivo, which involved searches for key words/phrases, as well as manual coding when reading documents. NVivo is software to organise and analyse unstructured information. As the information was entered into NVivo it was read, and this initial scan provided a general sense of the information, and an opportunity to reflect on its meaning (Cresswell, 2009).

Discourse within the texts was coded to organise and then analyse it. As a first step references to compact city policy within each document (or set of documents) were coded thematically, see Table 5. As noted earlier, these themes were drawn from a literature review detailing how compact city policy is variously framed. Once coded, this data was used in the political discourse analysis to reconstruct the argument for (or against) the compact city.

Discourse within the texts was also coded against specific, substantive conceptions of justice, and the just city principles of equity, diversity, democracy and kindness. These terms (or their synonyms) were used to identify where ethics were informed the language of urban planning, providing the evidence of a just city (see Table 6). This coding methodology resulted in large amounts of data, pages of excerpts from the various documents. The distillation of themes was not a rigid or exhaustive process but relied on reading, sifting, and sorting the data after it was coded. While key findings are presented in chapters 7, 8 and 9, I appreciate this research doesn't use conventional data and results reporting due to the sheer scale of data obtained.

2.5.4 Case study purpose

Using Auckland's planning discourse as a case study is not intended as a means of judging the "merit and worth" (p. 34) of Auckland's plans. Nor is it intended as a review (in the RMA sense (s79)). Instead, applying the JCPEA to Auckland's planning discourse is intended to "delineate and illuminate" (Stufflebeam, 2001, p. 34) how specific ethical values are invoked and if/how the extended concept of a just city is being realised. Through abductive inquiry, this case study is intended to provide new insights into planning practice as it relates to the use of ethical arguments in the pursuit of a just city.

2.5.5 Generalisability

One of the weaknesses of case study research is that the findings do not have broad applicability, limiting the potential to generate new knowledge. However, there is the potential for transferable findings. Transferability is premised on the basis of rich and detailed descriptions being provided, inviting readers to compare the findings with their own knowledge and to determine any relevance to their own setting (O'Leary, 2010; Smith, 2018). Readers of this research may be able to "intuitively transfer the findings to their own action", which is a form of generalisability according to Smith (2018, p. 141). The findings of this research, presented in Chapters Eight to Ten, were deliberately detailed for this purpose and it is hoped, may enable transferability to other planning contexts. Using background knowledge (as established in Part One), there is scope to highlight lessons learnt in the context of the case study, that may have applicability in other settings (O'Leary, 2010), where non-statistical empirical generalisations can be made drawing on "rhetoric and persuasion" (Sharp, 1998, p. 786) and through connecting the findings with literature. The use of a model, such as the JCPEA, also encourages transferability in that other case studies, undertaken under the same approach may have some comparability in their findings.

Table 4: Compact City Policy – the suite of documents and sections evaluated

Document (or part thereof)	Notes:
The Auckland Plan (2012)	<i>Focusing specifically on residential provisions, but including other sections referencing compact city policy generally.</i>
The Proposed Auckland Unitary Plan	<i>Limited to the Regional Policy Statement and Residential Zone Sections.</i>
Submissions on the Proposed Auckland Unitary Plan	<i>Limited to the first 200 submissions listed in the summary of submissions that referenced ‘compact’, the submissions read and analysed for this thesis were assigned a unique identifier number (x). References to submissions from individuals are coded as: (I_x); from NGOs (NGO_x), from corporates (C_x) and Iwi authorities (Iwi_x).</i>
Reports and Recommendations of the Independent Hearing Panel on the Auckland Unitary Plan (IHPAUP)	<p><i>Limited to:</i></p> <ul style="list-style-type: none"> • <i>Report to Auckland Council Hearing topic 001 Auckland-wide</i> • <i>Report to Auckland Council Hearing topic 003 Chapter A, Introduction</i> • <i>Report to Auckland Council Hearing topic 005 Issues of regional significance</i> • <i>Report to Auckland Council Hearing topic 009 Mana Whenua</i> • <i>Report to Auckland Council Hearing topic 011 Rural Environment</i> • <i>Report to Auckland Council Hearing topic 012 Infrastructure, energy and transport</i> • <i>Report to Auckland Council Hearing topic 013 Urban Growth</i> • <i>Report to Auckland Council Hearing topic 018 Monitoring and environmental results anticipated</i> • <i>Report to Auckland Council Hearing topic 056 and 057 Rural zones</i> • <i>Report to Auckland Council Hearing topic 058 Open Space</i> • <i>Report to Auckland Council Hearing topic 059 – 063 Residential Zones</i> • <i>Report to Auckland Council Hearing topic 064 Subdivision rural</i> • <i>Report to Auckland Council Hearing topic 064 Subdivision urban</i> • <i>Report to Auckland Council Hearing topic 077 Sustainable design</i> • <i>Report to Auckland Council Overview of recommendations on the proposed Auckland Unitary Plan</i>
Decisions of Auckland Council	<i>Limited to the IHPAUP Recommendations referenced above.</i>
The Auckland Unitary Plan	<i>Limited to the Regional Policy Statement and Residential Zone Sections.</i>
Auckland 2050 (2018)	<i>Focusing specifically on residential provisions, but including other sections referencing compact city policy generally.</i>

Table 5: Coding to organise data – codes relating to compact city policy

Code	Indicators
Compact City	Compact city; compact urban, compact and affordable
Density	<i>High-density, medium-density, low-density, appropriate density, residential density, population density, population growth</i>
Growth Management	<i>Growth management, metropolitan area, rural-urban boundary, rural limit, urban boundary, negatives (of growth), problem</i>
Sustainable	<i>Economic (economic and sustainable, economic and compact), environmental (sprawl, prime elite soil, prime agricultural land), social (care, community, community connections, wellbeing or well-being)</i>
Economic	<i>Agglomeration, competitive, economic and housing, economic growth, housing market, economies of scale, liveability, market economy, residential property, productivity and housing,</i>
Housing	<i>Housing, affordable housing, housing choice, housing demand, land supply (for housing), housing providers, housing tools, segregation, tenure, urban development</i>
Arguments	<i>Benefits - of agglomeration, of compact, of economic growth, blame</i>

Table 6: Coding to organise data – codes relating to justice and just city principles

Ethical Dimensions	Code	Indicators
Conceptions of Justice	Utilitarianism	<i>utility/utilitarian, cost benefit analysis, happiness, wellbeing, good, greatest good, public interest</i>
	Libertarianism	<i>Economy [economies, economic], efficient, effective, individual, internalising externalities, intervention, liberal, libertarian, liberty, market, [market failure, free market] neoliberal, private property, property rights, supply / demand</i>
	Rawlsian	<i>liberal equality, equal basic liberties, citizenship, fairness, equitable, least advantaged (beneficiary, divide, income, socio-economic, unemployed), welfare, greatest need, truth, invisible veil/all things being equal</i>
	Communitarianism	<i>community-led, community, community identity, community participation, deliberation, public/community input, shared values</i>
	Capability(ies)	<i>capability, opportunity, functioning, freedom, agency, rights, practical reason (protection of liberty of conscience and religious observance), affiliation, respect, emotion, non-tradeable,</i>
General references	Just city	<i>fair, just, moral, moral framework, kiwi ingenuity, least advantaged</i>
	Democracy	<i>advocate, authorship or author (not authority), consult, deliberate, democracy, participate, represent</i>
	Diversity	<i>belonging, cluster, cohesion, concentration (people), discriminate, diversity, divide, ethnic group, group or inter-group (people), identity, inclusive, intercultural, intersectionality, interests (as in common interests), segregate</i>
Just City Principles	Equity	<i>affordable housing, disadvantage, disparity, distribution (patterns of), equitable, equity, of 'opportunity', inclusion, inclusionary, inequity or unequal, intergenerational, wellbeing, cares (exclusion, social economic and cultural wellbeing, social inclusion, social needs, vibrant)</i>
	Kindness	<i>kindness, better place (leading the world in), critical hope, everyday acts, heart of the city, humanism (global), maintenance and repair, welfare (interventions), manaakitanga, helping, friendly, niceness, needs (recognition of), values, virtues</i>

2.6 Ethics

I have read and become familiar with the Massey University Code of Responsible Research Conduct (2015) and acknowledge and agree to abide by each of the nine principles. I have read the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants (2017), and understand the importance of the universal ethical principles (autonomy, avoidance of harm, benefit, justice, special relationships) and the Treaty of Waitangi obligations and principles. While there are no human participants, as the data obtained for this research are publicly available and obtained from the Auckland Council website, there are several principles that are relevant.

One of the principles under the Code of Responsible Research Conduct requires a duty of care for participants in, and the subjects of, research. In this instance, I acknowledge a duty of care is required toward the submitters on the Proposed Auckland Unitary Plan. Their discourse, while publicly available on the internet, was probably never intended to be scrutinised by a doctoral researcher. The Auckland Council has to comply with the principles of the Privacy Act 1993 in relation to the collection and dissemination of this information (which was operative at the time the submissions were made but has since been replaced by the Privacy Act 2020).

For me, although the submitter's discourse was made publicly available, care has been taken to ensure that their privacy is respected. No names or details of private submitters (individuals) are used, nor are submitter numbers used. Instead, a separate number system has been applied, so that only I knew the submission that the quote/comment came from. In some instances, where submissions are made by an institution, that institution has been named, but the individual working for the institution has not. In terms of the Code of Responsible Research Conduct Principle of Fairness, which requires that work is attributed fairly, a conscious decision was made to attribute this work, when quotes from submissions were used, by use of a coded number. This decision also complies with the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants principle "Avoidance of Harm (non-maleficence)" (Massey University, 2017).

It is also anticipated that this research will promote beneficence, an "ethical positive" – as described in the Code of Ethical Conduct for Research, Teaching and Evaluations involving Human Participants (Massey University, 2017) as its intended contribution is to promote better planning practice with regard to including ethical dimensions in plans.

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2.7 Limitations of study

The first and most obvious constraint of this study is that I have limited the scope of my JCPEA to five Western interpretations of justice. The reasons for this were described earlier (section 1.4.2). The JCPEA was primarily intended as a heuristic as I explored the concept(s) of what constitutes *just* in a city. However, it may also prove useful for others. The ethics in the JCPEA can be thought of as Legos; able to be switched out for other ethics or principles. For example, I could have included environmental justice as one of the ethics to explore, and perhaps should have, given the focus of the RMA on environmental effects of land use activities. However, my research was always intended to focus on social justice. The limitation of the JCPEA in this regard is also potentially one of its strengths. It is not intended as a rigid empirical tool, but rather a framework that is flexible, that can be tailored to other contexts.

The second limitation relates to understandings of these ethics. While abductive reasoning relies on knowledge being obtained from the “inside” (Blaikie & Priest, 2019, p. 104) it is possible that the signs of ethics that I look for in the planning discourse may not have been intentional. The participants in the planning process may not understand any or all the theory behind the specific ethics I use in the JCPEA, as per my own starting point. However, there is still merit in exploring these signs.

It is likely that different ethics have become part of an “episteme” (Foucault, 1989, p. 211) a world view that draws on “unconscious codes and rules or holistic conceptual frameworks ‘that define problematics and their potential resolutions’” (Ball, 2013, p. 21). Foucault describes how despite changing government histories, there is often “unmoving histories” (p. 4) and seeks to understand the links between the present and the past. In the context of this research, I interpret this to mean that despite changing policy interventions, the ethics often remain the same, unmoving. To explore these unmoving histories, and the way in which discourse has changed over time, Foucault refers to the history of documents as a form of archaeology, the analysis of which can reveal knowledge. Again, in the context of this research, the analysis of ethics in planning discourse could reveal certain “ways of speaking” (p. 213). Foucault suggests this could be useful to explore political discourse, analysing the archaeology of documents to identify particular discursive practices, and revealing historical codes and frameworks to address issues. Used in this research, it would not reveal the “ultimate truth” (p. 213), but rather how different ways of speaking might influence the realisation of a just city.

The third limitation of this research relates to my application of Fairclough and Fairclough’s (2012) practical reasoning framework. In making judgements about the standard of each

criterion (*extent, focus and merit*) I use qualitative scales. The standards were subjectively assessed as described earlier. Assessing arguments as being rationally persuasive, dialectically reasonable, and/or a rhetorically effective was particularly difficult. To overcome this, rather than relying on quantitative data that expresses specifically how many people were swayed by an argument, I made subjective judgements, and explained my logic. While it is an aspect of this research that could be further explored, and made more sound, I felt that as part of an abductive inquiry, where I was looking for surprises in the discourse, what Dobson et al describe as “Eureka’ moments”, subjectively assessing extent, focus and merit was sufficient.

There are also limitations relating to abductive inquiry. Criticisms include that it is “a weak mode of inference” (Paavola, 2004, p. 270), and that it is a process where “all kinds of ‘wild and crazy hypotheses’ are possible” (Dobson et al., 2012, p. 8). But these arguments are countered to some extent by the process of abductive inquiry, where research is situated within a broad framework of ideas. The findings of this research are not intended to solve the dilemma of what constitutes just within the city. As an evolving paradigm, meaning-making about a just city is an iterative process. Instead, inferences are made drawing on theory and literature as well as the empirical observations, and are intended as a conversational starting point, and from which others can compare to their own knowledge of planning practice and determine the relevance of them.

2.8 Summary

This chapter has situated my research within an idealist ontology and the epistemology of constructionism. The thesis is presented in two parts as an artefact of the overall abductive approach. In Part One, the essence of what constitutes a just city in reality is drawn from three chapters exploring theory and literature. Drawing on key concepts, and insights developed from the literature, the Just City Plan Evaluation Approach was developed – a dual-method approach to systematically explore how just city ethics and principles are invoked in planning discourse. The use of two methods of discourse analysis leads to evaluative judgements being made as to how the ethical dimensions of urban policy might affect the realisation of a just city. Taking a constructionist approach meant evidence of a just city was sought from the “inside” (Blaikie & Priest, 2019, p. 104). Auckland’s planning discourse is presented in Part One as the case study, and the results of the JCPEA’s application are discussed in Part Two.

The chapters that follow address the four different steps of the JCPEA. Chapters Three, Four and Five are the first step in the application of the JCPEA and are shown in simplified form in

Figure 7. These three chapters form Part One of this thesis and provide relevant just city theory. The application of the remaining steps falls within Part Two of the thesis – the application of the JCPEA to the case study of compact city policy in Auckland’s planning discourse. Chapters Six sets the locational and institutional context of the case study, and Chapter Seven reconstructs the arguments for compact city policy, the subset of urban policy used in the case study. These two chapters are the second step in the application of the JCPEA.

Step three applies the first method, political discourse analysis, to the case study, and the results are presented in Chapters Eight and Nine.

Step four applies the second method, the Foucauldian-type discourse analysis, to the case study, and the results are presented in Chapter Ten.

Chapter Eleven discusses the findings in relation to just city and evaluation literature, and conclusions are reached about why planners should care about how the ethical dimensions of plans can affect the realisation of a just city. The thesis is concluded in Chapter Twelve, where suggestions are made for further research.

Despite several limitations, including the subjective nature of evaluative judgements and the reliance on Western theories of justice, the abductive approach to this research is presented as a way of connecting the discourse of planning with just city theory, in order that the latter can evolve, or at least be better understood.

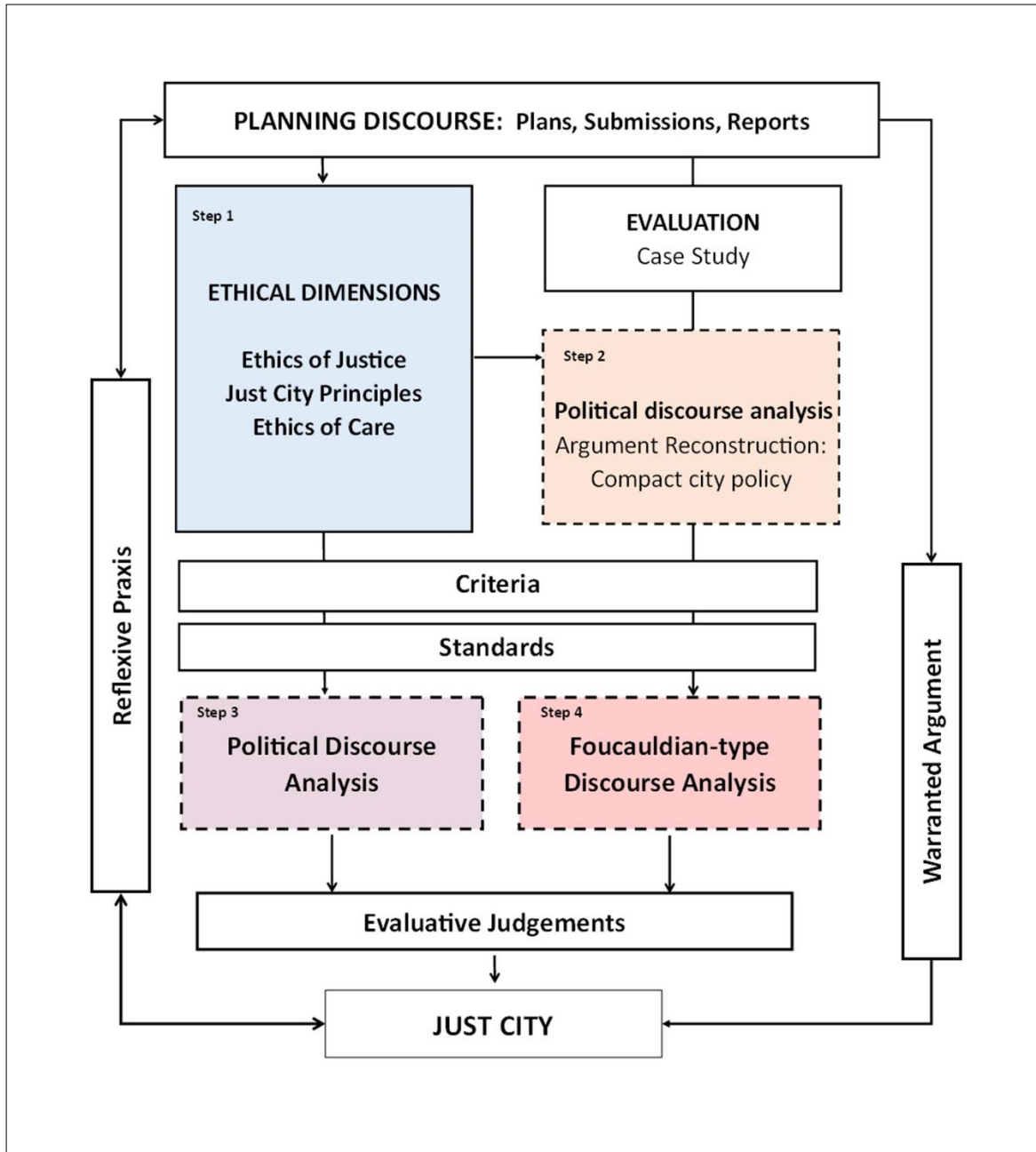


Figure 7: Just City Plan Evaluation Approach (JCPEA): Simplified step-by-step process

**PART ONE: CONCEPTIONS OF JUSTICE AND THE ROLE
 OF ETHICS**

Chapter Three: Conceptions of justice

3.1 Introduction

Pursuing justice through urban policy is inherently complex. Defining justice requires adhering to a set of principles regarding the distribution and/or use of resources, which has implications on what policy interventions are applied (Howe, 1995; Rawls, 1999). As a normative goal to work towards, justice, in the words of Marcuse (2012), is “intuitively attractive” (p.1) for planners, whose role is to consider distributive effects of actions over time and deal with unjust spatial distributions. Its achievement requires a shared commitment as to what constitutes ‘just’, and in the context of a city this is contestable. Rawls (1999) suggests that while the idea of justice can generally be agreed there are multiple conceptions of justice (including his own) that exist.

This chapter identifies how different notions of justice might manifest in urban plans. From a wide choice of normative ethics, an overview of five ethical theories of justice are presented – utilitarianism, libertarianism, liberal equality (Rawlsian justice), communitarianism, and the capability(ies) approach. It is a small selection of the normative ethical theories that might “consciously or unconsciously shape the way [planners] define and think about ethical issues” (Howe, 1990, p. 126), chosen because of their relevance to planning, their focus on the social environment (as opposed to environmental justice), and because they come from different perspectives of moral theory (teleological, deontological, virtue or communitarian ethics). Other theories of justice could also have been included in this selection. For example, Marxism. I refer to Marxist theory in Chapter Four, in the discussion on the evolving context of planning. According to Gleeson & Low (2000), scholars using a Marxist analysis to critique urban planning have generally concluded that “the planner is, and can only ever be, a functionary of the capitalist state apparatus” (p. 100). This is counter to the argument that I make; that planners have an advocacy role for those who are least advantaged, and in doing so they cannot uncritically accept policy directives from the state, but rather critically challenge market failures and politicise them in spaces for democratic debate and discussion. For this reason, I have not evaluated the content of planning discourse in terms of Marxist theory.

The set of theories used present an incomplete, but diverse, set of theories, highlighting how planning policy and subsequent interventions (the extent to which they are applied and their rationale) exist on a spectrum and depend on the ethical perspective from which they derive. This chapter does not argue that one ethical perspective is better than another, but rather provides a basis for understanding some of the influences that might underpin practical reasoning within urban plans about what ought to be done, what they hope to achieve, and the type of just city to which they allude. Each theory is embedded in scholarly articles on the ethics in planning (as opposed to the ethics of *planners*) (Basta, 2015; Campbell, 2006; Hendler, 1995). They are theories *for* planning rather than theories *of* planning, their role being to “unify, uphold, and justify planning values in the form of a conceptual foundation for the field and profession” (Hendler, 1995, p. 4). They also come from different categories of moral theory which are then reflected in the course of action chosen to justify a planning intervention.

Teleological ethics, also called consequentialist moral theories, are concerned with the consequences of actions: An action is considered right if the result is good (Howe, 1990; Vaughn, 2015). Different consequentialist theories define *good* variously, but as Vaughn (2015) notes, “however good is defined, the morally right action is the one that results in the most favourable balance of good over bad” (p.81). In contrast, deontological ethics, also known as nonconsequentialist moral theories, determine whether an action is right based on an underlying principle (for example, fairness) and adherence to rules that establish what is right (Bolan, 1983; Harper & Stein, 1995; Howe, 1990, 1995). According to Spinello, “[a]ctions are intrinsically right or wrong, regardless of the consequences they produce” (as cited in Frischhut, 2019, p. 22). The etymology of deontological shows that it stems “from the Greek word for “ought”” (Howe, 1990, p. 127), as in what ought to be done, and this is a point to which I return later in Chapter Five. Howe (1990) also suggests that in planning deontological ethics are concerned with “rules governing process” (p.127). This is another point to which I return and is an approach which Fainstein (2010) questions with regard to the pursuit of a just city (Chapter Four). The value of exploring ethical theories is that they are intended to guide human practice, which requires an understanding of both the theory itself and the criticisms of it (Howe, 1995).

Unfortunately for the planning profession, specific substantive conceptions of these theories of justice are not spelled out. Scholars are left “questioning what justice might mean as a concrete structure within everyday life” (Connolly & Steil, 2009, p. 3). Hence, this chapter is somewhat encyclopaedic in that it presents a critical overview of each theory and its relevance to planning, albeit barely offering a glimpse of each extensive body of literature. Specific and

substantive ideas, key words and themes are drawn from this literature. They are signs or indicators of how ethics might present in urban plan discourse. These are later used as evaluative criteria to determine which, if any, of these conceptions of justice are invoked in the practical arguments of urban plans.

3.2 Utilitarianism – the pursuit of “happiness”

Utilitarianism, a theory that prioritises public goods over private concerns, has long been used to inform and evaluate public policy including land use planning (Hendler, 1995; Low & Gleeson, 1998). It views the task of government “through wise legislation to persuade or coerce citizens to act in the interests of the common good” through incentives or punishments (Campbell & Marshall, 2002, p. 167). To this end, “the best act (whether rule, plan, policy, system, or intervention) is the one that maximizes the sum total of whatever is intrinsically good – usually happiness or well-being” (Hendler, 1995, p. 14). As Radcliffe Richards has suggested, Bentham, who conceived the notion of utilitarianism:

wanted to make ethics into a science. He was concerned about the way people just used their own intuitive judgement, especially legal people and politicians who were trying to say what was good for the community. ... He wanted to get beyond the idea that you could tell what was good just by your feelings and work on it the way you work on other sciences by actually investigating and getting at the truth, and basing your moral judgements on this. (in Bragg, 2015, 9.20)

Bentham put his hopes in government because of the inherent problems of individualism. According to Campbell and Marshall (2002), Bentham argued:

since the majority of individuals prefer to pursue their private interest rather than their public interest it was, he argued, the task of government (if need be) through wise legislation to persuade or coerce citizens to act in the interests of the common good. (p.167)

They go on to describe how Mills, Bentham’s friend and supporter, put this more succinctly, noting that Government was given this responsibility as it could “discern the ‘real’ interests of individuals better than they could themselves” (p. 167). As Lane (2015) puts it, “if you put your hopes in government then you can say it doesn’t matter what individuals are aiming at. Government can try to create channels which will restructure their motivations”, (in Bragg, 2015, 18.00), albeit she acknowledges the motivations of politicians can also be problematic,

noting that Bentham had hoped that politicians would adopt utilitarianism, but came to the realisation that they also might have “sinister interests” (18’23”) rather than the greatest good for the greatest number at heart.

By the mid-20th century utilitarianism was a key premise underpinning urban plans (Campbell & Marshall, 2002; Healey, 1994). Healey describes the plans of this period as being pervaded by a “moral utilitarian aesthetic”, “washed over by a paternalist welfarism”, and referred to this as “arrogant utilitarian functionalism” (Healey, 1994, p. 42). However, it was a time when the power of the plan was unquestioned and “the planner as expert was assumed to be the guardian of the idea of the good city, articulating for society what its needs and values were (Healey, 1994, p. 45).

Arguments for policies that claim to maximise utility are, as Williamson (2010) describes, a “potentially powerful justification for intervening in markets” (p.61). He gives three premises for this: (1) “goodness” (p.59) is judged by outcomes and is evidence based, (2) happiness (or utility) is the “single identifiable standard for assessing the consequences of an action” (p.59), and (3) in making policy “each person’s utility is to be weighed equally” (p. 59). Cost benefit analysis is the utilitarian tool to assess the extent to which policy can “maximise the aggregate benefits accruing to society’s members while minimizing the costs they bear” (Williamson, 2010, p. 57). It is a tool, according to Howe (1990), that in principle can resolve moral issues through the empirical calculation of consequences, making it appealing to planners. However, quantifying benefits and costs is problematic. As Fainstein (2010) notes, “it is virtually inevitable that any replacement of an existing use by a more valuable one will produce net positive benefits. If they are calculated based on subjective responses, then consensus on value usually becomes impossible” (p.39). So, despite the attraction of utilitarianism as a means of justifying inventions in the market (i.e., achieving the greatest good for the greatest number) it faces criticism.

The description above is the basis of classic utilitarianism, whereby Bentham and Mill, the forefathers of utilitarianism, “were concerned with evaluating the good to be brought about by each specific act” (Howe, 1990, p. 128). According to Drake (2001), Bentham and Mill considered that “the aim of life was happiness, and the yardstick was calibrated in pleasure and pain” and that justice was the “greatest good for the greatest number” (p.61). For Mill, a happy life was one which included being healthy, intelligent, and active, and “having companionship with and concern for others, and possessing and exercising virtue, prudence and wisdom” (Williamson, 2010, p. 59).

Utilitarian theory has continued to be refined. According to Buchanan and Mathieu (1986) it can be divided into two types: act-utilitarianism (which is the classic utilitarianism as originally conceived by Bentham and Mill); and rule utilitarianism. Hooker describes the distinction between the two as:

an act utilitarian thinks that an act is right or wrong depending on whether that particular act produces as much utility as any available alternative. A rule utilitarian says we shouldn't judge acts by their utility, we should instead judge rules, laws, codes, practices, institutions by their utility and then judge the acts by those rules, codes, practices, institutions. (in Bragg, 2015, 30.04)

A more recent addition is preference utilitarianism. Simões (2013) draws on the work of Hare, who conceived this idea and who defines utility as “the act which does more good, gives greater benefit, or which satisfies more preferences (desires), or the stronger of two or more preferences” (p. 123). This is a term used to overcome criticisms of the idea of judging outcomes by pleasure and pain.

There have been many criticisms of utilitarianism. In particular, it does not address distributive justice well. Outcomes are judged as just or unjust by considering only whether it maximizes the overall quality, intensity and duration of happiness/pleasure/utility, it fails to consider the distribution of costs and benefits and may come at the cost of extreme inequality (2015; Buchanan & Mathieu, 1986; Campbell & Marshall, 2002; Hendler, 1995). Exemplifying this, Harper and Stein (1995) use the justification of a rapid transit line – the utilitarian argument being “benefits ... [to many commuters] exceeding costs” (p. 15). What fails to be considered is the distribution of those benefits and costs and the trade-offs that are made. In the case of the rapid transit line the costs would be to those few displaced by, or living close to, the line (Harper & Stein, 1995).

In terms of trade-offs, utilitarianism is an approach that justifies overriding or worsening the interests of some individuals to achieve the greatest good for the greatest number (Fainstein, 2010). Following a utilitarian line of argument, as long as the conditions of the majority are enhanced, and compensation made to those affected, “it does not matter, except indirectly, how this sum of satisfactions is distributed among individuals” (Rawls cited in Fainstein, 2010, p. 38). Yet compensating for losses is difficult, particularly for intangible costs. Evaluating happiness is also complicated. Lo Piccolo and Thomas (2009) explain these as the difficulties in identifying happiness or unhappiness effects, weighing these effects and subsequently quantifying them. With regard to weighing up effects of happiness or unhappiness, Campbell

and Marshall (2002) point out the subjective role of experts, i.e. planners, identifying and weighing up the ‘good’, “trading off one person’s utility against another’s” (p.175). They note that such judgements are based on the ethics of the person in that role.

Despite criticisms of utilitarianism and CBA, in particular, it continues to be a conception of justice which strongly influences contemporary planning practice. Fainstein (2010) suggests a focus on private investment and economic growth of many institutions and their “growth-promoting policies [will] result in the greatest good for the greatest number” (p.1), suggesting that utilitarianism is still influential. Tangible, substantive, aspects of utilitarianism could therefore be expected to be found in contemporary urban plans.

The key concepts and terms I have taken from the utilitarian frame are summarised in Table 7. These concepts and terms are characteristic of utilitarianism and may form the basis of arguments informing urban plan discourse. A similar table is developed for each of the justice theories that follow (Tables 8 to 11), all of which are collated in Table 12. These characteristics are used in the subsequent evaluation of plan discourse and assessed in terms of the extent to which they are influential in planning discourse and the merit of the arguments invoked.

Table 7: A summary of Utilitarianism	
Focus	Public interest
Values	Greatest good Happiness / wellbeing Preferences
Outcomes sought	Quality of life Choices Measurable outcomes Shared public goals
Actions	Cost-benefit analysis Trade-offs
Distributive Factor	Utility
Type	Deontological

3.3 Libertarianism – the primacy of private choice and market processes

Libertarianism, a theory of justice which prioritises freedom of individuals and the right to use private property as individuals see fit, is also influential in land use planning (Williamson,

2010). Stemming from 18th and 19th century laissez-faire capitalism¹, it remains a significant ethic in western societies (Sorensen & Day, 1981). Its background places this theory of justice in a position of tension with the planning profession, particularly its role in development control given that land use planning is defined as a “particular form of public policy intervention in the arena of private decisions with regard to the use of land, governed by particular legislation” (Bramley et al., 1995, p. 38). Libertarianism has been described as “strikingly anti-distributive”, in that forcing a person to contribute part of their legitimate holdings for the welfare of others is “a violation of that person’s property rights, whether it is undertaken by private individuals or the state” (Cohen, 1986, p. 35). However, with regard to rights it is “negative rights” that libertarians emphasise, “the right not to be interfered with, to be free from interference with the pursuit of one’s goals” (Harper & Stein, 1995, p. 16). The implications of this anti-interventionist libertarian approach for the planning profession are clear – planning intervention is a tool to be used exceedingly sparingly.

Libertarianism advocates for the free market and rejects any altruistic distributive role of the state (see Bell & Davoudi, 2016; Chakravorty, 1999; Cohen, 1986; King, 2011; Lai, 2002; Sorensen & Day, 1981; Williamson, 2010). Specifically, Sorensen and Day (1981) describe libertarianism as being:

diametrically opposed to the way in which big government has increasingly pervaded aspects of private life in the guise of democratic majority interest. Instead, the libertarian seeks to maximise self-determination against a minimal set of conditions protecting the market economy, the rule of law, neighbourhood effects and, stemming from these, some measures of social and economic wellbeing. (p.399)

Maximising self-determination necessarily means minimising interventions by the state. Indeed, as Williamson (2010) describes it, any policy restricting liberty for the sake of the public good it might derive is seen as an “abuse of government’s purposes”, which is “to protect private property” (p.13). For planning, libertarian values are problematic, and have

¹ A laissez-faire economic system is one “characterised by the free operation of markets” Harper, T. L., & Stein, S. M. (1995). A classical liberal (libertarian) approach to planning theory. In S. Hendler (Ed.), *Planning Ethics: A reader in planning theory, practice and education*. Center for Urban Policy Research. . In the context of planning, and in the view of Abercrombie, P. (1933). *Town and Country Planning* (Second Edition ed.). T. Butterworth Limited. , laissez-faire (which translates to leave alone) is the antithesis of urban planning. He refers to it as “unconcerned growth”, unplanned development resulting in “the lava streams of irrupting urbanism [which] seem to flow blindly in natural devastating confusion” (p. 26).

contributed to the profession becoming “trapped” (Campbell, 2006, p. 96) between a call for non-intervention and the profession’s noble intentions associated with land use planning and development control, separating activities to ensure they are protected from the externalities of other activities (Campbell, 2006; Pearce, 1981). Externalities are those unintended off-site effects of an activity (Harper & Stein, 1995), and planning responses typically include zoning, or bulk and location standards, deliberate interventions in the rights of property owners.

Abercrombie, a prominent town planner, known for his 1944 Greater London Plan (a predecessor to the New Town movement), was perhaps the first planner to criticise the effects of libertarianism on land-use planning. He warned the planning profession against the “muddler who will talk about the law of supply and demand and the liberty of the individual” (cited in Lai, 2002, p. 290). Abercrombie’s warning was clearly heeded. In the early 1980s, Sorensen and Day (1981), reflecting the dominance of the utilitarian influence in planning, commented that the “libertarian perspective has largely been ignored by planners” (p. 390). Yet the rise of neoliberalism in the 1980s saw a corresponding rise of Abercrombie’s ‘muddlers’, with their libertarian views, presenting new challenges for the profession with regard to decision making about rights and wrongs. Since then, libertarianism has increasingly found a voice in planning, resulting in measures to prune, bypass or replace the planning system (Chakravorty, 1999; Hague, 1991), as previously discussed (see Chapter 1, section 1.1.3).

A significant criticism of libertarianism is that it relies on “merit as the only distributive factor” (Chakravorty, 1999, p. 79). This is deemed implicitly unfair given that ability is largely determined, as Neilson asserts, by “genetic roulette and shaped by the random circumstances of childhood environment” (as cited in Chakravorty, 1999, p. 79). Although contemporary libertarianism does not resonate with the ideal of a ‘just’ city, where the fair/just distribution (or redistribution) of resources is fundamental, its earlier conceptions did.

Delving into libertarianism, as it was initially conceived by Locke in the 17th century prior to contemporary theorists’ interpretations, provides some useful insights into how it could be interpreted and applied to planning practice in pursuit of a just city. Varden (2015) states Locke’s theory as:

all individuals are born free and equal, that the legitimacy of the power of the state depends on citizens’ actual (explicit or tacit) consent, and that the social contract (the constitution) citizens agree to, with which all posited laws of the state must be in line, comprises the natural laws concerning individuals’ rights (p. 164).

Central to Locke's view of justice, according to Varden (2015), is that:

every individual has an original, natural political authority, while the state only has a derivative, artificial political authority. This view—that individuals' actual consent is necessary for the state's legitimacy—is often referred to in political philosophy as a "strong voluntarist" conception of political obligations (p. 164).

Locke refers to principles of justice that individuals would use in a pre-state condition – the "state of nature" (Varden, 2015, p. 165). Locke argues that in this state of nature, "initial acquisitions of property ... should leave 'enough and as good' resources for others to access" (Williamson, 2010, p. 14): a view which has strong connotations of distributive justice.

Lockean theory highlights a concern: the need to regulate for those who are least advantaged (Williamson, 2010). Writing about possessive libertarianism, based on the role of government being to defend private property rights, Williamson notes that in Locke's view, "those with a surplus of property have a moral obligation to assist the needy", and "the special right to property that Locke espouses is outweighed by a 'general right' of all people to subsistence" (2010, p14). Williamson (2010) also writes that Locke considered that "no one has the right to claim a piece of property and then waste or discard its fruits, or hold the property for the sole purpose of denying others its use; individuals have no moral claim to land they do not make productive use of" (p.14). This has specific relevance to the practice of land-banking and its effect on housing affordability, something considered a normal practice in a neoliberal market economy.

According to Williamson (2010), while Locke was against the "arbitrary expropriation of taxation of land by unjust rulers concerned with the common good" (p.14), he envisaged "respect for pre-existing property rights as setting boundaries on what governments can do, those rights were not absolute and were intended to be compatible with and conducive to the broader common good" (p.14). Locke also accepted the legitimacy of taxation and regulation of property when seeking to advance the public interest (Williamson, 2010). This is in contrast to Nozick's contemporary interpretation of libertarianism which, according to Williamson (2010), sought to minimise taxes and regulations even if acting in the common interest. It suggests the original Lockean theory of libertarian justice, is more closely aligned with Fainstein's (2010) view of the just city.

This brief overview of literature relating to libertarianism has identified the key terms that inform libertarian arguments within urban plans, as shown in Table 8.

Table 8: A summary of Libertarianism

Focus	Individualism
Values	Liberty/Property rights Negative rights
Outcomes sought	Government efficiency Economic growth Competitive markets Equitable real property markets
Actions	Free market Anti-intervention Laws of supply / demand
Distributive Factor	Merit
Type	Teleological

3.4 Liberal Equality – Justice as Fairness

Liberal equality, also known as Rawls's Theory of Justice, was developed by Rawls (1921-2002) as a direct response to utilitarianism, "to guard against injustice in that the greatest good for the greatest number might, in its most extreme form, represents tyranny by the majority" (McKay et al., 2012, p. 149). Rawls (1999) writes:

Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss of freedom for some is made right by a greater good shared by others. It does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. (p. 3)

Rawls' problem with utilitarianism was that it considered all individuals as equal, whereas not everyone is born with equal capital, and minority groups are often marginalised in utilitarian decision making (McConnell, 1995).

Rawls viewed justice as fairness. He wrote about the primacy of justice in modern society, noting that "in a just society the liberties of equal citizenship are taken as settled" (Rawls, 1999, p. 3), asserting that truth and justice as first virtues of human activities are uncompromising. He takes as his starting point a hypothetical "original position of equality" where a person does not know their "place in society", their "class position or social status", and no one knows their "fortune" (assets, abilities, intelligence, strength) (Rawls, 1999, p. 11). He also assumes that persons "do not know their conceptions of the good or their psychological propensities" and that the "principles of justice are chosen behind a veil of ignorance" ensuring the choice of

principles does not advantage or disadvantage anyone (Rawls, 1999, p. 11). Therefore, his conception of justice is based on the idea that:

the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interest would accept in an initial position of equality as defining the fundamental terms of their association. These principles are to regulate all further agreements; they specify the kinds of social cooperation that can be entered into and the forms of government that can be established. This way of regarding the principles of justice I shall call justice as fairness. (p. 10).

The two principles Rawls (1999) considers emerge from this original position are:

1. Each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.
2. Social and economic inequalities are to be arranged so that they are both
 - a. reasonably expected to be to everyone's advantage, and
 - b. attached to positions and offices open to all. (p. 53)

The principles are hierarchical, in that, infringements of the principle of liberty (the first principle) "cannot be justified, or compensated for, by greater social and economic advantages" (Rawls, 1999, p. 54). In relation to the distribution of scarce resources, Carlton (2006) interprets this as justifiable only if it is to the advantage of the "less favoured classes" (p.14), with Rawls himself writing that "an injustice is tolerable only when it is necessary to avoid an even greater injustice" (Rawls, 1999, p. 4).

In this regard, he displays what Fainstein (2010) refers to as a "realistic utopianism" (p.39), in that he imagines a lessening, rather than elimination, of concentrations of wealth. What separates his view from others, particularly perhaps from Nozick's view of libertarianism, is that he was concerned not only with process, but also with outcomes of processes (Drake, 2001; Harper & Stein, 1992), making it particularly relevant for urban planning and the physical / social dualism of planning.

Rawls' (1999) "veil of ignorance", or "original position" (p.118), is particularly relevant when thinking about a just city. Referring to decision making behind this veil of ignorance, Rawls anticipated that if a person "did not know his place in society" (p.118), they would be able to agree on the redistribution of resources in a just way (Alfasi & Fenster, 2014; Fainstein, 2010; Harper & Stein, 1992; Thum & Weichenrieder, 2000). However, issues arose regarding decision making behind this veil of ignorance. For example, Muldoon et al. (2014, p. 379) describe it as

being “an extremely powerful idea”, although they note that Rawls does not consider what might happen if there was disagreement behind the veil. Rawls’ ideas were also criticised by those who oppose interference in the market (McConnell, 1995), the anti-planning libertarians. Sen (2010) also criticised Rawls’ theory, describing his principles as being “exclusively concerned with setting up ‘just institutions’” rather than focusing on people’s lives (Sen, 2010, p. xi). However, it has also found favour as a theory for planning.

For Rawls, social justice is concerned with the basic structure of society, “or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation” (Rawls, 1999, p. 6). He is referring to the value-laden, and difficult judgements planners make about different courses of action (Campbell, 2012; McConnell, 1995). McConnell (1995) summarises specific and substantive elements of Rawlsian justice. With regard to Rawls’ principle of liberty, he refers to the rights of people to vote or stand for election, and to influence planning processes (including through lobbying). Another liberty to which Rawls refers is property owning, and that this can only be restricted “for the sake of liberty” (p. 37). What Rawls means by this, according to McConnell (1995), is that:

The loss of liberty by those who wish to develop their land for unneighborly uses strengthens the total system of liberty to enjoy property quietly, with no environmental intrusion, which is shared by all. Whether those whose rights to develop a repair yard accept their loss of liberty to do so (cited in Rawls’s second case) will vary from person to person. Most people, though, do tend to accept general regulatory or zoning policies until, perhaps, the day when they are refused permission to do what they want. (p. 37).

Regarding Rawls’ second principle, McConnell (1995) illustrates how this could be planned for by reference to rehousing those who are worst off, “something that has not been the rule in most countries because the worse off may not be able to afford even the minimum rental for low income public housing” (p.38). A famous example of an urban plan with explicit objectives and policies to this end is the Cleveland Policy Planning Report 1975 (discussed further in Chapter Four, section 4.4.1 in the discussion on Fainstein’s principle of equity).

This brief overview of literature relating to Rawlsian justice has identified key terms and concepts as summarised in Table 9.

Table 9: A summary of Rawlsian justice

Focus	Social justice
Values	Least advantaged
Outcomes sought	Justice Equal basic liberties Equity
Actions	Welfare Greatest need Truth
Distributive Factor	Veil of ignorance Original position Off-site effects
Type	Fairness

3.5 Communitarianism – Community-led decision making

Communitarianism sees ‘community’ as the heart of planning, a response to authoritarianism and an “antidote to Western trends toward ever-increasing individualism” (Hendler, 2017, p. 7). As noted in Chapter One, planners and decision makers are continually making judgements in their professional capacity about the future of a place, and when they do this, they are making moral claims (Campbell, 2006; Hoch, 2006), and such judgements can be justified through appeal to the community (Hoch, 2006). Communitarianism is based on three principles. According to Tam (1998), they are:

First, any claim about what is to be accepted as true can only be validated under conditions of co-operative enquiry. Second, common values validated by communities of co-operative enquirers should form the basis of mutual responsibilities to be undertaken by all members of those communities. Third, power relations at every level in society must be reformed so that all those affected by them can participate as equal citizens in determining how the power in question is to be exercised. (p.7)

Explaining these, Tam (1998) notes that co-operative enquiry refers to the need for participatory deliberation about claims of truth in order that decisions about the “common good” are not left to either the “political elite” whose claims have long been taken as truth, or “individuals in the marketplace” (p.7). The second principle, common values and mutual responsibility, pursues common values “that have stood the test of time across different cultural variations” (p.14), including love, wisdom, justice (“do as you would be done by” (p.15)), and “fulfilment” (p.15) (reaching your potential). The third principle, relating to power relations, seeks to ensure those citizens affected by decisions participate equally in

“determining how the power in question is to be exercised” (Tam, 1998, p. 16). Tam (1998) sums up communitarianism as a perspective which advocates transforming attitudes and building inclusive communities rather than continuing an individualistic approach.

Understanding what is meant by ‘community’ is essential. It is not as easy as it sounds and communitarianism “suffers from being rather vague on important questions concerning the nature of the type of community and framework of justice which are to be supported” (Browning, 2002, p. 214). Although there is the potential for communities to be based on “destructive” values (which I interpret as values resulting in inequitable outcomes), planners need to strive for the “ideal community” (Blanco, 2017, p. 70). Blanco (2017) draws on a definition from Royce, dating back to 1913, to define community as:

a group of individuals that shares a common past, that is, a memory; a group that shares a common practice through communication, decision making, and action and thus shares a common present; and a group that shares hopes and plans for a common future infused with values and ideals. To form a community is to develop a public, collective entity—a public mind. This public mind is that part of individual consciousness that is shared, that bridges individual experience, that establishes solidarity among individuals (p. 69).

However, she also acknowledges that the definition of an ‘ideal community’ is not easily described, suggesting only that it is one that is an inclusive, learning, sustainable, just, and liberating community.

Community does not always imply homogeneity. Communities can overlap, and people within them can be linked emotively with varying degrees of power (Tam, 1998). This links to the idea of intersectionality, which refers to people belonging to multiple groups or identities and is discussed further in Chapter Four, Section 4.4.2 in the discussion on Fainstein’s principle of diversity. Blanco (2017) laments that the concept of community has not been a significant part of planning practice or professional rhetoric due to the rise of individualism in both the US and Britain. This has relevance to the New Zealand planning system given its English origins (Austin et al., 2014), and the on-going influence British planning norms and concepts continue to have (as evidenced by references to regional spatial planning in current discussions on RMA reform; a tool that experienced a “renaissance” (Alden, 2006, p. 211) in Britain in the early 2000s, but later abolished under the Local Democracy, Economic Development and Construction Act 2009 (Lord & Tewdwr-Jones, 2014)).

Aligned with Rawlsian justice, communitarianism seeks to help those who are marginalised in a community, encouraging their views and involvement in discussions concerning them, and to assist those able to improve their economic circumstances (Tam, 1998). It extends the idea of an inclusive community as one where all members can participate in collective processes in contrast to individualism which neglects community (Blanco, 2017; Tam, 1998). Etzioni (2011) suggests the problem with individualism is that “Our capacity to act as reasoned people relies greatly on our being anchored in relatively thick communities” (p.339) and the role of “informal social controls that reinforce the moral commitments of their members” (p. 339). While we all have individual identities, these are inextricably linked to the shared histories and notions of acceptable behaviour within the families, communities and nations that we grew up in (Etzioni, 2011). The communitarian perspective sees market individualism as concentrating social and political power in the hands of those already wealthy, who then set policy agendas “from a privileged bargaining position” (Tam, 1998, p. 3). It sees those that are less able to control or access resources as being marginalised and “viewed as being parasitic on the welfare support made available by the economically powerful” (Tam, 1998, p. 1). Although also another contested theory, communitarians generally consider that individuals cannot be separated from the community to which they belong (Browning, 2002; Hofman & Graham, 2006), and that it is the community itself which can legitimise the normative values. Individualism could be considered contrary to a just city and community essential for one.

Drawing on the discussion above, Table 10 provides a brief summary of the key themes within communitarianism.

Table 10: A summary of Communitarianism	
Focus	Community
Values	Community Democratic process Nature Reason
Outcomes sought	Community-led Community identity Participation Deliberation Shared values / Consensus
Actions	Co-operative inquiry Mutual responsibility Citizen participation
Distributive Factor	Responsible participation
Type	Communitarian

3.6 A capability(ies) approach to justice – access to opportunity

Globally many cities are striving to be the world's most liveable city and one theory of justice that resonates with this desire is the capability approach. Conceived by Sen and developed further by Nussbaum, this approach focuses on the quality of life, and what people can actually do and be (Dang, 2014; Nussbaum, 1997, 1999; Sen, 2010). There is an important distinction to be made between the two theorists. Sen's work is referred to as "the capability approach" and Nussbaum's "the capabilities approach", although in some scholarly work the terms are used interchangeably (Gasper, 2007, p. 336). This research uses the term 'capability(ies) approach' to reflect this difference.

Sen (2010) describes his theory of justice (or, as he refers to it, his "idea of justice"), as "broad", aimed at mitigating injustice rather than seeking the answer to what is "perfect justice" (Preface, para. 2). It is a theory, he suggests, that guides decision makers in their "practical reasoning about what should be done" through reasoned arguments (Sen, 2010, pp. Preface, p.3). He highlights that "[j]ustice is ultimately connected with the way people's lives go, and not merely with the nature of the institutions surrounding them" (Sen, 2010, pp. Preface, p.4). Dang (2014), drawing on Sen, notes that there are four "key concepts" (p.461) within the capability approach. The first concept is "functionings" which Dang (2014) defines as "what a person 'manages to do or to be'" (p.461); "capabilities" (p.462) which depends on a person's functionings, and reflects the extent to which a person may have "real opportunities to live the life" they choose (p.462); "freedom" which "depends on the social environment and possibilities of variation" (p.462); and "agency" (p. 461) which is "the ability [of a person] to achieve their goals" (p.464) whatever they may be.

In the approach to justice, conceived by Sen and elaborated on by Nussbaum, capabilities "describe not how people actually function (i.e., end state) but rather what they have the opportunity to do" (Fainstein, 2009, p. 26). To this end, Nussbaum (2003) suggests the need for a focus on "fundamental entitlements" (p.40), those capabilities that ought to be pursued centrally. In pursuing a liveable city, the height of the capabilities approach sees a "human being as a dignified free being who shapes his or her own life, rather than being passively shaped or pushed around by the world in the manner of a flock or herd animal" (Nussbaum, 1999, p. 234).

Both Sen and Nussbaum argue that the capability(ies) approach cannot be considered independent of 'rights' (Nussbaum, 1997). Nussbaum highlights the way governments invoke the language of rights when discussing basic political and economic entitlements. While Sen refers to capabilities in an implicit way, Nussbaum (1997) usefully provides a list of capabilities

that should be central to public policy goals, through which she seeks to make the “thick vague conception of the good’ a little less vague, so that it can do real work guiding public policy” (p. 277). Her list includes capabilities that are seemingly obvious – for example “Life – Being able to live to the end of a human life of normal length; not dying prematurely, or before one’s life is so reduced as to be not worth living” (Nussbaum, 1997, p. 287). It also includes capabilities relating to bodily health and integrity, other species, play, senses, imagination and thought, and emotions. Some strongly resonate with urban planning and specifically a just city (for reasons which will become clearer in the following chapter). These include capabilities relation to emotions, practical reasoning, and environmental control. Importantly, with regard to Nussbaum’s (1997) list, is the view that these capabilities cannot be traded: “we cannot satisfy the need for one of them by giving a larger amount of another. All are of central importance and all are distinct in quality” (p. 288). However, she also argues that of these capabilities, practical reason and affiliation are particularly important given they “both organize and suffuse all the other capabilities, making their pursuit truly human” (Nussbaum, 1997, p. 288).

The capability(ies) approach, focussing on what people can do and be, is an idea that has been infiltrating planning discourse, and which can be applied to urban institutions (Basta, 2015; Fainstein, 2009). Drawing on the discussion above, Table 11 summarises the capability(ies) approach to justice.

Table 11: A summary of the capability(ies) approach to justice

Focus	Opportunity for all
Values	Equal capabilities
Outcomes sought	Freedom Capabilities Functioning Agency
Actions	Practical reason Respect Non-tradeable Protection of liberty of conscience and religious observance
Distributive Factor	Access of opportunity
Type	Virtue

3.7 Summary – substantive conceptions of justice for urban planning

The first objective of this research was to identify specific substantive conceptions of justice. This chapter has reviewed a breadth of literature, scholarly articles and other material about five theories of justice. This material was mined for specific and substantive ideas of how each conception of justice might present in urban plans. Table 12 presents a summary of the normative concepts invoked in each justice ethic. These terms are later used as a means of finding evidence of ethics within planning discourse. The references are subsequently evaluated against specific criteria and standards to determine which, if any of these conceptions of justice are invoked in the practical arguments of planners and those involved in planning processes. None of the conceptions of justice are presented as ‘better’ than another, but rather this chapter has demonstrated some deep complexity underpinning understandings of justice in the city given the multiplicity of interpretations that exist. The following chapter tracks the evolution of “the Just City” in planning theory, focussing on Fainstein’s (2010) work, but where appropriate, also references how different theories of justice have influenced different threads in planning practice. In particular, it describes what is meant by her concept of the just city. Fainstein’s three just city principles, equity, diversity and democracy, are examined and later used as additional criteria against which the case study documents are evaluated.

Table 12: Characteristics of specific, substantive conceptions of justice in planning

	Utilitarianism	Libertarianism	Rawlsian	Communitarianism	Capability(ies)
Focus	Public interest	Individualism	Least advantaged	Community	Opportunity for all
Values	Greatest good Happiness / wellbeing Preferences	Liberty/Property rights Tolerance Fairness Negative rights	Justice Equal basic liberties Equity	Community Democratic process Nature Reason	Equal capabilities
Outcomes sought	Quality of life Choices Measurable outcomes Shared public goals	Government efficiency Economic growth Competitive markets Equitable real property markets	Welfare Greatest need Truth	Community-led Community identity Participation Deliberation Shared values / Consensus	Freedom Capabilities Functioning Agency
Actions	Cost-benefit analysis Trade-offs	Free market Anti-intervention Laws of supply / demand	Veil of ignorance Original position Off-site effects	Co-operative inquiry Mutual responsibility Citizen participation	Practical reason Respect Non-tradeable Protection of liberty of conscience and religious observance
Distributive Factor	Utility	Merit	Fairness	Responsible participation	Access of opportunity
Type	Deontological	Teleological	Teleological	Communitarian	Virtue

Chapter Four: Fainstein's "Just city"

4.1 Introduction

Exploring how different ethical perspectives might be instrumental in the realisation of a just city necessarily requires an understanding of what constitutes a just city. Building on the preceding chapter, which reviewed literature on five theories of justice and identified how they might present in urban plans, this chapter examines a different body of literature. It describes, defines and extends the concept of a just city, specifically Fainstein's (2010) concept of the just city, and what its realisation might look like. The reason for introducing Fainstein's work on the just city is because of its 'fit' with the purpose of planning (as I have defined it for the purpose of this thesis (Section 2.2.1)). Fainstein's principles provide a starting point from which planners can take a stance as advocates for those who are least advantaged, and against which planning discourse can be evaluated.

In 2005 Fainstein (2005b) referred to her desire as a young planning practitioner to create better outcomes for those in need. For this Fainstein (2005b) acknowledges that she could be accused of seeking structural determinism, but she qualifies her position by writing that:

policy makers are not free to act without cognizance of structural forces, even as those forces undergo long-term mutations and are susceptible to political mobilization. Thus, we come full circle—political mobilization requires a goal to mobilize about. Planning theory ought to describe that goal, along with the means of attaining it and the context in which it rests. To me, that goal is the just city". (p. 128).

The premise of Fainstein's (2010) just city is that policy can be used to distribute benefits in a way that does not favour the better off from the beginning (p.36), and as noted already, she defines the 'just city' as one where equitable outcomes are sought from public investment and regulation, and in which equity, diversity and democracy are the key principles by which to evaluate urban policy.

This chapter explores the context and evolution of Fainstein's just city, addressing the second objective of my research. It begins by establishing the context from which calls to plan for a just city have emerged. It explores how planning has evolved, from blueprint to populist planning,

and then explores the work of Fainstein and the influences that led to the development of her concept of the just city. Fainstein (2010) “names” (p.5) justice as encompassing diversity, democracy and equity, so this chapter examines each of these just city principles and how they might present in urban plan discourse. This chapter includes a brief discussion of how other scholars have drawn on her ideas, demonstrating her research impact, before exploring criticisms of her concept and highlighting a gap in her thinking. This gap is then discussed further in Chapter Five.

4.2 The evolving context of planning – from blueprint to populist

In considering the evolution of planning thought, the literature reviewed provides little in the way of connection between normative theories of justice and the various threads of planning theory over time. Yet, in this thesis, I argue that understanding the philosophical ideas underpinning arguments in urban policy is essential if a just city is to be realised. In this section I link the philosophies described in Chapter Three with planning thought, where these connections are clear. It also provides background to some of the ideas that Fainstein critiqued or was influenced by.

4.2.1 *Blueprint planning*

In Europe and America, planning began in response to the unfair distribution of the benefits and adverse effects of rapid industrialisation and capitalism, particularly overcrowded and unsanitary housing. Blue-sky thinkers, in the late 1800s and early 1900s, hoped to solve these social and urban problems. As Fishman (2012) outlined in relation to the United States, philanthropists such as the Lever brothers developed Port Sunlight for factory workers, and social reformers, such as Ebenezer Howard, Frank Lloyd Wright and Le Corbusier, developed plans and supporting documentation detailing their ideal urban environments. Scholars such as Dodson (2018) identified that the main purpose of early planning efforts were to support the provision of sanitary infrastructure, environmental regulation and housing benefits.

Community involvement was missing from the early planning tradition. For much of the 20th century the role the expert planner was to impose a pattern of orderly development on an urban environment, without recourse to what the population wanted (Fainstein, 2012; Fainstein & Fainstein, 1971). Cities, treated like other mechanisms which could be improved by design, saw physical orderliness as synonymous with social order (Hall et al., 1973). It was

an approach that failed to recognise that it embodied upper middle-class values (Fainstein & Fainstein, 1971). The lack of consultation, according to Taylor (1998):

exhibits the planners' failure to appreciate an elementary theoretical distinction between matters of fact and matters of value What planners failed to appreciate was that a judgement about what constitutes a worthwhile living environment is a value judgement, not one of pure 'technical' fact. (p. 43)

Despite these criticisms, Lane (2005) suggests that blueprint planning has left a legacy that continues to infiltrate both planning thought and statutory plans – firstly, an ethic of planning that is understood to be apolitical, and secondly that planners are working for a single, unified public interest.

4.2.2 From rational-comprehensive planning to participatory planning

Blueprint planning, with its focus on physical determinism, gave way to a procedural approach to planning between the 1930s and 1960s. It was Mannheim who changed the face of planning from being outcome driven (as evidenced through blueprint plans of the early 19th century) to being process driven. In 1935, Mannheim's *Man and Society in an Age of Reconstruction* marked the first "explicit theory directed at prescribing the planner's modus operandi ... describing a democratic planning process that would enable experts to plan under the guidance of the public through their elected representatives" (Fainstein, 2005b, p. 122). Mannheim was a sociologist who viewed planning as a "directive role for the state" and a "democratic *via media* [middle ground] between fascism and communism" (Friedmann, 1988, p. 246). Healey (1993) notes Mannheim's work was influential in the Chicago school of rational decision-making, and planning became "a progressive force for economic and social development in a world where democracy and capitalism were seen to coexist in comfortable consensus" (p.234). It was the basis of the rational-comprehensive process model of planning whereby goals were formulated, and strategies for achieving them devised. Rules existed for both the process and as a means to achieve the end. This model was cyclical with feedback loops, following monitoring, to ensure the achievement of the planning goals. Its focus on the means rather than the ends of planning, make the rational approach a procedural planning theory (Taylor, 1998, p. 71). Both systems planning and rational planning reflected a "belief in people's capacity to improve the quality of human life on the basis of a scientific understanding of the world" (Taylor, 1998, p. 74). However, the 1970s saw significant criticisms of procedural planning theory. In particular, Lindblom (1959) described rational-comprehensive policy approaches as "muddling through" (p.88), and Davidoff (1965) felt there was a clear need for "intelligent

planning” (p.335), for prescriptive planning to be rejected and replaced by planning practices that “openly invites political and social values to be examined and debated” (p.335).

Public participation in planning really came to the fore in the late 1960s when pluralist planning theory emerged. Based on democratic political theory, it recognised that society is made up of many different groups with different and often conflicting interests, and that each group is entitled to identify their own interests, and have that interest realised by government (Fainstein & Fainstein, 1971; Gleeson & Low, 2000a). Pluralists criticised the rational-comprehensive model of planning on the grounds that planners were not able to be completely objective and represent the public interest (Gleeson & Low, 2000a). This critique led to some theorists, including Harvey, Castells, and Soja, to analyse urban development and the role of planning in capitalist cities using Marxist theory. It was these critiques which Gleeson and Low (2000a) summarised as planners being tied to, or working for, the state. A growing recognition of the multiple conflicting interests in urban spaces, resulted in advocacy planning. As Davidoff (1965) wrote:

If the planning process is to encourage democratic urban government then it must operate so as to include rather than exclude citizens from participating in the process. “Inclusion” means not only permitting the citizen to be heard. It also means that he [sic] be able to become well informed about the underlying reasons for planning proposals, and be able to respond to them in the technical language of professional planners. (p.332)

According to Reece (2018), the timing of advocacy planning was not coincidental, but instead a result of the post-World War 2 development policy, and the increasing influence of the Civil Rights Movement, and it grew in prominence in the 1970s. At the heart of advocacy planning was the idea that those who are least advantaged would have the lesser ability to ‘fight’ against planning technicalists (Davidoff, 1965; Peattie, 1968). Therefore, the role of the planner was to “plead for his own and his client’s view of the good society” (Davidoff, 1965, p. 333), and where ‘the client’ has generally been interpreted as “the poor” (Fainstein & Fainstein, 1971, p. 345).

The focus of advocacy planning, on fighting for those least advantaged seems to suggest it is a precursor to Fainstein’s just city theory. This is further evidenced by Checkoway’s (1994) description of Davidoff, the planning theorist who conceptualised advocacy planning:

[Davidoff] believed that ‘just democracy’ was within reach; that racial discrimination and other social injustices required new efforts ‘for a society offering equal opportunity

to all citizens;’ and that planners had key roles to play: ‘The society of the future will be an urban one, and city planners will help to give it shape and content’. (p. 140)

However, it must be acknowledged that while Davidoff’s advocacy planner was responsible for expressing the views of his client, they could also attempt to educate their client and/or persuade them of their own view of what was in the client’s best interest (Checkoway, 1994).

In the 1990s, after much theorising on the implementation of policy and the effectiveness of plans (see Friedmann, 1969, and Barrett and Fudge, 1981, who theorised about action-planning and action and planning, respectively), a new planning theory developed shifting away from the rationalist model towards communicative planning (Healey, 1999; Taylor, 1998). In communicative planning, the language of planning is significant. Defined as “the mediation of community discourse rather than the creation of a technically rational plan” (Fainstein & Campbell, 2012b), theorists explore the written and spoken languages of planners, looking for power plays and the arguments behind policy, to determine the way that institutions are thinking and why (Fischer, 2009). Hence, it is also called interpretive/argumentative planning. It aims for reflexive planning practice, whereby planners critically reflect on their discursive practices, in order that they become “more conscious of the hidden forms of communicative power they practise (often unconsciously) in order to develop a democratic, yet rational, public communication” (Pløger, 2001, p. 221).

In Foucault’s work on power and analytics and Forester’s work on critical pragmatism, communicative planning aims to advance deliberative democracy by examining the communicative practices of planners in political and professional areas, by ensuring deliberation is inclusive and by seeking areas of agreement prior to decision making (Fischer, 2009; Sager, 2013). Communicative planning theorists, motivated by ideals of democracy, participation by all, inclusiveness and fairness, sought to reduce the influence of the powerful, such as developers, and to identify the role of the planner as facilitating deliberation (Sager, 2013; Taylor, 1998). However, as Campbell (2006) suggests, recognising *rights* without subsequently addressing *obligations* is meaningless, stating:

Focus[ing] on rights, while leaving the associated obligations obscured, tends to foster passivity, at least in terms of a capacity for collective action: a preoccupation with ‘what I ought to get,’ and not a concern with ‘my wider responsibilities.’ The latter often implies a responsibility that only adds up to something meaningful if it is upheld collectively. (p.95)

4.2.3 The rise of neoliberalism and populism as theories of government and their effect on planning

The 1980s saw the rise of neo-liberalism. In 1986, Troy - a leading Australian urban planner, and at that time a Professorial Fellow at the Australian National University - lamented the shift in the focus of planning from social justice to efficiency. He felt efficiency should come second to the principal focus for planners - that being: "asking what is the fairest city, the fairest way of arranging ourselves and our activities and then decide the most socially just way of efficiently realising that goal" (Troy, 1987, pp. 29-30). His comments are not surprising, delivered when Thatcher was in power and at a time when neoliberalism was on the rise. In Britain, under Thatcher's Government, planning reforms sought to make the process faster, more efficient and responsive (Taylor, 1998). Neoliberal policy involved the "mass privatization of government-owned industry, and the general attempt to undo much of the post-war social democratic apparatus" (Christmas, 2020, p. 1). It involves economic liberalisation, the roll back of the state, and a clear favouring of "free markets and strong individual property rights, individualism, privatisation, competition, deregulation and a desire for 'efficiency' above all else" (Clifford et al., 2019, p. 14).

The term 'neoliberalism' is often used pejoratively (Birch, 2015), a tool used to achieve "the victory of the rich" over distributive justice, resulting in material equality being dropped as a goal (Moyn, 2018, p. 2). It repudiates Keynesian welfare state economics, and its proponents place great faith in the market's ability to achieve social order (Birch, 2015; Sager, 2011). Neo-liberalism has become hegemonic "to the extent that it has succeeded in establishing a view of society that emphasizes the appropriateness of business logic in all spheres of public life" (Sager, 2015, p. 270). Applying neo-liberalism to the public sector is described as "new public management" (Sager, 2011, p. 181), and New Zealand's planning framework wholly embraced these ideas (described further in Chapter Six). This turn to classical liberal (libertarian) ideology resulted in a political shift to the right and had significant implications for planning theory (Taylor, 1998).

Along with new public management, a narrative of streamlining planning procedures in the interests of efficiency and effectiveness emerged. The role of planning become one of supporting market-led development and correcting market failures (Taylor, 1998). According to Taylor (1998):

neoliberalism did not fundamentally restructure the powers of (public sector) town planning, the explicit requirement on planning authorities to adopt a 'positive' view of

market-led development proposals resulting to some significant changes to the way planning was approached and practised. (p. 139).

Changes to how planning was approached reflected other neoliberally informed strategies within local government including funding cuts from central to local government, contracting out or competitively tendering council services, and public-private partnerships, all of which are reflective of an entrepreneurial style of governance (Taylor, 1998). These changes have put the planning profession in an awkward position. Gunder (2016) writes that “planning has been placed in the role of “scapegoat” for neoliberal governance policy failure” (p. 22), but despite this, it has a role to “act as a key statutory check and balance against negative market externalities and even outright market failure” (p.22). In acting in this check and balance role, several scholars have suggested planning/planners need to take a stronger deliberative role. For example, Leffers (2015) notes that “planning has a critical role to play in both the production and resolution of conflict” and a role to produce a “just city, one that moves beyond capitalist space into one that emphasizes social and environmental justice and democracy” (p.128). But he is not clear as to how this can be done. Grange (2017) argues that planners need to acknowledge the political nature of planning, and actively resist it – it is her view that “no political decisions will ever become better by remaining unchallenged” (p.4). She is clearer however about how this can be done, arguing that “there is a need for fearless speech among planners” (p. 1), as was discussed in Chapter One. Despite the criticisms of neoliberalism, and its effect on the legitimacy of planning, in the pursuit of a just city the planner’s “fearless” voice may become increasingly important if there is a strong turn to populist planning in the future.

Authoritarian populism is a contemporary political ideology which has the potential to undermine planning further even than its forerunner, neoliberalism. Drawing on Müller’s definition of populism, Sager (2020) lists four attributes of populism: “anti-elitism”, “imagining a homogenous entity above all institutions” (the people), “anti-pluralism”, “articulation of a singular common volition” (p.83). To these, Sager (2020) adds four more: “Taking democracy in an autocratic rather than liberal direction”, “Supporting or implementing policies associated with centre-right or the right wing of the political spectrum”, “Nativism rather than globalism”, and “Demanding harsh or discriminating policies towards certain ethnic or religious groups that are entering or living in the country” (p. 84). Populism is not a new idea. Miller wrote about the origins of the Populist movement in Kansas in 1925; something he attributed to the “economic condition of the western farmers in the decade beginning with the year 1885” (Miller, 1925, p. 469). However, as a contemporary political ideology, populism is gaining momentum as evidenced by multiple countries with populist parties gaining, or in, power

("Europe and right-wing nationalism: A country-by-country guide," 2019; Sager, 2020). More recently, according to Sager (2020), "Authoritarian populism is among the most successful simplifying power narratives of our time", an ideology built on built on a "critique of elites, accusations against certain out-groups and celebration of the unitary, infallible and unconquerable people" (p.80). For planners in pursuit of a just city, populism raises some challenges.

Planners in a populist society are part of the sub-elite according to Sager (2020). As such, he describes their role as being "the privileged interlocutors of top leaders", and to "realize the popular will effectively without elite sabotage or minority rights filibuster" (Sager, 2020, p.86). He issues a stark warning "the exclusionary nature of authoritarian populism is unbearable" (p. 99). Sager's view presents an interesting reminder for planners, particularly when thinking about the ethics informing urban plan discourse. He states: "Defenders of participatory planning must therefore be alert to provocations from a wide segment of the political spectrum" (Sager, 2020, p.81), thus highlighting the need for planners to be aware of the multiple conceptions of justice that exist, and the effect these have when invoked in urban policy, in order that they can actively resist political provocations in pursuit of a just city.

4.3 Influences on Feinstein's "just city"

Fainstein's research has long been focussed on how values inform urban planning. In *The Just City* (2010), she specifically draws on Rawls' idea of justice, as well as Sen and Nussbaum's view of justice as capabilities. Her views, shaped by the political unrest in the US during the 60s and 1970s, lead her to challenge the perception that planners were "powerless pawns in a universal growth pattern driven fundamentally by profit" (Bucknell, 2019, p. para. 1). Although writing prolifically since the 1970s, it is in her book, *The Just City*, that she articulates and applies her urban theory of justice. She defines the "just city" as one in which public investment and regulation would produce equitable outcomes rather than support those already well off" (Fainstein, 2010, p. 3), and encourages planners to strive for reform within existing institutional arrangements. For Fainstein, the ultimate value to be addressed in urban plans is justice, which she narrows to three key principles for determining and evaluating policy: democracy, diversity and equity.

The basic premise in *The Just City* is that policy has a role to distribute benefits in a way that does not favour the better off from the beginning (Fainstein, 2010). Sai Balakrishnan, a colleague describing Fainstein's work (as cited in Bucknell, 2019), wrote:

At a time when everyone was gunning toward high profit margins as the dominant form of public decision-making, The Just City placed other values—namely that of social equity—on the negotiating table. (para. 2)

This is a stance that has remained resolute with Fainstein for over four decades. Writing with her husband in 1971, they disabuse planners of the idea they are serving entire communities, suggesting instead their role is to work for the poor (Fainstein & Fainstein, 1971, p. 360). By 2010, Fainstein categorically calls for planners working in deliberative settings to press for “egalitarian solutions and blocking ones that disproportionately benefit the already well-off”, and to resume advocating for disadvantaged communities in their urban plans and policies to create the just city (Fainstein, 2010, p. 173). Her focus on the least advantaged and her three just city principles reflect multiple influences, three of which are discussed below – the changing attitudes about the role of planning during the 1960s and 1970s, the work of political theorists striving for social justice, and her growing concern about the singular focus by many urban authorities on economic growth.

4.3.1 *The influence of planning theories*

Fainstein's work began to appear in the early 1970s, a time when the role and purpose of planning was changing. Responding to criticisms of traditional blueprint planning, and her view that, increasingly, social planning was being interpreted as within planner's mandate, Fainstein began to write about planning for social change, noting the importance of understanding “the political implications of different kinds of planning” (Fainstein & Fainstein, 1971, p. 341). As noted earlier, they described how planning embodied upper middle class values, and suggested this could only change through planners seeking social change, not only by advocating for the poor but also enabling them to pursue change (Fainstein & Fainstein, 1971).

Fainstein and Fainstein (1971) describe the work of Davidoff, highlighting how he narrows the role of the planner from “attempting to plan for society as a whole” to being responsible to his “client” (p. 345). Davidoff's advocacy approach recognised that planners could not be “a neutral arbiter of the public interest”, but instead needed to work with groups to achieve their goals (Potter et al., 2018, p. 14). It was in this regard that Fainstein began to position herself with regard to advocating for the least advantaged. Interpreting Davidoff's work, Fainstein, interprets the role of the advocate planner as being “advocates for the “poor” (Fainstein &

Fainstein, 1971, p. 345). They highlight the difference between advocacy planning and traditional planning as being that a “plan need not be justified as being in the general public interest” (p.346). This approach proved foundational for Fainstein, and she argues in *The Just City* for planners to “take an active role in deliberative settings in pressing for egalitarian solutions and blocking ones that disproportionately benefit the already well off” (p. 173).

Another planning theory emerging in the late 20th century, which appears equally influential for Fainstein, was communicative planning. Defined as “the mediation of community discourse rather than the creation of a technically rational plan” (Fainstein & Campbell, 2012a), communicative planning theorists explore the written and spoken languages of planners, looking for power plays and the arguments behind policy, to determine the way that institutions are thinking and why (Fischer, 2009). Hence it is also called interpretive/argumentative planning. Fainstein (2000) describes planners within communicative planning theory as being experiential learners, maybe providing information, but primarily to be there to listen to differing viewpoints and seek consensus. As noted earlier, communicative planning theorists, such as Healey (1993), became strongly focused on process. According to Campbell (2006) this focus on process reflected the view that resolving “conceptions of good” (p.97) was impossible. However, it was this focus on *process* to which Fainstein takes exception.

Fainstein (2010) considers the focus on process a theoretical weakness of communicative planning. While communicative planning theory anticipates participatory processes will procure just outcomes, Fainstein (2000) expresses concern about a lack of focus on the substance of the policy; “both the context in which planners work and the outcome of planning fade from view” (p. 455). She suggests that aspects of participation such as access to money and expertise, which influence a person’s ability to influence outcomes, do not factor strongly into the analysis of communicative planning theorists (Fainstein, 2000; p.461). She explains that conceptions of justice must be considered in relation to a place and a time, rather than applying them across the board (Fainstein, 2005b, 2010).

In urban planning, Fainstein (2005b) describes context, as “the field of power in which the city lies”, and that to understand context outcomes should be compared with what constitutes a just city (p. 125). By 2010 she has established her three principles, in *The Just City*, against which the context of a place can be assessed – equity, diversity and democracy. Of these, it is the principle of democracy where she highlights that “context matters” and notes that furthering democracy in the just city requires “advocates” for groups unable to participate in planning processes directly (2010, pp. 66 & 175). Her view, shifting the focus away from

process towards context, leads eventually to the idea of “nonreformist reforms” (discussed further in section 3.2.2) which is an attempt, in part, to reduce the focus of process within planning theory (Fainstein, 2010; p.19).

4.3.2 *The influence of political theorists and the idea of nonreformist reform*

Fainstein has been described as a “pioneer in bridging the gap” between planning and urban politics (Potter et al., 2018, p. 9). As well as the move away from traditional planning (described above) in what could be described as her formative years as a scholar, her research also emerged at a time when the way that cities were viewed was changing (Fainstein & Fainstein, 1971; Gleeson & Low, 2000a). Fainstein (2014) notes that many scholars in the 1960s and 1970s responded to the civic unrest of the time and participated in attacking injustices against the poor within cities through their words.

Lefebvre was one of the leading protagonists in this space and he coined the term “the right to the city” in the 1960s (Fainstein, 2005b, p. 126), a concept that resonated with social justice theorists (Fincher & Iveson, 2008) including Fainstein. Lefebvre (1996) lamented the restrained, “parsimonious” (p. 147) way in which planners consider the anthropological needs of humans in cities and the way in which, at that time, the city was treated scientifically, as an object rather than as a lived and practically understood entity. According to Davis and Hatuka (2011), Lefebvre made a plea to planners and policy makers “to proactively create the urban conditions” that make “human emancipation and widespread social justice” possible (p.241). Lefebvre’s right *to the city* sought physical access to the city as well as the right to “access and participate in urban life, a right to use and shape the city as an equal, a right ‘to habitat and to inhabit’” (Fincher & Iveson, 2008, p. 9). Lefebvre subsequently influenced the work of neo-Marxists, who in turn influenced Fainstein’s concept of the just city. In fact, according to Bennett (in Potter et al., 2018), Fainstein was “one of the first North American planning scholars to engage with the neo-Marxist approach to interpret urban phenomena” (p.25).

Criticisms of the rational-comprehensive model of planning included that planners were not able to be completely objective and represent the public interest. This led some neo-Marxist theorists, including Harvey and Castells, to analyse urban development and the role of planning in capitalist cities using Marxist theory. Fainstein (2014) describes their work as focussing on how power affects urban outcomes, and “how spatial relations reinforce injustice” (p. 2), and according to Gleeson and Low (2000a) both Castells and Harvey came to the same conclusion, that “the planner is, and can only ever be, a functionary of the capitalist state apparatus” (p. 122). This is reflective of the “hard-line Marxist” (p. 16) view of planners working against

working class interests (Potter et al., 2018). Particularly influential in Fainstein's thinking is the work of Harvey (1973) who wrote *Social Justice and the City*.

In *Social Justice and the City*, Harvey explored principles of social justice as they related to urban and regional planning, using Baltimore as a focus for his thinking. In considering the complexity of cities he wrote, "our problem [in dealing with the complexity of cities] can also be attributed to our failure to conceptualize the situation correctly. If our concepts are inadequate or inconsistent, we cannot hope to identify problems and formulate appropriate policy solutions" (p.22). In this regard, Fainstein's concept of the just city, based on the principles of democracy, equity and diversity, is an attempt to conceptualise the urban situation in order to formulate appropriate policy solutions. But this, together with a concern for the implications of the outcomes of processes on spatial inequities, is perhaps the only similarity she shares with Harvey.

Berry (1974) describes Harvey's work, which draws on a Marxist methodology, as "stimulating, provocative and ... on occasion profound" (p.143). He cites Harvey (1973) as saying:

the only method capable of uniting disciplines in such a fashion that they can grapple with issues such as urbanization, economic development and the environment, is that founded in a properly constituted version of dialectical materialism as it operates within a structure totality in the sense that Marx conceived of it. (cited in Berry, 1974, p. 143).

The method to which Harvey is referring is revolution, and it is at this point where Fainstein's interpretation of the just city diverges.

Fainstein, "the most 'liberal' of Marxists" (as described by Alan Peters, and cited in Potter et al., 2018, p. 14), challenged the Marxist view that planners could not work for social justice. She suggested that Marxist theory is unlikely to do much for planning practice (Fainstein & Fainstein, 1971). By 1979 they had questioned Marxist ideology as it related to planning, debunking the view that the planner can only ever work for the state (Fainstein & Fainstein, 1979). In their work they suggested three guiding propositions for "leftist planners",

- 1 *The better the better ...* To the extent that planning furthers the material situation of the lower classes it is progressive, even if it legitimizes the system in the short run. ...
- 2 *The more planning the better.* The lower classes are better served by planning in the collective interest of monopoly capital than by the unplanned outcomes of market forces. ...

- 3 *The expansion of the planning and welfare state should be encouraged. State capitalism in liberal regimes represents a marked improvement over market capitalism from the perspective of the proletariat ... (Fainstein and Fainstein, 1979; p. 399).*

The influence of these guiding propositions, with their references to planning for least advantaged, can be seen in *The Just City*.

In *The Just City*, Fainstein (2010) considers that disadvantaging those who already have less, or excluding those households from entitlements that are enjoyed by others who are no more deserving, is unjust. In this regard she has been influenced by the work of political philosopher Rawls, whose book *A Theory of Justice* was published in 1973. She has, according to Uitermark (2012, p. 107) grounded her “understanding of the just city on John Rawls’ concept of the ‘veil of ignorance’”. She describes how Rawls reformulated his view of the “original position” from which individuals would act fairly to being “a framework of political and legal institutions that adjust the long-run trend of economic forces so as to prevent excessive concentrations of property and wealth, especially those likely to lead to political domination” (as cited in Fainstein, 2010, p. 15). In *The Just City*, the influence of political philosopher Nancy Fraser becomes evident in Fainstein’s work where she recommends nonreformist reforms, an idea she attributes to the work of Fraser.

4.3.3 Achieving a just city through nonreformist reform

The purpose of Fainstein’s (2010) *The Just City* is to “recommend nonreformist reforms directed at improving the lives of residents of cities within Western Europe and the United States” (p.19). She intends that these “strategically selected reforms ... will not only improve social conditions immediately but also build a foundation for further reforms in the future” (Potter et al., 2018, p. 29). Nonreformist reforms is a turn of phrase that stems from the work of earlier scholars, and in order to understand what she means by nonreformist reforms, it is necessary to briefly explore the work of Fraser, who in turn draws on the work of André Gorz (Fraser, 2003, p. 108).

Fraser’s (2003) work highlights that policies and programmes to address social justice depend on the interpretation (or conception) of justice being sought. It is in her discussion of this idea, what is being sought, where we can see the influence of Fraser on Fainstein’s view of communicative planning. Fraser (2003) describes two different approaches to determining justice – a utopian Platonic stance resembling blueprint planning, which she suggests excludes issues of context and plurality; and an Aristotelian stance, which involve citizen deliberation,

which, although able to recognise “issues of difference”, may also “devolve into empty formalisms” (p.71). To deal with the complexity of policy and decision making around policies seeking social justice, Fraser (2003) identifies two strategies. The first are affirmative strategies that target end-state outcomes and “aim to correct inequitable outcomes of social arrangements without disturbing the underlying social structures” (Fraser, 2003, p. 74). The second type of strategy to address injustice are transformative strategies. These target the root cause of justice, seeking to “correct unjust outcomes precisely by restructuring the underlying generative framework” (Fraser, 2003, p. 70).

There are pros and cons of both affirmative and transformative strategies for justice. Fraser (2003) uses unconditional basic income grants as an example. She describes the possible affirmative outcomes as including guaranteed minimum standard of living for all but notes that concurrently it might cause a depression in wages overall (if employers were effectively subsidised by the state). She suggests the grant could have transformative outcomes if the grant was high enough to ensure a change in the balance of power between capital and labour, while concurrently causing gender inequality through the consolidation of what Fraser refers to as the “Mommy Track” (p.79), where women traditionally take on the role of unpaid caregivers (Fraser, 2003) as they are no longer compelled into paid work by financial necessity. Fraser also describes the complexity of outcomes as a “Hobson’s choice” and suggests there needs to be a middle way (“*via media*”) somewhere “between an affirmative strategy that is politically feasible but substantively flawed and a transformative one that is programmatically sound but politically impracticable” (Fraser, 2003, p. 79). It is in describing this middle way, or compromise between affirmative and transformative strategies, that Fraser refers to nonreformist reform; a concept which she attributes to Gorz (Fraser, 2003, p. 108).

Gorz’ use of the term nonreformist reform was also in response to hegemonic social and economic practices in Europe and North American in the 1960s (Fraser, 2003). He developed what Potter et al. (2018) described as “a simple strategy” where “by struggling together for carefully selected reforms that increase the power of labor, workers will build their strength and hence ability to achieve subsequent reforms” (p. 29). Drawing on Gorz’ original idea of nonreformist reform, Fraser (2003) writes, it is achieved by:

policies with a double face: on the one hand, they engage people’s identities and satisfy some of their needs as interpreted within existing frameworks of recognition and distribution; on the other hand, they set in motion a trajectory of change in which more radical reforms become practicable over time. When successful, nonreformist reforms change more than the specific institutional features they explicitly target. In addition,

they alter the terrain upon which later struggles will be waged. By changing incentive structures and political opportunity structures, they expand the set of feasible options for future reform. Over time their cumulative effect could be to transform the underlying structures that generate injustice (pp. 79-80)

The potential to translate this idea of nonreformist reform to the concept of a just city underpins Fainstein's hope that planning policies will become less concerned with process and economic development, and more focussed on urban character and social equity (Fainstein, 2010). In her vision of the just city, she strives for changes in cities that are achieved incrementally through nonreformist reform. What she means by this is effecting change by using existing institutional frameworks. Fainstein does this by identifying and discussing principles to help realise more just cities (Fainstein, 2010).

4.4 Naming justice – equity, diversity and democracy

Fainstein draws on justice to assess urban policy (Fainstein, 2010, p.6). Acknowledging the breadth of interpretations of justice, she “names” justice as encompassing equity, diversity and democracy, and argues these aspects of justice “should bear on all public decisions” (p.5) Demarcating justice in this way, she can then evaluate how just different cities are by drawing on data rather than generalisations (Potter et al., 2018, p. 26). By naming justice, Marcuse (Emeritus Professor of Urban Planning at Columbia University and former colleague of Fainstein) describes her contribution to the discussion of justice as methodologically and substantively important (Potter et al., 2018). She calls for policies to maximise just city principles, acknowledging (as does Moroni (2019)), that these values informing plans may conflict with alternative values. Fainstein (2010) argues that they provide a basis against which policy can be formulated and evaluated in pursuit of the just city. Although naming justice as central, Fainstein stops short of developing a “theory of the *good* city” (p.5, emphasis added) an important distinction to which we return in Section 4.6. The following three subsections examine Fainstein's three principles of the just city. Each begins by exploring Fainstein's view of the topic, before drawing on other scholarly views.

4.4.1 Equity

Fainstein's first and foremost principle of the just city is equity. Remembering that she defines a just city as one which produces equitable outcomes, Fainstein (2010) subsequently defines equity as “a distribution of both material and nonmaterial benefits from public policy that does

not favour those who are already better off at the beginning” (p.36), being quite clear that equity does not mean equality. In her view, evaluating urban decision making against a criterion of equity would benefit those that are less advantaged. It is a term, she suggests, that is more acceptable than equality in that it “implies fairness” (p. 36).

Regarding equality, Fainstein (2010) considers it to be an unrealistic objective for a capitalist city. Instead, she makes the point that equity means treating each person “appropriately” rather than the same (p.36). In this way, interventions can be aimed at those who are least advantaged, and those who “without state intervention would suffer from relative deprivation” (p.36). Intervention through policies are the mechanisms that guarantee an equitable allocation of scarce resources, to which both Fainstein (2010) and Uitermark (2009) refer. Taylor-Gooby (2008) notes that social reformers do not necessarily argue for social uniformity (or equality) but instead consider that “different groups should be treated as of equal value in social policy, as evidenced by equality in entitlement to benefits and service, in treatment by the authorities, and in participation in decision-making” (Taylor-Gooby, 2008, p. 28).

Equity is also at the heart of Uitermark’s (2009) view of a ‘just city’. In his view equity is the core of a just city, which he defines as one where “exploitation and alienation are absent” (Uitermark, 2009, p. 350). He considers that a ‘just’ city requires two preconditions: the “fair distribution of scarcity” and “democratic engagement” (p.350). With regard to the former, he considers that for a city to be ‘just’, it needs to be accessible to everyone, “irrespective of their purchasing power” (p. 350). He makes the point that equity and the fair distribution of scarcity, does not mean that the quality of what can be accessed is the same. He states that in a just city, there would either be an “egalitarian income distribution or that it would create institutions that prevent households and investors from translating their economically privileged position into a privileged position in land and housing markets (which therefore would cease to be markets)” (p. 350).

Fainstein sets out specific policies for each of her principles of the just city (see Fainstein, 2010, pp. 171-175). She suggests that to further equity “planners should take an active role in deliberative settings in pressing for egalitarian solutions and blocking ones that disproportionately benefit the already well-off” (p. 173). She lists seven policies including the provision and retention of affordable housing units, the avoidance of involuntary relocation, and low fares for intra-city transit, as a means of achieving equity in practice.

Others have also suggested what equity might look like in practice. For example, Fincher and Iveson (2008), writing about “just diversity” (considered further in the next subsection) refer

to decision-rules - "statements of the form of specific planning measures" (p.38). A decision rule used in relation to seeking equity is the "allocation of expenditure on different local areas and populations" (p.38). Although a measurable indicator, equity is complicated by determining the need to identify relevant criteria. Fincher and Iveson (2008) suggest three: 1) market equity, where "expenditure on services per resident was in proportion to the taxes paid by their neighbourhood"; 2) "equal results, where expenditure on services was such that every resident performed at the same level (in schools) or every facility in each area was of the same quality and usefulness (however that might be measured)"; and 3) equal opportunity, "the middle ground' between the other two", where "effective expenditure on each citizen or neighbourhood was equal" (p.39).

One practitioner-theorist, who stands out in the fight for equity in planning documents is Krumholz, the former City Planning Director, Cleveland City Council. In 1975, Krumholz and his team developed an urban plan, the *Cleveland Policy Planning Report* (City Planning Commission, 1975), that drew on equity and advocacy planning. Equity was one of the main goals of the plan: "Equity requires that locally-responsible government institutions give priority attention to the goal of promoting a wider range of choices for those Cleveland residents who have few, if any, choices" (City Planning Commission, 1975, p. 9). Krumholz, via this plan, called for a more equitable society, rather than a more efficient political system, noting that this did not mean equity policies cannot also contribute to efficiency, but "the rationale for seeking more efficient collection and expenditure of public funds is to assure maximum resources for the promotion of a more equitable society" (p.10). Fainstein's (2010) definition of 'equity' reflects this interpretation, referring to a distribution of both material and nonmaterial benefits derived from public policy that does not favour those who are already better off at the beginning" (p. 36).

Around the same time Krumholz was preparing the *Cleveland Policy Planning Report*, Stretton (1996) was writing about Australian cities. Stretton called for more "equality", as opposed to equity, "in the use of cities" (cited in Fincher & Iveson, 2012, p. 232). Yet, Fincher and Iveson (2012) describe that, for Stretton, "equality" meant "taking sides when conflicts emerged over urban land use and planning - with the poor against the rich, and with women and children against men" (p. 232). This resonates more closely with Fainstein's view of equity rather than equality. Krumholz' (1975) seminal plan also makes this point most clearly. In order to achieve the goal of providing choice to residents, the *Cleveland Policy Planning Report* states that "necessary changes will not be achieved merely through the righteous rhetoric and good deeds of unselfish men. In many, if not all, cases these changes will require alterations in the laws,

customs and practices of our institutions” (City Planning Commission, 1975, p. 10). However, as McConnell (1995) suggests, although the goals and objectives in this plan were clear and quite specific, the anticipated outcomes did not eventuate due to “political and financial power realities” (p. 39). If some form of equity is to be realised in a just city, then, as per the purpose of Fainstein’s concept of the just city, its use as an evaluative standard requires consideration of who benefits from the policy and to what extent (Fainstein, 2010).

4.4.2 Diversity

Diversity is the second of Fainstein’s just city principles. A contested term within professional disciplines, diversity can denote multiple things. For urban designers the term evokes differences in building typologies, for planners it refers to “mixed uses or class and racial-ethnic heterogeneity in a housing development” (Fainstein, 2005, p. 4). In developing her views on diversity, Fainstein draws on the work of others, including Jacobs (1961) who focused on diversity in the physical environment, Young (1990) whose work explored recognising difference, Sandercock (1998) who was also a proponent of recognition, and Nussbaum (2000) who focussed on capacities rather than privileging difference. Drawing on this work, Fainstein explores the link between “physical and social diversity” (2005, p. 9) and their effects on both the economy and on equity, concluding that the “realization of the just city requires the nurturing of multiple capacities, and the role of urban diversity in enhancing them is not assured” (p.9). In *The Just City* she comments that she could have used a different word to describe this principle, but that diversity “is a convenient shorthand [that] encompasses the physical environment as well as social relations, and refers to policy ambitions that go beyond encouraging acceptance of others to include the social composition of places” (Fainstein, 2010, p.67). This subsection unpacks the complexity of diversity - both physical and social - attempting to “disentangle” it (as recommended by Fincher and Iveson (2008, p. 3) and to understand the nuances of other terms that Fainstein could have used as a just city principle, such as recognition, difference, and intersectionality.

Including diversity as a just city principle stems in part from early 20th century planning. This was a time when the “segregation of homogeneous districts was the governing orthodoxy” (Fainstein, 2005a, p. 3). Of concern in the creation of this homogeneity was the “displacement of residents” (p. 7) caused by urban renewal. Although displacements were justified on the grounds of “a better living environment for those forced out” which Fainstein notes were sometimes achieved (p.8), it also came at “the cost of historic ties and community cohesion” (p.8). The effect of planners relying on homogeneity in their work, was later succinctly described by Campbell (2006):

Recognition of the oppressive and exclusionary capacity of homogenizing models of identity leaves planners floundering in a sea of difference and fragmentation: if no contention has any more validity than any other, how can planners justify arriving at closure, even temporarily, on a particular course of action? (p.92)

It was in this context of homogenous post-WW2 development, along with the increasing prominence of the Civil Rights Movement, and the rise of advocacy planning, when planners and urbanists began thinking about recognising diversity and difference.

In planning practice, recognition of difference is complicated. Recognition is one of three goals that Fincher and Iveson (2008) consider necessary for “just diversity” (p.3). This involves defining attributes of groups of people in order to meet their needs. Iveson and Fincher (2011) identify how attribution occurs in practice currently. An *affirmative* model of recognition takes the form of “identifying and consulting with ... “special needs’ groups” (p.411). Alternatively, a *relational* form of recognition “seeks to address institutionalised patterns of cultural value which give a group a subordinate status in relation to others” (p. 412). This means “claims for recognition [are] based on appeals to justice which are open to public discussion and debate among all members of a polity” (Fincher & Iveson, 2008; p. 93).

In describing how diversity became the “new guiding principle for planners” (p. 3), Fainstein (2005a) notes that it was seen as part of the solution to achieve economically competitive cities. She also suggests that diversity was a response to the dominance of neoliberal values, such as efficiency, used as evaluative criteria, “which are now alleged to have produced dullness and discrimination against “the other” (p. 4). But she warned that without a national commitment to equity “heightened competitiveness of a particular city will likely only produce polarization, and diversity may result in rivalry rather than tolerance” (p.16).

The diversity narrative began with a focus on the diversity of physical environments and continued into discussions about understanding recognising difference. Jacobs (1969) was one of the first to discuss the need for a concentration of activities within cities, describing this as one of the conditions required to “generate exuberant diversity” (p. 196). In response to the creation of bland, zoned, and planned homogeneity in the post-war era of development, diversity began to be used as a criteria to evaluate urban form (Fainstein, 2005b). While Jacobs’ view of diversity was largely attributable to the physical environment, advocates of a just city viewed diversity as requiring socially inclusive cities, where difference is treated with recognition and respect, where institutions promote the reproduction of and respect for group differences without oppression (Fainstein, 2010; Young, 1990) thereby extending the narrative

about diversity expanded to matters outside physical diversity. Iveson and Fincher (2011) consider diversity can be characterised in at least three ways – “the difference between rich and poor”, “the difference of status, whereby some identities are positioned hierarchically with respect to others” (p. 410) and “the difference of hybridity” (p.410), by which they mean belonging to more than one group. In terms of the first difference, between rich and poor, they note this can generally be quantified. Other identities are not so easily categorised. The second difference, relating to how identities are positioned can lead to one of the principal injustices in cities, that is when some identities are devalued or stigmatised (Fincher & Iveson, 2008).

Fincher and Iveson (2008) describe how planners commonly consult using a “group checklist” (p.96), a type of decision-rule, prior to decision-making. They note this approach may lead to groups being inadvertently (“or indeed deliberately” (p.96)) omitted or over-emphasised; or the differences within groups being overlooked. The third difference they identify, hybridity, or people belonging to multiple groups, is a particularly hard difference to recognise and plan for.

Hybridity is a term that has similarity to intersectionality. Osborne (2015, p.132), drawing on critical race theory, promotes intersectionality in planning as “a way to approach and understand intragroup difference” (p.132). She highlights how planners need to understand that a person’s identity, with its multiple dimensions, can “compound and complicate their experiences of oppression in different contexts” (p.133). Currently not widely used in planning, intersectionality is an approach planners could use to understand the lived experiences of groups, their “multiple axes of identity”, and their “relationship to power” (p.132). In the same way that Young (1990) considers reflecting on justice requires listening to those who are crying out to be heard, Osborne (2015) considers intersectional analysis can help identify who is and is not being heard, a key aspect of a planner’s work in public engagement or research. In seeking to understand diversity in urban planning “getting a diversity of participants even within a particular identity group can be necessary and that intersectionality warns us not to ignore the presence of other structures of oppression lest we propagate them inadvertently” (Osborne, 2015, p. 144).

Drawing on the idea of hybridity / intersectionality, Fincher and Iveson (2012) suggest that recognition of difference requires more than just “affirming a particular identity or difference, but rather a matter of transforming the ways in which identities and differences are produced” (p.233). They suggest recognising difference using a cross-group decision-rule as an alternative. Instead of a checklist approach, where certain groups are listed and given

recognition, new forums are created so that a multiplicity of participants can debate the ideals and practice of diversity (Fincher & Iveson, 2008).

A cross-group decision rule is similar to a mechanism put forward by de Souza Briggs (2008). Drawing on an analysis of historical societies, he suggests three mechanisms to manage diversity – “boundary shift ... ‘they’ become part of ‘us’ ... tolerance, which is a willingness to live with differences ... [and] ... cross-cutting obligations ... forge[ing] connections that reflect a variety of roles and motivations we all bear” (p. 225). This is comparable to the cross-group approach described above. Recognising that identity is more than just ethnicity, de Souza Briggs (2008) highlights a need to forge connections, bridge differences, and build on aspects of shared identity. He does not make clear exactly how to do this. There is a tension that arises when “recognition” is implemented by providing services or spaces for an identified group, or “integrating services and spaces for that group within the ‘mainstream’ public culture and its spatial expression” (Fincher and Iveson, 2008, p.143). Despite knowing that efforts to recognise differences in policy will not be perfect, such attempts will create new knowledge to bridge differences between and across groups (de Souza Briggs, 2008; Fincher & Iveson, 2008).

Complicating discussions of diversity, difference, and intersectionality is the view that homogeneity has a place. There is an important distinction between segregation and concentration. Segregation describes the situation where groups live separately from other groups in an urban environment as a result of power structures imposed on them, whereas concentration of a minority group within a physical space implies choice (Johnson et al., 2014; Nelson et al., 2004). Massey and Denton (1988) highlight the complexity of distributional differences, noting that groups may be segregated in a number of ways, as set out in Table 13.

Table 13: Definitions of differences in distribution

Distributional Difference	Definition
Evenness	The distribution of a minority group over area units and is scaled relative to some other group, and commonly measured using the dissimilarity index and Gini-efficient.
Exposure	The degree of potential contact, or the possibility of interaction, between minority and majority group members within geographic areas of a city.
Concentration	the amount of physical space occupied by a minority group in the urban environment.
Centralization	The degree to which a group is spatially located near the centre of an urban area.
Clustering	The extent to which areal units inhabited by minority members adjoin one another, or cluster, in space.

(Source: adapted from Massey and Denton (1988).

Concentration, though not segregation, has an important role in society. Writing about neighbourhood homogeneity, Young (1990) describes “social differentiation without exclusion” (p.238) as part of what constitutes ideal city life. She recognises that in this ideal world there will be “the formation of affinity groups” (p.238), but that such groups “overlap and intermingle, without becoming homogenous” (p.239). Travelling between these neighbourhoods should be indiscernible, a feature that Fainstein (2010) interprets as neighbourhoods with “porous boundaries” (p.68), and what Fincher and Iveson (2008) describe it as “desirable” homogeneity” (p.2).

Fincher and Iveson (2008) note that discerning between desirable and undesirable forms of diversity and homogeneity is part of the planners’ role, and that zoning, particularly in the historical American context, would fall within the undesirable homogeneity. Young (1990) is particularly explicit about the effects of zoning on diversity. She writes that zoning “enforces class segregation, and to a large degree, racial segregation as well, by, for example, excluding multifamily dwellings from prosperous neighbourhoods, and even from entire municipalities”, and produces “the conditions for harassment of or violence against any persons found where they do not ‘belong’” (p. 247).

The literature on diversity is inherently connected to democracy. For example, Sandercock (1998) writes:

if we want to achieve social justice and respect for cultural diversity in multicultural cities, then we need to theorize a productive politics of difference. And if we want to foster a more democratic, inclusionary process for planning, then we need to start listening to the voices of difference” (p.109).

For Fainstein (2010), recognising diversity requires explicit consideration of diversity, segregation, and the effect of planning tools such as zoning. It is a view that aligns with Sen and Nussbaum’s capabilities approach to justice, ensuring everyone has access of opportunity to live as they want to live.

4.4.3 Democracy

The third Fainsteinian principle of the just city is democracy. She places the principle of democracy lower than the principle of equity on grounds that, although participatory practice may help decision makers by providing localised knowledge, it does not necessarily result in equitable outcomes. Instead, Fainstein (2010) suggests rather than prioritising the process of participation, planning processes should ensure the fair representation of interests. She suggests planners need to focus on the latter. Fainstein’s principle of democracy is largely about the role planners have in relation to electoral processes, “the ability to capture mayoral offices and council seats”, and bureaucratic enfranchisement, the “influence over the ‘output’ side of local government through a range of citizen participation institutions” (Fainstein & Fainstein, 1982, p. 11). For as long as she has been writing about planning and the just city, Fainstein has advocated for planners to use their skills to better such enfranchisement, by making certain issues into political issues.

Fainstein’s views on democracy evolve over the trajectory of her work. In Fainstein and Fainstein (1971) they situate “user-oriented planning ... within the mainstream of democratic thought” (p. 351). However, in doing this, they immediately offer a critique of its basis in individualism and that the public interest (for which planners work) is decided by way of the majority, which then means the views of some are overlooked. It is on this basis that they promote the role of advocacy planners (drawing on Davidoff’s concept, refer section 3.2.2.). In the mid-1970s, Fainstein and Fainstein (1976) discussed the democratic model of community control, again noting its limitations and being explicit how to address these:

Even if his or her goal is far short of direct democracy, the reformer still must seek to break up vast governing structures if he or she is to realize any degree of citizen participation and responsive administration. (p. 905).

At this point in time, Fainstein and Fainstein also raise the potential for politicisation of planning, noting that planning interventions are legitimised on the grounds they have been democratically decided to be in the public interest. Further in 1982, they note that “[c]lassic democratic theory expects voting to hold political decision-makers accountable to their constituencies. Even if the elected official has no commitment to the public interest, he or she acts according to the majority will so as to retain office” (Fainstein & Fainstein, 1982, p. 12). In this context, they highlight the “pivotal role” (p. 17) of planners in relation to the politics of a place.

By 2000, Fainstein was seemingly optimistic for democratic planning in the new millennium. With the rise of communicative planning theory, and the role of planning seeking to find a middle way between the market and development, she is hopeful of a “more democratic and just society” (Fainstein, 2000, p. 473). However, in 2005, Fainstein (2005b) describes the “theoretical model of democracy... [crumbling] in the face of the actual operation of planning bureaucracies” (p. 123). By 2010, in *The Just City*, she becomes more critical of communicative planning, taking issue with its focus on planning approaches that prioritise procedural deliberative processes democracy.

Fainstein (2010) questions the faith of communicative planning theorists “in the efficacy of open communication that ignores the reality of structural inequality and hierarchies of power” (p.30), having referred to the potential for communicative planning as naïve (Fainstein, 2005b), and with the potential for dominant ideologies to be accepted as reason. The debate between just-city theorists, who evaluate democratic process by outcomes, and communicative planning theorists, who evaluate democratic process by who is involved, a debate primarily between herself and Healey (as described in section 4.3.1), is unlikely to be ever resolved. Fainstein accepts that in an ideal world if the two approaches work perfectly in practice they will both achieve equity, her primary goal in the just city; but she counters this by saying “however, we can never expect that the ideal will be met” (Fainstein, 2010, p. 9).

Fainstein (2010) sees the purpose of public participation as ensuring interests are “fairly represented” rather than valuing “participation in and of itself” (p.175). She does not seek to dispute democratic ideals, but rather is realistic about expectations. This is a line of thought evidenced in the work of other scholars.

Sen (2010) argues that democracy should be about enriching “reasoned engagement” through providing information and opportunities for interactive discussion, judged, “not just by the institutions that formally exist but by the extent to which different voices from diverse sections

of the people can actually be heard” (Preface, Public reasoning and democracy and global justice section, para. 2). This echoes the earlier work of Fainstein, suggesting that the planner’s role in a democracy is to be a voice for those that need a voice, or at least to ensure that voices from the spectrum of society are heard.

4.5 Applying Fainsteinian principles of a just city in practice

For each just city principle Fainstein lists suggested policies conducive to social justice (see Fainstein, 2010, pp. 171-175). This list assumes “societies with a pre-existing commitment to democratic-egalitarian norms” with a history of application – acknowledging that past practice may have fallen short of the ideal (p. 171). Her suggested policies relate to local policy, and include providing for inclusionary and affordable housing in furtherance of equity, avoiding discriminatory zoning to further diversity, and participation by advocates on behalf of groups that are not able to participate directly in decision making process to further democracy (Fainstein, 2010).

In *The Just City*, Fainstein assesses Amsterdam, London and New York against the just city principles as case studies (Fainstein, 2010). New York, she concludes, meets the diversity principle, but is showing a decline in equity and democracy. London, she considers diverse. She refers to “broad class interests” being “reasonably well represented” (p.137) on local government, which also suggests it fares well on the democracy principle. However, regarding equity, she notes that there is a policy trend “away from equity toward competitiveness” (p.138). Of the three cities, she deems Amsterdam exemplary on all three principles, stating, “Amsterdam may not be the ideal city, and it is less egalitarian than in the past, but it still represents a model to which others might aspire” (p.164).

A growing number of scholars are drawing on Fainstein’s just city principles to assess justice in other locations. For example, Yiftachel and Mandelbaum (2017) used a modified version of her framework to explore the social impacts of Beersheba’s strategic urban plan. They concluded that her framework produced “a systematic professional analysis and policy recommendations as a way of ‘doing the just city’” (p. 545). Connolly (2018) marries an empirical analysis of New York’s greening with Fainstein’s just city framework. He concludes that the provision of green space in New York, while creating diverse urban spaces, prioritises economic goals over democracy and equity (Connolly, 2018). Medved (2018) uses Fainstein’s just city framework to determine whether two European neighbourhoods, acclaimed as sustainable, meet the principles of democracy, diversity and equity. He anticipated that bottom-

up urban developments, in comparison with top-down developments, would result in more just, inclusive, socially sustainable urban communities. However, using the just city framework, he concluded that the correlation was not as strong as first thought (Medved, 2018). Although well used and seemingly useful, Fainstein's work on the just city is not without its critics.

4.6 Criticisms of Fainstein's just city concept

Fainstein (2010) is the first to acknowledge criticism of her just city concept. This section addresses four such critiques, of which Fainstein has addressed one in *The Just City*. The first criticism specifically relates to the ambiguity of justice, and the view that it renders the just city utopian. The second is of Fainstein's application of her just city concept only to Western capitalist cities. The third regards Fainstein's view of Amsterdam as a "model" just city (p.164), and the fourth relates to the absence of care in her concept of the just city. Usefully, they point to a gap in Fainstein's concept of a just city, which I subsequently refer to as a gap and address in Chapter Five. Having explored the evolution and substantive concept of Fainstein's just city, I turn now to criticisms of it.

The first criticism of Fainstein's concept of the just city relates to the ambiguity of what justice means and how it can be contextualised, as was discussed in Chapter Three. Harvey and Potter (2009), for example, highlight the lack of connection between conceptions of justice and how they might be invoked in policy. They note that changing policy direction also requires changing "allegiance from one dominant conception [of justice] to another" (p. 41). Their critique against Fainstein's just city comes from a Marxist perspective, suggesting that it "falters" because she "avoids the necessity for outright conflict and struggle" (p.46). They suggest that weaning society away from "dominant social processes" is "impossible" (p. 41), and that there is a need to understand the nature of the conflict that informs utopian ideals, making a distinction between "utopia's of spatial form" (p.46), by which it appears they are referring to the idea of environmental determinism, and "utopias of social process", such as the neoliberal ideal of increased wealth, security and happiness for all (p. 46). They suggest a third type of utopia – dialectical or spatio-temporal utopianism. Rather than the avoidance of conflict Harvey and Potter (2009), drawing on Lefebvre, consider "social mobilization and collective political/social struggle" as the answer to making the city a better place. Their language reflects Marxist influences, calling the pursuit of a just city "a crucial battleground in the redefinition of rights" (p.47), requiring the "capacity to force open spaces of the city to protest" and concluding by stating that "The right to the Just City is not a gift", they write, it is something "to be seized

by political movement” (p.49). Their views are in contrast with Fainstein’s approach of nonreformist reform. She acknowledges their view directly in her work, noting that she does expect conflict, but that change will happen incrementally through continued pressure.

This first criticism, regarding the utopian nature of the just city, is also exemplified by Musset (2015)². He describes the idea of a just city as a “rhetorical instrument for a consensual and neoliberal vision of society” (p.125) and refers to Fainstein’s concept of the just city as a myth, pointing out, “the city has never been fair” (p.127). Critically, Musset makes three key points. Firstly, the ambiguity of justice renders it unable to be used as the basis of an ideological framework; secondly, that society creates the city rather than the city creating society; and finally, that a just city is a marketing tool for neoliberal cities. The just city, writes Musset, “is really a myth in the first meaning of the word, that is, an explanatory story that founds a discourse, fosters a social practice and grants legitimacy to those who have made it” (p. 133). In particular, Musset suggests this myth supports academics “in search of critical horizons” (p.126). He presents some compelling arguments against the idea of a just city, including that spatial “inequalities and injustice can be hidden by territorial proximity” (p. 127) by which he means, drawing on an analogy of upstairs/downstairs type relationships, that rich/poor can live side-by-side, and yet be completely separate. He also uses an example of a mixed housing development in France, where intended social mixing did not occur (the wealthier inhabitants being unhappy about it). Musset explains this as the result of long-lasting socio-spatial effects of historical circumstances. Like Harvey and Potter (2009), Musset also uses Marxist-type language to explain the circumstances of a city – describing it as a “battlefield in the capitalist processes of conformation and appropriation of urban territories” (p. 132). In this context, he suggests another type of utopia – a “territorialized utopia” (p.139) describing it as a trap that academics fall into, that is, assigning a role to the city that contrasts with its function, which in his view is that the “battlefield” is simply the result of “capitalist processes” (p. 132). Musset (2015) suggests that while inequalities can be quantified, injustices cannot. He describes how injustice is the product of culture and is judged on how well a city develops personal or group “capacities” (p.129). Given his view that society makes the city, Musset suggests changing urban form is unlikely to have much impact on society. He concludes that justice is too ambiguous and versatile to use as a framework, as the city is a physical expression of society at a point in time.

² NB: Musset’s (2015) article was written in Spanish and translated using Google Translate. Errors in interpretation may have arisen due to this.

The second criticism of Fainstein's just city relates to the application of her just city concept only to Western capitalist cities. Fainstein (2010) suggests that, in so far as cities aspiring to be just, Amsterdam is "a model to which others might aspire" (p.164). This has been criticised by several scholars. For example, Novy and Mayer (2009) take particular issue with this, questioning its influence in just city debates. They suggest the just city relies on "caricatures of European cities' past that camouflage their present-day problems" and inquire about its relevance outside of Europe (Novy & Mayer, 2009, p. 106). Others have picked up on this critique. For example, Kadi and Musterd (2014) refer to Fainstein's use of Amsterdam as the prototype of the just city, noting the reasons for this was access to housing for the poor, and "housing conditions were disconnected from market forces to a greater extent than in other cities" (p. 259). Yet their research, on the effect of changing government policy on housing, noted a reduction in justness, resulting in accessibility to housing becoming easier for the rich and harder to the poor (Kadi & Musterd, 2014). Referring to Amsterdam as a neoliberalising just city, they note its potential to lose its distinguishing just features (Kadi & Musterd, 2014). Fainstein addresses this second criticism directly by suggesting that evaluating urban policy using the just city principles would "add to overall pressure for restructuring capitalism into a more humane system" if done at national and international level (Fainstein, 2010, p. 6). However, she also acknowledges that "a humane capitalism is an oxymoron" (p.6).

A third criticism is that an ethic of care is conspicuous by its absence from discussions of the just city. In 2017, Williams described how feminist theorists in geography have been calling for "an ethic of care alongside justice in urban theory as an equally important ethic in our search for justice in the city" (p.822). Williams encapsulates this narrative using the term "care-full justice" (p.821), which she uses "to argue for care in the just city" (p. 822). On Fainstein's part, however, this absence of care from her just city discussion is a deliberate gap. As noted earlier (section 3.3), Fainstein (2010), names justice as equity, diversity and democracy. She deliberately stopped short of developing a "theory of the good city" (p.5): "I am not tackling a theory of the good city, one that would go beyond justice to create the conditions for human flourishing" (p.5). Recognising justice as being only one "component of a vision of the good, it raises enough questions and is so frequently traduced in the name of efficiency or the public interest as to constitute a sufficient subject for analysis here" (p.5). So, while an ethic of care is conspicuous by its absence from discussions of the just city, Fainstein seemingly did this for reductionist purposes, to make developing her idea of the just city manageable.

Reviewing the critiques of Fainstein's proved fruitful for my own thinking about just city planning. For example, in response to the first criticism, in relation to utopian thinking, I concur

with Fainstein that there is a role for utopian thinking in urban planning. Fainstein's concept of the just city might be, as per these critics, unachievable given the multiplicity of definitions of justice, the complexities of measuring what is just, and the problems of implementation. However, this should not discredit her utopian ideal of planning a city that is just. As Friedmann (2011) states, "utopian thinking can help us choose a path into the future that we believe is justified, because its concrete imagery is informed by values that are precious to us" (p. 146). There are others who also value the utopian ideals of justice in urban environments. For example, Davoudi (2013) states that "we need ...a 'realistic utopia' to enable us to seek transformative alternatives. Although justice, like democracy, is an unfinished business, every step taken to reduce injustices is a step in the right direction" (p. 5). Friedmann (2011) also gives credence to utopian thinking, stating that it "can help us choose a path into the future that we believe is justified, because its concrete imagery is informed by values that are precious to us" (p. 146). Sandercock (2003) is unapologetic about her utopian dreaming, writing that "the utopian impulse is, and will hopefully remain, an irrepressible part of the human spirit" and she wants to "*practise utopia*, a city politics of possibility and of hope" (Sandercock, 2003, p. 2). Finally, even Harvey (2003) suggests, "We must imagine a more inclusive, even if continuously fractious, city based not only upon a different ordering of rights but upon different political-economic practices" (p. 941). On this basis, while Fainstein's concept of the just city is utopian this should not discredit the ideal. Such a path, justified and informed by those that were bound to it, would be a legitimate one.

Further, in response to the critique of her western capitalist focus I have appreciated its relevance: my thesis pertains to a Western capitalist city; Auckland. But my work has also brought me close to the limitations of this focus as I have had to acknowledge the absence of scope for the conversation about just cities to extend into the application of indigenous conceptions of justice in the New Zealand context (refer section 1.6.2 and section 2.5.2).

The critique of the absence of care ethics in Fainstein's just city concept, although well justified by her, led me to consider whether this refusal to elaborate a theory of the 'good' city was indeed sufficient for me, as a planner looking to find a way to highlight ethical practice. At this point I introduce insights from my encounter with the work of Freire who points to what constitutes ethical practice. As I was attempting to understand the general concept of a just city, I came across the work of Uitermark and Nicholls (2017), who described Freire's work in their work on creating a typology of justice strategies. Drawing on Freire's ideas, they described planners as "[o]rganic intellectuals" whose role was to help "raise the consciousness' ... of marginalised communities" through using their "in-built knowledge ... to identify and mobilize

against injustices in their daily lives” (Uitermark & Nicholls, 2017, p. 35). Going directly to the source, Freire’s discussion on dialogue was particularly relevant to planning practice. While Fainstein does not draw on the work of Paulo Freire, his work, in particular *The Pedagogy of the Oppressed*, but also *The Pedagogy of Hope*, could usefully contribute to the conversation about a just city, and in particular the principle of democracy through public participation in planning.

Freire (2017) was critical of “libertarian propaganda” (p.41), that set out to win the trust of those that are oppressed by portraying a belief in freedom. To truly ensure freedom, and arguably democracy, Freire (2017) believed that:

The correct method lies in dialogue. The conviction of the oppressed that they must fight for their liberation is not a gift bestowed by the revolutionary leadership, but the result of their own conscientizacao. (p.41).

This term ‘conscientizacao’ does not, apparently, translate well into English, but refers to “critical consciousness”, and means “learning to perceive social, political, and economic contradictions, and to take action against the oppressive elements of reality” (Freire, 2017, p. 9).

Although Fainstein (2010) does not ever refer to the idea of conscientizacao, it aligns with her view that process ignores realities associated with “structural inequality and hierarchies of power” (p.30). For planning practice, it highlights that simply following a democratic process is not enough for the achievement of a just city, but instead requires planners to be deeply engaged in dialogue with those whose voices are not being heard, and then to ensure action is carried out with them. Freire (2017) states:

It is only when the oppressed find the oppressor out and become involved in the organized struggle for their liberation that they begin to believe in themselves. This discovery cannot be purely intellectual, but must involve action. Nor can it be limited to mere activism, but must include serious reflection: only then will it be a praxis. (p.39).

Dialogue without action is not therefore democracy. This is a point that reflects Fainstein’s work regarding the democratic outcomes of participatory processes and the role of the planner as advocate for the least advantaged. It also supports her critique of communicative planning, in that it is not enough to follow those processes. But it also raises a new point; one which suggests Fainstein’s principle of democracy in the just city could be extended. That point is that planners need to be reflect critically on their role and the implications of their actions, and to

do this they need to understand politics in planning, particularly given the influence of neoliberalism.

Finally, the suggestion that the just city is a trap for academics or a myth, situated in the neoliberal ideal of consensus (Musset, 2015) warrants further exploration. The idea of a just city being used by academics for personal gain resonates with the work of Freire. In the introduction to the 50th edition of *Pedagogy of the Oppressed*, Macedo (2018) notes that Freire:

did not hesitate to demonstrate his just ire by denouncing the critical posture of many facile liberals and some so called critical educators who often find refuge in the academy by hiding their addiction to obscene consumerism while at the same time attacking in their written critical discourses the market theology of neoliberalism. Too often, these facile liberal and so called critical educators tastes and ways of being in the world and with the world, remain, according to Freire wedded to the very neoliberal market solutions that they denounce at the level of critical discourse. In their day to day practices these facile liberals and so-called critical educators often betray the action required by praxis by fossilising their purported political project into an obscure discursive criticality that begs to move beyond the always postponed arrival of action. That is action designed to transform the current perniciousness of the neoliberal godification of the market into new democratic structures that lead to equity, equality and authentic democratic practices (Macedo, 2018, pp. 0:9:19-10:10:27)

Bearing in mind that Healey (2012) describes the planning tradition as having been “built up through a mixture of evangelism, formal institutional practice, scientific knowledge and, increasingly, academic development” (p.214), Freire’s words should raise some alarm bells about the role and praxis of planners. His reference to critical posturing implies that academics and planners cannot simply give lip service to the ideals of a just city. As Moroni (2019) suggests, simply invoking an idea of justice in policy, distributive or otherwise, is inadequate. Policy needs to be based on “specific substantive conceptions of justice – which will have to confront with other possible alternative conceptions” (Moroni, 2019, p. 10). To do this the profession needs to understand the politics involved in urban planning and the values underpinning arguments in urban plans and then be prepared to be “fearless” (Grange, 2017, p. 15) when debating these.

Legacy et al. (2018) critically reflects on the rise of neoliberalism and the concurrent rise of consensus-based planning. Drawing on Allmendinger and Haughton (2012) she highlights that a focus on consensus-seeking removes opportunities for real debates. Swyngedouw (2010)

describes this as “annul[ing] democracy” through not providing space for the “nurturing of disagreement through properly constructed material and symbolic spaces for dissensual public encounter and exchange” (p.3). This consensus-based politics is described as being the “post-political condition, which takes as foundational the inevitability of neoliberal capitalism as an economic system and the idea that conflict can exist, although within limits” (Allmendinger & Haughton, 2012, p. 91). Both Legacy et al. (2018) and Allmendinger and Haughton (2012) refer to this as depoliticization, where decision-making and dissent occur outside of formal processes. Legacy et al. (2018), in relation to the Australian context (but which could equally be applied elsewhere), state that:

debates about the future of the Australian city are not limited to official planning fora but instead extend beyond state-mandated participatory planning to include public-created spaces ... [and they] contend that in these spaces the negative impacts of planning are politicised. (p. 177)

Conversely, Grange (2017) refers to the processes that allow certain interests to rise “to the level of being universal” (p. 2) as being an outcome of their politicisation. It is the politicisation of planning in the spaces described by Legacy et al. (2018) and exacerbated by neoliberalism, that explains in part why planners are grappling with ideas of the public good. She encourages planners “to nurture a critical ethos, in order for planners to take on the important role of resistance to politics, rather than giving up on democracy” (p. 6).

Planners are distancing themselves from planning outcomes and/or describing their role as neutral according to Grange (2017). Drawing on Gunder, she describes how “planning is torn” (p.3) between its role in protecting the public interest and becoming the scapegoat for neoliberal governments (Grange, 2017). There are many examples of this public derision of planning by politicians and others. For example, Clifford (2016) notes how former UK Prime Ministers, Tony Blair and David Cameron describe planning as being “hopelessly bureaucratic” and the “enemies of enterprise” (p. 383). In New Zealand, a former Minister of Infrastructure said in a television interview that “the planners are out of control. They've got more sovereignty than parliamentarians and their wings need to be severely clipped” (S. Jones, personal communication, 25 July 2019), and property developer, Rod Davies (2011), described planners as becoming “passive bit-part actor in the development process” (p.15). Such attacks on planning are evidence of what Harris (2019) describes as the “ideological campaign against planning” (p.4).

Public derision of the planning profession, along with continuing reforms to tighten timeframes, streamline processes and introduce performance targets, is an attack on the knowledge and value-add of planning particularly when it comes from senior political figures, effectively leading to the silencing of planners (Grange, 2017; Vigar, 2012). Calls for better systems, more efficiency and less red tape have become the “*sine non qua* of public services, in contrast to more traditional goals of equity, democracy deliberation and social justice” (Clifford, 2016, p. 384). Despite the suggestion that these neoliberal practices will “widen participation and deepen ‘democracy’” (Swyngedouw, 2010, p. 3), the effect on planning is that public participation is restricted to “clearly defined sites ... within which ‘participation’ might occur, and these may limit broader expressions of engaged citizenship” (Legacy et al., 2018, p. 177).

Planning needs to reclaim this space for democratic debate. As Swyngedouw (2010) notes:

Proper urban politics fosters dissent, creates disagreement and triggers the debating of and experimentation with more egalitarian and inclusive urban futures, a process that is wrought with all kinds of tensions and contradictions but also opens up spaces of possibilities (p.3).

Swyngedouw’s view is echoed by Grange (2012, 2017) and her calls for planners to speak as parrhesiastes for the public interests (as discussed in section 1.1.4). Such a debating space would also be useful for the conversation about ethical dimensions in urban plans, and what constitutes the right conditions for human flourishing. It is in this regard that Freire’s work and his idea of raising “critical consciousness” can be seen as also applicable to planners working in neoliberal settings. In order to create space for democratic debates, and to speak fearlessly requires skills in perceiving contradictions in urban policy, in order that “action against the oppressive elements of reality” (Freire, 2017, p. 9) can be taken. This is an idea that is further developed in Chapter Five.

4.7 Summary

This chapter focussed on Fainstein’s concept of the just city, with the purpose of establishing the just city principles as one set of measures against which ethics invoked in planning discourse could be evaluated. By drawing on other literature, to extend and clarify aspects of Fainstein’s work, three motivations for the pursuit of a just city have emerged.

The first motivation relates to the purpose of planning. While the pursuit of normative, and even utopian outcomes has long been planning's purpose, albeit via different methods ranging from early blueprint planning to more participatory approaches (advocacy planning and more recently communicative planning), understandings of how to plan for the public interest are evolving. Within Fainstein's reasoning of the just city, one where planners advocate for those who are least advantaged, advocacy planning has featured prominently. Yet current neoliberal planning practice, and the current rise of populist planning, means advocacy planning is on the wane, and planners reproached for market failure. I argue that contemporary planners need to be critically aware of this, and to raise issues and politicise them in spaces for democratic debate and discussion. In my view, as discussed further in Chapter Five, planners need to find their voice, their critical consciousness, and advocate for the public interest, providing spaces for democratic debate.

The second motivation for the pursuit of a just city, identified in this chapter, relates to the concept of working for the public interest. This chapter has highlighted a gap in Fainstein's just city concept. She bounded her discussion of the just city to matters of justice, and deliberately did not attempt to address a just *and good* city. Specifically, ethics of care are missing from her conception of the just city. The following chapter delves into virtue ethics, and more specifically, ethics of care to address this gap.

The third motivation, inherently connected to the second, is that the realisation of a just city is necessarily utopian. While there might be dissention about means, the concept of a just city is a goal that many would agree with (Moroni, 2019). This utopian future imagines a planning profession that is united towards a common goal, where debate about alternative values and ethics is encouraged. While perhaps impossible to achieve, it is, nevertheless, necessary to "practice utopia" as Sandercock (2003) suggests, taking steps towards policy informed by principles of equity, diversity, democracy, and also kindness (as discussed further in Chapter Five).

As well as identifying these three motivations for a just city, this chapter has also broadened the interpretation of two of Fainstein's just city principles to address issues associated with interpretations of public interest. The first extended principle relates to diversity, by which Fainstein (2010) means both physical and social diversity. Delving further into literature on diversity raised complications with its uses as a measure of a just city. While segregation may be the antithesis of just, the literature suggests there is a place for desirable homogeneity in the city. It is the role of planners in determining what and where this might occur (Fincher & Iveson, 2008). They have a role in understanding and recognising the intersectionality of

different identities (Osborne, 2015) and this becomes particularly important when considering the participatory processes in the development of urban plans and the attribution of authorship (as discussed further in section 10.2).

Fainstein's principle of democracy could also be extended to ensure that processes and practices of participatory planning create the conditions whereby the critical consciousness of those who are oppressed leads to their full democratic involvement in planning processes. To enable this, planners would need to reflect critically on their role, and to act as parrhesiastes, using their skills to make certain issues into political issues, and creating spaces for democratic debate, learning and action.

Evaluating how justice and ethics are framed within urban policy, particularly given the complexity of the term justice. However, Fainstein's just city concept, buttressed by the work of others in this space has established a base from which to argue for a more specific role for planners in plan development processes. Furthermore, it can, as I propose to demonstrate in the case of Auckland, provide a basis for the evaluation of urban plans and a clarification of the role of different ethical perspectives in the realisation of a just city.

Chapter Five: An ethic of care

5.1 Introduction

The importance of a conversation about the ethical basis of decision making was established in Chapter One; these ethics have a direct effect on the lived experiences of city residents. While ethics of justice have dominated policy discussions and forms the basis of Fainstein's just city (as discussed in Chapter Three), there is an emerging call for virtue ethics to complement these, and in particular an ethic of care. In the preceding chapter, a gap was identified in the way Fainstein (2010) envisaged her just city, in that she relied only on justice values. She deliberately excluded values associated with virtue and considerations of what might comprise a "good city" (p.5), seemingly to make developing her idea of the just city manageable, as was discussed in Chapter Four. This chapter turns to literature beyond justice to address this exclusion. In reviewing literature of relevance to care ethics, this chapter traverses literature from a range of disciplines including sociology, geography and theology. Subsequently, in the tradition of Fainstein (refer section 4.4), I name virtue as *kindness*. In my thesis I define kindness as reflexive planning praxis that responds practically to the needs of others through everyday actions, policy, or regulation. Kindness is presented as the fourth principle of a just city. It is situated within the ethic of care narrative, and as an emerging virtue in a post-secular society.

5.2 The role of virtue ethics in a post-political age

The planning profession is inherently concerned with human flourishing (refer section 2.2.1). Place-based decisions are based on normative values as to what is right/wrong, or good/bad (Campbell, 2006) and the legitimacy of the profession rests on such interventions being made on the basis that they will improve outcomes for the public good (Campbell, 2006; McClymont, 2019). It is not surprising that Fainstein chose not to address the idea of a good city as, according to Lennon (2017), working for the public interest is a concept that planning practitioners also grapple with. Calls of increasing bureaucratisation driven by the neoliberal drive for efficiency, is complicit with contempt for those seeking common good (Clifford, 2016;

Grange, 2017). As such, working to enable “human flourishing” (Fainstein, 2010, p. 5) is a concept weakened by the increased politicisation of planning in the post-political age.

As well as limited opportunities for community engagement in the post-political age (refer section 3.3.3), there are also limited opportunities for planners to act as champions of the public interest. Public interest outcomes are competing with efficiency outcomes, and planners (in the UK context at least) are becoming increasingly frustrated by their powerlessness to effect positive change (Clifford, 2016; Grange, 2012). According to McClymont (2019) this is the “post-political condition” which “conflates ideas of individual choice, the free market and the emphasis on economic growth, into the norm of society which is beyond political debate” (p.283). For planners, virtues such as caring are derogated.

Debating values and opening up “spaces of possibilities” (Swyngedouw, 2010, p. 3) is at the heart of planning. To this end, McClymont (2019) draws on MacIntyre’s virtue ethics, noting that his approach:

elevates the importance of searching for the right or good course of action in a given situation, through discussion and debate with others, but without seeing this ‘good’ as fixed, or necessarily transferable to any other situation or context. (p.285).

Lennon (2015) also suggests adopting MacIntyre’s approach to redefining the purpose of planning.

MacIntyre’s virtue ethics were based on the work of Aristotle. Aristotle considered that humans morals were motivated towards achieving happiness as an end-state, a teleological perspective (Smith, 2003). Unlike rule-bound justice ethics, virtue ethics are “aspirational”, and planning decisions informed by virtue ethics are based on what should be done because it is the morally right thing to do (Lauria & Long, 2017, p. 205). This idea of moral rectitude is open to interpretation, but unlike personal values, virtues imply “a shared moral tradition” (Benson, 2018, p. 6). While we all have different values, which is what causes the tensions that planners grapple with when considering resource use and allocation (public interest), it is the moral traditions that inform virtue that need to be understood when making decisions about what ought to be done. As MacIntyre (cited in Benson, 2018) states:

To understand that generosity or courage or thrift is a virtue is to understand that one ought to be generous or brave or thrifty, and this ‘ought’ has a force prior to any choice of moral standards that we make. Indeed choices of moral standards are judged correct or incorrect in the light of their understanding of the virtues and vices (p.39).

Debating what 'ought' to be done in urban planning therefore requires unpacking virtues in planning to help inform decision making when dealing with conflicting values. One particular aspect of MacIntyre's work that has relevance to planning is that he concludes, "the desire to advance the excellence of an evolving practice tradition through excellence in practice that constitutes the telos or purpose of a practice as it is instantiated as action in a specific context" (cited in Lennon, 2015, p. 67). Further, in the search for this excellence MacIntyre states:

The virtues therefore are to be understood as those dispositions which will not only sustain practices and enable us to achieve the goods internal to practices, but which will also sustain us in the relevant kind of quest for the good . . . and which will furnish us with increasing self-knowledge and increasing knowledge of the good. (Lennon, 2015, p. 67)

One particular virtue that might address the Fainstein gap, going beyond justice to create the conditions for human flourishing, is the ethic of care.

5.3 Ethics of Care

Informing the debate about values and opening up spaces of possibility is a growing body of literature from healthcare, geography and urban scholars writing about care ethics. In the social sciences, Gilligan was one of the first to bring ethics of care to the fore (Kennedy, 2016 ; Rodriguez Ruiz, 2005). In her seminal book, *In a different voice*, Gilligan (1993) refers to the work of Piaget who studied the behaviour of children. Gilligan describes how Piaget found, when exploring playground behaviour and disputes settlements, boys relied on rules, but girls took a pragmatic approach. This led Piaget to conclude that the moral development of girls was "far less developed" (Gilligan, 1993, p. 10). Gilligan describes how it was the behaviour of boys that became the norm, informing theory and extending beyond the playground into other decision-making spheres. For Gilligan however, by "implicitly adopting the male life as the norm, they have tried to fashion women out of a masculine cloth" (p. 6), the paradox being that "the very traits that traditionally have defined the "goodness" of women, their care for and sensitivity to the needs of others, are those that mark them as deficient in moral development" (p.18). In her work Gilligan (1993) describes "the underlying logic of an ethic of care as a psychological logic of relationships, which contrasts with the formal logic of fairness that informs the justice approach" (p.73). She calls for another voice to be heard, one that is neither feminine nor masculine, just different. The role of this different voice is to advocate for care.

The healthcare profession has strongly embraced care ethics, and within the definitions of care there are some consistent themes. For example, Tong (1998), writing about ethics for healthcare practitioners, describes it as a debate between “male” morality versus “female” morality (p. 132), and posits “a feminist ethics of care” (p.132) which she defines as requiring “healthcare practitioners to at least try to develop caring feelings as well as conscientious desires and empathetic skills” (p.151). Fisher and Tronto (1990) write that:

care can be viewed as a species activity that includes everything that we do to maintain, continue, and repair our 'world' so that we can live in it as well as possible. That world includes our bodies, our selves, and our environment, all of which we seek to interweave in a complex, life-sustaining web. (p. 40)

Botes (2000) highlights the role of care in decision-making as “to fulfil the needs of people in the ethical situation and, in this way, to maintain harmonious relations” (p.1072). From these definitions, key themes include liveability, repair, and prioritising others’ needs, and these relate to the concept of human flourishing as part of a good city.

For healthcare practitioners, Tong (1998) asks them to “reclaim the practice of medicine, saving it from those who would tear its heart out, rendering it just another commodity to be marketed to consumers” (p.150). This reminds me of early town planner, Abercrombie, who warned the planning profession against the effects of individualism (refer section 3.3), but it also resonates with the view of Grange (2017) and others about the silencing of planning in a post-political, neoliberal world (section 2.2.1).

Drawing on care ethics in planning, as a means of debating values and opening up spaces of possibility, is not a new idea. Themes to which Botes (2000) refers, such as maintaining “harmonious relationships” (p.1072), and being “need-centred, holistic and contextual” (p.1074) is terminology that was central to Abercrombie’s work. In his book *Town and Country Planning*, Abercrombie (1933) highlighted the role of the “relationship” in planning to make a “complete but harmonious whole” (p.11). Primarily, he was referring to relationships between land and buildings, function and form, but he also acknowledged the human element. At the time he was writing, there was a focus in planning on what was urban (town) and what was rural (country), but for Abercrombie this was a false distinction. He described the spatial relationship that existed between towns and their wider region/counties, recognising it involved both economic interactions and the social interaction of communities. Drawing on evidence, he highlighted the market is ineffective in delivering good planning outcomes, concluding that:

The general design and public features of the city should be studied, no less than the conditions under which the individual lives. The plan should not be in the hands of the drill sergeant nor should the city be under the domination of the muddler who will talk about the Law of Supply and Demand and the Liberty of the Individual. Town and Country planning seeks to proffer a guiding hand to the trend of natural evolution, as a result of careful study of the place itself and its external relationships. The result is to be more than a piece of skilful engineering, or satisfactory hygiene or successful economics: it should be a social organism and a work of art. (Abercrombie, 1933, p. 27)

Abercrombie's view of urban environments as social organisms encapsulates important aspects of the idea of an ethic of care in the city.

5.4 Ethics of care in the city

Caring about the lives of individuals (Abercrombie, 1933) as well as the physical and natural environment is central to Power and Williams (2019) work on "cities of care" (p. 1). They argue that care could be central and transformative for all urban settings but are not specific as to how this might manifest in urban governance and planning. Instead, they have identified it as an area of future research. They, and other scholars writing about care in the city, refer to provisions enabling specific types of land uses, such as day centres for the homeless, libraries, childcare centres, and housing (Fincher & Iveson, 2008; Power & Williams, 2019; Williams, 2017b), or "things in the city such as pavements" (Power & Williams, 2019, p. 3). The provisions of these land uses and more practical elements of a city are described as "infrastructures of care" (Power & Mee, 2020, p. 489), and a means to "facilitate justice on the ground" (Williams, 2017, p.823). Yet, while enabling land uses *of* care is important in planning, the ethic of care can extend further in the realm of decision making, as it has in the healthcare profession.

Tronto (2013) describes feminist care ethics as nested caring practices, and that these practices aim to:

ensure that all of the members of the society can live as well as possible by making the society as democratic as possible. This is the essence of "caring with". While living in a democratic manner is not the only goal of care, or of human life, in a democratic society it is the goal of democratic caring practices. Thus, *democratic politics should center upon assigning responsibilities for care, and for ensuring that democratic citizens are as capable as possible of participating in this assignment of responsibilities.* [sic] (p.30)

Like many of the issues in planning practice, caring in cities has been cast in a neoliberal light. According to Williams (2020), care has been reduced to the role of individuals, who are “serviced by a market economy” (p. 1), meaning that the collective view of caring for each other has been eroded. Yet in reality, as Tronto (2013) notes, caring is “often unequal, particularistic, and pluralistic” (p. 10), and is problematic in a neoliberal democracy. Tronto (2013), therefore, suggests the need to move away from supporting market-led processes, and instead, support conditions that makes individual’s lives better³. Tronto (2013) notes:

Thinking about how people’s interdependence can be best organized through care institutions that take everyone’s equal capacity both for care and for freedom requires widely diverse and thorough democratic processes of agreeing and disagreeing. Only then will democratic societies move closer to realising the ideal of democracy – equality and freedom for all – in everyone’s life. (p. 45)

Key to caring democracy, and therefore care in cities, is the role of spaces in which to thoroughly debate issues associated with care. This resonates with the view of Swyngedouw (2010) who, writing about planning in a post-political age decried the lack of debating spaces for “dissensual public encounter and exchange” (p.3) (refer Chapter 4, section 4.6). Care, as a topic of debate is about caring for diversity, caring about equity, and caring enough to ensure a voice for all in democratic debate. It encapsulates and builds on all three Fainsteinian just city principles. As such the ethic of care, stemming from virtue ethics, deserves consideration as a just city principle in its own right or, as I suggest following Fainstein’s approach, a principle of *kindness*.

5.5 Why kindness?

Reflecting the dilemma Fainstein had in naming diversity as a principle of justice, there are a multiplicity of virtues that could have been employed in this discussion. Recently, global leaders and celebrities have been extolling virtues by various names. Bramen (2018) refers to ex-US President Trump being “preoccupied with niceness” (p.329), Lady Gaga calling for people to “Stand up for kindness, equality and love” (p.338), Pope Francis referring to a “revolution of tenderness” (p. 339), and former leaders George W Bush and David Cameron calling for

³ While there is a thread within the ethics of care literature that extends notions of care to non-human organisms, for the purpose of my thesis, I limit it to the human residents of a city)

“compassion” (p.330). From New Zealand, Prime Minister Jacinda Ardern (2018a) is pursuing “kindness” (Conclusion, para.3). In 2019, as part of the New Zealand National Statement to the United Nations General Assembly she asked, “[w]hat if we no longer see ourselves based on what we look like, what religion we practice, or where we live. But by what we value. Humanity. Kindness. An innate sense of our connection to each other” (Ardern, 2019 (lines 239-240)).

In addition to celebrity and political endorsements there are increasing calls for virtue values in emerging planning scholarship. For example, Lyles et al. (2018) call for “compassionate planning” (p.247); Ruming and Melo Zurita (2020) describe “institutional spaces of care” (p. 4) in a housing relocation project; Power and Bergan (2019) explore care ethics as a response to the effects of neoliberal policy on public housing. This emerging body of literature is exploring how “relations of care” (p. 1) are affected by and contribute to complex social, physical and political contexts within cities (Wiesel et al., 2020). That virtues are not already addressed in the planning literature is surprising given the profession is “deeply concerned about inclusion and exclusion, about recognition and respect, about cultural and historical sensitivity” (Forester, 2020b, p. 1), and legitimised on the basis of better outcomes achieved through planned intervention (Campbell, 2006). In fact, Lyles et al. (2018) go so far as to call it “odd” (p.247), and Forester (2020a), writing about kindness, attributes the lack of consideration to its “complexity and moral risks” (p.1). For the purpose of this thesis, I argue kindness should be a fourth just city principle, because kindness is more than just a value in planning. Grounded in both religious and humanist narratives it is a virtue with “a shared moral tradition” (Benson, 2018, p. 6), in both a secular and non-secular way.

Kindness, according to Graham (2011) is a virtue “not because people happen to applaud [it], but because of the facts of human nature – our vulnerability and depending on others” (p.53). He notes that human flourishing is context dependent, reliant on “taking social and cultural influences into account, as well as the biological and ethological influences” (Graham, 2011, p. 53).

Kindness stems from a plurality of cultures. It is a shared normative value for many global citizens and a virtue that crosses existing religious boundaries. According to *A Common Word*, Christians and Muslims account for more than 55% of the world’s population (The Royal Aal al-Bayt Institute for Islamic Thought, 2012). Kindness is at the heart of Islamic and Christian scripts, and the principle of ‘love thy neighbour’ integral to both (The Royal Aal al-Bayt Institute for Islamic Thought, 2012; Younan, 2011). Drawing on the biblical verse, “What does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God?” (Micah 6:8), Younan (2011, p.28), explains that “while doing justice is tied closely to human

rights, the concept “love kindness” is tied closely to the concept of compassion”, acts which are “undeserved and beyond the expectation of right” (p.28). The Qu’ran also recognises and provides for kindness, stating:

God forbiddeth you not those who warred not against you on account of religion and drove you not out from your homes, that ye should show them kindness and deal justly with them. Lo! God loveth the just dealers. (Al-Mumtahinah, 60:8, as cited in The Royal Aal al-Bayt Institute for Islamic Thought, 2012, p. 70)

This is echoed in *A common word between us and you*, a response from Islamic authorities and scholars to Pope Benedict XVI’s Regensburg address of September 13th, 2006, which states:

So let our differences not cause hatred and strife between us. Let us vie with each other only in righteousness and good works. Let us respect each other, be fair, just and kind to one another and live in sincere peace, harmony and mutual goodwill. (The Royal Aal al-Bayt Institute for Islamic Thought, 2012, p. 73).

While situating kindness within a context of religion is risky, given the nominally secular societies in which planning practice tends to occur, there is an emerging scholarship writing about ethics in a post-secular society.

A post-secular society is one where there is a “willingness to the being and voices of others and a wish to provide them with something valuable” (Cloke et al., 2020, p. 4). Cloke et al. (2020) write about the “explicit “crossing over” of religious and secular narratives, practices and performances” (p.4) in the search for the common good. Referencing Cloke and Williams, they:

envisage post-secularity as a more context-contingent bubbling up of ethical values arising from hybrids of faith-related and secular determination to relate differently to alterity and to become active in support of others by going beyond the social bubble of the normal habitus. (Cloke et al., 2020, p. 4).

Drawing on earlier ideas about intersectionality, recognising difference, and seeking outcomes focused on the needs of those who are least advantaged, kindness has bubbled up from multiple religious but also cultural narratives as an ethical principle for planning. For planning, with its normative goals of inclusion, recognition, respect and cultural sensitivity (Forester, 2020a) there is a place for kindness in a post-secular society.

Nussbaum (2013) highlights how political philosophers have long drawn on the idea of religion to inform their thinking. She refers to Locke who defends “religious toleration” (p.4), Kant’s idea of “radical evil” (p.4) and the idea of “rational religion” (p.5), and Comte’s “articulation of

the “religion of humanity” (p.19). It was Comte who coined the word “altruism” (Thrift, 2005, p. 143); this is a key characteristic of any profession, including planning. However, Nussbaum notes that while Kant, Locke and Comte all referenced emotions in society, none felt there was a role for the state in pursuing those particular paths. Nussbaum (2013) also describes the work of Rousseau who argued for a “civil religion” (p.5). She wrote that he “believe[d] that [a] ‘civil religion’ will solve problems of both stability and altruistic motivation in the society” through coercion and removal of “key freedoms of speech and religious expression” (p.5). It is in the context of such a concern that society could be, as Rousseau envisaged, “illiberal and dictatorial” (p.5), that Nussbaum considers the role of emotions in politics: how society can be “decent” and suggests:

A common curriculum, including some works of art ... and some shared ritual performances, seems essential for any new “civil religion” that is going to work, and an intelligent use of habit is an essential part of any program aimed at civic virtue. On the other hand, to work in a way that respects people, the program must itself respect the plurality of cultures and histories. (p.67)

Nussbaum (2013) concludes that political liberalism relies on a heterogeneous society, where public institutions draw on a “narrow and thin” (p.387) public culture. By narrow she means that “it does not comment on every single aspect of human life” and by thin she means that “it makes no commitments on divisive metaphysical matters, such as eternal life or the nature of the soul” (p.387). By seeking a narrow and thin public culture she considers that over time an “overlapping consensus” will be reached “among the many reasonable overall views of life that the society contains” and that these might even be drawn from religious tradition (p.387). Her work highlights that while different approaches to a civil religion or religion of humanity have been mooted, there is no agreement as to how they should be applied in society. She refers however to a general agreement that “Public culture needs something religion-like ... something passionate and idealistic, if human emotions are to sustain projects aimed at lofty goals” (p.105). My thesis posits that a principle of *kindness* reflects society’s narrow and thin public culture and that it is something that is “religion-like” (p.105), a symbol of “overlapping consensus” that “resonates”, (Nussbaum, 2013, p.387), and respects “the plurality of cultures and histories” (Nussbaum, 2013, p.67). It is also a less-gendered concept than *care*, which has traditionally been placed as a role of women.

Drawing on religious narratives in public discourse, without elevating the religious institution, is described as *public theology* (Ali, 1995; Bradstock, 2012). In the words of Bradstock (2012), public theology “seek[s], in words found in the prophet Jeremiah (29.7), ‘the welfare of the city’,

in particular the welfare of those least able to enjoy the 'life in all its fullness' which Jesus came to announce (John 10.10)" (p.1). Indeed, Ali (1995) refers not only to the Quran, the Torah, and the Bible as public theology documents, but also the work of Plato, Aristotle, Adam Smith, Marx and Rawls. My approach of using kindness as a criterion for a just city, is a form of public theology in that it does not elevate a particular religious view as being right or better. Rather it is an attempt to address the just city gap, tackling what might be considered a good city, and going beyond justice to address human flourishing.

Kindness then, in a post-secular society, is an example of where different religious narratives cross over in the search for common good, but it is also an ethic that has long been part of the secular narrative. Kindness was championed by Darwin, who argued that "sympathy and cooperation were innate to man ... and a key factor behind humanity's evolutionary success" according to Phillips and Taylor (2009, pp. Chapter 5, para 2). And yet, despite large numbers of the population subscribing to these religions, and/or Darwinian theory, expressing kindness in planning, "practical response[s] to the suffering of others" (Forester, 2020a, p. 1), remains elusive.

The planning profession lays claim to creating a better future resulting from their intervention (Campbell et al., 2014). Yet Plummer (2013), a sociologist writing about the state of the world, suggests:

our value systems overall have been invaded by a commercial, market-based commodification of the human: everything now is judged in terms of a brutal monetary worth, and other values such as kindness and care are often pushed aside. Humanity, in truth, has not proved to be a very kind humanity, and its history has proved to be routinely stuffed full of the most horrendous cruelty and violence. We have not really left the world a better place for each successive generation. (p. 491)

The relevance to the planning profession, claiming to work for the public good is clear; there is a place for 'kindness' in planning if the profession really seeks to leave the world in a better place.

5.6 Kindness – a fourth just city principle

Kindness is often alluded to in definitions of planning. Gleeson and Low (2000a, p. 12), for example, echoing the language of care ethics, suggest planning should be "the activity of governance required to make sure that all services people need in a city are provided when and

where the need occurs” (p. 12). Their reference to care ethic sits behind their reference to need and does not expose need as specifically related to care or kindness. As Forester (2020b) suggests, for a profession dealing with issues of equity, diversity, and democracy, it is a topic on which the profession is silent.

Forester (2020a) defines kindness as a “practical response to the suffering or vulnerability of another” (p.1). It is more than compassion, which he describes as an awareness of suffering and desire to help, and instead involves specific actions aimed at improving the welfare of “others” (Forester, 2020b, p. 2). Forester (2020b) describes how kindness exists in the everyday work of planners and describes this desire to act for the welfare of others as the reason for many joining the profession. This theme of everyday kindness is also evident in the broader literature.

Actions of kindness are not just embodied in plans with their “grand visions” (Forester, 2020b), but they lie in everyday “acts of urban care” (Hall and Smith, 2015, p. 3). Drawing on Amin, Hall and Smith (2015) describe the idea of repairing the city as an action to achieve a “good city” (p.4). They refer to both the physical repairs needed to keep the city functional (water, electricity, traffic lights and sanitation for example) as well as the social repair needed for the same reason (the work of counsellors, Samaritans, outreach workers). This resonates with the work of Power and Mee (2020) who describe care infrastructure and Williams (2017a) who describes grass-roots justice. According to Hall and Smith, without both physical and social repairs the city would unravel.

Thrift (2005) also describes everyday kindness in cities. He argues there is a politics of kindness in the everyday repair and maintenance of cities. Both Thrift (2005) and Amin (2006) highlight the vast problems cities face including pollution, insecurity, inequality and suggest maintenance and repair as ways of moving towards a kinder, more just, city. The everyday-ness of maintenance and repair includes street cleaners, building maintenance, emergency call outs, rubbish collection, electricity and lighting activities, pot-hole filling - all of which are vital within the “urban fabric” (Thrift, 2005, p. 135). Highlighting the importance of maintenance and repair is the knowledge that without it the city would fall into crisis (Hall & Smith, 2015). Reflecting Forester’s (2020b) definition of kindness, Thrift (2005) calls this an “active, so-called 'prosocial' everyday form of kindness” in cities, and as “a value which goes beyond 'simple' civility” (p. 144). The challenge for planners is to consider how best to interpolate everyday kindness into policy.

Expanding on kindness as repair and maintenance, Hall and Smith (2015) add a 'care' element, referring to interventions by social workers and those involved in welfare as "social repair" (p. 11) that is part of the "infrastructure of kindness" (p.11). This everyday kindness evidenced by the acts of local authority employees that already occur (Forester, 2020b; Hall & Smith, 2015). In Forester's (2020b) view, "if you named or claimed the act as kindness [in planning], that naming and claiming would have undermined the act itself" (p.13). Yet I disagree: understanding kindness requires deliberative reflective praxis by planners about the extent to which interventions have responded to the suffering or vulnerability of others. This is a point to which I return (sections 5.8 and 5.9).

5.7 Planning – beware of the 'dark side'

Kindness does not always relate to being kind. For example, Magnet, Mason, and Trevenen (2016) refer to the dark side of 'kindness' in colonisation – the benevolence of colonisers marketed as helping "the Other" to modernise, but resulting in domination, oppression and/or control of resources. This sort of kindness has been called the "darker side of planning" by Yiftachel (1998, p. 395) by which he is referring to the oppressive nature of planning. He suggests there is an element of planning that seeks "social control" (p. 395) to prevent chaos. He describes how goals are based on "implicit assumptions" (p. 396) about the nature of planning which often go unchallenged, and he notes that these effects might result despite the best "intentions" of planners.

Despite the intent of original planners for social reform, public interest, or pluralistic or participatory planning, there has long been a dark side of planning practice. Yiftachel (1998) uses this phrase, the "darker side" of planning, in reference to "planning's advancement of regressive goals such as social oppression, economic inefficiency, male domination, or ethnic marginalisation" (p. 395) which can arise despite the intention of policy planners. Osborne (2015) expands on this list of regressive goals, noting that planning:

can be a tool of capitalist exploitation; has defended White privilege at the expense of Indigenous people; can perpetuate social, economic and environmental injustice and White, male and heteronormative hegemony; can privilege the interests of the rich over the poor; and has been used to exclude people on the basis of race, class, gender, ability, sexuality and other Othered characteristics. (p.131)

This, together with the idea of colonial kindness, as referred above, is reminiscent of Freire (2017) who wrote “for the oppressors, what is worthwhile is to have more, always more, even at the cost of the oppressed having less or having nothing” (p. 32). Couched in kindness, it is easy to seek how uncritical acceptance of certain discourses might result in Yiftachel’s (1998) darker side of planning.

Early land-use zoning in the United States of America is the most obvious example of what Sandercock refers to as a “noir history” (cited in Osborne, 2015, p. 131). Such zoning, in the early 20th century, was an exclusionary tool and used to legitimise segregation, leaving indelible scars on America’s cultural and spatial landscape. It resulted in what we might today refer to as the epitome of an unjust city. Drawing primarily on the historical American experience of zoning in my thesis is deliberate as it highlights a worst-case scenario of what zoning can do, highlighting why the ethical dimensions of plans should be clear to avoid such negative effects of planning.

Zoning, in America, was designed for the purpose of regulating development, protecting single family homeowners, and as a deliberate means to spatially isolate African Americans and other minority races (such as Jews and eastern Europeans) (Cooper et al., 2008; Massey, 2015; Pendall, 2000). Its use dates to the early 1900s. Recognition by early property owners that “undesirable[s]” (p. 233) can be excluded through zoning was highlighted by von Hoffman (2009) who notes:

In Manhattan, retailers used zoning to fend off the encroaching garment district; in Ohio, residential real estate developers employed it to protect a subdivision from industrial development. White racists embraced zoning to suppress Chinese immigrant businesses in California and to prevent African Americans from purchasing homes in White neighborhoods in Atlanta, Baltimore, Dallas, and Richmond. (p.233)

Specifically, this practice of zoning and in particular the designation of all African-American blocks and all ‘white’ blocks” began in Baltimore in 1910 (Massey, 2015; Rice, 1968) as a peacekeeping measure to mitigate race-related violence following the migration of African Americans from the rural South in America to urban centres in the late 1800s and early 1900s (Massey, 2015). The practice of exclusionary zoning soon became widespread. As Berry (2001, p. 253) comments, “[a]s the black population spread outside the South, the enthusiasm for zoning spread with it”. According to Massey (2015) such zoning could have “provided the basis for a legalised system of apartheid” (p. 572), however it was eventually ruled unconstitutional in 1917 by the U.S. Supreme Court in the case of *Buchanan v. Warley*, 245 U.S. 60 (1917). The

reasons for this were described in detail by Rice (1968), and succinctly summarised by Massey (2015) as being “not so much because they discriminated against blacks, but because they deprived white property owners of the right to dispose of assets as they wished” (Massey, 2015, p. 572). Despite the 1917 ruling, exclusionary zoning continued and residential segregation continued to occur through zones where minimum house and lot size (which came at a cost) in reality achieved the same outcome (Hirt, 2015). As Rice comments, the low-economic status of African Americans in the early 1900s was also “a potent factor in keeping him apart from white society” (Rice, 1968, p. 180).

Such zones were sanctioned in a ruling of the Supreme Court in the case of *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926). This ruling legitimated ‘single-family zones’ as a way for property owners to protect themselves from the effects of higher density apartment buildings (von Hoffman, 2009). But as von Hoffman (2009) notes “[w]ell-off White property owners, developers, and their allies in local governments had seized upon zoning for their own benefit, without a thought of planning for the working class” (p. 243). Such exclusionary effects of zoning to meet the ends of certain land users is highlighted by Berry (2001). He notes the difference between separation-of-land-uses type zoning and exclusionary zoning, stating:

The zoning regulations most commonly used as exclusionary devices include bans on multifamily housing and a variety of minimum building standards: lot size and width, building size, density (that is, lot coverage), and so forth. Although restrictions such as these do not explicitly exclude specific people or groups of people, they effectively establish minimum limits on the cost of housing, which fosters economic segregation. And given the correlation between race and income, economic segregation has implied racial segregation (Berry, 2001, pp. 252-254).

Protecting white suburban environments in the USA was also aided through the use of restrictive covenants, which prevented black persons from moving into white neighbourhoods (Bond Huie & Frisbie, 2000). Racially restrictive covenants are defined by Massey (2015, p. 573) as being “a private contract between property owners within a specific geographic area who agreed not to rent or sell homes to African Americans”. He describes them as being the “favoured legal tool institutionalizing segregation” (Massey, 2015, p. 573) until 1948, when they were also declared to be unconstitutional by the Supreme Court in its *Shelley v Kramer* decision (Massey, 2015; Nelson et al., 2004).

From this basis of zoning, is the realisation that a just residential environment is hampered by the effects of zoning. It is a planning tool which Fainstein (2010) suggests gives municipalities

the ability to “distribute benefits and cause harm” (p. 7). Young (1990) is more explicit in terms of the type of harm it causes, noting that zoning “enforces class segregation, and to a large degree, racial segregation as well, by, for example, excluding multifamily dwellings from prosperous neighbourhoods, and even from entire municipalities” (p. 247). She suggests it produces “the conditions for harassment of or violence against any persons found where they do not “belong”” Young (1990, p. 247). By separating functions in urban spaces Young (1990) suggests that the vitality of cities is likely to be reduced, and makes “city life more boring, meaningless, and dangerous” (p. 246). In her opinion, the ideal city life is represented by differentiation without exclusion (Young, 1990).

While this section has drawn on American scholars, and described the American style of Euclidean zoning, with its rigid separation of land uses and its focus on the single-family zone, it would be naïve to think similar patterns of exclusion were not evident elsewhere. As Yiftachel (1998), Sandercock (2003), Osborne (2015) and others suggest, acknowledging and addressing the ‘dark side’ of planning, its underlying structures and discursive practices, is essential in the search for a just city. In the context of Auckland, New Zealand, there is a body of literature describing ethnic enclaves within the urban area (Johnston et al., 2009; Johnston et al., 2014; Poulsen et al., 2001). These reference the usefulness of data for planning and decision-making purposes, but do not delve into any relationship between planning policy and enclaves. Remembering that the literature suggests there is a place for desirable homogeneity in the city (refer section 3.7), it highlights a need to further examine whether such enclaves are the result of underlying structures (such as policy or regulation), or if they are concentrations of affinity groups, and if they have porous boundaries or not.

5.8 Kindness: a utopian ideal on which to reflect

Including kindness as a principle of a just city and as a measure to evaluate the discourse of justice within urban policy, or indeed the bigger goal of pursuing a just city, may seem utopian, and to some, naïve. While this may be the case, utopian thinking is inherent within the just city discourse, as was discussed in section 4.6, signalling optimism and hope for the future of our cities, and as (Freire, 1994) states, “without a minimum of hope, we cannot so much as start the struggles” (p. 3), referring to the need for a critical hope (p. 2) that is anchored in practice.

Utopian ideals, optimism and ‘hope’ cannot bring about a more just city on its own. Although necessary, hope on its own “is not enough” (Freire, 1994, p. 2). More importantly, in pursuing utopian ideals, attention needs to be paid to the dark sides of planning as discussed in the

preceding section. Recognition of misplaced kindness, and even destructive kindness, is a useful starting point. In the context of urban planning, Schön and Rein (1994) suggest that hope is the basis of policy rationality. They hope for human reason within policy practice and that:

policy makers need not inevitably function only as partisan adversaries or as players who unilaterally seek their own advantage in the political game, or as swimmers whose feeble strivings toward reason are bound to be overwhelmed by a sea of chaos and complexity. The hope is that individuals may contribute to the pragmatic resolution of the controversies in which they are embroiled, if only they learn how better to conduct their inquiry. (Schön & Rein, 1994, p. 37)

They are referring to becoming reflexive in and about planning practice. In the context of my research, I use the term reflective “praxis”, where praxis means “theory-guided action” (Clemons & McBeth, 2020, p. 3), given its focus is on ethical dimensions drawn from theory.

5.9 Reflexive Praxis

Reflexive praxis, the process of learning from experience, is central to my argument about how planners need to be and act if they are to contribute to the realisation of a just city. Learning in this was described by Kolb (1976) as a four-stage cyclical process where “immediate concrete experience is the basis for observation and reflection. These observations are assimilated into a theory from which new implications for action can be deduced” (p. 1). From this, Schön (1983) felt that reflection, both in- and on-practice, should be central to professional practice. As per Kolb’s learning cycle, Schön notes that reflection provides an opportunity for planners to “surface and criticise the tacit understandings that have grown up around the repetitive experiences of specialized practice, ... [to] make new sense of the situations of uncertainty or uniqueness which he [sic] may allow himself to experience” (p.61). Observation and reflection presents planners with an opportunity to question the ethical basis of urban plans.

Planning for utopian ideals presents a fertile ground for reflexive praxis. Uitermark and Nicholls (2017) suggest that planner’s need to understand that they will likely be unsuccessful in their pursuit of utopian ideals, but concurrent with this recognition is increased awareness of social injustice. Yet, in being reflexive, planners can acknowledge the complexity of social justice, and can choose to use resources at their disposal to shift power to those who are marginalised (Uitermark & Nicholls, 2017). There are also risks to the profession of exposing kindness in planning. In particular, it might identify the power of planners to promote their

own agendas, and it may expose the failure of decision-makers (Laurian et al., 2010; Uitermark & Nicholls, 2017). As a planning tool, reflection in practice would provide an opportunity to question some of the ethical dimensions informing plans (i.e., where on the spectrum of justice does the provision sit and how is it a practical response to the suffering of others). It might also identify and raise questions about how certain ideas become hegemonic. On this basis, the JCPEA, developed as a framework to evaluate plan content (refer Chapter Two), is intended to aid and encourage reflective practice.

Reflexivity in planning practice also requires reflexivity of those for whom utopian ideals are seeking to help. Reflexive praxis is also an essential aspect of participatory planning and the principle of democracy. Freire (2017) comments:

attempting to liberate the oppressed without their reflection in the act of liberation is to treat them as objects which must be saved from a burning building. It is to lead them into the populist pitfall and transform them into masses to be manipulated. (p. 39)

His work highlights the relationship between reflection and action. For the ideal of a just city, the key message I take from this work of Freire, Uitermark and Nicholls, and Schön is that if planning discourse is to be guided by a principle of kindness, then reflexive praxis is essential if the profession is to avoid the darker side of planning.

5.10 Summary

This chapter has argued kindness be included as a fourth principle of a just city. I define kindness as reflexive planning praxis that responds practically to the needs of others through everyday actions, policy, or regulation, drawing on the preceding sections. As a just city principle, while closely aligned with Fainstein's principle of diversity, it goes beyond the acceptance of difference to recognising and seeking ways to actively to promote kindness.

Kindness is anti-individualistic. In a post-secular society, where various narratives inform the view of what constitutes a good city, kindness is grounded in both religious and humanist narratives. It is a shared moral tradition encompassing ideals of care, maintenance and repair, and critical hope, and is a practical response to address the needs of others. Kindness has already bubbled up in policy (refer Chapter One). It is a practical response to addressing need under a style of government focused on efficiency and market-led processes, and where care is based around individuals.

The profession has been silent on kindness for a long time. Planning in accordance with a principle of kindness provides a concrete value for planners to defend, as they grapple with their role of working in the public's interest. It is a role that they have been assigned (refer sections 1.3.1) and which is essential in a democracy (Tronto, 2013). However, in doing this, planners need to engage in reflexive planning praxis. There needs to be recognition of the fallibility of planning, and this presents a risk particularly to elected decision-makers (refer section 5.2). There also needs to be recognition of the learning opportunity afforded by reflexive praxis, and how this can be used to respond to people's needs. Kindness cannot be kept under wrap. It is only through exposure and subsequent reflection that it can be determined whether an act was kind or not.

This chapter, together with Chapters Two, Three and Four, completes *step 1* of the JCPEA, and thus Part One of the double story that constitutes this thesis, as was shown visually in Figure 7 (p. 56). Much of the work of my thesis thus far has been to explore the nature of ethical dimensions in planning generally. It has provided a "broad and deep theoretical understanding" (Eriksson & Lindström, 1997, p. 198) of the research topic which I suggest is necessary work that underpins my JCPEA model – specifically Step 1. The subsequent steps of the model assume a working knowledge of the ethical dimensions of a just city to have been developed through Step 1.

In Part Two of the double story, which follows, the JCPEA is applied to the case study. In the following chapters I begin the process of mobilising steps 2 to 4 as set out in the JCPEA. It begins by situating the case study through a description of the statutory planning system in New Zealand and specifically Auckland (Chapter Six), and Chapter Seven reconstructs the arguments informing compact city policy, both of which form Step 2 of the JCPEA (refer Figure 7). Chapters Eight and Nine present the results of the political discourse analysis, in which the planning discourse was evaluated in terms of *extent, focus, and merit*; step 3 of the JCPEA (refer Figure 7). In Chapter Ten the results of the Foucauldian-type discourse analysis are presented (step 4 of the JCPEA). In order to evaluate how close or far Auckland might be in relation to being a just city Steps 2 to 4 closely examines the political discourse associated with compact city policy, the subset of urban policy used in the JCPEA, and how it has evolved in New Zealand, and more specifically Auckland.

**PART TWO: EMPIRICAL ANALYSIS AND INSIGHTS FROM
A NEW ZEALAND CASE-STUDY**

Chapter Six: New Zealand's statutory planning framework and Auckland's governance

6.1 Introduction

Evaluating the ethical dimensions of urban plans requires an awareness of the statutory and regulatory planning system, the circumstances from which the system has evolved, and the basis on which it is legitimised. To provide context for the statutory documents evaluated as part of the Auckland case study, this chapter provides an overview of New Zealand's statutory planning framework. It provides context for the Argument Reconstruction in Chapter Seven (*step 2* of the JCPEA, refer Figure 7, p. 56), and builds on the earlier justification of using Auckland as the case study (refer Chapter Two, which included brief details about Auckland's geography, history and demographics).

Planning interventions in the market rely on a "legal source of power" (Gurran, 2011, p. 37). The primary statutes relevant to planning in Auckland are the Resource Management Act 1991, the purpose of which is to sustainably manage natural and physical resources, the Local Government Act 2002 (LGA), which establishes the structure and functions of local government, and the Local Government (Auckland Council) Act 2009. This chapter begins by explaining the role and purpose of local government in New Zealand. The statutory framework for land use planning is described, and elements of planning and local government specific to Auckland are explained. This chapter concludes by describing a step-change in the ethics informing government policy and the potential of this to influence reforms to the statutory planning framework currently being considered.

6.2 The purpose and function of local government in New Zealand

The role and functions of local government have been mandated in New Zealand from the first Municipal Corporations Act 1842, and its subsequent amendments, to the more recent Local Government Act 2002, and Local Government (Auckland Council) Act 2009 (LG(AC)A). The

current structure of local government, comprising came about following major local government reorganisation in the 1980s, when the Local Government Amendment Act 1988 (no. 3) set up a framework of regional councils and territorial local authorities (district and city councils). When the LGA 1974 was subsequently repealed and replaced in 2002, this structure remained. In some instances, territorial authorities are also given the responsibilities, duties, and powers of a regional council, and are referred to as a unitary authority. This reorganisation of Auckland's governance replaced 23 boroughs and cities and 21 ad hoc bodies with the Auckland Regional Council, and seven territorial authorities (Rodney District Council, North Shore City Council, Waitakere City Council, Auckland City Council, Manukau City Council, Papakura District Council, Franklin District Council), and 30 community boards.

Local authorities are required to give effect to the purpose of local government. Recent changes to the purpose of the LGA 2002 reflect the influence of different ethical perspectives on its content. When it was first enacted, by the Fifth Labour Government, the LGA 2002 stated:

The purpose of local government is- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future. (s10, LGA, as enacted)

However, in 2012, the Fifth National Government of New Zealand amended the purpose of the LGA. It removed the reference to the four well-beings and sustainable development, and replaced it with the statement that the purpose of local government was:

- a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- b) to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses. (s10, LGA, 2002 (December, 2012 version))

The reference to "good quality" in relation to local infrastructure, services and performance was defined as meaning they were "(a) efficient, and (b) effective and (c) appropriate to present and anticipated future circumstances" (s10, LGA 2002, (2012 version)). This focus on efficiency and effectiveness, suggesting policy informed by a libertarian ethic, remained until the four well-beings were reinstated to the purpose of the LGA in 2019. The four well-beings were reinstated following the election of the sixth Labour Government and the enactment of the Local Government (Community Well-being) Amendment Act, reflecting policy informed by a

Rawlsian or Capability(ies) approach to justice. This reflects a type of political seesawing between the different ethical approaches of different Governments that New Zealand planners and policy makers have to grapple with.

6.3 Land use planning under the Resource Management Act 1991

The RMA is the primary land use planning statute in New Zealand. Decision making under the RMA is devolved from national government to regional and district Councils (Laurian et al., 2010) the three layers of government have a “hierarchical relationship” when setting and implementing policy (Beattie, 2017, p. 17). Each tier of government has specific functions set out under the RMA, including the preparation of policy statements and plans. Figure 8 visually depicts the suite of planning documents in New Zealand. The documents coloured blue are the statutory plans required under the RMA. The documents coloured orange are prepared under the LG(AC)A, and the documents coloured green are prepared under the LGA. Within each category of documents, the colour variations reflect the plans prepared by different levels of government. The documents coloured grey are non-statutory documents which have a bearing on the content of the statutory documents.

At the national level, central government is responsible for setting national direction to support decision making under the RMA. Instruments that central government can use include national policy statements, national environmental standards, national planning standards and regulations. The only mandatory national directions are the New Zealand Coastal Policy Statement and the first set of national planning standards. These national direction instruments are intended to support local decision making and ensure consistency of decisions from territorial authorities. A major premise of the RMA was the devolution of decision making to local levels of government and that national direction would be used to set environmental bottom lines and policy to aid local government (Resource Management Review Panel, 2020). However, this national direction was slow in coming. With the exception of the mandatory New Zealand Coastal Policy Statement, other national direction started to appear in the early 2000s (e.g. the 2004), and the first NPS in 2008, leading Miller (2011) to suggest this was a role central government was reluctant to fulfil.

Regional council functions relate primarily to the use and protection of natural resources, while territorial authorities are responsible primarily for controlling the effects of the use of land. Both regional and territorial authorities have a role in ensuring there is sufficient development capacity to meet demand for housing and business purposes (refer sections 30 and 31, RMA,

1991). To carry out these functions, regional level, councils must prepare a regional policy statement and a regional coastal plan, and they can prepare regional plans relating to their other functions under the RMA. Territorial authorities must prepare district plans. In this network of policy statements and plans the lower plan must give effect to plans above it in the hierarchy. An important aspect of the plan development process in New Zealand is the requirement under Section 32 of the RMA to prepare and publish an evaluation report. Section 32 reports (as they are colloquially known) examine the extent to which the plan’s objectives and other provisions are the most appropriate way to achieve the Act’s purpose. Costs and benefits of different options are required to be examined, as well as their efficiency and effectiveness. There is currently no requirement to examine the ethical arguments informing the provisions of a plan. This is a point to which I return later in the thesis (refer Chapter 11).

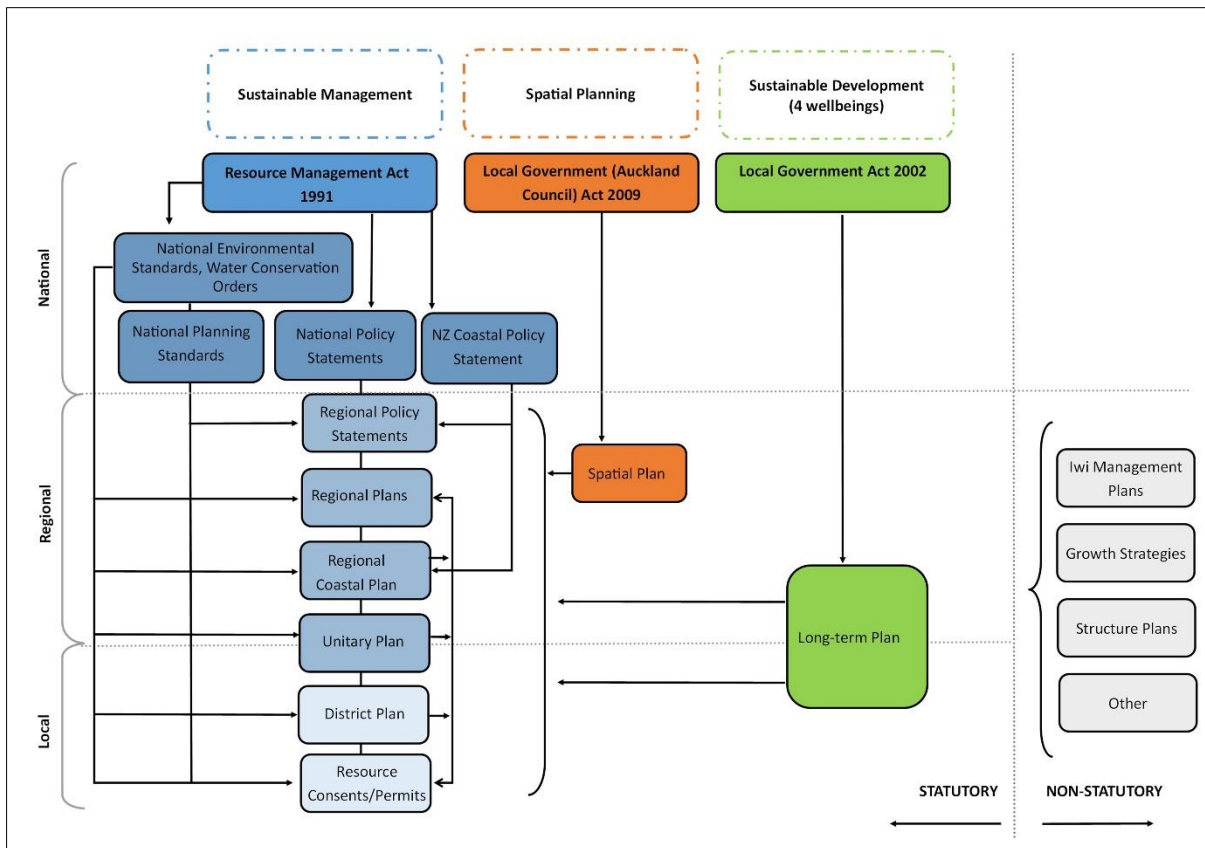


Figure 8: New Zealand Statutory Planning Framework

6.4 Auckland / Tamaki-makau-rau

6.4.1 *The effect of local government reorganisation in 2009*

Auckland's governance was the subject of local government reform in the early 2000s. A Royal Commission on Auckland Governance (the Commission), established in October 2007, was tasked to respond to "growing concerns about the workability of local government arrangements in Auckland", a city facing "continued growth, patchy infrastructure, and international competition" (Royal Commission on Auckland Governance, 2009, p. 1). Following the Commission's recommendations, and the Government's subsequent decisions, Auckland was recast as a unitary authority under the Local Government (Auckland Council) Act 2009. Auckland Council replaced the former Auckland Regional Council, Auckland City Council, Manukau City Council, North Shore City Council, Waitakere City Council, Papakura District Council, Rodney District Council, Franklin District Council⁴.

Under the LG(AC)A, Auckland Council was required to prepare and implement a spatial plan; the first of its kind in New Zealand. The purpose of the spatial plan was to contribute to Auckland's social, economic, environmental, and cultural well-being through a comprehensive and effective long-term (20- to 30-year) strategy for Auckland's growth and development (Section 79, Local Government (Auckland Council) Act 2009). Its fit with other statutory plans is shown in Figure 9. The diagram suggests a range of inputs from the "Mayor's vision", the Auckland Plan and various Local Board Plans into the Unitary and Long-term Plan and that monitoring, and evaluation are considered integral. The first spatial plan, known simply as the *Auckland Plan*, was adopted in 2012. It was recently revised and replaced by *Auckland 2050*, adopted in June 2018. Both of these documents are evaluated as part of this thesis.

⁴ NB: only part of Franklin District Council was incorporated into Auckland Council's bailiwick, with the remainder amalgamating with Waikato District Council.

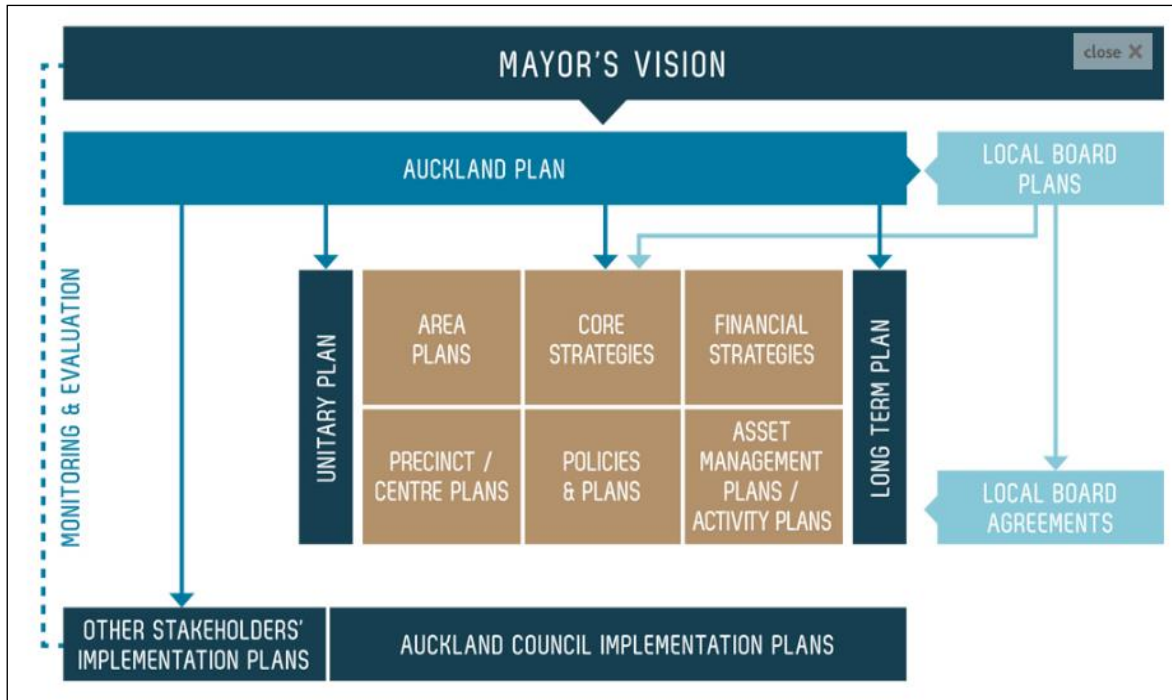


Figure 9: Auckland's statutory planning framework (Auckland Council, 2012; p16)

6.4.2 The Auckland Unitary Plan – procedural differences

Auckland Council, as a Unitary Authority, was required to prepare the Auckland Unitary Plan, the first combined resource management plan for Auckland. It replaced the current Auckland Regional Policy Statement, four regional plans, and seven district plans of the legacy councils. Its initial preparation and adoption circumnavigated the usual plan development processes established in Schedule 1 of the RMA, following a one-off plan development process established under the Local Government (Auckland Transitional Provisions) Amendment Act 2013. The use of this “one-time-only streamlined process” (Ministry for the Environment, 2013, p. 1) was on the grounds that the plan’s importance for the continued growth of Auckland warranted a faster process than the usual process under the RMA would deliver. The streamlined process was intended to overcome the technical and time-consuming processes involved with implementing the various legacy plans.

Key changes to the process included that the hearings process was overseen by an Independent Hearings Panel (IHP), the members of which were appointed by the Minister for the Environment and the Minister of Conservation. After hearing submissions, the IHP made recommendations to the Auckland Council. The timeframe for these recommendations was specifically stated in the Act, as being required “on the completion of the hearing of

submissions, but no later than 50 working days before the expiry of 3 years from the date the Council notifies the proposed plan” (s115, Local Government (Auckland Transitional Provisions) Amendment Act 2013). The Council then had 20 working days after receiving the recommendations to make their decisions on them. Regarding the timeframes, the Minister of the Environment did have the power to extend them. There were limited rights of appeal.

The Proposed Auckland Unitary Plan was notified in September 2013, and the submission period was between September 2013-February 2014, over the New Zealand summer. Hearings were held by the Independent Hearings Panel between September 2014 and May 2016, and the Auckland Unitary Plan become operative in part on 29 September 2016. It was intended as a one-off process, applying only to the development of the first Auckland Unitary Plan. For all subsequent plans and plan changes, it was intended that the existing plan-making processes within the RMA would apply.

The statutory documents – the Unitary Plans – prepared under this one-off process (the PAUP and the AUP) are subject to the JCPEA, along with other associated documents as discussed previously, in section 2.5.3.

6.4.3 From ‘quarter acre pavlova paradise’ to quality compact city

Urban growth has been a planning problem in Auckland for many decades. Its long history of low-density urban development has occurred concurrent with attempts to curb the outward growth of the city. However, urban growth in Auckland can be grouped into four imprecise and overlapping phases. The first phase, which really began with the creation of municipal corporations in the late 1800s, established the ideal of the quarter-acre “pavlova paradise” (Mitchell, 1972). The second phase saw the introduction of urban containment measures in Auckland. The third phase began in the 1980s following the turn to a neoliberal style of governance, and the fourth phase, the “a bit up and a bit out” (Brown, 2013) phase reflects the growing disconnect between national and local government and attempts to both protect productive land and relax urban growth boundaries to ensure land supply for housing, on the premise it will ensure the affordability of houses.

Although not specifically writing about the pursuit of the compact city, Mitchell (1972) suggested that the New Zealand population was anxious to conform with ‘the norm’, that it was a country of doing and saying “the right thing ... Give [New Zealanders] a norm and they’ll stick to it” (p.26). He also suggests that this does not imply any sort of belief in the norm but is rather “a considerate desire to avoid embarrassing others or discomforting themselves” (p.26). He suggests that this leads to a desire not to stand out, an approach where “‘thou shalt not be seen

to' is more important that the actual 'Thou shalt not'" (p.26), an attitude that might possibly explain the current call for compact cities as espoused in local authority plans and the spatial reality described above. In the early 2000s Mitchell still argues that Kiwis "being reasonable, nice, open-minded, and totally lacking standards of judgement, will consider anything" (Mitchell, 2002, p. 65). His views could explain the discursive tensions in urban growth policy, where low densities are occurring concurrent with attempts to curb peripheral growth.

The tension between peripheral urban growth and urban containment is a classic "wicked problem" (Rittel & Webber, 1973, p. 160) facing the planning profession. On the one hand, some argue for a compact city with high-density housing on the grounds it contributes to a sustainable urban form, that protects productive agricultural and horticultural land. On the other, some argue for the opposite, increased land supply for housing on the grounds that planning interventions (compact city policies) unnecessarily constrains the market resulting in housing unaffordability. By evaluating planning discourse using Fairclough & Fairclough's (2012) approach to political discourse analysis, the practical argument deemed the best way to respond to certain circumstances can be identified.

6.4.4 *Sprawling vs sprawl*

While Auckland's spatial development may be sprawling, it is not necessarily 'sprawl' per se. Sprawl is often associated with low densities, ribbon developments, or unplanned, single use, automobile-dependent developments (Bruegmann, 2005; Hiller et al., 2013; Rogers, 2010). In the American context it is described as physical peripheral growth that occurs at a rate faster than population growth (Williamson, 2010). Sprawl is a term fraught with negative implications and is the subject of much debate (Hiller et al., 2013; Tachieva, 2010), and implies an environment that is ugly, awkward, inefficient, inequitable, environmentally damaging, and unsustainable' (Bruegmann, 2006; Hayden, 2006). In the American context, it also has connotations of being unplanned:

More often unplanned than planned, the growth of cities – subdivision by subdivision, manufacturing plant by manufacturing plant, and shopping center by shopping center – has become the model for what is pejoratively described as "urban sprawl. (Peiser, 1984, p. 419)

Sprawl is an American word, and its use elsewhere should be with caution.

Troy (1996) raised concern about the term 'sprawl' in an Australian planning context. Given the role of development control and infrastructure development in Australia since the early post-war period, he felt its use and any comparisons with American studies were

inappropriate. This is also true for New Zealand context. Urban growth in New Zealand does not meet many of the traits of sprawl listed above. Critically, low-density residential developments are not unplanned. They have occurred within a hierarchical planning framework, set by central Government, requiring the control of land uses through District schemes (later plans) at the local government level. Words like 'sprawl' (but also 'compact') can be unhelpful in planning policy. They are terms that are not well defined, and are problematic to measure, making policy development difficult (Galster et al., 2001). Additionally, according to Rogers (2010), the term sprawl denotes decline, whereas compact implies control. He makes the point that the use of the word sprawl has closed policy discussions down because of these connotations. Despite compact city policy within urban plans invoking arguments such as avoiding sprawl, it is a term that this thesis argues should be used with caution.

6.5 An emerging ethic of care in Government and the winds of change – future planning reforms

Values of fairness and kindness have informed the current New Zealand Government's policy approach since it was first elected in 2017. In a speech to the UN General Assembly in 2018, Prime Minister Ardern called for 'kindness' as a means of pursuing peace, prosperity, and fairness (Ardern, 2018a). Her speech was simple but also powerful and prescient. Prior to Covid-19, this vision had begun to be articulated, for example through the Local Government (Community Well-being) Amendment Act 2019, and the NZ Treasury's Living Standards Framework to inform budget decisions rather than being primarily focussed on economic growth (Matheson, 2020). In 2020 the Prime Minister mobilised the idea of kindness in her Government's "go hard, and go early approach" (Labour, n.d.) to eliminate the coronavirus disease. Their messages implored the "team of 5 million" to "be kind" (Ardern, 2020a, 2020b). It is an approach that has largely worked, as demonstrated by praise from the World Health Organisation (Ghebreyesus, 2020). This step-change in the ethics informing government policy was a signal to the world that there is another way of governing and lends itself to planning practice.

New Zealand prides itself on being a country of 'firsts'; the first country to have a welfare state, the first country to give women the vote, the first to declare itself 'nuclear-free' (Kelsey, 1995). In 2019, New Zealand's government delivered another world first – a wellbeing budget that broadened the definition of success for New Zealand from one that focused on the financial

health of the country to one that also incorporated social, cultural and environmental wellbeing. According to a Treasury statement: “New Zealanders want us to measure our success in line with their values – the importance of fairness, the protection of the environment, the strength of our communities” (New Zealand Treasury, 2019, p. 3). The well-being approach constitutes substantial reform from the neo-liberal governance style of the past three decades.

The wellbeing budget of the Sixth Labour-led Government also signalled a change in ethics informing policy. Prior to the 2017 election, Harris (2017), describing New Zealand politics, wrote about the “loss of any moral framework for determining what politics is for” (p.13). He blamed this partly on the “New Zealand Experiment”, New Zealand’s application of neoliberal governance that started in the 1980s (see also Kelsey, 1995; Wallis, 1997; Wallis & Dollery, 2001, 2002; Wanna & Bishop, 2003), but also on a “technocratic approach to politics”, undermining the role of values, and the “failure by academics and intellectuals to propose possible goals of political activity” (p.14). However, bearing in mind the different conceptions of justice that can inform policy, rather than the loss of a moral framework, as Harris (2017) refers, the changing ethics from the 1980s reflected a turn from utilitarian to libertarian ethics. The Labour-led Government, first elected in 2017 and re-elected in 2020, have signalled a further change in the ethics influencing their policy and decision-making.

In the 2019 Budget Policy Statement (NZ Government, 2018), economic growth is acknowledged as an “important contributor to wellbeing but not an end in itself” (p. 3). The Government sought to embed wellbeing into their decision making, which required a shift “to a wider definition of success for our country, one that incorporates the health of our finances, natural resources, people, and communities” (NZ Government, 2018, p. 3).

The first wellbeing budget also signalled a change in ethics informing policy. In terms of the ethical theories of justice outlined in Chapter Three, the Treasury approach aligns with Sen and Nussbaum’s capability approach rather than the libertarian direction of the 1980s (see Chapter Three), defining wellbeing as:

enabling people to have the capabilities they need to live lives of purpose, balance, and meaning for them. It is an intergenerational approach that seeks to maintain and improve New Zealanders’ living standards over the long-term (NZ Government, 2018, p. 3).

The idea of wellbeing being invoked in government policy provides a useful example for planners working as arbiters of the public interest and highlighting how to be explicit about an ethical framework informing policy.

Priorities within the first wellbeing budget, (which coincidentally did not include housing), were chosen using the Living Standards Framework (LSF). The LSF organises indicators of sustainable intergenerational wellbeing using the four capitals – natural, social, human, and financial/physical capital (New Zealand Treasury, 2018). Figure 10 shows the working definitions of each of these capitals.

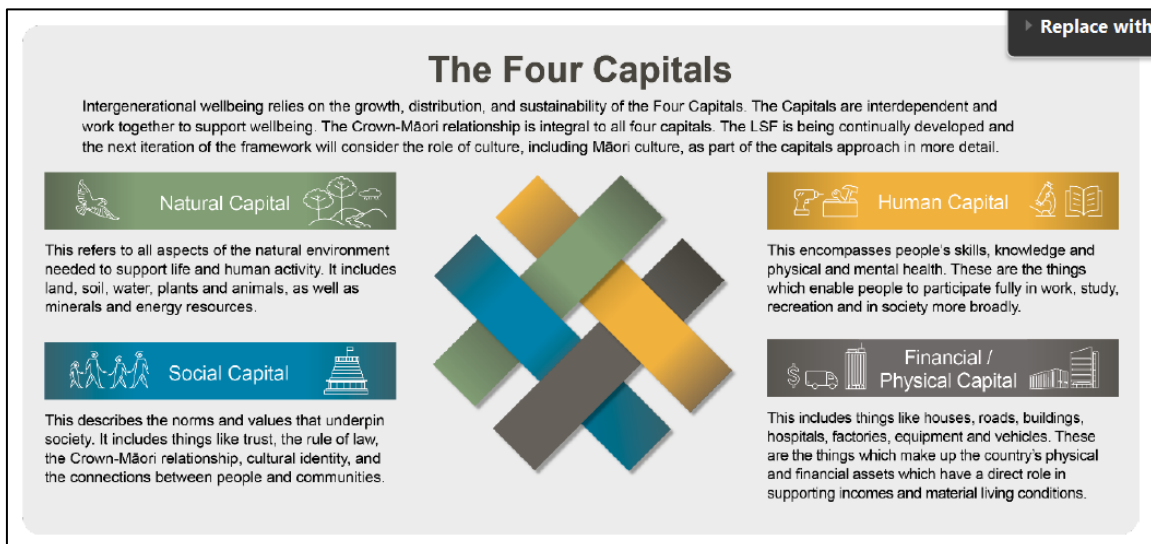


Figure 10: The Living Standards Framework (New Zealand Treasury, 2018, p. 2)

The Minister of Finance, in a speech to the Local Government New Zealand 2018 Conference stated, “There is an obvious overlap [of the four wellbeings in the LGA (see section 6.2)] with the four capitals of the Treasury’s LSF, meaning that both local and central government will soon be working with a closely aligned core focus on improving the wellbeing of our people” (Robertson, 2018).

On the housing front, the Labour-led Government established a new Ministry of Housing and Urban Development, intended to provide a single organisation to “implement the Government’s ambitious housing and urban development programme to end homelessness, make housing affordable and make cities more liveable” (Twyford, 2018a), the reference to liveability linking to care ethics (as discussed in Chapter Five, section 5.3). Subsequently, a Housing and Urban Development Authority was established. Its powers include shortened planning and consenting processes. This Authority will, according to the Minister of Housing and Urban Development be transformative, seeking to build “communities with a mix of public, affordable, and market housing, as well as the jobs, transport links, open spaces and facilities people need

– it will do this at scale and pace so we can build our way out of the national housing crisis” (Twyford, 2018b).

Following the outbreak of Covid-19, the Government consistently emphasised teamwork, unity and kindness (Long et al., 2020). It was a message that appears to have been effective. In October 2020, the Labour Party was returned to Parliament for a second term having won an “historic landslide victory” in the national elections, obtaining 50% of the party vote and becoming the first party since MMP was introduced to be able to govern alone (Roy & Graham-McLay, 2020). Thus, the pursuit of a fairer and kinder New Zealand where care ethics complement justice ethics in decision-making, has been given a strong mandate to continue.

These recent events indicate the Government is returning to a politics of care to which Nussbaum (2018) refers. It is also a sign of the importance of values in decision-making. Prime Minister Ardern (2018b) commented that “politics is increasingly a dirty word, but values are not”. While the central Government is trying to implement a new politics of wellbeing, at local government level, it is timely to evaluate the values informing local government plans.

New Zealand is at an interesting turning point. Resource management law reform is imminent, and the scale of change is similar to that of the changes in the late 1980s. Changes to the planning system have been signalled multiple times since the inception of the RMA, but most recently the Labour-led Government released an issues and options document in 2019, inviting comments on the resource management system, focussing on the RMA. The report of the Independent Review Panel, *New directions for Resource Management in New Zealand*, (colloquially referred to as the Randerson Report, in reference to the Chair of the Resource Management Review Panel, Hon. Tony Randerson, QC), signalled significant changes including that the RMA be replaced by a new Acts: the Natural and Built Environment Act; the Strategic Planning Act; and a third Act to “deal specifically with the complexities of managed retreat and climate change adaptation which cannot be effectively addressed through the Natural and Built Environments Act” (Resource Management Review Panel, 2020, p. 29). An exposure draft of the Natural and Built Environment Bill is expected to be considered by Cabinet and referred to a special select committee inquiry in 2021, with all three Bills expected to be introduced to Parliament by late 2021 (Ministry for the Environment, n.d.). The Minister for the Environment notes the diverse work that is informing these changes, including from the New Zealand Productivity Commission, the Environmental Defence Society, the Northern EMA (a business support network organisation), property investors, Infrastructure New Zealand, the Waitangi Tribunal and local government 2021 (Ministry for the Environment, n.d.). Conspicuous by its absence is any reference to the work of planners.

6.6 Summary

This chapter has situated the statutory documents evaluated in this thesis as part of the JCPEA within New Zealand's legislative planning framework. I have identified ways in which the concept of wellbeing in the sixth Labour government's approach resonates with an identifiable ethical framework – a capability[ies] approach, and that political references to developing Auckland as a liveable city indicate a move towards ethics of care in policy. The national Government's approach to ethics presents a timely example of drawing on ethics in policy. It is an example which the planning community could emulate. In the context of the recent emergence of ethics of care in government decision making, the pursuit of a just city, the extended version which I describe, may be within reach, but will require an understanding of the ethical arguments invoked in policy to be articulated by planners and debated in a democratic forum.

Chapter Seven: Argument Reconstruction

7.1 Introduction

Building on Auckland's institutional and statutory planning context (Chapter Six), this chapter provides an "overall characterization" (Stufflebeam, 2001, p. 34) of Auckland's compact city policy. The proposed JCPEA requires the planner to evaluate existing discourse in order to reconstruct the policy arguments as they appear in the case study documents. The approach implies that such work will lead to an understanding of why a course of action, in this case compact city policy, has been chosen in response to a particular set of circumstances. A condensed and consolidated overview of the reconstructed arguments behind compact city policy are presented in this chapter and represents the findings of Step 2 of the JCPEA.

In Figure 11, this second step, highlighted in yellow, is identified along with an indication that the argument reconstruction also entails a series of steps (expansion view in Figure 11) that are described below. The reconstructed argument is structured within the framework developed by Fairclough and Fairclough (2012), as described in section 2.4.2(c)(i), and includes the claims for action (i.e. the right thing to do is ...), the circumstances that justify this course of action, the goals sought and the means to achieve the goals. Given the volume of discourse within each of the documents analysed and evaluated, the content within this chapter has necessarily been restricted. The sheer scale of documentation renders the complete reconstruction of the arguments impossible, however each part of the argument (claims, circumstances, goals, means-goals, and values) is discussed below, covering some, but not all documents.

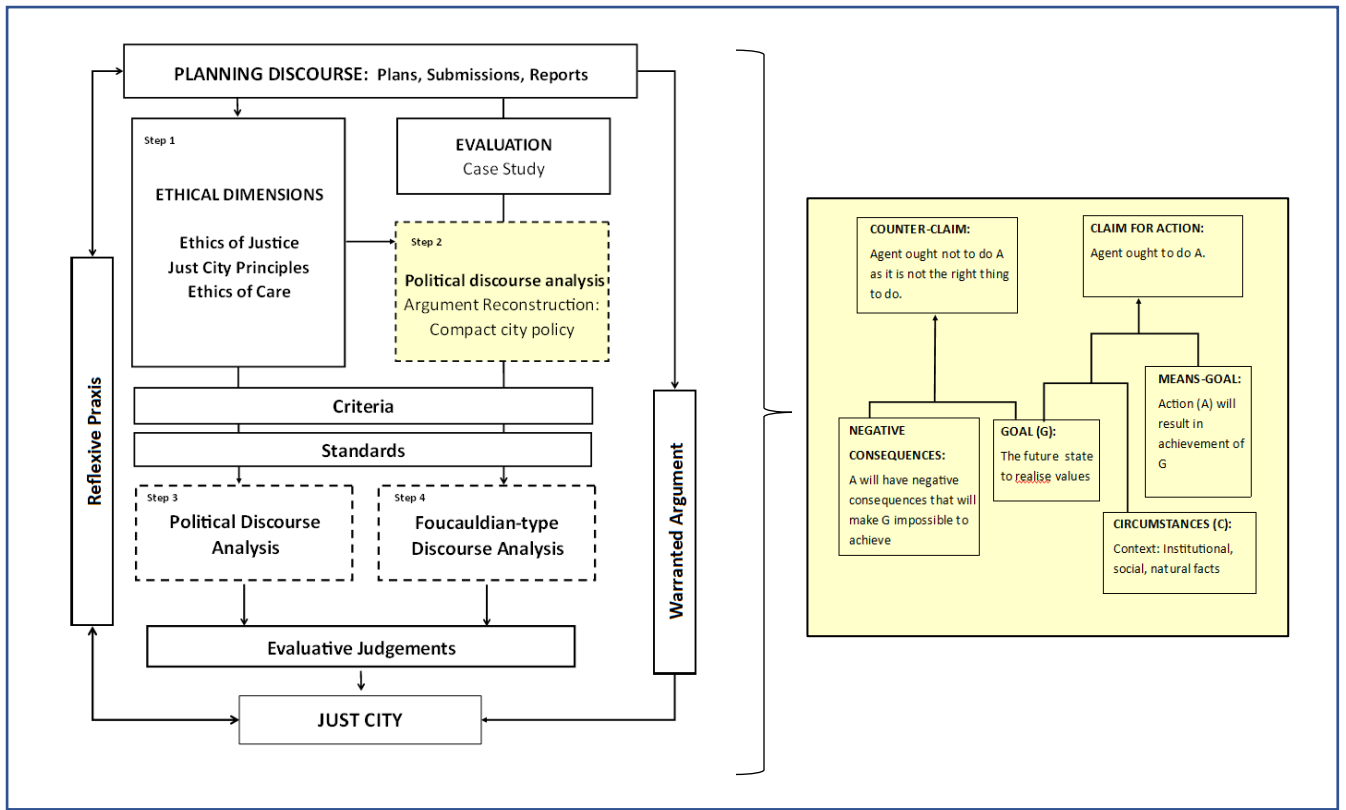


Figure 11: JCPEA Step 2 - Argument Reconstruction

7.2 The claim for action

A claim for action is the course of action that a party considers ought to be done in order to achieve a specific outcome (Fairclough and Fairclough, 2012). In this case, the claim for action in Auckland’s planning discourse was that a compact city ought to be pursued because of the social, environmental and economic benefits it would deliver. This claim was evidenced in all the documents reviewed.

In the 2012 spatial plan, the claim for action was clear; the pursuit of a “quality compact city” would “accommodate high population and economic growth” (Auckland Council, 2012, p. 37), it is what Aucklanders want (p. 41), and it would benefit Auckland economically, socially and environmentally. On the whole, this plan demonstrates what Holman et al. (2015) refer to as a “discourse of conviction” (p. 4) about the benefits of a quality compact form. This claim for action repeats in both the PAUP (and subsequent AUP), and the revised 2018 spatial plan.

The PAUP (2013) made similar claims about the benefits of a quality compact urban form. It referred to intensification and compact development (a subtle change from the phrase *quality compact city*) and a quality built environment as being critical for “good public and private amenity” (PAUP, 2013, p. A4) and “the wellbeing of Auckland’s communities and to its competitiveness, particularly as the city becomes more compact” (PAUP, 2013, section 2.2, p. B30). Claimed benefits included creating a range of housing choices (which implies affordability), improved transport efficiency and enhanced accessibility, greater social and cultural vitality, (PAUP, 2013, section 2.1p. B28).

Some submitters on the PAUP supported the compact city premise, for example:

this will allow more affordable housing and help condense the city instead of having to cut up further land miles from anywhere where there will be a greater cost in infrastructure and spending costs to household incomes [I₃₈₉]

... strongly endorse the concept of a compact urban form, structured intensification, and protecting highly valued areas from development. [I₄₅₇]

We support a quality compact city and the intensification of our street due to its proximity to the train station and town centre. We benefit from this proximity ourselves and this was part of the reason we bought this house. [I₄₅₄]

The IHPAUP referred to similar support for compact city policy in their reports, for example, noting:

The New Zealand Council for Infrastructure Development and Institute of Professional Engineers - New Zealand presented to the Panel on ... the desirability of providing for increased intensification along transport routes; the need to provide for growth in a compact urban form, including limiting the extent of urban extensions into rural areas; and the benefits of focused increases in density and the negative transport effects of uncontrolled urban expansion. (Report 001 - Auckland Wide, IHPAUP, 2016, p. 6)

However, although the PAUP presented a compact city as a claim for action, what *ought* to be done, it also introduced a discourse of “pragmatism” where the compact city is treated as “open to empirical evaluation” to support either a discourse of conviction or suspicion (Holman et al., 2015, p. 7). This was evident through referencing including that “tools to manage growth in an integrated way... [balancing] demand for new housing and business development, the need to strengthen social and physical infrastructure, and the requirement to preserve and protect the places we value” (section 1.3, PAUP), and growth and development must be “managed well” as

it “can affect the health and amenity of our natural and physical environment that we value so highly” (PAUP, 2013, p. A1).

A discourse of pragmatism was also evident in submissions which questioned the benefits of a compact urban form. For example:

I believe the plan is possible but only [if] infrastructure is put in place to support intensity of housing which will follow its implementation. [I₁₅]

[Regarding intensification] I would recommend that regular public transport is started BEFORE the housing goes up to encourage that move. [I₆₇]

The Plan strikes a balance between the intensification of existing urban areas whilst recognising the need for some further expansion into greenfields land. [I₉₇]

Intensification of housing is irresponsible without the infrastructure to cope [I₂₁₆]

Counter claims, suggesting compact city was not the right action in response to the circumstantial premises, were also evident in the submissions. For example:

It concerns me that housing is so close to each other that privacy is compromised and noise control an issue. I grew up in a street house, all in long rows, no gardens or green space. ... People need space. Infill housing only brings stress. [I₁₁₇]

The PUP does not support its objectives of having a “quality built environment” or a “quality compact urban form” with policies and rules to achieve them. The focus is more on compact without the means to achieve quality. [I₃₀₇]

The submitters oppose the lack of alternatives proposed and costed to the high densities proposed. [The decision sought:] The PAUP recognise that high density living in apartments is not necessarily a sound option. [NGA₂₆₂]

High Buildings that people live in. They are not a place to bring up children. ... Their backyards are far [too] small ... People are not like Rats, we cannot live in confined areas where we are all squashed together, it is not natural or healthy. I believe that expensive Apartment buildings in Rich areas have their place because the people that live in them usually are business people who have no time for lawns & gardens; unlike the Poor districts ... families have no gardens to plant vegetables to help keep their bills down. Depression is common in such buildings which leads to drug use, domestic violence, child neglect and abuse. [I₁₂]

Disagree strongly with infill rat boxes in New Lynn, Avondale, Glenn Eden, ... [I₃₅₈]

Despite notes of caution or outright opposition in the submissions, the quality compact city goal remained a credible argument central to all the statutory documents analysed. The AUP (2016) kept the compact city as a claim for action. It remained in the 2018 iteration of the spatial plan, which includes as a Direction, to “Develop a quality compact urban form to accommodate Auckland’s growth” (Auckland Council, 2018, p. 89). The claim being here is that the pursuit of a compact urban form will “realise the environmental, social, and economic benefits and opportunities” including “opportunities for more intensive living and working environments”, improved “efficiency” of infrastructure investment, “lower travel costs” and “increase economic agglomeration benefits”, and that it will help “protect [the] natural environment and maintain Auckland’s rural productivity by limiting urban sprawl” (p. 93).

7.3 Circumstantial premises: the context of action

The claims for action are chosen not only because of the pursuit of a specific outcome, but also because of contextual circumstances. Although multiple contextual and institutional circumstances have informed aspects of compact city policy in Auckland, urban growth is the primary contextual circumstance requiring a planning response. Other circumstances also support and legitimise the pursuit of a compact city, including the loss of productive land, housing affordability and institutional circumstances, each of which is discussed below.

7.3.1 Urban Growth

As a “strategy to make Auckland an even better place than it is now, and create the world’s most liveable city” (Auckland Council, 2012, p. 10), the primary context for action within the 2012 spatial plan is one of urban growth. There is a sense of urgency to address issues associated with the anticipated population growth, particularly affordable housing. That plan states that “it shows how we will prepare for the additional one million people we may have to accommodate by 2040, and the 400,000 new homes needed” (Auckland Council, 2012, p. 10) – while maintaining existing lifestyles.

The PAUP (2013) describes Auckland as “one of the fastest growing cities in Australasia” (Auckland Council, 2013, p. A1), and states:

most neighbourhoods will continue to experience growth. However, not all neighbourhoods will have the same level of growth and change. The quality compact city model that the Unitary Plan adopts provides for lower levels of growth in neighbourhoods with recognised character, identity and heritage. Areas around centres

and business areas, with well-connected street networks, and which offer good access to high-frequency public transport, community facilities and open space, are targeted for higher density living over time. (Section 3.4, PAUP, 2013, p. A11)

The IHPAUP's Overview Report stated "the rate and scale of this expected growth is unprecedented for a New Zealand city (Overview of Recommendations, IHPAUP, 2016, p. 47), but it makes less of the circumstances of individual neighbourhoods. One of the issues discussed at the hearing on urban growth was whether or not "there should be a greater recognition of the character and amenity" (report 13, IHPAUP, 2016, p. 6). They recommended that the Plan needed to be "more specific as to the areas and values to be protected by the Unitary Plan ... [including character] ... and otherwise enable development and change" (p. 7). This flowed down to quite specific provisions and recommendations for the removal of protections, such as the pre-1944 building demolition control overlay as it was seen as an inappropriate method of achieving the plan's objectives.

The 2018 spatial plan also described circumstances of growth, noting that shifts in the characteristics of Auckland's population, including an aging population and the younger median age of Māori and Pacific populations compared to Europeans, would "drive the demand for different housing solutions" (Auckland Council, 2018, p. 91).

Population growth (and therefore urban growth) is highlighted as one of the major circumstantial pressures the rural environment faces. In accommodating this growth there is fear it will occur at the expense of rural productive land, that Auckland will become a "larger, more sprawling city" (Auckland Council, 2012, p. 247). The discourse affirms "[r]ural sprawl [urban sprawl onto rural land] is a significant issue for Auckland" (Auckland Council, 2012, p. 221), empirically describing the loss of pastoral or dairy land, and the increased number of "lifestyle blocks" (p.221). This thread continues through to the reports of the IHPAUP, which states the "current resource management issue of greatest significance facing Auckland is its capacity for growth. This means both physically accommodating more people and also devising planning controls which most appropriately enable growth" (IHPAUP, 2016, Overview, p.9).

Urban growth is the primary circumstantial premise informing the claim for action, that is, the right thing to do is to pursue a compact urban form.

7.3.2 The threat to rural productivity from urban sprawl

Inherent within the argument that a compact city is the right thing to do to manage urban growth is a further premise; a compact city will reduce sprawl. In the statutory documents, references to Auckland as a sprawling city are actually few and far between, such that it could

almost be considered a silence within the text (refer Chapter Ten, section 10.4). However, it is present, and does form part of the circumstantial premises sitting behind compact city policy. Rather than being an existing circumstance, it is often presented as future circumstance. For example, the 2012 spatial plan highlight sprawl as a consequence of population growth:

Auckland's population will increase significantly over the next 30 years. The environmental consequences and range of costs associated with a larger, more sprawling city, (including transport, water and wastewater infrastructure), support the challenge for Auckland to create opportunities for more intensive living and working environments, and accommodate growth around centres. (Auckland Council, 2012, p. 242).

It also highlights that "the resources and production systems that underpin working rural land must be protected, maintained and improved" (p. 227), which infers that rural land must be protected from urban sprawl. One of the benefits of a compact city is that "Rural character and productivity can be maintained" (p. 42), and the explanation of this notes that "[e]ncouraging growth within the existing urban footprint protects Auckland's rural hinterland and its productive potential" (p. 42). The PAUP (2013) highlights the costs of a sprawling city, noting that includes increased infrastructure costs, inefficient land uses, and "loss of rural productivity" (Auckland Council, 2013, p. x), and although not specifically connected to compact city policy, the AUP (2016) includes an objective for the coastal area to avoid sprawling developments (Objective B8.3.2). In the 2018 spatial plan, Directive 1, to accommodate Auckland's growth in a compact city, states it will help protect rural productivity by "limiting sprawl" (p. 93).

While a sprawling city is not presented as a circumstance per se, it is inherent within the arguments about the need to protect rural productivity.

7.3.3 Housing affordability

Auckland's housing affordability crisis is another circumstantial premise evident in the plans. The 2012 spatial plan explicitly states, "Auckland has a housing crisis" (Auckland Council, 2012, p. 51). It suggests this crisis results from a "persistent under-supply of housing to meet demand" (Auckland Council, 2012, p.269), describing housing affordability as "a critical problem for Auckland" and one that will "worsen" if demand continues to increase and there is a "continuing shortfall in supply" (p. 278).

While not using the term crisis, the PAUP (2013) also refers to housing affordability, particularly as it stems from population growth. It states that housing:

is becoming increasingly unaffordable and out of reach for a large majority of first time home buyers. The issue is complex and influenced by a range of factors which include:

- land availability
- the availability and costs of infrastructure
- the location of new housing areas in relation to public transport
- employment
- social and community infrastructure
- the sequence and timing of land release.

(PAUP, 2013, section 1.1, enabling quality urban growth).

The circumstances around housing affordability are set out more comprehensively in the Section 32 Evaluation Report. This report clearly frames the claims for action in response to “Auckland’s housing crisis” (p. 2), with the cause being “the very rapid increase in property values since the end of the global financial crisis and a shortage of suitable new areas for land-intensive business activities” (p. 2). It states that “Affordable housing is a significant issue for the region, both in political and community terms, as well as in terms of economic growth and efficiency. It has come to the fore over the past 10 years as a major issue for central and local government to address” (Affordable housing - Section 32 evaluation for the Proposed Auckland Unitary Plan, Auckland Council, 2013, p. 3). The section 32 report suggests this is a result of “1. the supply of land, 2. the role of regulation, 3. the provision of infrastructure, 4. the cost of building materials and 5. productivity in the construction sector” (p. 3), which differ from the six reasons suggested in the PAUP. It suggests that if this is not addressed, economic and social wellbeing will be significantly affected and urban efficiency “impaired” (p. 3).

In considering the proposed plan, the IHP acknowledge that housing affordability is “fundamental to the well-being” of Auckland communities (Overview of Recommendations, IHPAUP, 2016, p. 58). However, it is worth noting that they do not use the term housing crisis in any of their reports. Of the circumstances listed above as being causal factors for a lack of affordability, the IHP pick up on the supply of land as the circumstantial premise that needs to be addressed. They suggest that the AUP “is best able to promote affordable housing by ensuring there is adequate feasible enabled residential capacity relative to demand, there is a range of housing types enabled in many locations, the Plan supports the centres and corridors strategy, and that the Plan does not impose undue implementation costs” (Overview of Recommendations, IHPAUP, 2016, p. 58). Subsequently, the AUP is less specific, in its final form,

about the lack of affordable housing, stating only that “housing affordability is a significant issue in Auckland” (RPS, Section B2 Urban Growth, AUP, 2016, p. 14).

The specificity of circumstances surrounding housing affordability returns in the 2018 spatial plan. It also uses states that “Auckland is experiencing a housing affordability crisis” (p. 95), and notes:

The housing system does not work for many Aucklanders. We currently have one of the least affordable housing markets in the world. Aucklanders, whether buying or renting, pay more for housing than most other New Zealanders. ... Addressing these issues will require different ideas and approaches. (Auckland Council, 2018, p. 90)

It also provides specific reasons for this lack of housing affordability including that:

housing supply has not kept pace with increases in population or met demand for investment ...

high expectations of their housing in terms of size and type: large and free standing. ...

speculation in the real estate market pits investors against first-home buyers. This has underpinned price increases that have significantly outstripped wage and salary growth. ...

Since 1981, house prices in Auckland have increased at a faster rate than in the rest of New Zealand. Over the past 15 years they have trebled, and in the past five years they have increased by over 50 per cent. ...

The result is that a growing number of Aucklanders cannot afford to buy a home and will therefore not benefit from the financial security that home ownership traditionally provides. This puts them at a significant disadvantage in both the short and long-term.

Rents have also outstripped wage and salary growth, straining the budgets of many families and households. This has resulted in increasing incidences of housing stress ... (Auckland Council, 2018, p. 90).

As a circumstance informing claims for action, the 2018 spatial plan does not rely on the claim that a compact city is the right thing to do, but rather suggests a holistic range of actions that includes thinking about land supply and regulation for housing, but also actions outside of planning realm, such as changes to the building sector. However, in the final sentence of this narrative, the point is made that other household expenses contribute to housing unaffordability, using the example of “urban form and where housing is located [which]

increases or minimises people's transport costs" (p. 91), thereby providing subtle but clear support for the compact city.

Housing affordability as a circumstantial premise for the pursuit of a compact city is complex. The subtle point made in the 2018 spatial plan, as referred above, could be an indication that an argument based on the premise of housing affordability leads to counter-claims. Firstly, that the claim for action should be for plans to release (zone) more land for housing supply (discussed further in section 7.3.4 – Institutional Circumstances). This becomes increasingly clear as the preferred course of action for some submitters, and other parties involved in the development of the AUP. The second counter-claim relates to the inclusion of provisions requiring retained affordable housing as a response to this circumstance. This is discussed further in section 7.7.1(a) (libertarian values), which shows how the values informing plans influenced, and in fact dominated, this response to housing affordability.

The use of the term 'crisis' contributes to the complexity of housing affordability as a circumstance justifying the pursuit of a compact city. Its use has significant implications. White and Nandedkar (2019) describe how the National-led Government between 2008 – 2017, during the time the documents analysed in my thesis were being prepared and/or adopted, refused to use the term housing crisis. They describe the evolution of the use of the term crisis in relation to Auckland. It was initially raised in 2010, by MPs in opposition parties, in relation to homelessness. In 2012, two members MPs (Green Party) referred to "a crisis in the affordability in housing and a crisis in the availability of housing" (p. 8). The following year, White and Nandedkar (2019) report that there were 38 references to the housing crisis, labelling 2013 as "the year when we can say the crisis substantively entered party politics in New Zealand and has been largely maintained since" (p. 8). The National party refused to label it as such until 2018, when it was no longer in power.

The use of the term crisis, in the first 2012 spatial plan, and the subsequent section 32 report for the PAUP, and the 2018 spatial plan is therefore significant as it directly contravenes the stance of the Government at the time. It is also significant that the Government appointed IHP did *not* use the term crisis, signalling the influence of power in the planning process.

7.3.4 Institutional circumstances

Institutional circumstances, particularly as they present in the earlier documents, suggest earlier planning approaches have not achieved quality outcomes may have led to some of the circumstances described above, particularly the housing crisis. The S32 report suggests that previous growth policies were inadequate:

The Unitary Plan is responding to the now widely-held view that the regional and local policies of the former Auckland councils were not providing an adequate basis for managing Auckland's growing population and economy. (S32, 2.1 Urban form and land supply, Section 1.1).

Periodic adjustments to the Metropolitan Urban Limits (MUL) between 1999 and 2013 saw delivery potential created for 12,000 new dwellings, enabling the delivery of around 3,000 dwellings per annum. The existing greenfield areas and periodic extensions to them through changes to the urban limits under the RPS will simply not meet the required targets. More pro-active land supply policies are required to meet these requirements. (S32, 2.1 Urban form and land supply, Section 1.1).

The largely reactive approach of the MUL failed to facilitate the timely achievement of land supply and development capacity to meet current and future demand. (S32, 2.1 Urban form and land supply, p.27).

This transformational shift requires an innovative response, and recognition that the planning framework of the past will not achieve the urban growth and 'quality compact city' aspirations which both the Auckland Plan and Unitary Plan are seeking. (quote from HNZ submission cited in IHPAUP, 2016, Residential Zones, p. 11)

Institutional failure presented as a circumstance informing compact city policy continues into the 2018 spatial plan. Although not explicitly related to urban environments and housing it states, "[d]espite regulation and considerable effort, Auckland's environment continues to be affected by past decisions and its rapid growth and development, as well as emerging threats such as climate change" (p. 14).

Other institutional circumstances that inform compact city policy are described in the discourse, in particular the recognition of institutional barriers to change. This first presents itself in the 2012 spatial plan:

At present there is a limited but growing market for intensified housing. The reasons for this include the traditional New Zealand preference for detached homes, expectations of the size of housing that far exceed incomes, and examples of poorly designed apartments, especially in the CBD. Another major obstacle is that trading banks do not typically lend above 70% on unit-titled residential housing, such as apartments and terrace houses. This is partly because banking covenants (when banks borrow from other banks) generally prohibit loan-to-equity ratios greater than 70%, unless the bank (as the lender) can insure the risk part of the mortgage – which is

anything above the 70% threshold. This is possible on fee-simple titles, but not unit-titled housing; insurance companies will not insure mortgages over 70%, so the banks cannot lend above this threshold. This makes it harder to borrow for a multi-unit title property, reinforcing the market for stand-alone homes and pushing up prices for fee-simple titled, stand-alone homes. (Auckland Council, 2012, p. 274)

New Zealand's development and building industry is still feeling the impact of the recent global financial crises. Banks remain reluctant to lend to small-scale New Zealand developers and builders with small profit margins, and will not finance speculative building or buying 'off-the-plan'. This reinforces the practice of building low-risk, high-value, large homes, and restrains innovative design. (Auckland Council, 2012, p. 275)

New Zealand has no legislative or regulatory definition of affordable housing. (Auckland Council, 2012, p. 274)

Institutional circumstances are also presented in the PAUP's Section 32 Report, which states:

The Unitary Plan is responding to the now widely-held view that the regional and local policies of the former Auckland councils were not providing an adequate basis for managing Auckland's growing population and economy. (Section 32 evaluation for the PAUP, section 2.1, Auckland Council, 2013, p. 2).

A quality compact urban form for Auckland with continued emphasis on quality intensification, but expanded to include broader areas of intensification or up-zoning beyond the legacy council approach. The quality compact Auckland was strongly supported by a majority of Aucklanders and Auckland stakeholders throughout the Auckland Plan. (Section 32 evaluation for the PAUP, section 2.1, Auckland Council, 2013, p. 3).

References to the effectiveness of former institutions were also made in the 2018 spatial plan:

However, the legacy of past decisions is still felt today. Many projects that were first planned decades ago, such as the City Rail Link, are only now being built. This makes it difficult to address today's problems, let alone prepare ourselves for future growth. ... As a consequence, people living in large parts of Auckland still don't have many choices in the way they travel. (Auckland Council, 2018, p. 115).

As a premise informing the claim for action, these institutional circumstances legitimise the pursuit of a compact city. They suggest that the former approach wasn't working, and that it's

time for change. Borrowing words from Fairclough and Fairclough (2012) these statements present evidence of the new Auckland Council is “exerting their agency”, “empower[ing] them to act on the world in a way that has an impact on matters of common concern” (p. 18).

7.3.5 Implications of circumstances – the reasonableness of the argument

The circumstances presented in the discourse provide the context for action. They represent the issues that need to be addressed, and subsequently justify the claim for action. In this instance, the primary problems that Auckland Council is trying to address is urban growth, and the pursuit of a compact city is being presented as the right thing to do. The circumstantial premises in planning are particularly important, as they steer the city down a particular course of action, and this is often contested – as is discussed further discussed in Chapter Ten (section 10.3).

7.4 Goal premises: the long-terms goals of action, and the means-goal premise

So far in this reconstruction of the practical reasoning in Auckland’s statutory plans, the claim for action (the pursuit of a compact city) and the various circumstances justifying urban containment and residential intensification have been presented. I turn now to the goal premises within these documents. The goal premises are the end goal, and in this case the pursuit of the compact city as envisaged in the 2012 spatial plan was to make “Auckland an even better place than it is now, and create the world’s most liveable city” (Auckland Council, 2012, p. 10). The Council’s high-level development strategy sought to “give direction and enable coherent, co-ordinated decision-making by Auckland Council and other parties” (Auckland Council, 2012, p.11). It translated the vision of the world’s most liveable city into specific strategic directions with supporting policies, priorities, land allocations, programmes and investments to implement them. These goals flow into the PAUP and later the AUP.

The goals in the AUP are clearly set out as the objectives. RPSs and District Plans must state objectives pursuant to sections 62 and 75 of the RMA. Of most relevance to the compact city policy are the RPS objectives which include:

- (1) A quality compact urban form that enables a higher-quality urban environment; greater productivity and economic growth, better use of existing infrastructure and efficient provision of new infrastructure; improved and more effective public transport; greater social and cultural vitality; better maintenance of rural character and rural productivity; and reduced adverse environmental effects.
-

- (2) Urban growth within the metropolitan area 2010
- (3) Sufficient development capacity and land supply
- (4) Urbanisation contained within Rural Urban Boundary, towns, and rural and coastal towns and villages.
- (5) Development integrated with the provision of appropriate infrastructure
(section B2.2.1. Objectives, AUP, Auckland Council, 2016)

The means-goal premise in an argument “says that the action will deliver the goals but also that the action is necessary in view of the goals” (Fairclough & Fairclough, 2012, p. 126). In this instance the means to achieve the Council’s objectives, are the policies set out in the RPS and the district plan provisions of the AUP. Specific means include the pursuit of a quality compact urban form through concentrating growth in a particular area, planning for development capacity and land supply through the implementation of the rural urban boundary, and zoning for different densities (with a focus on enabling intensification). There were also specific means (policies) addressing affordable housing in the PAUP.

In terms of compact city policy, while the goals have remained largely consistent from the inaugural 2012 spatial plan, through the PAUP, and then AUP, and to the 2018 spatial plan, some of the means to achieve these goals as contained in the inaugural unitary plan changed during the statutory plan development – particularly regarding affordable housing. This is largely due to changing values premises – which are explored further in the next chapter.

7.5 Summary

The first evaluative finding derived through the methodology of the JCPEA is that the circumstances justifying the pursuit of a compact city included urban growth, the need to protect productive rural land, housing unaffordability, and various institutional circumstances.

The condensed and consolidated overview of the *reconstructed* arguments behind compact city policy show that planning discourse presents the argument that a sustainable city is desirable goal and that the action to achieve this is compact city policy (refer Figure 12). There was also evidence of practical reasoning supporting counter-claims. These included arguments seeking a balance between greenfield and infill development, the need for more land for housing supply, and the need for affordable housing provisions.

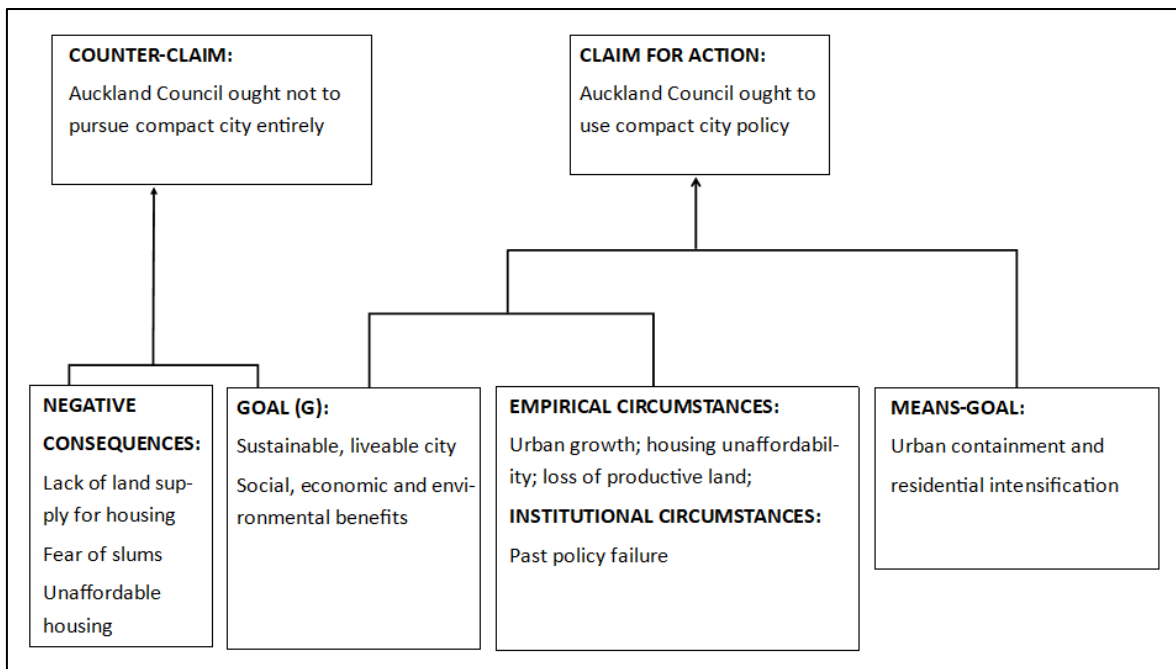


Figure 12: Structure of the practical reasoning informing compact city policy: a basic representation

The compact city, as a claim for action, has remained a “plausible argument” over the study period. According to Fairclough and Fairclough (2012), “a plausible argument is appropriate where a tentative conclusion needs to be drawn, in situations of uncertainty, incomplete knowledge and often under constraints of time” (p. 39) and are often used provisionally for either “further reasoning and/or action” (p. 39). In the case of any urban plan, its future focussed nature means it will always be written in circumstances of uncertainty and incomplete knowledge, and in the case of the 2012 Spatial Plan and the AUP, these were prepared under significant statutory time constraints.

As noted above, these circumstances become increasingly important when considered in tandem with the discursive ruptures within the discourse as they legitimise a particular course of action, one that may not necessarily be agreed upon by all and may lead to counter-claims. This is evident in the later discussion on the effect of libertarian values that informed planning discourse, and the counterclaim described in Section 8.6.1(e). The ethics that inform these various arguments are further explored in the following chapters.

Chapter Eight: Evaluating ethics – Conceptions of Justice

8.1 Introduction

The previous chapter identified the circumstances facing Auckland, which warrant some form of planning intervention, included urban growth, the need to protect productive rural land, housing unaffordability, and the failure of past institutions to address these issues. Urban containment and residential intensification were posited as the means to achieve a compact city, the Council's goal. Now we turn to an evaluation of the justice ethics invoked in the arguments for, or against, this proposed course of action. This is the third step in the JCPEA (refer Figure 13). The discourse is evaluated to determine the extent to which planning discourse is strongly aligned, silent, ambiguous, or too accommodating of a conception(s) of justice, and the merit of these arguments.

In Figure 13, this third JCPEA step, highlighted in yellow, is identified along with an indication of the approach to analysing and evaluating the planning discourse (expansion view in Figure 13) that are described below. Each of the five ethics are subjected to this analysis, and the findings presented below.

There are some justice ethics that strongly resonate with the extended Fainsteinian concept of the just city. For example, Rawlsian, Capability(ies), and communitarian ethics. But that is not to say urban policy informed by other ethics are unjust, but rather highlights that they might result in a different sort of just city. To be unjust, the policy would not be informed by any justice ethics. This chapter presents my findings as to how and where different conceptions of justice are present within the suite of documents examined, and the warranted arguments for each (refer Chapter Two, section 2.3.2(c)). According to Nunns (2016) "argument is an essential element of evaluative reasoning because it articulates the inference that links evidence to a normative claim" (p. 130). For each ethic, I articulate connections between inferences made about the extent, focus and merit of the discourse – conclusions which are reached in an "all things considered" or "prima facie" to (Nunns, 2016, p. 131) way with the planning discourse. This contributes to the discussion of ethics in a just city in Chapter Eleven.

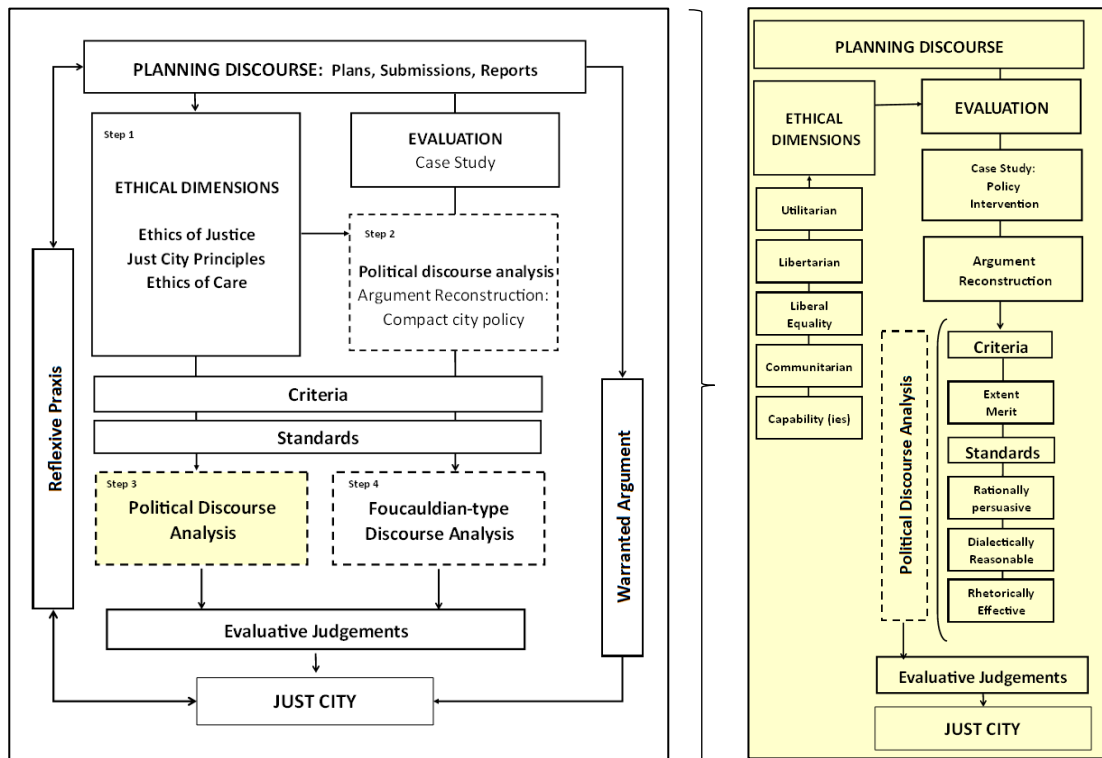


Figure 13: JCPEA Step 3a - Evaluating arguments informed by justice ethics

8.2 Libertarian values

References to libertarian values, which prioritises the freedom of individuals, are present within the documents evaluated. Of the libertarian indicators identified in the literature review, the ones that had particular relevance were *negative rights (anti-intervention)*, *supply and demand*, *market-led* and *property rights*. Evidence is presented below.

(a) Negative rights (anti-intervention sentiment)

There is a significant discursive thread within the suite of documents relating to the libertarian ideal of reducing or minimising planning interventions in the market, although not always directly related to housing in a compact city. The 2012 spatial plan establishes this line of argument. It notes that successful cities in 2040 need more than just a “conducive regulatory environment” (explanation, Chapter B, para 43), and that “[b]etter place-making, rather than development control, will become the focus of the planning process” (explanation, Chapter B, para 116). In the explanation of Strategic Direction 10 (“Create a stunning city centre with well-

connecting quality towns, villages and neighbourhoods”) there is a reference to the potential of agglomeration economies (a benefit of the compact city) to attract new businesses and workers, noting “Auckland must be an attractive place for businesses to locate to, to ensure ongoing economic development and wealth creation” (p241). While these references seemingly recognise the role for planning, the 2012 spatial plan also presents planning as a barrier to the realisation of this goal, for example, “Inappropriate regulations and inflexible standards can impact negatively on good design. They impede the development of more intensive housing and mixed developments” (explanation of Directive 10.5). This reference to inappropriate regulations reflecting the anti-interventionist view of libertarians.

In the 2012 spatial plan, there are multiple references to reducing barriers associated with development control and speeding up the process which do relate specifically to housing. For example, it states “[t]ime and costs across the entire development process need to be looked at. Processes can be streamlined to increase certainty around cost and timing” (Explanation of Priority 1, SD11, Auckland Council, 2012, p. 271), referring to the use of a Housing Strategic Action Plan including provisions to fast-track developments, mitigate development contributions and consent fees, provide density bonuses for intensification. This document also refers to the Unitary Plan being administered in a “new way” using “rules only where critical”, to “manage intensification scale and form through urban design parameters”, and to “only put proposals into the resource process if the outcome justifies this” (paragraph 805, Auckland Council, 2012, p. 342). All of which reflect a libertarian focus to decrease planning interventions.

Elsewhere the need to intervention was identified. In the PAUP (2013), part of the reasoning legitimising the distribution of business activity in a compact city policy, is to ensure that it integrates with “higher density residential living” (explanation, section 3.1). It describes “intervention with regard to the distribution, scale and function of business activity” is described as “critical” (explanation, section 3.1). It seems contrary to libertarian values to specifically legitimise interventions about the distribution of businesses in this way.

The s32 report was also quite specific about the need for intervention as opposed to relying on market-led solutions, stating: “It was agreed that the Unitary Plan will be more directive in terms of the outcomes to be achieved by its objectives and policies than is the case in most current RMA plans” (Section 32 Report – Part 1 for the PAUP, 2013, p. 17). However, this agreement was subject to two key presumptions, firstly “the more important the quality of the outcome sought, the greater the level of direction required. Secondly, all matters in the plan

need to be evaluated against the principle of planning burden being relative to planning gain” (Section 32 Report – Part 1 for the PAUP, 2013, p. 17).

Stronger libertarian values are referenced in the AUIHP reports. The Panel refers to a point made in a submission which stated that the PAUP did not follow through on its strategic objectives, in particular in relation to enabling sufficient development capacity. The submitter (as reported by the AUIHP) states: “By failing to free development from **complicated policies and rules that will create high transaction costs**, thereby limiting innovation and responsiveness of supply to demand ... Auckland’s housing market will not perform efficiently and house prices will become even more unaffordable” (IHPAUP, 2016, Residential Zones p. 11) [emphasis added].

(b) Supply and Demand

It was Abercrombie in 1933 who first warned, beware of the “muddler who will talk about the law of supply and demand and the liberty of the individual” (cited in Lai, 2002, p. 290). Yet almost a century later the discourse of supply and demand is present in most of the documents examined, albeit more recently phrased as housing capacity rather than supply.

The 2012 spatial plan, Priority 1, under Strategic Direction 11 (house all Aucklanders in secure, healthy homes they can afford), is to “increase housing supply to meet demand” (Auckland Council, 2012, p. 269). There is also reference to “providing sufficient unconstrained development capacity” as part of a suite of tools to achieve SD11 (explanation of Directive 11.4, p. 286). This suite of tools also refers to “reviewing regulatory and assessment processes to provide a simplified, speedier and less costly consent process”, “fast-tracking developments and/or mitigating development contributions and consent fees for developments to increase the supply of a particular type of housing, or ease overcrowding in targeted areas”, “auctioning of development rights to landowners” to reduce uncertainty and costs. The mention of “unconstrained development capacity” along with these other possible tools is consistent with libertarian values.

References to unconstrained development and housing supply continue into the PAUP (2013). The explanation of Outcome 1 (“enabling quality urban growth”) states: “Development must also optimise the investment of infrastructure and utilities, and not cause the need for ineffective or less cost-effective forms of development” (RPS, PAUP, 2013, p. B3), and there is a set of objectives and policies that relate to development capacity and supply of land for urban development (Section 2.3). These include objective 2.3(1) “Sufficient development capacity and land supply to accommodate projected population and business growth” (RPS, PAUP, 2013, p.

B31), and Policy 2.3 (1) “Maintain sufficient unconstrained residential and business land within the RUB to accommodate an average of seven years land supply at any one time” (p. B31), and Policy 2.3 (4)(e) to ensure “the quantity of land being released at any one time will have regard to the scale and economies of servicing and developing the land” (p. B32). Other references in the PAUP relate to unconstrained land supply. In the explanation of the objectives and policies relating to development capacity and supply of land for urban development (section 2.3) it states they provide “a target for unconstrained land supply to ensure there is adequate land to meet projected population and business growth” (RPS, PAUP, 2013, p. B32).

(c) Market-led

As noted in Chapter 2.3, libertarian values advocate for free markets, rejecting any altruistic distributive role of the state. This reliance on market-led urban growth can be most strongly identified in the reports of the AUPIHP, particularly in relation to the requirement for retained affordable housing. For example:

The Panel was persuaded by the submissions of the Ministry for Business, Innovation and Employment and Housing New Zealand Corporation, among others, that the affordable housing provisions as proposed by the Council would likely reduce ***the efficiency of the housing market*** due to effectively being a tax on the supply of dwellings and be redistributive in their effect. The Panel is of the view that the imposition of land use controls under the Resource Management Act 1991 is not an appropriate method for such redistributive assessments and policies. (AUPIHP, Overview, p.59) [emphasis added]

For these reasons the Panel considers that housing affordability is best addressed in the Plan as primarily housing supply and housing choice issues and that consideration of housing affordability needs to permeate the provisions throughout the Plan. This is in contrast to the retained affordable housing provisions in the notified Plan that treat affordability separately from other land use provisions. Furthermore these provisions would effectively be a tax on the supply of housing and therefore would tend to impede rather than assist an increase in that supply. (AUPIHP, Overview, p.59)

This clearly reflects the libertarian values associated with the role of the free market and the rejection of an altruistic distributive role of the state (see Bell & Davoudi, 2016; Chakravorty, 1999; Cohen, 1986; King, 2011; Lai, 2002; Sorensen & Day, 1981; Williamson, 2010).

(d) Private property rights

The right to use private property as individuals see fit is also inherently libertarian. As a value informing compact city policy it is evidenced most strongly in the submissions. Many of the submissions related to a single address, seeking a change to the plan (such as a different zoning), which would then give the submitter greater options in terms of development rights. Some supported specific provisions (e.g., a change of zoning from rural to future urban zone) which would increase property values. Both reflect libertarian values relating to property rights. In terms of the claim that the Council ought to pursue a compact city, some of the submitters came across as quite libertarian in their values. For example:

“You are attempting to remove my rights as a property owner with your 'one size fits all' property adjustments at last check we were not a communist country. (I₃₃₁)

The plan represents an assault on my private property rights and common decency. ...
... The thread which runs through the plan amounts to a full-frontal assault on Aucklanders' fundamental right to their private property. The plan makes a mockery of the entire concept of private property rights in a multitude of ways, only a couple of which are addressed here. (I₄₁₃)

Rezoning the property deprives, my inherent rights to build housing. (I₁₄₉)

...the plan proposes making Auckland the world's most "liveable city", by constraining growth and forcing ever-smaller lots and residences. This initiative ... is a further affront to both the private property rights of Aucklanders and to common decency. (I₄₁₃)

While other submitters referred to 'fairness' this was not intended in the Rawlsian sense of fairness for all, but rather in the sense that the way their property was affected by the proposed plan was unfair. For example:

the change proposed to move from Residential 6a to SHZ reduces what I could do on my property and I feel that this is unfair. (I₄₂₃)

How and on what grounds some houses are chosen to be SHZ and others are in mixed housing. It seems unfair when my next door house is in mixed ... being disadvantaged for no obvious reason. (I₉₂)

I agree with the intent of the Unitary Plan to increase housing density where it makes sense (town centres & transport routes) but think it should be applied uniformly and

fairly and therefore exceptions and preferential treatment should not be given to any big landowners. (I₄₄₃)

(e) Summary

This section has demonstrated there are some references to libertarian values within Auckland’s planning discourse. Using the criteria and standards (described in section 2.4.2(b)) the *extent* to which libertarian values inform plan content could be described as being partially influential. Not unexpectedly these references focused on private property rights rather than the least advantaged.

The libertarian arguments evident in the discourse are shown in Figure 14.

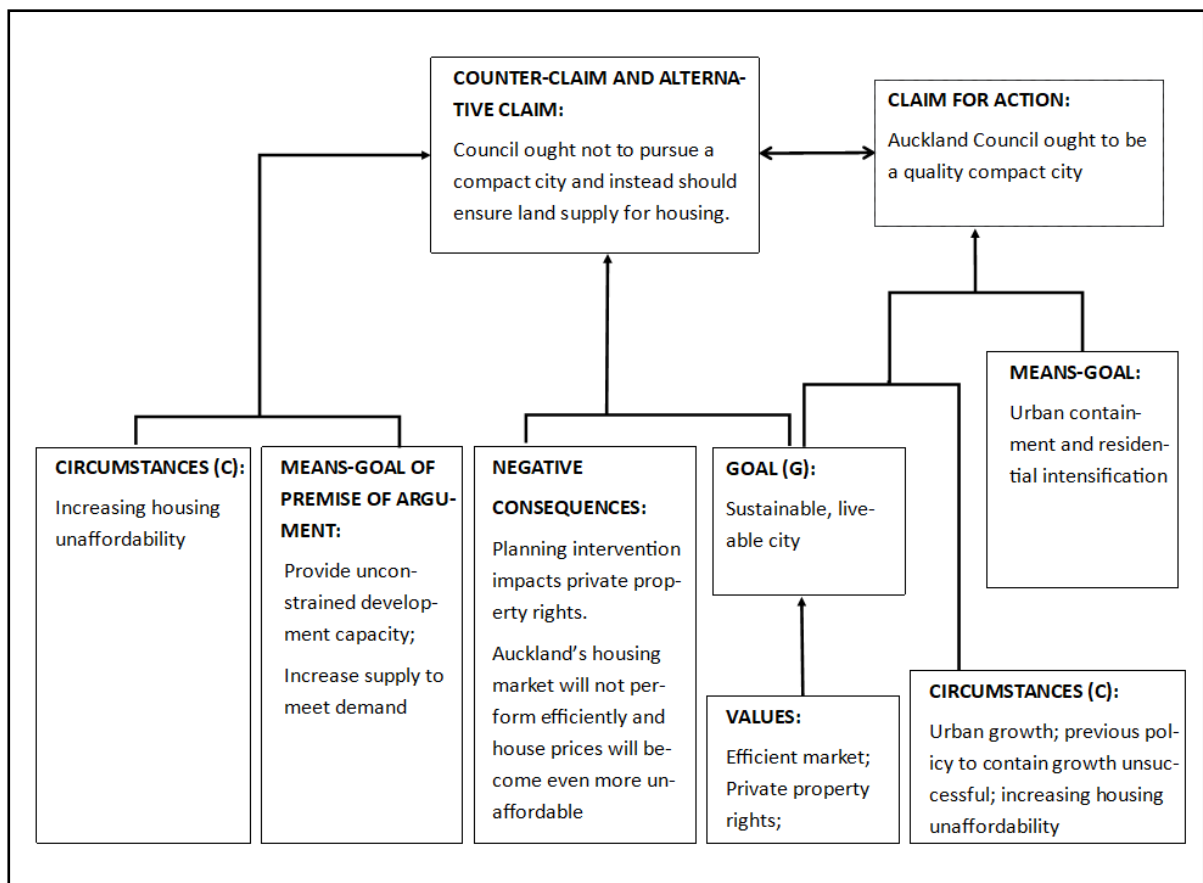


Figure 14: Structure of Libertarian arguments within Auckland’s planning discourse

The libertarian reasoning invoked effectively offers a counter claim to the compact city. It is suggesting that the role of planning be pared back to a minimum, to provide a sufficient supply of land for housing in a way that is “unconstrained” (Auckland Council, 2012, p. 286). In terms

of the third criteria, *merit*, the argument is rationally persuasive in that it “provides ‘good reasons’ or ‘rational support’ for the conclusion, such that belief in the conclusion is ‘justified’” (Fairclough and Fairclough, 2012, p. 52). The libertarian argument presents as a rationally persuasive argument, and as noted earlier, this does not mean that it is correct – just that it presents a justifiable counter-argument. It is certainly an argument that presents elsewhere in government policy, as was discussed in Chapter Six.

As noted earlier (section 2.4.2(c)(i)), an argument is dialectically reasonable when it has involved a dialogue between two or more persons and resolves an issue in a way all parties find reasonable. In this instance, the libertarian ethics informing plan content have involved conversations with multiple parties, as part of the standard plan development process. However, it is also part of the mainstream message from central government (section 5.4) and has played out in the media (section 5.4). The plans containing references to reducing barriers associated with development control and speeding up the planning process, along with references to ensuring land supply for housing, is something that multiple parties find reasonable, as a means of addressing certain issues (such as the lack of housing affordability).

In terms of whether the libertarian argument is rhetorically effective, this is harder to ascertain. My research does not use empirical data to determine how the libertarian argument has persuaded people. However, there were a number of submitters on the PAUP who demonstrated libertarian thinking, and so in this regard has been assessed as being a rhetorically effective argument for the purpose of this thesis.

8.3 Utilitarian values

References to utilitarianism, prioritising public goods over private concerns and has long been used to inform and evaluate public policy including land use planning, was often implicit within the discourse. Of the utilitarian indicators identified in the literature review five were present in Auckland planning discourse: *well-being*, *greatest good for the greatest number*, *cost-benefit analysis*, *public interest* and *trade-offs*.

(a) Happiness, Utility, Well-being & Preferences

The terms ‘utility’ (as it was originally referred) or ‘happiness’ were not present in the discourse. There were however multiple references to ‘well-being’ or ‘wellbeing’, used as a proxy for utility. For example, in the 2012 spatial plan, under Strategic Direction 1 (“create a strong, inclusive and equitable society that ensures opportunity for all Aucklanders”) it is

stated that “people are at the heart of this Plan. The well-being of Aucklanders is critical to creating a better future for Auckland and New Zealand” (Auckland Council, 2012, p.69). Under strategic direction 11 (“Housing all Aucklanders in secure, healthy homes they can afford”) it is stated that “secure, healthy and affordable housing is fundamental to individual, family/whānau, community and economic well-being” and conversely that “[p]oorly designed, inefficient and unaffordable housing not only affects individuals and household well-being and expenses, but is a cost to us all in its impacts on health, social spending and the environment” (Auckland Council, 2012, p.269).

In the PAUP, within the explanation addressing the “Enabling quality urban growth” issue, it is stated:

We need to consider urban form and design, and sustainability outcomes to maximise economic opportunity and wellbeing, social wellbeing, cultural diversity and environmental health. (RPS, Auckland Council, 2013, p. B2)

The social well-being of Aucklanders “is influenced by the affordability of housing” (p. B2), amongst other things. Relating to the circumstantial premise described earlier, economic wellbeing is an outcome sought. In the explanation of this outcome and associated issue statement, the document refers to the loss of productivity that might result from a sprawling city, thus implicitly referring to the greater good that would come from enabling economic growth through a compact city. Economic wellbeing is also part of the argument for the affordable housing provisions in the PAUP (including the policy for retained affordable housing). In the explanation of these RPS provisions it is stated:

The provision of retained affordable housing will ensure wider housing choices and a more balanced social mix in new housing developments. This in turn will help to address regional objectives relating to social and economic wellbeing, transport and land use. It will also extend the effectiveness of scarce public resources by increasing overall housing output through partnership with the not-for-profit housing sector. (Auckland Council, 2013, Chapter C, p. C83)

It seems clear, through the reference to ‘regional objectives’ that these policies are aimed at achieving the greatest good (well-being) for the greatest number.

As noted earlier, ‘preference utilitarianism’ is a term used to overcome criticisms of the idea of judging outcomes by pleasure and pain (happiness). Planning for preferences was present in the discourse evaluated, and often was in relation to housing. Strategic Direction 11 in the 2012 Spatial Plan (house all Aucklanders in secure, healthy homes they can afford) includes as

priority 2 to “increase housing choice to meet diverse preferences and need” (Auckland Council, 2012, p. 268). In the AUP, this manifests in objectives and policies as references to housing choice, for example, Policy B2.2.2(2)(d) to:

Ensure the location or any relocation of the Rural Urban Boundary achieves a quality compact urban form and identifies land suitable for urbanisation in locations that provide choices that meet the needs of people and communities for a range of housing types and working environments. (Auckland Council, 2016, Chapter B2, p. 2)

(b) Greatest good for the greatest number

The utilitarian maxim of the greatest good for the greatest number can be inferred from the 2012 spatial plan. Its explanation of Directives 10.1 and 10.2 (relating to unconstrained development capacity within the rural-urban boundary) the 2012 spatial plan states:

Achieving a quality compact urban environment requires a shift towards using land resources in a more efficient way. This necessitates urban intensification to achieve a higher density of housing and business activity, both in brownfields and greenfields, with emphasis on well-designed higher-density development in the right places. Planning for intensification will focus on the areas most suited to it, and be developed in consultation with local communities, taking into account their aspirations for an area (including character, heritage, transport and environmental considerations). (explanation of Directive 10.2, Priority 1, SD10, p. 243)

Although there is a reference to intensification occurring in consultation with residents, it could be inferred that if an area is deemed “most suited to” intensification, then it must be developed in this way for the greater good because intensification is a “necessity” and an “efficient” use of land.

The PAUP also includes similar references from which actions can be inferred as being for the greatest good. For example, the introduction explains:

The Unitary Plan provides the council with the tools to manage growth in an integrated way. It balances demand for new housing and business development, the need to strengthen social and physical infrastructure, and the requirement to preserve and protect the places we value. (p. A4)

Section B2.1 (Providing for growth in a quality compact urban form) states, “[t]he primary policy approach is to provide for housing choice and affordability and focus residential and business growth in centres, within neighbourhoods and along frequent transport routes” (p.

B27). This is legitimised by the explanation that “urban growth needs to make the best use of existing significant infrastructure” (p. 27). This reference to needing to “make the best use of ...” can be inferred, albeit weakly, as a means to achieve the greatest good for the greatest number because it is making the best use of existing infrastructure.

There was a mixed response to the utilitarian premises for a compact city in submissions on the PAUP with some in support and some opposing. For example:

It is appropriate to enable medium and high density residential development where there are the services, amenities, transport and infrastructure to support that intensification. [C₂₇₆]

Hello can some one please please wake up and see the effect that multiple effect of this unitary plan all over our city "The most liveable city" imagine the extra cars, noise, loss of sun, loss of trees, burden on the infrastructure, public services like water, sewers, parks and schools. The traffic is terrible now- imagine 200,000 = 300,000 more people!!! I hope this can be changed before we get too far - it genuinely is a serious set of oversights the council has made with this Unitary Plan. More study needs to be taken to document the black future reality this will create [sic]. [I₄₇₃]

Utilitarian values were most strongly seen in the retained affordable housing provisions of the PAUP. It states:

The objectives and policies recognise the need to intervene in the housing market to increase the supply of housing that is affordable to households in the intermediate housing market. The priority given to the intermediate housing market recognises and complements the role government plays in the provision of social housing and the broader objective of the Unitary Plan to increase the supply of housing and neighbourhoods that provide a wider range of market rate homes. (Chapter B, section 2.4)

Utilitarian values can also be inferred in the IHPAUP reports. For example, the Panel states:

the Panel considers it critical to the long-term well-being of people and communities in the region that the Unitary Plan enables a development pattern that is capable of meeting residential demand over the long term, and that it errs toward over-enabling capacity. (IHPAUP, 2016, Overview, p. 51)

Although not explicit, the idea of erring on oversupply aligns with seeking the greatest good for the greatest number. The amended AUP reflects this position.

(c) Cost-Benefit Analysis

As noted in Chapter Three, CBA is a utilitarian tool used to assess the extent to which policy can “maximise the aggregate benefits accruing to society’s members while minimizing the costs they bear” (Williamson, 2010, p. 57). The S32 report, by virtue of the legislation it is mandated under, displays the strongest evidence of utilitarian values (through cost-benefit analysis) informing policy. It is a requirement under the RMA to identify and assess the costs and benefits of provisions within a policy statement or plan, to determine whether they are the most appropriate way to achieve the purpose of the act, or the objectives of the plan (section 32, RMA, 1991). For each of the provisions in the PAUP, alternatives were considered. Each alternative was assessed in terms of its appropriateness, effectiveness, efficiency, costs, benefits, risks, as required by Section 32. In the introductory section to the Section 32 report, where it describes the improvements to planning outcomes as a result of the Section 32 process it notes that “good resource management outcomes are achieved, at the lowest practicable cost to individuals and the community” (S32, Section 1.5, p. 15) – a direct application of the utilitarian CBA.

(d) The public interest

One of the premises on which utilitarianism is based is that it is a way for government to overcome individualism by focussing on the public interest. When Bentham conceived the idea of utilitarianism In the late 18th Century he believed that citizens should be persuaded or coerced into actions for the public interest (Campbell & Marshall, 2002). While much of planning is predicated on working in the interest of the public, this is a concept which Lennon (2017) suggests planning practitioners still grapple with. Lennon’s view is evident by the lack of references to public interest in the documents.

The role of government in considering the public interest is mentioned once in the 2012 spatial plan. I referred earlier to the libertarian counter-claim to the compact city, that there should be unconstrained development capacity (Auckland Council, 2012, p. 286). It is in this discourse, however, that there is reference also to the public (community) good. The 2012 spatial plan states:

In addition to providing sufficient unconstrained development capacity, options include: ... considering other options such as betterment levies, which capture for the community a proportion of the uplift in value that accrues to individual developers as a result of a change of use or development. **Local or central government could choose to assign a proportion or all of the revenue collected to subsidise affordable**

housing; in the same way, it could decide to assign the revenue raised to another community good. (Auckland Council, 2012, p. 286. Emphasis added)

The PAUP (2013) contained only one reference to public interest (“maintaining the ability to host other cultural events of public interest that are considered appropriate in the setting of Ōkahu Bay”), not in relation to compact city policy.

The IHPAUP also refers to public interest. It states:

The statutory purpose of the Unitary Plan is to promote and achieve the sustainable management of natural and physical resources. In advancing that purpose: ...

- d. the imposition of a substantial private burden normally requires the presence of a compelling public interest and the method of imposing the burden should be the least restrictive means of serving the interest ((IHPAUP, Overview, 2016, p.36)

This again, with its reference to the need to choose the “least restrictive” “private burden”, presumably a reference to planning interventions, reflects a more libertarian rather than utilitarian view of public interest. However, the section 32 report also stated, “the principal thing that Resource Management Act 1991 objectives, policies and rules should address is managing the effects of people’s activities on their neighbours and the environment” (p. 37). This reflects the confusion to which Lennon (2017) refers. It acknowledges the need for intervention in the public interest, but this need is undermined by the proviso that it should be the least restrictive approach.

(e) Trade-offs

While trade-offs are to be expected in a plan informed by utilitarian values, references to these were few. They were referenced in some instances, for example:

Currently, persons with disabilities and their families and carers have very little housing choice. There is little purpose built, accessible accommodation beyond that provided by social housing providers, and adaptations are difficult and expensive. ... Faced with limited options, many households are forced to make a series of trade-offs in their choice of housing. Recent research has identified the most important choice factors as family needs and commitments, social networks, access to employment, affordability, and quality. (Explanation of Priority 2, SD11, para 622 & 623)

Discourse about trade-offs was also present in the explanation of Priority 4 (improve housing affordability and the supply of affordable housing), where the NZ Productivity Commission was quoted as saying affordable housing:

encompasses the costs of accessibility to work, schools, friends and family – recreation, both by way of the trade-offs households might have to make between dwelling location and transport costs, and in terms of the total demands housing and transport jointly make on household incomes (Productivity Commission). (explanation of Priority 4 – definitions, SD11, p.278)

(f) Summary

This section has highlighted that there are few references to utilitarian values within the discourse of the documents examined, and yet, at the same time, the utilitarian tool, CBA, is a primary tool in the development of the plans. The utilitarian argument evident in the documents is shown diagrammatically in Figure 15.

Using the criteria and standards (described in section 7.3.3) the *extent* to which utilitarian values inform plan content could be described as having minimal influence, as it was an argument premise that did not have a strong presence in important plan provisions. However, because of the statutory recruitment for CBA as part of the Section 32 evaluation reports, it has been evaluated as highly influential.

There were no references to planning for those who are least advantaged within the utilitarian discourse, and/or the role of planners as advocates for the least advantaged. This is not unexpected given that the premise of the greatest good for the greatest number can in fact be exclusionary for minority groups. The *focus* of this discourse has therefore been evaluated as “not focussed”.

In evaluating the *merit* of this the utilitarian argument, the pursuit of a compact city as a means of ensuring the efficient use of infrastructure and providing housing choices to meet people’s preferences is rationally persuasive. The section 32 report is one means of ensuring that the premises of the provisions that make it into the plan are rationally persuasive. It should be noted here, according to Fairclough and Fairclough (2012), arguments can be rationally persuasive but not necessarily sound (“deductively valid and has true premises” (p. 37)).

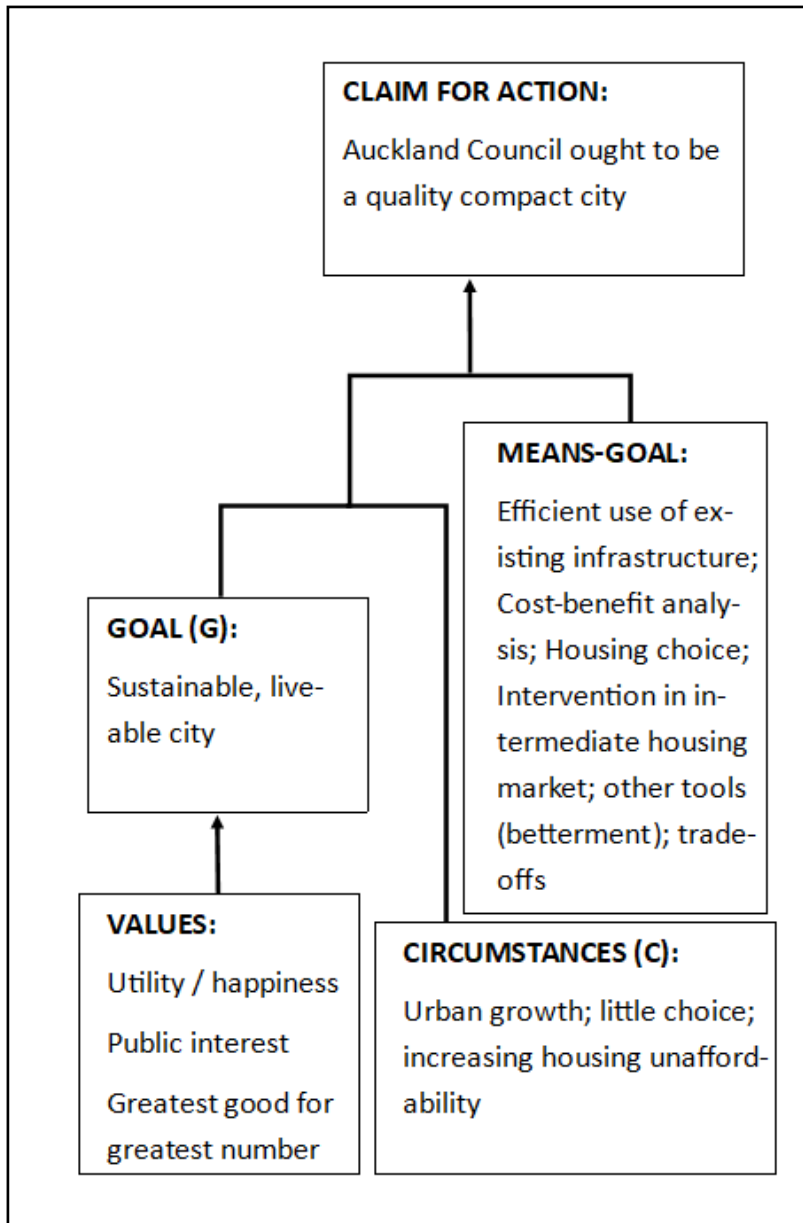


Figure 15: Utilitarian Reasoning in Auckland Planning Discourse

On the degree to which the utilitarian arguments in the plan are rationally persuasive, there is nothing in the discourse to suggest negative consequences. Yet the literature describing the utilitarian premise of seeking the greatest good for the greatest number notes that it can also potentially lead to negative consequences for some individuals. It would be in the discussion on trade-offs where such consequences could be made explicit, but the discourse was largely silent about the trade-offs required to achieve the greatest good.

In terms of whether the argument is dialectically reasonable, it could be expected that this would be evaluated positively given the statutory consultation process and subsequent

Hearings process that the development of the statutory plans have gone through. However, there were several submitters who were not persuaded by the arguments in the PAUP and/or s32 report. It is unlikely all concerns were resolved dialectically, and therefore the utilitarian argument cannot be evaluated as either dialectically reasonable or rhetorically effective.

8.4 Rawlsian values

References to Rawlsian values, based on the idea that “people would choose equality of distribution rather than unequal arrangements” (Fairclough & Fairclough, 2012, p. 193) and a focus on the needs of the least advantaged, are present within the documents evaluated. Of the Rawlsian indicators identified in the literature review the ones that had particular relevance to the suite of documents evaluated were *fairness, equity, least advantaged* and *basic liberties*.

(a) Justice as fairness / Equity

Rawlsian values are strongly recognised within the 2012 Spatial Plan. From the beginning of the plan, and its vision to be one of the world’s most liveable cities, the idea of justice as fairness is evident. One of the outcomes sought by 2040 is “A fair, safe and healthy Auckland”, and in the explanation of this outcome the plan notes:

Auckland is a strong and equitable society. Social and economic disadvantage has been significantly reduced, particularly for children and young people. Strong whānau and family units sustain our resilient communities. Participation in civic activities, recreation, and sport is widespread and supported by an excellent range of public services, parks and sporting amenities. (Auckland Council, 2012, p.32)

Within the High-Level Development Strategy (part of the 2012 spatial plan), one of the four key elements, D3, is “moving to a quality compact Auckland to accommodate high population and economic growth” (Auckland Council, 2012, p.37). In the associated explanation this document stated:

broadly defined as the quality of urban structure, building and housing design, the design of public places and amenities, and the qualities of a city/region that make it an attractive and desirable place. It also means a fair distribution of standards of living. (Auckland Council, 2012, p.37)

As noted earlier (Chapter Three), Rawls (1999) principle of liberty states: “[e]ach person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a

similar scheme of liberties for others” (p. 53). The specific definition of quality in the 2012 spatial plan, with its reference to “a fair distribution” resonates with this Rawlsian principle.

The first Strategic Direction to achieve Council’s vision is to “Create a strong, inclusive and equitable society that ensures opportunity for all Aucklanders”, reflecting, perhaps, the pursuit of Rawls’ “original position”. In the explanation of this directive, it states:

To realise the capability of our diverse population and communities, we must be a fair and inclusive city, and an accessible and well-connected city, in keeping with the Universal Declaration of Human Rights. (Auckland Council, 2012, p. 70)

The explanatory text also highlights that:

To make Auckland fair and inclusive we must address:

- inequality, exclusion and disadvantage experienced by individuals, families, whānau and communities
- inter-generational disadvantage; by ensuring that children and young people are given the opportunity to reach their potential so that they do not experience disadvantage as adults
- structural discrimination; by involving more Māori, Pacific and ethnic community peoples, and persons with disabilities, in positions of decision-making and influence, including as electoral candidates. (Auckland Council, 2012, p. 74)

The 2012 spatial plan also identifies children as a particularly vulnerable group. The explanation of Priority 1 (SD1) states:

Children and young people who grow up disadvantaged are more likely to have poor educational achievement, poor health outcomes, and be unemployed on leaving school. This is wasted potential, and has social and economic costs to society, with a diminished quality of life overall. Spending on children should not be considered a cost, but an investment in the future of the country. (explanation, priority 1, SD1, para 196)

As well as its focus on fairness, the plan discourse also highlights a focus within the 2012 Spatial Plan on those who are least advantaged, a theme discussed further in the next section.

Justice as fairness is also within the discourse of the PAUP and other documents. One of the outcomes sought by the 2012 spatial plan (“A fair, safe and healthy Auckland” (Auckland

Council, 2013, p. 30)), is given effect through the provisions in the PAUP for 6 of the eight identified issues of regional significance – although there are no specific references to fairness.

Although perhaps not explicit about justice as fairness, the discourse of the 2018 spatial plan also adheres to this view. Under the Belonging and Participation outcome Council wants to “[f]ocus investment to address disparities and serve communities of greatest need” (Auckland Council, 2018, p. 45). In the summary of this outcome, it states:

For Auckland to be a place where people continue to want to live and work, all Aucklanders must have the opportunity to succeed. This means we need to be on a path that will lead to everyone being able to belong and to participate in society. It also means a path to equity where all people can share in Auckland’s prosperity. (p. 47)

(b) Least advantaged

The documents tell a story of Auckland having “a strong and equitable society” (Auckland Council, 2012, p.32) while also referring to the inequities that exist within the Auckland area. The 2012 spatial plan suggested “transformational shifts” (p. 33) were needed to achieve the Council’s vision, one of which was to “[s]ubstantially raise living standards for all Aucklanders and focus on those most in need” (p.34). It reflects a Rawlsian view of favouring the least advantaged.

In the PAUP (2013) a focus on the least advantaged was particularly evident in the provisions for affordable housing. The RPS objective (B2.4(1)) and supporting policies refer to meeting the needs of current and future, low to moderate income households. In this proposed version of the AUP, the subsequent district plan provisions required a proportion of new dwellings to be retained affordable housing in new developments – although in the objective the focus switches from the least advantaged to the intermediate housing market. The rationale appearing to be that for the least advantaged social housing is available, as it stated:

The priority given to the intermediate housing market recognises and complements the role government plays in the provision of social housing and the broader objective of the Unitary Plan to increase the supply of housing and neighbourhoods that provide a wider range of market rate homes (PAUP, 2013, p.B35).

Considering the circumstantial premises (unprecedented urban growth, increasing housing unaffordability, and increasing inequality), the logic that the least advantaged will be provided for elsewhere is not overly persuasive. Although the plan notes these retained affordability

provisions were intended to complement other provisions, they did not survive the plan development process, and were removed by Council on the IHPAUP's recommendation (discussed further in Section 8.7.2). The report of the IHPAUP referenced counter-arguments such as the redistribution effect of the retained affordable housing provisions and referring to them as "effectively being a tax on the supply of dwellings" (Overview Report, IHPAUP, 2016, p.59).

In the RPS of the operative AUP, it is Council's policy to "[e]nable a sufficient supply and diverse range of dwelling types and sizes that (11) meet the housing needs of people and communities, including: (a) households on low to moderate incomes; and (b) people with special housing requirements" (AC, 2016, Chapter B2, p. 7), which maintains a focus on the least advantaged.

The 2018 spatial plan has multiple circumstantial premises to planning for those who are least advantaged (as described earlier). It also references the least advantaged in its guiding provisions. For example, focus area 6, under the Belonging and Participation outcome, is a call to "[f]ocus investment to address disparities and serve communities of greatest need" (Auckland Council, 2018, p. 45). In the explanation of this it states:

Focusing our efforts to address disparities and communities of greatest need means doing more to achieve equitable outcomes for all Aucklanders. When people feel disadvantaged in relation to other individuals or communities, it reduces social cohesion and affects the development of a sense of belonging, which in turn reduces the likelihood of community and civic participation. (p.61)

In the summary of this outcome, it states:

For Auckland to be a place where people continue to want to live and work, all Aucklanders must have the opportunity to succeed. This means we need to be on a path that will lead to everyone being able to belong and to participate in society. It also means a path to equity where all people can share in Auckland's prosperity. (p. 47)

Under the Homes and Places outcome (Auckland 2050), focus area 5 suggests a need to "[c]reate urban places for the future", and in doing so, the plan again acknowledges that the Council needs to "focus investment in areas of greatest need, such as areas of particularly high population density, or areas characterised by underinvestment" when looking to create public places and spaces. Under the Belonging and Participation Outcome, Focus Area 6 under these Directions is a call to "[f]ocus investment to address disparities and serve communities of greatest need" (AC, 2018, p. 45).

(c) Basic Liberties

Explicit within Rawls' (1999) second principle of liberty is reference to a right to "equal basic liberties" (p. 53), and housing is one such basic liberty to which the documents refer. In the 2012 spatial plan it states, "children are entitled to the basic needs of love, shelter, food and safety, as well as education and skill development, to instil confidence and pride" (p. 69). In the PAUP, this is continued. In the explanation of the issue relating to urban growth it states:

Access to warm, dry and affordable housing is a basic human need. (Auckland Council, 2013, p. B2)

Meeting Auckland's needs means we need more choices and options around how and where we live. (Auckland Council, 2013, p. B2)

The objectives and policies recognise the need to intervene in the housing market to increase the supply of housing that is affordable to households in the intermediate housing market. (Auckland Council, 2013, p. B35)

The IHPAUP, following hearings into the PAUP and in its report on urban growth (Report 13), recommended "a policy for affordability in Section B2.3 which promotes sufficient supply and a diverse range of dwelling types and sizes to meet the housing needs of different people and communities" (IHPAUP, 2016, p.12). This policy reads: "to enable a sufficient supply and diverse range of dwelling types and sizes that meet the housing needs of people and communities" (AUP, 2016, Policy B 2.4.2(11)).

In the 2018 spatial plan, it infers that housing unaffordability is impacting on basic liberties. It states the "[h]igh housing costs can mean there is little left over to meet basic needs such as food and heating, particularly for lower-income renters" (Auckland Council, 2018, p. 112).

The documents therefore have some recognition of basic liberties, and in particular housing.

(d) Summary

This section has highlighted several references to most Rawlsian values within the discourse. The Rawlsian argument is shown diagrammatically in Figure 16. The Rawlsian argument, particularly with regard to the provisions relating to retained affordable housing, is challenged by the libertarian values held by the IHPAUP, and various Government submitters (discussed further in section 7.4.2). As deliberations on the PAUP reached their end, it was the libertarian argument that held sway.

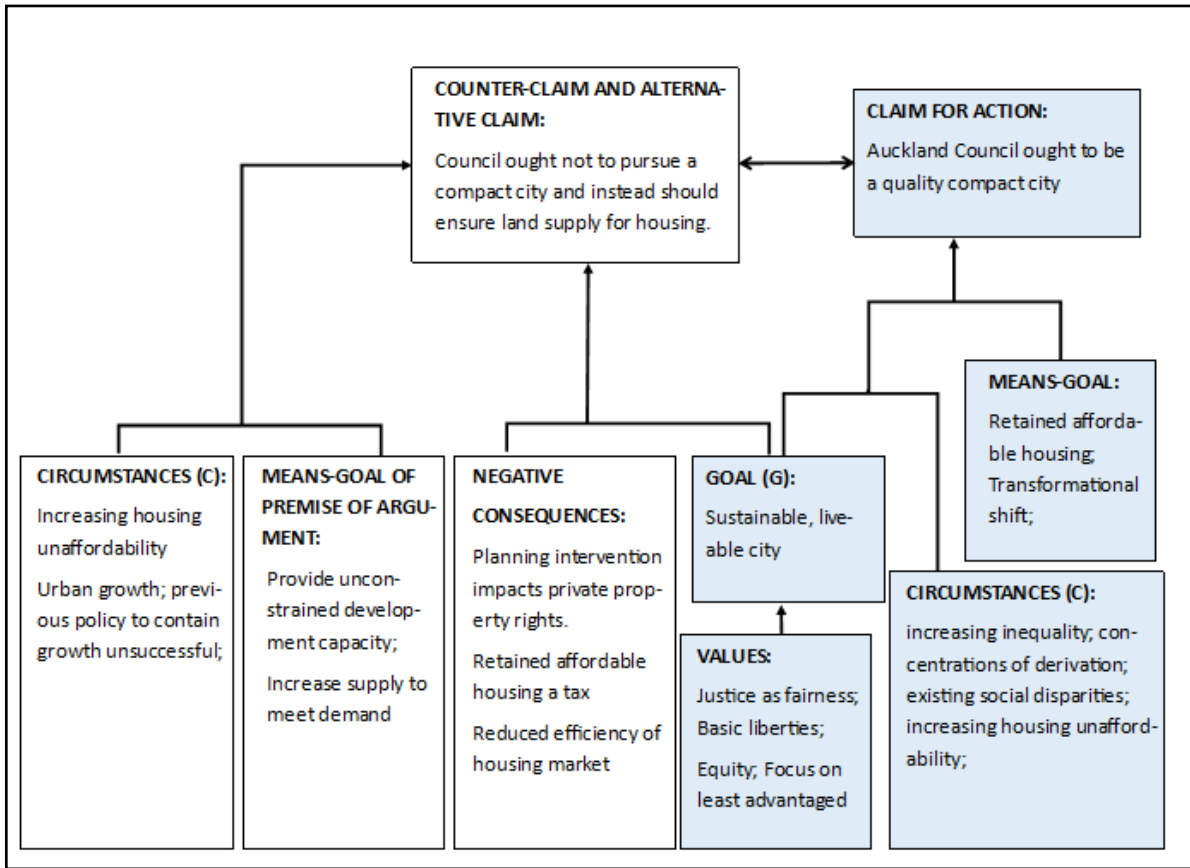


Figure 16: Rawlsian Reasoning in Auckland planning discourse (shaded)

Using the criteria and standards (described in section 7.3.3) the extent to which Rawlsian values inform plan content could be described as having partial influence on plan. There were multiple references to least advantaged within the Rawlsian discourse, many of which were in the more important plan provisions, and as such has been evaluated as having a strong focus.

The Rawlsian argument in the Auckland planning discourse is a rationally persuasive argument. It is premised on an almost utopian ideal of Auckland being a “strong and equitable society” (Auckland Council, 2012, p. 32), and provides good reasons for wanting to achieve this outcome, including addressing inequality, intergenerational disadvantage and structural discrimination. Its implementation calls for a transformational shift to achieve the vision of a quality compact city, and in the PAUP, retained affordable housing was one of the means-goals within the argument. That this provision did not survive the plan development process may indicate that it was not a rhetorically effective argument, but it was grounded on good reasons (Fairclough and Fairclough, 2012, p. 52) making it rationally persuasive. Because the Rawlsian argument failed to persuade the IHPAUP or the Auckland Council in its favour, with regard to retained affordable housing at least, it cannot be evaluated as being rhetorically effective. The

IHPAUP recommended the retained affordable housing provisions be removed, and this was accepted by the Council. It did however go through a statutory process and was subject to critical questioning by submitters and the IHPAUP, and the Council (when considering the IHPAUPs recommendations). The issue was resolved but not in line with the Rawlsian argument, so it cannot be evaluated as being a dialectically reasonable argument.

8.5 Values associated with a Capability(ies)approach

In the approach to justice, conceived by Sen and elaborated on by Nussbaum, capabilities describe what people have the opportunity to do. References to values associated with Sen and Nussbaum's capabilities approach were also quite strong in some parts of the documentation. Of the Capability(ies) indicators identified in the literature review, the ones that had particular relevance to the suite of documents evaluated were *capabilities and opportunity, agency and respect*.

(a) Capability(ies) and Opportunity

As noted earlier, Nussbaum (1999, p. 234) refers to the capabilities approach as being one where a person can live a "dignified free being" (p. 234), one that they can shape themselves. The earlier spatial plan establishes this as a line of argument, making multiple references to peoples' capabilities, and focusing on what they have the opportunity to do. Its vision – to be the world's most liveable city – resonates with the capability(ies) conception of justice. For example, the 2012 spatial plan references "[g]rowing social and economic inequalities [which] have contributed to Auckland's economic underperformance" and notes that:

If all Aucklanders have the opportunity to reach their potential, this will reduce the possibility of social unrest. Everyone will need to participate in the economic life of the city if it is to thrive in the intensely competitive environment that will characterise the global economy of 2040. (explanation, Chapter B, para 57)

This is further argued in Strategic Direction 1 (SD1), to "create a strong, inclusive and equitable society that ensures opportunity for all Aucklanders" (Auckland Council, 2012, p. 68). In the explanation of SD1 there are multiple references to ensuring opportunities for people to reach their potential, for example:

To realise the capability of our diverse population and communities, we must be a fair and inclusive city, and an accessible and well-connected city, in keeping with the Universal Declaration of Human Rights. (p. 60)

To make Auckland fair and inclusive we must address:

- inter-generational disadvantage; by ensuring that children and young people are given the opportunity to reach their potential so that they do not experience disadvantage as adults. (p. 74)

Our children and young people are the top priority. As their guardians, it is our responsibility to ensure that every child can reach his/her full potential. (p. 69)

Auckland expects we will work together to care for, nurture and support each other to fulfil our potential. (p. 69)

Strategic Direction 6 of the 2012 spatial plan was to “develop an economy that delivers opportunity and prosperity for all Aucklanders and New Zealand” (p. 150). These filtered down into the PAUP as “Issues of Regional Significance” (p. B1), but specific evidence of Sen and Nussbaum’s conceptions of justice were not strongly present in that document.

Opportunity was also directly referenced in an RPS Objective:

A quality built environment where development, including subdivision, across the site, street, block, neighbourhood and city scales: ...

- b. provides for a rich mix of choice and opportunity for our communities and can adapt to changing needs (diversity);

(Objective 1, section 2.2, PAUP, 2013, p. B29)

This objective survived the hearings process and is included in the operative AUP as Objective B2.3.1(a)(c).

In the 2018 spatial plan (Auckland 2050), “Belonging and Participation” is one of the specific outcomes sought. Evaluation of the discourse in this section of the plan shows a strong underlying capability(ies) approach to justice. Direction 1 seeks to “foster an inclusive Auckland where everyone belongs” and Directive 2 is to “improve health and wellbeing for all Aucklanders by reducing harm and disparities in opportunities” (Auckland Council, 2018, p. 45). Focus Area 6 under these Directions is to “Focus investment to address disparities and

serve communities of greatest need” (p. 45). Most of the focus areas under this outcome resonate with the capability(ies) approach to justice. In the explanation of Direction 2 it states:

We must also address structural discrimination by encouraging a more diverse range of people in positions of decision-making and influence ... It’s not just a matter of putting social systems in place. Individuals and communities need active support to ensure that they can make the most of opportunities and have the skills and resources to make positive changes. To improve the health and wellbeing of all Aucklanders, we must work together to remove barriers, eliminate discrimination and disadvantage and provide meaningful opportunities and choices for all. (p.50)

Another outcome in Auckland 2050 seeks “opportunity and prosperity” where “Auckland is prosperous with many opportunities and delivers a better standard of living for everyone” (AC, 2018, p.172). Under this outcome, focus areas include:

Harness emerging technologies and ensure equitable access to high quality digital data and services. (p. 172)

Increase educational achievement, lifelong learning and training, with a focus on those most in need. (p. 172)

In the explanatory text it states that “Culture and practices need to change to ensure learning opportunities are available, starting in early childhood and extending throughout life, so that continuous learning becomes second nature” (Auckland Council, 2018, p. 173).

There is a particularly strong narrative throughout the 2018 spatial plan.

(b) Agency

Agency is “the ability [of a person] to achieve their goals” (Dang, 2014, p. 461), and it is a concept with some currency in urban planning. Most commonly, in the context of the documents examined, agency is referred to in terms of iwi having rangatiratanga, the right to self-determination. For example, the 2012 spatial plan states:

Māori culture and identity is celebrated by all Aucklanders and is our point of difference in the world. Te Tiriti o Waitangi/ Treaty of Waitangi is appropriately recognised and given effect with Māori in Tāmaki Makaurau exercising their rangatiratanga/ self-determination. (p.33)

Within the AUP are multiple references to opportunities. For example, in the issues relating to Mana Whenua (Chapter B6) one issue was “increasing opportunities for Mana Whenua to play

a role in environmental decision-making, governance and partnerships” (Chapter B6, Auckland Council, 2016, p. 1). Addressing this issue is policy B6.2.2(1), which seeks to provide “opportunities for Mana Whenua to actively participate in the sustainable management of natural and physical resources including ancestral lands, water, sites, wāhi tapu and other taonga” (p. 2). It is also Council’s policy under the AUP to “[e]nsure that any assessment of environmental effects for an activity that may affect Mana Whenua values includes an appropriate assessment of adverse effects on those values” (Policy B6.3.2 (3)) and “[p]rovide opportunities for Mana Whenua to be involved in the integrated management of natural and physical resources” (Policy B6.3.2 (4)). Recognising rangatiratanga is also an objective within the AUP (see Objective B6.2.1(3)(c)).

The 2018 iteration of the spatial plan has many references to rangatiratanga, and it is listed as a principle relevant to local government (p. 26).

While these references are not specific to compact city policy, they are about planning processes generally, making them quite significant in the discussion on ethics informing urban plans.

(c) Respect

Nussbaum (1997) describes respect as including “non-discrimination on the basis of race, sex, ethnicity, caste, religion, and national origin” (p. 288). Respect is a value that comes through multiple of Auckland’s planning documents. For example, the 2012 spatial plan states:

Understanding and respect for our shared social values aid successful settlement. Recognition of Māori as tangata whenua and Treaty partners, women’s equality, children’s rights, rights of persons with disabilities, acceptance of those of ethnic, cultural, sexual and religious diversity, are some of the key values that are important to Aucklanders. (p. 89).

As an ethical dimension, respect in the Sen and Nussbaum sense does not come through strongly in the PAUP, the IHPAUP reports, submissions or the AUP, but it does reappear in the 2018 spatial plan.

In the explanation of the Belonging and Participation Outcome, it states:

We need to be proactive to ensure a sense of belonging and positive life experiences for all Aucklanders. We need to be open to learning about and valuing differences, and to understanding our shared and different histories. This will lead to living together with

greater acceptance, trust and mutual respect, and people working together to create a shared future. (p.46)

Later, in the explanation of Focus Area 1, it notes that “[w]hen people connect and interact they learn about other cultures, practices, languages and abilities. This leads to more trust and greater respect for differences” (Auckland Council, 2018, p. 52). Elsewhere it notes “[b]uilding strong positive relationships based on understanding and mutual respect will help strengthen Auckland’s bicultural foundation” (p.59), and “respecting and embracing differences are part of treating diversity as strength ... We need to encourage intercultural approaches, where cultures exchange and interact constructively, and there is universal respect for human dignity” (p. 60).

(d) Summary

This section has highlighted that there are some references to the values associated with Sen and Nussbaum’s capability(ies) approach. Values relating to enabling capability and opportunity were strong in the 2018 spatial plan, but less so in the RMA plans (i.e., the PAUP and the subsequent AUP). As an approach to justice, it does not emerge as a strong and stand-alone argument within the suite of documents (refer Figure 17), but elements of it were in important provisions of the plans. Because of that, and using the criteria and standards, the *extent* to which values associated with a capability(ies) approach to justice inform plan content could be described as being somewhere between partially and highly influential on the plan content.

The premise of Sen and Nussbaum’s work is the need to ensure everyone has the opportunity to do what they want to be able to do. The *extent* of the influence of this approach to justice in the documents is described as minimal, however it was possible to infer strong but implicit references to planning for the least advantaged within the plan content.

In terms of the merit of the capability(ies) argument in Auckland planning discourse it has been evaluated as being rationally persuasive (refer Figure 17). This is because it describes circumstances of structural discrimination and international disadvantage, and highlights that increased and equitable access to opportunities for all is key to addressing these circumstances. There was no evidence of significant disagreement in the submissions, or from the IHPAUP, which suggests that the capability(ies) argument is also dialectically reasonable. It is been evaluated as being rhetorically effective on the grounds that subsequent to the earlier documents (the 2012 spatial plan, the PAUP and the subsequent AUP), the latest iteration of the spatial plan (2018) includes a specific and explicit Outcome that “[a]ll Aucklanders will be

part of and contribute to society, access opportunities, and have the chance to develop to their full potential” (Auckland Council, 2018, p. 45) and essentially committing the Council to being proactive about providing “positive life experiences” (p. 46).

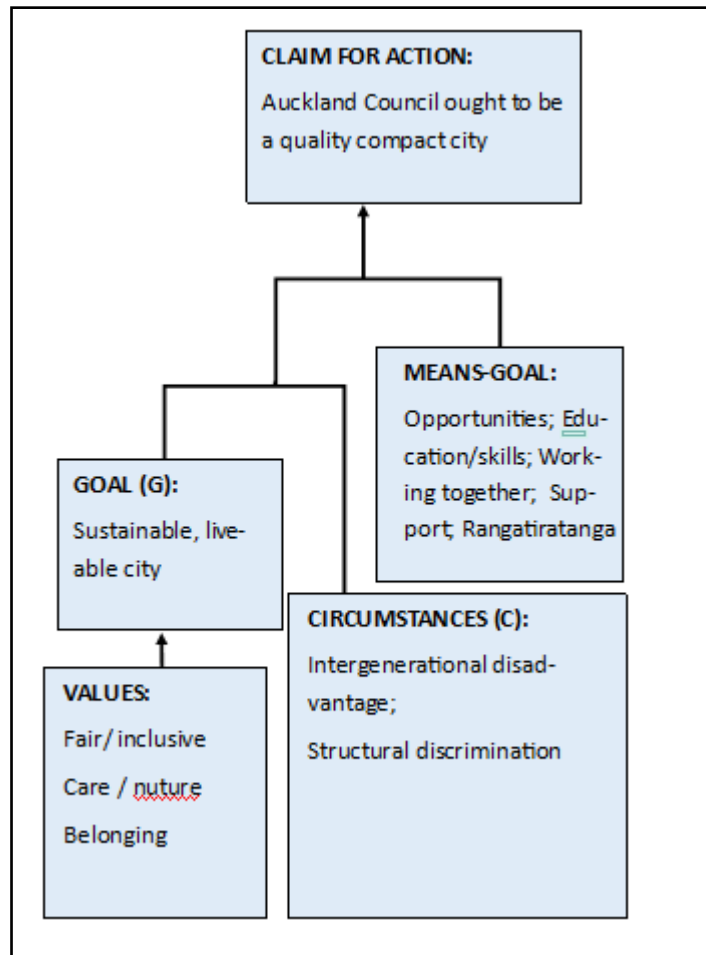


Figure 17: Capability(ies) Reasoning in Auckland Planning Discourse

8.6 Communitarianism

References to communitarian values in the suite of documents was surprisingly strong in the earliest spatial plan. Communitarianism places the ‘community’ as the heart of planning. Of the Communitarian indicators identified in the literature review the ones that had particular relevance to the suite of documents evaluated were *Community-led*, and *participation*.

(a) Community-led

Strong communitarian values were evidence in the 2012 spatial plan. The introductory chapters refer to the need for “commitment from many organisations, groups and individuals” for the successful implementation of the plan (explanation, Chapter A, paragraph 1). There are multiple references to “Aucklanders” and the community of Auckland, and the role they have played in the development of the plan. For example:

The Auckland Plan describes the kind of place Aucklanders have told us they want, and outlines what is needed to achieve it. All Aucklanders, not just the Auckland Council, will need to ensure that the changes Auckland experiences over the next 30 years are catalysts for enhancing our prosperity and quality of life. This can only be accomplished through working in partnership, and through a shared commitment to achieving the outcomes that will make Auckland the world’s most liveable city. We are committed to shaping our growth to support Aucklanders, rather than allowing growth to shape our lives in an unmanaged way. (explanation, Chapter A, para 5)

Strategic Direction 1 seeks to “create a strong, inclusive and equitable society that ensures opportunity for all Aucklanders”. One of the priorities listed under this direction is to “[s]trengthen communities” (priority 3, page 68), and Directive 1.10 is to “support community-led development and work with communities to develop leadership, skills and capacity”, (p. 86). Explanatory text includes:

People are at the heart of this plan (explanation of SD1, para 175)

Community-led development features strongly in this Plan, because international and local experience shows that actions to address economic, environmental and social challenges are most successful when ‘owned’ and led by communities. Such development empowers individuals and communities by building their leadership, capacity, skills and resources. (explanation of SD1, para 175)

Community-led development (whether place-based communities or communities of identity or interest), encourages people to work together to bring about change in their communities. It empowers communities by removing barriers, building capacity and capability, developing resources, increasing resilience, and growing collective leadership. It requires actions that deliver a quadruple bottom line of economic, social, cultural and environmental benefits. Community-led development underpins the implementation of the Auckland Plan. (explanation of Priority 3, SD1, paragraph 227)

The PAUP continues to reflect strong communitarian values. For communitarians, individuals cannot be separated from the community to which they belong (Browning, 2002; Hofman & Graham, 2006). There are multiple references to ‘community’ within this document stemming in part directly from the purpose of the RMA, and its definition of sustainable management, which includes reference to enabling “people and communities to provide for their social, economic, and cultural well-being and for their health and safety” (s.5, RMA, 1991). However, many of the references about enhancing community or neighbourhood vitality are proposed to be brought about by changes *to* the residential environment as opposed to changes brought about *by* the residents in that community – so not quite reflecting communitarian values. For example, Issue Statement 1.1, which relates to the increasing urban population, states “[t]his means we [Auckland Council] must manage our growth in a way that: enhances quality of life for individuals and communities” (p. B2). In the operative version of this document, the same issue appeared as “[g]rowth needs to be provided for in a way that does all of the following: (1) enhances the quality of life for individuals and communities” (chapter B2, p. 1).

The PAUP (2013) also refers to the need for comprehensive planned developments to achieve a well-planned quality community (see Policy 2.3(5), RPS, p.B32). Again, this does not reflect the community-led aspect of communitarian values, neither did it survive into the operative version of this plan.

There was reference to communitarian values in the submissions on the PAUP (2013). For example, this submitter refers to the value they placed on community-led decision:

I have just discovered that the Unitary Plan does not include all the detail that was negotiated with the old North Shore City Council for the protection of Long Bay and its environs. ... An enormous amount of community energy and care went into the negotiations over the protection of this area and to lose the result would be an insult to the people who worked so hard to achieve something halfway effective not to mention would jeopardise the area for ever. ... To have hard fought conditions for the protection of a park disregarded in this fashion is completely unacceptable and would diminish my opinion of the Council. [I₂₂₅]

Despite these examples, references to community-led decision making are few in the larger suite of documents explored: perhaps they were taken for granted, or deemed unnecessary, given the statutory requirement for community input into decision-making on plans.

(b) Participation

Participation is a cornerstone of communitarianism. Regarding participation by communities, there are multiple references to ‘participate’ (with stemmed words) in the PAUP. Many of these refer to the participation of mana whenua. For example, “effective Māori participation in democracy” is included as a goal of the Māori responsiveness Framework (explanatory text, p. A11). This is not unexpected given the requirement in section 8 of the RMA to take into account the principles of the Treaty of Waitangi – one of which is a principle of participation. In the RPS, one of the issue statements includes “Mana Whenua participation in resource management decision-making, and the integration of mātauranga Māori and tikanga in resource management is of paramount importance to ensure a sustainable future for Mana Whenua and for Auckland as a whole” (Issue statement, section 1.4, p.B12). The supporting objective is “Mana Whenua can exercise Tino Rangatiratanga through participation in resource management processes and decisions” (Objective 5.1(2), p.B88). The subsequent policy: “Provide opportunities for Mana Whenua to actively participate in the sustainable management of ancestral lands, water, air, coastal sites, wāhi tapu and other taonga, and natural and physical resources” (Policy 5.1(1), p.B88). These provisions were retained in some form in the AUP (2016).

The reports of the AUPIHP also refer to the level of community participation in the plan development process stating:

The scale of participation in this process demonstrates the importance of the Plan to Auckland. The commitment of submitters was significant, all the more so from the many individuals and community groups who came forward to express their views directly, despite the challenges of the hearing process. This investment by all these people in the Plan establishes a foundation for it as one of the essential planning documents for Auckland. The range of contributions ensures that many different points of view have been focussed on making the Plan the most appropriate planning provisions for Auckland, by enabling people and communities to provide for their well-being while ensuring that the effects of their activities on the environment are properly addressed. (Overview Report, IHPAUP, 2016, p. 5)

In the sample of submissions examined for this thesis, there were some that submissions reflected communitarian values. For example:

Community input on whether effects are “less than minor” [should be] given same weight as that of paid lawyers, traffic/noise engineers and planners. [I₃₇₉]

I oppose the Terraced Housing and Apartment Buildings (THAB) zone in or around the Town and Local Centres as they should only be applied to larger centres, and this zone should only be applied following very strong endorsement after full and meaningful consultation by the residents within those areas. [I₃₀₇]

However if we need to intensify and not keep on sprawling, it must be done with the knowledge of the local community and in areas near good quality public transport, and with the provision of other amenities e.g. health, education, jobs and enough open space. space. All new developments should be notified, not just to immediate neighbours but to the local community who should have a say in any major changes in their area. [I₃₇₉]

The PAUP is amended to include as a minimum precinct plans for the entire area of Orewa East and preferably for all areas where residential or commercial intensification is proposed. This should have been done in consultation with the community prior to notifying the PAUP, therefore consideration should be given to a means of ensuring this consultation occurs. ... Ignoring reports such as "Increasing Housing Density in Single Detached Neighbourhoods," not listening to the community and giving too much credence to developers and some planners is likely to result in something other than the "best result". [NGO₂₆₂]

I note in the plan summary that, where people held strongly opposing views in the March round of feedback, council has sought to get the two sides together. I commend council for that approach. It might have been tempting to simply ignore both! On the other hand I still don't see mention of any response to the concern that the unitary plan did not seem to be sufficiently coordinated with transport and infrastructure plans. [NGO₁₁₅]

In the 2018 spatial plan, communitarian values are also strong. In addition to the discourse on Auckland's Māori community, there is also increased recognition in this plan of the Pacific community and other ethnic groups. Belonging and Participation is one of the key outcomes sought from this plan where all Aucklanders will be part of and contribute to society, access opportunities, and have the chance to develop to their full potential. Focus Area 1 seeks to "create safe opportunities for people to meet, connect, participate in and enjoy community and civic life" (Auckland Council, 2018, p. 45). Focus area 3 (also under the Belonging and Participation outcome) is to "support and work with communities to develop the resilience to thrive in a changing world" (Auckland Council, 2018, p. 45). In the explanatory text, the plan

notes that active communities can “take the lead”, that “many people expect to have a more active role in decision-making when decisions affect their wellbeing, their home, community or area of interest” (Auckland Council, 2018, p. 45). To work towards this focus area, the Council acknowledges that:

Efforts and investment to support local leadership and community resilience can provide support to and share decision-making with local people and organisations so they can actively shape, influence, lead and be part of what happens in their communities and how it happens. (Auckland Council, 2018, p. 57).

Auckland 2050, the 2018 spatial plan also acknowledges that:

Supporting local leadership is a key way to support communities in decision-making. Local leadership requires a more locally-centric approach, increasing the range and quality of relationships and developing a better understanding of local aspirations and needs. This involves building on and developing local communities’ existing strengths and assets. (Auckland Council, 2018, p. 57)

(c) Summary

This section has highlighted that there are some references to communitarian values. For example, community-led decision-making and participation were a strong influence in the plans discourse. Borrowing and repurposing a term that Grant (2009) uses to describe how planners say one thing and development does another, there was some evidence of a “say-do gap” (p. 20). The plans strongly endorsed the participatory, community-led approach, yet the submitters felt more consultation was required. In terms of plan content however, using the criteria and standards, the *extent* to which communitarian values inform plan content could be described as partially influential on plan content.

In terms of the second standard used to evaluate content, *focus*, there were no explicit references to planning for the least advantaged within communitarian arguments in the discourse. Instead, the references to participation and community-led decision making were generic, or specifically relating to the involvement of Mana Whenua (stemming from Te Tiriti o Waitangi principles as opposed to a view that Māori are least advantaged).

In considering the merit of the communitarian premise in planning, the argument was found to be rationally persuasive in that there were multiple references to the need for community input and putting people at the heart of developments. However, much of the discourse reflecting Communitarian ethics was about the value that participants added to the process, as opposed

to the value of communities leading the process – a subtle but important difference, and which impacted on the degree to which the argument was rationally persuasive. However, as this section has shown, there is a strong commitment to participatory processes within planning discourse over and above what is statutorily required, and hence the argument has been assessed as being rationally persuasive.

Resolving differences through dialogue is reflective of a dialectically reasonable argument. But in this instance, there were submitters who felt that consultation had not been as effective as it could have been, and details about a site that had been negotiated prior to the PAUP being developed were not included in the document. Because of this, the communitarian argument has not been evaluated as being dialectically reasonable. How rhetorically effective the communitarian argument is difficult to assess. However, as the 2018 spatial plan has evolved it is quite explicit and specific about opportunities for community input and leadership, therefore I have evaluated it as being a rhetorically effective argument.

8.7 Summary: Argument Evaluation – extent, focus and merit

Using political discourse analysis to examine arguments within Auckland’s planning discourse has led to four evaluative findings:

- i. Planning discourse relating to Auckland accommodates multiple ethics
- ii. Only arguments informed by Rawlsian and Capability(ies) ethics are strongly focussed on the needs of the least advantaged.
- iii. The ethical arguments informing Auckland’s planning discourse are rationally persuasive but not “good”.
- iv. The libertarian argument in Auckland’s planning discourse was “good”.

Using the JCPEA to evaluate Auckland’s planning discourse has shown that all five conceptions of justice are present within the discourse to some extent (refer Figure 18). This finding suggests that the documents examined are “accommodating” (Wachs, 2013, p. 102) of multiple ethical positions, which have varying degrees of influence on plan content.

Plan Content:	<i>Not Influential</i>	<i>Minimally Influential</i>	<i>Partially Influential</i>	<i>Highly Influential</i>
Conceptions of justice:				
Libertarian ethics			✓	
Utilitarian ethics				✓
Rawlsian ethics			✓	
Capability(ies) ethics		✓		
Communitarian ethics			✓	

Figure 18: Summary – The extent of influence of justice ethics

If a just city is to be the “appropriate object of planning” (Fainstein, 2005b, p. 126), then a focus on the least advantaged should be present with planning discourse. My findings show that arguments within the discourse, where it was informed by three conceptions of justice (libertarian, utilitarian and communitarian) had no focus on planning for the least advantaged (refer Figure 19). Arguments in planning discourse reflecting a Rawlsian or Capability(ies) approach to justice has a strong focus on planning for the least advantaged.

Plan Content	Focus on least advantaged		
	<i>Not focussed</i>	<i>Weak focus</i>	<i>Strong focus</i>
Conceptions of Justice			
Libertarian ethics	✓		
Utilitarian ethics	✓		
Rawlsian ethics			✓
Capability(ies) ethics			✓
Communitarian ethics	✓		

Figure 19: Summary – The focus of justice ethics

The third evaluative criteria assessed through this political discourse analysis was *merit*. According to Fairclough and Fairclough (2012), for an argument to be a “good” (p. 52) it must be good from three perspectives - a logical perspective (i.e., rationally persuasive), a dialectical perspective (i.e., dialectical reasonableness), and a rhetorical perspective (i.e. effectiveness). These three perspectives were used to evaluate how various conceptions of justice and principles of a just city are used in planning discourse (refer Figure 20). I evaluated these

ethical arguments in the discourse as not being ‘good’. However, the libertarian discourse was evaluated as a “good” argument.

Plan Content:	Rationally persuasive	Dialectically reasonable	Rhetorically effective	A good argument?
Conceptions of Justice				
Libertarian	✓	✓	✓	Yes
Utilitarian	✓	✗	✗	No
Rawlsian	✓	✗	✗	No
Capability(ies)	✓	✗	✓	No
Communitarian	✓	✗	✓	No

Figure 20: Summary – The merit of arguments informed by justice ethics

This chapter has presented the results of part of the political discourse analysis, the first JCPEA method outlined in section 2.4.2(c)(i). It has provided an overview of the extent, focus and merit of arguments invoking various ethics of justice in compact city policy in Auckland. The next chapter follows a similar pattern, exploring the extent, focus and merit of arguments invoking the various just city principles.

Chapter Nine: Evaluating ethics – Just City Principles

9.1 Introduction

For a city to be just, in my extended sense, it is expected that urban plans would strongly resonate with the principles of democracy, diversity, equity, and kindness. In the same systematic way that Chapter Eight explored the extent, merit and focus of arguments invoking various ethics of justice, each of the just city principles is evaluated, and the findings presented. This analysis also falls within step 3 of the JCPEA (refer Figure 21).

In Figure 21, the third JCPEA step, highlighted in yellow, is applied again, this time analysing and evaluating references to just city principles (expansion view in Figure 21). Each of the just city principles are subjected to this analysis, and the findings presented below.

9.2 The Equity Principle

Fainstein describes equity as the most important of her principles. She suggested seven policies in furtherance of equity – three of which have relevance to the subset of Auckland’s urban policy examined in this thesis. They are:

- 1) All new housing development should provide units for households with incomes below the median, either on-site or elsewhere with the goal of providing a decent home and suitable living environment for everyone ...
- 2) housing units developed to be affordable should remain in perpetuity in the affordable housing pool or be subject to one-for-one replacement ...
- 7) Planners should take an active role in deliberative settings in pressing for egalitarian solutions and blocking ones that disproportionately benefit the already well-off.

(Fainstein, 2010, p. 172-173)

Equity is addressed variously within the documents evaluated, and with regard to the provision of affordable housing raising some interesting questions about where the power lies (a point discussed further in Chapter Ten). The conception of justice that most closely aligns with this just city principle is Rawlsian.

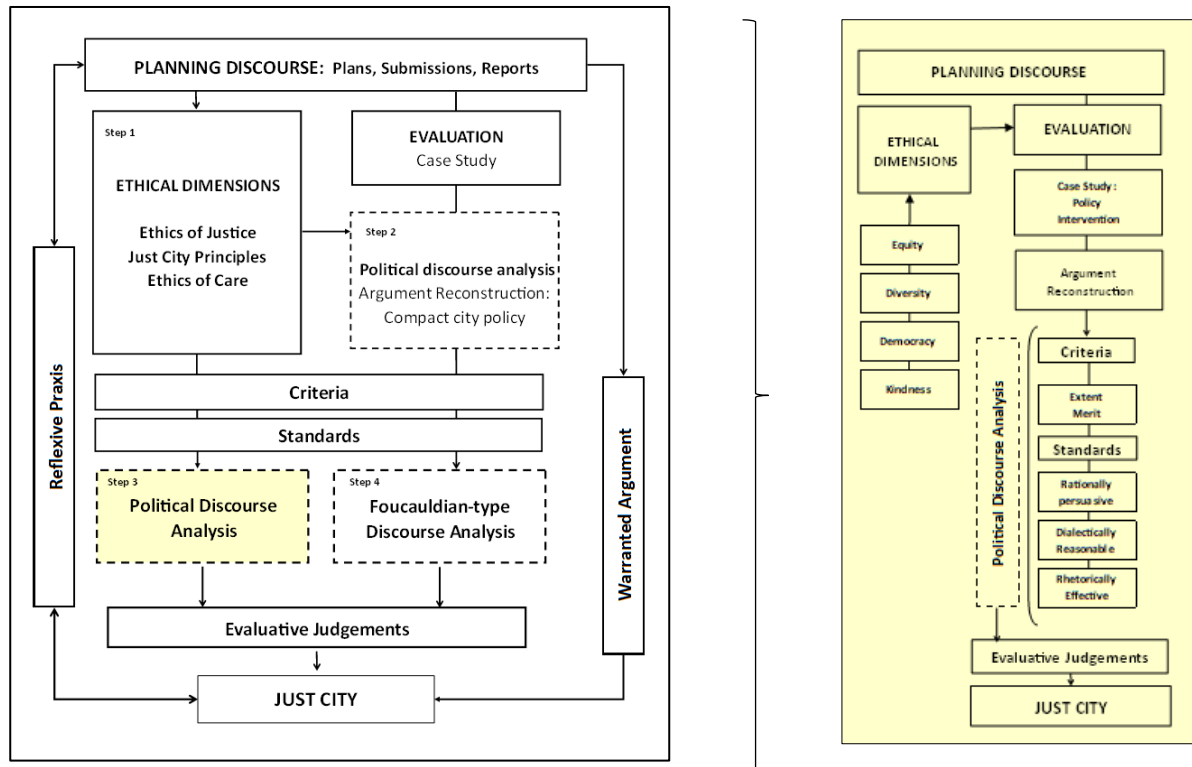


Figure 21: JCEPA Step 3b - Evaluating arguments informed by Just City principles

9.2.1 Equity (general references)

In the 2012 spatial plan, arguments about ‘equity’ are equivocal. On the one hand, the plan claims that:

Auckland is a strong and equitable society. Social and economic disadvantage has been significantly reduced, particularly for children and young people. Strong whānau and family units sustain our resilient communities. Participation in civic activities, recreation, and sport is widespread and supported by an excellent range of public services, parks and sporting amenities. Our housing is of high quality and the incidence of health problems arising from damp, cold, overcrowded and inadequately insulated

living conditions has reduced significantly. Auckland is well prepared for the risk posed by natural hazards and the effects of climate change. (explanation, paragraph 62)

On the other hand, Strategic Direction 1, which seeks to create a strong inclusive and equitable society, and its supporting directives and the explanations, tell a different story: “inequality in New Zealand had grown faster than in any other developed nation since the 1980s” (paragraph 189); “to make Auckland fair and inclusive we must address inequality, exclusion and disadvantage experienced by individuals, families, whanau and communities: inter-generational disadvantage ...; and structural discrimination” (Auckland Council, 2012, p. 74).

Equity, in a general sense, does not come through strongly in the PAUP (2013) as it is not a term used often in the document. Despite this, the S32 report states that it seeks to “create greater equity by applying the same provisions for the same activities in similar locations” (Auckland Council, 2013, p. 17). This suggests the plan content was influenced by the principle of equity. However, the content of some submissions on the PAUP contest this. They raise issues about the equity of higher density provisions. Many making the presumption that these were for the least advantaged. For example:

What you are doing is intensifying in the worst possible way, concentrating on the poorer areas which are already suffering due to terrible transport links, to build apartments but no one wants to live in an apartment in these areas! They want to live in apartments in Ponsonby and Grey Lynn and Parnell and Remuera but those areas are too rich for you to mess with so they remain relatively unharmed despite being on prime public transport routes. The whole of the central west should be zoned for apartments before [I₃₁]

The people most affected by this [higher density] will be those in poorer suburbs which are already disadvantaged. People in wealthier suburbs are more likely to have the money, the education and the resources to fight to keep their heritage and their privileged environments. [I₃₇₉]

Concern was expressed about the location of areas zoned for higher density. For example:

Focussing intensification in poorer neighbourhoods with little by way of existing amenity is likely to result in very low quality building stock that detracts from the liveability of the city. [I₃₁₆]

... I am living in a lower decile area that doesn't have a big voice unlike the other side of Onewa Rd (Birkenhead & Northcote Points) which is all noticeably 'single house' zoned

although it's proximity to public transport is considerably better i.e. Ferry & bus services. (I₃₃₁)

However, a counter-view was also expressed in the submissions on the PAUP:

We applaud council for its initial bold vision for a sustainable future for Auckland but were disappointed by Council's reduction in densities and lessened extent of high density zoning around Auckland [I₁₇₉]

Regulatory methods are not the most effective and efficient means of increasing the supply of "affordable housing" and it is not appropriate for the RMA to purport to advance this [C₂₈₅].

This small selection of comments from submitters highlights the mixed response to higher densities in pursuit of a compact city, with some suggesting it is inequitable, and others in support.

In the consideration of these submissions, equity does not come through explicitly as a premise in the arguments for compact city policy. Nor did it feature in the reasoning within the IHPAUP reports or AUP. However, equity is a key premise behind compact city policy in the 2018 spatial plan. For example:

Giving life to te Tiriti o Waitangi in the Auckland Plan contributes to a more equitable future for Aucklanders and generations to come. (p. 24)

As the population grows and successive generations of families experience inequity, the impact will be more visible and harder to change. Adopting an 'equitable' approach means prioritising the most vulnerable groups and communities to achieve more equal outcomes. (explanation of Focus Area 6, Auckland Council, 2018, p. 61)

Housing availability and costs are major contributing factors to the rise of inequity in Auckland. (explanation of Focus Area 6, Auckland Council, 2018, p. 61)

It is relation to this last reference that the principle of equity comes to the fore.

9.2.2 Affordable housing policy

One of the policies Fainstein (2010) considers essential to further equity within a city relates to the provision and retention of affordable housing units. In the PAUP there are numerous references to retained affordable housing. In the explanation of Issue Statement 1.1 (Enabling quality urban growth) the plan states:

Access to warm, dry and affordable housing is a basic human need. Auckland's popularity and continued growth in recent years has meant that housing is becoming increasingly unaffordable and out of reach for a large majority of first time home buyers. The issue is complex and influenced by a range of factors. (PAUP, 2013, p.B2)

It is Council's objective that "Neighbourhoods contain quality homes that help meet the needs of current and future, low to moderate income households (RPS, Chapter B, Section 2.4, Obj. 1, p.B34). To achieve this objective are two policies: to "[e]ncourage residential development to provide a range of dwelling types and sizes that help meet the housing needs of households on low to moderate incomes, including social housing and lower cost, market rate housing", and to "[r]equire new largescale residential development within the RUB and encourage all other development to provide a proportion of dwellings that are affordable for the intermediate housing market" (AUP, Chapter B: RPS, section 2.4, Policies 1 & 2, p. B34). The explanation of these objectives describe housing as "fundamental to Aucklanders' social well-being and providing a range of housing choice is necessary for building thriving, mixed communities" (p. B34). It also recognises the legitimacy of planning, acknowledging "the need to intervene in the housing market to increase the supply of housing that is affordable to households in the intermediate housing market" (p. B35), suggesting this "complements" (p. B35) the social housing initiatives.

Auckland's district-wide objectives (Chapter C) included that "[t]he proportion of dwellings that are affordable in the intermediate housing market is increased across Auckland" (AUP, Chapter C, Section 7.8, objective 1, p. C83). The policies to achieve this are to:

1. Require a proportion of new dwellings to be retained affordable housing in new largescale residential subdivision or residential development within the RUB.
2. Provide for retained affordable housing that is similar in external design to market rate housing within the development and that is located throughout the development. (PAUP, Chapter C, Section 7.8, Policies 1 & 2, p. C83)

The method to achieve these policies was regulatory. Section 6.6 of Chapter H (Auckland-wide Rules) set out the specifics, requiring 10% of housing developments of 15 dwellings or sites to be "retained affordable housing", or the entirety of a framework plan area (Chapter H, Section 6.6, Rule 1.1(1), p. H299). Other rules related to the location, securing and eligibility of retained affordable housing. There were other policies that referred to affordable housing elsewhere in the plan, but the key point is that the Proposed AUP was informed by values of equity as

demonstrated by these policies and provisions for affordable housing policy to further equity, in line with Fainstein's concept of the just city.

The retained affordable housing provisions were removed from the final version of the AUP following the recommendation of the IHPAUP (discussed further in Chapter 10.3.3). The operative AUP instead provides for affordable housing through its RPS policy to "enable a sufficient supply and diverse range of dwelling types and sizes that meet the housing needs of people and communities, including: (a) households on low to moderate incomes; and (b) people with special housing requirements" (Policy B2.4.2(11)). In the explanation of these provisions, it states:

Housing affordability is a significant issue in Auckland. These objectives and policies, as one component of the many things that need to be done to address this issue, seek to enable urban growth, improve development capacity and encourage a variety of housing types and sizes as resource management methods to improve housing affordability. (AC, 2016, Chapter B2, p. 14)

For Fainstein the inclusion of affordable housing was a key policy in furtherance of equity, but it can be concluded that the IHPAUP's recommendations were not informed by this principle. In their report, it states "there are no provisions of affordable housing in the residential section of the Panel's recommended version of the Plan" (IHPAUP, Residential Zones, 2016, p. 24). These reasons for this included:

The Panel considers the Unitary Plan is best able to promote affordable housing by ensuring there is adequate feasible enabled residential capacity relative to demand, there is a range of housing types enabled in many locations, the Plan supports the centres and corridors strategy, and that the Plan does not impose undue implementation costs. ... The Panel was persuaded by the submissions of the Ministry for Business, Innovation and Employment and Housing New Zealand Corporation, among others, that the affordable housing provisions as proposed by the Council would likely reduce the efficiency of the housing market due to effectively being a tax on the supply of dwellings and be redistributive in their effect. **The Panel is of the view that the imposition of land use controls under the Resource Management Act 1991 is not an appropriate method for such redistributive assessments and policies.** (Overview Report, IHPAUP, 2016, p.58-59. Emphasis added)

This reliance on the market to provide affordable housing is contrary to Fainstein's principle of equity. Consequently, the AUP does not contain provisions to further equity in terms of

affordable housing. It is also an about-turn on the reasoning provided in the Section 32 report and the acknowledgment of the need to “intervene in the housing market” (p. B35) as discussed earlier.

The 2018 spatial plan, which should inform future iterations of the AUP continues to acknowledge the inadequacy of the market when dealing with issues of housing affordability. It states that the “market” has “failed to supply the number and types of housing to meet Aucklanders’ needs” (Auckland Council, 2018, p.90). Tying into a capability(ies) view of justice, it states:

For Auckland to be a place where people continue to want to live and work, all Aucklanders must have the opportunity to succeed. This means we need to be on a path that will lead to everyone being able to belong and to participate in society. It also means a path to equity where all people can share in Auckland’s prosperity. (Auckland Council, 2018, p.47)

The directions to achieve this include Direction 2, to “Improve health and wellbeing for all Aucklanders by reducing harm and disparities in opportunities”. In the explanation of this Directive, the plan states “we must address inequity, exclusion and disadvantage experienced by individuals, whānau and communities” (Auckland Council, 2018, p.50). It presents a very Fainsteinian view of the just city. Focus Area 6 (under Direction 2) seeks to “focus investment to address disparities and serve communities of greatest need” (p. 61). In the explanation of this focus area the plan states:

Housing availability and costs are major contributing factors to the rise of inequity in Auckland. Rising housing costs increase neighbourhood segregation on the basis of wealth. Many people, particularly older people, young people, and people on low incomes are being priced out of their current community or cannot afford to hold on to their property. This can break social connections and support networks and add to the difficulty of finding employment or achieving educational success. This in turn limits the opportunities for social mobility and contributes to inter-generational disadvantage. Providing for a range of housing types and tenures in new developments helps support mixed neighbourhoods. (Auckland Council, 2018, p.61)

This need to address housing affordability is further presented in the 2018 spatial plan under its “Homes and Places Outcome” (Auckland Council, 2018, p. 89). The Council signals that it plans to “shift to a housing system that ensures secure and affordable homes for all” (Direction 3, p. 89)). It states that the housing system is not working for many Aucklanders and that

Auckland has “one of the least affordable housing markets in the world” (p. 90). The explanatory text suggests that this “points to the need for more state housing, and other social housing, such as housing provided by community housing providers or housing for older people provided by the council, for example” (p. 95).

The reasoning in the 2018 spatial plan seems to pick up on the point made by submitters, that housing costs increase segregation. While not going so far as referring to retained affordable housing, the content of the 2018 spatial plan also rebuts the earlier arguments of the IHPAUP in their recommendation (which was accepted by Council) which suggested that interventions other than those relating to the supply of land for housing, would reduce the efficiency of the housing market.

9.2.3 Summary

Against the criteria and standards, the *extent* to which a principle of equity influences Auckland’s urban plan content could be described as highly influential. This is because of its inclusion in spatial plan directions, focus areas and explanatory text, and because of the inclusion and subsequent removal of retained affordable housing policy from the AUP. Although ultimately these provisions were not successful, their consideration was significant in the development of the AUP.

The *focus* of the discourse informed by a principle of equity was, unsurprisingly, on planning for the least advantaged. The 2018 spatial plan uses a phrase, which I have borrowed to describe the impact of this focus on the least advantaged, and which highlights the effect of discourse informed by the principle of equity:

When people feel disadvantaged in relation to other individuals or communities, it reduces social cohesion and affects the development of a sense of belonging, which in turn reduces the likelihood of community and civic participation. (Auckland Council, 2018, p. 61)

Given that this principle of equity aligns closely with the Rawlsian ethics, and in terms of *merit*, the evaluative judgements are the same for similar reasons (refer section 8.4(d)).

9.3 The Diversity Principle

Auckland’s urban plans shows a significant number of references to diversity. As noted earlier, Fainstein (2010) describes diversity as denoting differences in housing typologies, mixed land-

uses, as well as differences in class and ethnicity. She uses the term to encompass the built environment as well as the social environment, which is reminiscent of Greed (1999) who suggested that the reason planners are concerned in the physical, built environment is because it enhances human welfare. To this end, Fainstein, in her concept of the just city considers that policy should strive for recognition and acceptance of difference. In the discourse informing Auckland's urban plan, there is recognition of diversity, a necessity for "just diversity" (Fincher and Iveson, 2008, p.38) and a starting point for considering ethics in policy.

9.3.1 Recognition of Diversity

The 2012 spatial plan includes multiple references to various aspects of the diversity principle in both substantive higher-order provisions as well as the explanatory text. Auckland's diverse population was touted in the early chapters as a selling point with economic benefit:

the diversity of Auckland's population, and the global reach of its firms and institutions, link New Zealand with the dynamic economies of the Asia Pacific region. (explanatory text, paragraph 27)

Our diverse and growing Asian communities have revitalised whole neighbourhoods and provided a wide range of experiences (food, arts, festivals) that have become part of life in Auckland. Their business connections have strengthened our international focus – which is critical to Auckland's future success. (explanation, Chapter B, para 32)

Auckland's future lies in being an international city amongst other international cities ... embraces its increasing diversity of cultures and lifestyles. (explanatory text, paragraph 87)

Valuing and celebrating our complex diversity will enable Auckland to be viewed as a city of prosperity and opportunity, and an inclusive, safe, tolerant city, which promotes equality. In this way, Auckland will continue to attract and retain people to live and invest here. (Explanation of SD1, para 186)

Recognising the value of diversity, the 2012 spatial plan suggests that "Aucklanders are generally accepting of and inclusive towards the city's diverse communities" (p. 86), although this was tempered by the use of the word *generally*, and subsequent recognition that some groups might be/feel excluded, and that there was a need for "[d]etermined, positive collective action ... to ensure everyone feels included, and can contribute to Auckland" (explanation of Directive 1.10, SD1, para 230).

Multiple aspects of diversity were recognised in the plan, for example:

Understanding and respect for our shared social values aid successful settlement. Recognition of Māori as tangata whenua and Treaty partners, women's equality, children's rights, rights of persons with disabilities, acceptance of those of ethnic, cultural, sexual and religious diversity, are some of the key values that are important to Aucklanders. (p. 89)

Māori in particular are recognised as contributing to the diversity of Auckland's population:

Whilst the rich diversity of our people is a source of pride, Māori hold a special place in our identity. The Treaty of Waitangi underpins many aspects of public life in the city. Through the treaty settlement process and subsequent partnership agreements, local iwi are playing a more prominent role in shaping Auckland's development, and are emerging as economic powerhouses in their own right. Less formally, traditions such as haka are increasingly recognised world-wide, and spark an interest in authentic Māori cultural experiences that many international visitors seek to satisfy upon their arrival in Auckland. (p. 21)

With regard to physical diversity in housing, the plan explains that "As Auckland grows and develops, a range of living environments must be provided for our diverse population" (p. 242). Directive 10.4 then seeks to "[l]ocate and develop greenfield areas as sustainable liveable neighbourhoods in a way that: provides a broad range of housing choice to cater for the diversity of housing needs in Auckland" (p. 246).

Under Strategic Direction 11 ("House all Aucklanders in secure, healthy homes they can afford" (p. 268)), priority 2 is to "Increase housing choice to meet diverse preferences and needs" (p. 268). To achieve this, Directive 11.2 seeks to "Improve access to first home ownership through advocacy by Auckland Council to central government" (p. 271). In the explanation of this directive, it states:"

Auckland's households, families and communities are increasingly diverse. Housing must cater for different life stages, cultures and families/whānau of different sizes and types. Ideally, the mix of housing in a neighbourhood should allow people the choice of a suitable dwelling within the same community as they move through different life stages" (p. 272).

In the PAUP, most of the references to diversity relate to the physical environment. The explanation of Issue Statement 1.1 ("Enabling Quality Urban Growth" (p. B2)) states:

Our sense of place and belonging comes from Auckland's rich diversity. Our urban fabric includes historic buildings and places, as well as special character areas such as Ponsonby and Devonport. We also have many distinctive towns, local centres and places of interest such as Warkworth and Clevedon. Our challenge is to retain this sense of place while providing for growth and development. (p.B2)

The Residential Zone descriptions refer to diversity of land uses or housing typologies and uses zoning as the means to achieve this. However, its use in relation to social relations are few. The introduction to the plan acknowledges that "Auckland's diverse population also has different housing requirements, which is not always met by the market" (p. A4). It seeks to accommodate those requirements through housing supply and facilitating housing choice. Later, in the explanation of Issue Statement 1.1, with reference to Auckland's sense of place it states:

We need to consider urban form and design, and sustainability outcomes to maximise economic opportunity and wellbeing, social wellbeing, cultural diversity and environmental health. These disciplines are critical in ensuring developments provide:

- high quality urban living experiences with sufficient amenities
- a range of housing to accommodate a diverse population
- mixed use, vibrant and coherent high density centres
- visibility of Auckland's cultural diversity in urban design
- increased travel choices and a reduction in reliance on private vehicles.

(PAUP, 2013, p. B2)

Not all of those involved in the planning process welcomed aspects of recognition of diversity. For example, one submitter felt the Council had gone beyond what was required for consultation with Māori, asking the Panel to "examine this problem in detail so that the UP may reflect fair dealings with all sectors of the population" [NGO₂₅₂].

In the deliberations by the IHPAUP on the meaning of a quality compact city, its understanding of diversity related specifically to the built environment:

The concepts of identity and diversity, as explained in the Auckland Plan, diverge with the former seeking to maintain character while the latter seeks to encourage differences. (Report 013 Urban growth, IHPAUP, 2016, p. 11)

Nevertheless, in Auckland planning discourse, the idea of difference as an integral part of the environment is strongly recognised in the 2018 spatial plan. Under the Belonging and Participation Outcome, Direction 1 is to "[f]oster an inclusive Auckland where everyone

belongs” (p. 48), and in the explanation of this, “[t]he more Aucklanders trust each other, the more connected, productive, and thriving they are likely to be” (p. 48). To do this, a number of focus areas are listed, including Focus Area 6 “[r]ecognise, value and celebrate Aucklanders’ differences as a strength” (Auckland Council, 2018, p. 45).

9.3.2 Distribution

In relation to diversity, the literature highlights the different ways a population can be distributed in residential environments (Massey & Denton, 1988). Population clustering and concentration are two examples of distribution patterns. The PAUP refers to clustering and concentration of land uses, but not of populations. It does however seek to distribute social housing throughout new developments; Rule 6.6 (1.2) states, “the retained affordable housing must be spread throughout the development, with no more than three in any one cluster” (Rule 6.6(1)(1.2)). Although this provision was deleted by the Council (following the IHPAUP’s recommendation), the assessment criteria for this rule noted:

Some clustering of retained affordable housing within a site may be preferable where the dwellings are managed by one entity and from an operational perspective, clustering will provide long-term benefits in terms of management and maintenance of the retained affordable housing. (PAUP, 2013, p. 299)

There is no explanation of this rule. However, in relation to clustering, the S32 report includes a reference to concentrations of deprivation. As a resource management-related outcome resulting from a lack of affordable housing it notes:

concentrations of lower cost / lower income neighbourhoods in particular areas of the city can increase demand for inefficient public transport services (for example to serve hard to get to areas separated from employment areas) and increased demands for additional public services like community facilities to overcome issues of disadvantage. (S32, Section 2.21, p. 2)

In the Auckland 2050 spatial plan it states:

mixed tenure communities reduce spatial inequality and bring about wider benefits such as de-stigmatisation of an area, social cohesion and better health outcomes. These have positive multiplier effects that: • help enhance the sense of belonging • induce positive, participatory actions • improve access and connectivity • create opportunities for sustained prosperity. (p. 110).

9.3.3 *Social Cohesion*

Social cohesion is another term referred to in the diversity literature. It is an aspect of a just city that was lost when the “segregation of homogeneous districts was the governing orthodoxy” (Fainstein, 2005a, p. 3). Yet it is a value inherent in planning discourse and is used within Auckland’s planning discourse.

The 2012 spatial plan included cohesive communities as a “[l]iveability indicator” (p. 359) to aspire to, and as an element of a “safe city” (p.84). One of the claims for action in the 2012 spatial plan, that informed compact city policy, was that “[d]eveloping more compact urban neighbourhoods supported by quality networked infrastructure offers opportunities to create healthy, stimulating, and beautiful urban environments” (p. 42). These aspects of a compact city, it suggested, would “in turn enhance social cohesion and interaction by attracting people across all demographic groups to a mix of cafés, restaurants, shops, services and well-designed public spaces” (p. 42). This argument, that a compact city will result in “greater social cohesion”, was also used in the section 32 report (Report: 2.1 Urban form and land supply - section 32 evaluation for the Proposed Auckland Unitary Plan, Auckland Council, 2013, p. 25). It was also listed as a social benefit of urban containment for one of the growth scenarios contained in the same report, i.e., “[t]he use of a RUB [rural-urban boundary] allows for greater community confidence and cohesion” (p. 32). It repeats again in the 2018 spatial plan, which describes concentrated activity in city centres as bringing “diversity and vibrancy into the urban environment” which then “enhances interaction and social cohesion” (p. 206).

In the PAUP, the term cohesion is used explicitly in relation to the physical characteristics of the built environment. Yet it is also an aspect of diversity that appears ruptured, which is discussed further in Chapter Ten. It is not a term used in the AUP

Social cohesion was an aspect of diversity that came through strongly in the 2018 spatial plan:

Rapidly growing populations can strengthen social cohesion or undermine it, simply because of the pace of change. Most New Zealanders (74 per cent) agree it is good for society to be made up of people from different races, religions, and cultures. The majority recognise that migrants make an important contribution to New Zealand’s culture, society and the economy.

Social and cultural differences can:

- pose challenges around understanding and social cohesion

- cause individuals or groups to feel isolated and excluded from participating in society.

This can mean that some people are unable to achieve their aspirations, resulting in increasing economic disparity. (Auckland Council, 2018, p.47)

This was in the explanation of the “Belonging and Participation” (p. 45) outcome, and its associated Directions and Focus Areas, refer to safe cities and other aspects of social cohesion.

9.3.4 Zoning

Of the six policies Fainstein (2010) recommends will improve diversity, there is one particularly relevant to compact city policy; “[z]oning should not be used for discriminatory ends but rather should foster inclusion” (p. 174). Although not referenced in any of the statutory documents, a lack of inclusivity as a result of particular zoning was a concept raised by submitters on the PAUP. Concerns were raised that higher density zones would not cater for older persons, those who are mobility impaired or other disabilities. For example:

With the proposed high density around shopping centres/malls there have been suggestions that these multi-storey apartments/attached dwellings will suit young married couples and older couples now on their own whose children have left home and who now require a 'simpler' lifestyle. In the case of the older couples who will probably 'age in place', major consideration must be given to the building codes of these dwellings to ensure adequate egress/ingress for the increasing use of mobility scooters, Zimmer frames, e.g. lifts, ramps, automatic door openers to cater for these residents. [NGO₂₄₂]

Quality built environments contribute to a more equal, inclusive and cohesive society if places, facilities and neighbourhoods are designed to be accessible and inclusive for all who use them. Decisions about design, planning and management can enhance or restrict a sense of belonging; increase or reduce security; promote or reduce mobility, and improve or damage health. Acceptance of poor design of the built environment can have serious impacts on people’s lives. ... The key is to identify barriers to full inclusion as early as possible in the design process so that good design can overcome them. The needs of wheelchair users and mobility impaired people are important and obvious. However, it is also necessary to understand the barriers experience by people with learning difficulties, mental ill health and vision and hearing impairments. One of our key messages is that design solutions that consider the broad spectrum of need benefit everyone. [I₂₂₈]

Section 1. a. 3.1. states a goal of providing affordable housing, but the provisions under 2. d. 1 with the percentages of housing in the various categories and in particular the reduction compared to the draft of Mixed Housing Urban to 10% means that the goal is unattainable. It is essential that a significant proportion of housing is zoned so that housing can be developed on smaller landholdings, because the high price of land and the limits of building sizes mean that extensive amounts of cheaper housing will not be attainable. "Terraces and apartments" (5% of zoned land) almost certainly will not fall into the category of affordable housing. The creation of the separate category for suburban mixed housing has removed a great deal of land from this scope. [I224]

As a member of ... which has an associated housing trust ... which provides more than 1000 affordable housing units for the mentally ill, I am very aware of the problems of financing affordable housing for the mentally ill, which will be seriously exacerbated by the provisions of the unitary plan, I feel very concerned about its impact on the trust. I am also concerned on the impact for young families. I quite appreciate the desire to protect the character of suburban areas, including my own, but the impact of this change of balance will force development even further out into the countryside. [I224]

9.3.5 Summary

Against the criteria and standards, the *extent* to which a principle of diversity influences urban plan content is described as partially influential. This is primarily because of the inclusion of references to diversity in the spatial plans. It has not been assessed as highly influential because it is a principle that was not significantly present in the operative AUP.

The *focus* of discourse informed by a principle of diversity was on planning for the least advantaged. However, again because of its weak presence in the PAUP and AUP, the plan content has been evaluated as having a weak focus on the least advantaged.

In terms of the *merit* of arguments within the plan relating to the principle of diversity, this is harder to evaluate. There are lines of quite compelling argument for aspects of diversity, and yet, in places it is not clear. For example, in the following statement the use of the word inefficient obfuscates the argument:

concentrations of lower cost / lower income neighbourhoods in particular areas of the city can increase demand for inefficient public transport services (for example to serve hard to get to areas separated from employment areas) and increased demands for additional public services like community facilities to overcome issues of disadvantage. (S32, Section 2.21, p. 2)

On the basis of supply and demand theory, it could be expected that increased demand should make public transport more efficient, even when it is to service those in areas that are hard to access.

Much of the discourse relating to diversity is aspirational. It is also anecdotal. For example, and drawing from the quote above, the reference in the Section 32 report to concentrations of deprivation could have drawn on specific circumstances about where such concentrations exist. Hence, in making an evaluative judgement about whether the discourse invoking a principle of diversity are rationally persuasive, I do not think that they are. For the same reason, I do not think that it is dialectically reasonable. Nor is it rhetorically effective, given that the main action to achieve some level of social diversity at least, retained affordable housing, was deleted.

9.4 The Democracy Principle

A discourse associated with the principle of democracy, the third of Fainstein's three just city principles considered here, is strongly present in the documents evaluated. Fainstein suggested three policies that would further democracy, the essence of which related to consultation generally, and also advocacy. This section describes the discourse of democracy within the plans, and the role of consultation in this regard. It also discusses the role of advocacy, in light of Fainstein's suggested policy that "Groups that are not able to participate directly in decision-making processes should be represented by advocates" (p. 175).

9.4.1 Democracy and Consultation

The narrative of the 2012 spatial plan refers to Local Government reorganisation in 2009 as having strengthened "Auckland-wide leadership and provides effective local democracy" (Auckland Council, 2012, p. 10). The Council (following the local government reorganisation) consists of the Mayor and 20 Councillors and "local democracy through Auckland is served by 21 Local Boards" (Auckland Council, 2012, p. 17). Auckland is described as having a "a stable, open, and mature democracy" (Auckland Council, 2012, p. p. 22). This stable democracy makes Auckland (and New Zealand) a "desirable place for both local and national investors. This stability, and the certainty of this 30-year Plan, ensure Auckland is attractive and ready for diverse investments" (Auckland Council, 2012, p. p. 39).

Participation is also strongly expected and encouraged within the plan:

There are many iwi in Auckland (see below). Several agreements [Treaty settlements] are due to be signed by 2014, which will result in increased participation by Māori in matters relating to economic development, co-governance, and community development. This creates an opportunity for local government to work with Māori to ensure just and fair solutions to Māori issues (explanatory text, Chapter A, p.14).

To realise the benefit of increased diversity, new settlers must be able to participate in all aspects of life in Auckland, and access employment that makes full use of their qualifications and experience. This requires collaboration and adaptation from employers, host communities and the migrants themselves. (explanatory text, Chapter B, paragraph 27)

Growing social and economic inequalities have contributed to Auckland's economic underperformance. If all Aucklanders have the opportunity to reach their potential, this will reduce the possibility of social unrest. Everyone will need to participate in the economic life of the city if it is to thrive in the intensely competitive environment that will characterise the global economy of 2040. (explanatory text, Chapter B, para 57).

Auckland is a strong and equitable society. Social and economic disadvantage has been significantly reduced, particularly for children and young people. Strong whānau and family units sustain our resilient communities. Participation in civic activities, recreation, and sport is widespread and supported by an excellent range of public services, parks and sporting amenities (explanation of Outcome – fair, safe and healthy Auckland, paragraph 62).

There are opportunities for all Aucklanders to participate in our vibrant, strong-performing economy. (Explanation, paragraph 64)

In the PAUP, there is a significant number of references to the participation of Māori in democratic processes. This is listed as a goal, suggesting it is not yet occurring. It noted that a result of consultation on the draft AUP, was the identification of “increasing opportunities for Mana Whenua to play a role in decision-making, environmental governance, partnerships and participation” (p. 12) as an issue. Sharing decision-making in some instances is being considered, with the PAUP stating that “a joint design and approval panel is being investigated with equal council and Ngāti Whātua Ōrākei representation” (Chapter F, section 2.16, Auckland Council, 2013, p. F36). The establishment of a joint management agreement between Ngāti Whātua Ōrākei and the council is a policy within the PAUP. Significantly, it was a proposed objective of Council that “Mana Whenua can exercise Tino Rangatiratanga through

participation in resource management processes and decisions” (Objective 5.1(2)), and was supported by policy including, to “[p]rovide opportunities for Mana Whenua to actively participate in the sustainable management of ancestral lands, water, air, coastal sites, wāhi tapu and other taonga, and natural and physical resources ...” (Policy 5.1(1))

Elsewhere, on this theme, the PAUP states:

As Treaty claims are settled, Auckland will move into a new phase where Mana Whenua aspirations are clearly articulated and empowered” (Chapter A, section 1.2, Auckland Council, 2013, p. A2).

Mana Whenua participation in resource management decision-making, and the integration of mātauranga Māori and tikanga in resource management is of paramount importance to ensure a sustainable future for Mana Whenua and for Auckland as a whole. (p. B12)

Mana Whenua often find they are not engaged early enough to participate in the design of plans and policies, and not involved in decision-making which can affect their interests, values, and customary rights. This lack of engagement limits Mana Whenua in their role as kaitiaki. It also minimises the opportunity for the Mana Whenua values associated with specific resources to be understood and addressed through resource management processes. (p. B15)

The strongest RMA mechanisms to encourage greater Mana Whenua participation in resource management are the ability for Mana Whenua and the council to establish joint management arrangements, and for the council to transfer powers over a particular resource to Mana Whenua. (p. B90)

Some submitters however considered this to be undemocratic, for example:

There is considerable disillusionment and concern in the Ratepayers over the influence Māori, "Manu whenua" [sic] (MW) are being granted in the Unitary Plan as it stands. Virtually every section of the PAUP has detailed requirements for Māori (MW) to be involved. (See list at end of document) We are particularly concerned that the Auckland Council has gone far beyond the provisions of the Resource Management Act in the requirements for consultation with Māori (MW) and ask that Panel examine this problem in detail so that the UP may reflect fair dealings with all sectors of the population. [NGO₂₅₂]

Within the PAUP there are also numerous references to the requirements regarding consultation. As part of the S32 report, the role of democracy in the development of the plan is specifically discussed:

The role of democracy and decision making by elected members plays an important part in determining what provisions are including [sic] in proposed RMA plans. As the decision makers on whether to publicly notify the proposed Auckland Unitary Plan the Auckland Council (as a governing body) considers advice and recommendations from officers but is not bound to accept such advice. The section 32 report documents the policy development process, evidence at hand, options considered and the recommendations made to Auckland Council by officers. Where differences exist between what is concluded within a section 32 paper and what has been included for notification in the proposed Auckland Unitary Plan this difference is documented. (Section 32 Report – Part 1, Auckland Council, 2013, p. 8)

The consultation undertaken during the development of the PAUP was also outlined comprehensively, one event described as being “designed to engage with people who would not normally get involved in plan development” (S32 Report – Part 1, Auckland Council, 2013, p. 31). Elsewhere the response to participation was described, “workshops, update reports, a local board forum, local board symposium, direct feedback into early officer’s drafts, participation in mapping workshops, formal local board resolutions have all been used as methods through which local perspectives can be considered” (s32, Introduction, p 8).

Submitters however had differing views about the democratic process associated with the development of the PAUP. From the sample submissions explored the predominant feeling was of a lack of opportunity to participate, or rather a lack of being listened to, for example,

The reasons for my views are: Exactly the same as I outlined in my previous submission but has apparently not been addressed. ...I do not want to live in my neighbours pocket. I do want my rights to be respected. I do not want the elected council to disregard the people that vote them in. Quite simply I feel that what I want is of no concern to your master plan and it doesn't matter how many submissions I produce as it stands I am living in a lower decile area that doesn't have a big voice unlike the other side of Onewa Rd (Birkenhead & Northcote Points) which is all noticeably 'single house' zoned although it's proximity to public transport is considerably better i.e. Ferry & bus services. (I₃₃₁)

I note in the plan summary that, where people held strongly opposing views in the March round of feedback, council has sought to get the two sides together. I commend council for that approach. It might have been tempting to simply ignore both! On the other hand I still don't see mention of any response to the concern that the unitary plan did not seem to be sufficiently coordinated with transport and infrastructure plans. I am also concerned that multistorey housing reflect the best of high density housing overseas, not the worst! A number of people who have lived overseas have expressed to me utter dismay at the unitary plan, suggesting it invites a kind of high density housing which has led elsewhere to terrible social disconnection, crime and a wide range of social problems. I believe Council needs to invest some money and time, before this plan goes ahead, into researching overseas examples of both high density housing that facilitates healthy social connection and high density housing that does not. Then a summary of that research need to be built into the written material of the plan and its findings reflected in the regulations governing housing development. [I115]

The consultation process over the Silverdale RUB was totally inadequate and gave very little time or opportunity to object or change the plan. The first indication I had of the Silverdale RUB was a mailbox drop in July 2013 for a public meeting on 30 July in the Dairy Flat School Hall. The meeting was characterised by the plan being presented as a fait accompli with only token consultation. The meeting was NOT the appropriate forum for meaningful debate, and was only 3 months prior to the plan being notified. A high proportion of attendees at the meeting were very dissatisfied. (I₃₀₈)

We are disturbed at the haste and timing of the consultation period for the changes to the Unitary Plan due to the Christmas/festive season when a lot of people are away on holiday. [NGO₂₄₉]

Why the rush?? I still cannot understand why this is being rushed through. There are so many people unhappy about this. Please slow down and take the time to get it right - which it isn't at the moment. ... Why must the 30 year plan be signed off before the next mayoral election? ... I don't understand why we are rushing this, where there doesn't seem to be enough thought given to how the city will actually cope with another million people living in it - it doesn't cope now (traffic congestion and lack of job opportunities, lack of safety for pedestrians and cyclists). Surely we need to work on this first. ... **The proposed unitary (sic) plan is set to destroy what is good about Auckland. Please slow down the process, roll out intensification in areas that are able to cope!!!!!!!!!!!!!!**... I don't think the UP will make Auckland the most liveable city

at all, but will create slums, and lesser quality of life. I oppose the process of the unitary plan and feel that it is completely rushed and that council is once again not listening to the people of Auckland. (I₁₉₈)

The period of consultation allowed for feedback to the draft unitary plan has been totally inadequate, considering the complexity of the plan, and the significance of its impact on the quality of life in the Auckland region. The level of consultation provided for has been utterly inadequate. The number of consultation meetings in local areas has been inadequate, and they were very poorly publicised, so many interested parties have not had the opportunity to attend. The timing of these meetings was also very inconvenient, with no meetings being scheduled at weekends. Having attended one such meeting, it is also obvious from the pronouncements of the council officials and councillors who have appeared at these meetings, that the council's attitude is that the plan is a done deal, and that the views of any objectors are discounted as self interested nimbyism. Most individual residents do not have a great amount of time to review the fine detail of the plan, or the specialist expertise to assess its probable impacts on their districts and homes, or to prepare formal submissions, and it appears that the council have a deliberate policy of trying to rush the plan through as fast as possible, before the major adverse impacts become apparent to affected parties. The web site provided for feedback is overly complex for the needs of individual submissions, and has obviously been designed by planners, for planners, and with little thought for the needs of individuals. The plan contains too many errors. More consultation and time is required for ratepayers to digest such a complex, multi-layered document, and have their say on what will be the single biggest change Auckland has seen. [I₁₄₂]

I am hearing that even experienced planners (outside of Council of course) are having great difficulty navigating through the text and overlays for this plan, finding it most confusing. I have not attempted to go there. I am grateful that the **Auckland 2040** submission, which I fully support, has covered it in detail. [I₅₂]

This lack of engagement was also highlighted in a submission referred to in the report of the IHPAUP:

While it is not my expectation or sought remedy to ask the Independent Hearings Panel and Auckland Council, to simply reject or abandon the whole Plan, as had been suggested, I am deeply concerned and unhappy with Council's present position, certainly in those areas, where I already expressed particular concerns. Therefore I

oppose the Plan in its notified and also now amended form, which reflects mostly the position taken by Council and a few large, influential submitters. It ignores many valid concerns of less vocal other submitters and further submitters. I consider the altered PAUP needs to be reconsidered and in many parts rewritten, to meet the expectations that I and I believe a fair number of other Aucklanders have. (Excerpt from Report 001 - Auckland wide, IHPAUP, 2016, p. 11)

But other submitters highlighted the value of consultation and engagement:

... praises Council for requesting feedback to the PAUP prior to the notification of the PAUP. ... acknowledges the changes that have been made in response to this feedback. ... generally supports: i) The compact city approach through intensification [IWI₄₉₉]

There are fewer explicit references to democracy in the 2018 spatial plan, although it does state that the Council developed the plan “with, and on behalf of, all Aucklanders” (Auckland Council, 2018, p.5). In acknowledging the diversity of Auckland’s population, it is stated, “this diversity brings many differences in values and lifestyles, demands for goods and services, and expectations of civic engagement and democracy” (Auckland Council, 2018, p.46). It again highlights Council’s responsibilities under the Treaty of Waitangi to share decision making with tangata whenua, and its strong communitarian values imply greater opportunities for input and participation into decision making. It also highlights the lack of participation some, for example “Social and cultural differences can ... cause individuals or groups to feel isolated and excluded from participating in society” (p. 47), and “We must also address structural discrimination by encouraging a more diverse range of people in positions of decision-making and influence” (p.50). Reflecting the strong communitarian focus of this plan, it also states that “local leadership and volunteering are ways that people can be actively involved in their communities. They create a sense of purpose and achievement and help make communities resilient. Participation in civic and community life leads to people feeling that they have influence over the decisions that affect their lives, and a high degree of confidence in their governmental institutions” (p.47). In this plan the discourse seems to align with Fainstein’s suggested policies to further democracy.

9.4.2 Advocacy

Fainstein’s (2010) suggests advocacy for groups that “are not able to participate directly in decision-making processes” (p. 175). Within the suite of documents examined, an advocacy role was present but did not strongly inform the plan content.

In the 2012 Spatial Plan, it highlights the role of the Council as advocate stating that it “will advocate to central government to improve access to first home ownership” (p. 287) as part of its efforts to increasing the supply of and improve housing affordability. The latest iteration of the spatial plan also refers to the role of advocacy, however this is mostly in relation to the work of other participants advocating for certain outcomes. Where it is mentioned in relation to the Council’s role is it less specific, i.e., in the implementation section it states, “Auckland Council contributes to Auckland’s future through its planning, funding, regulatory, advocacy and facilitation functions” (p. 290). In the PAUP, in relation to climate change rather than housing in a compact city, it states that Auckland Council will lead by example and advocate adaptation and mitigation principles to communities.

9.4.3 Summary

The *extent* to which a principle of democracy influences the urban plan content is described as partially influential. The *focus* of discourse informed by a principle of democracy was not on involving those who were least advantaged but was rather more generic. Hence it has been evaluated as have a weak focus on the least advantaged.

In terms of the *merit* of arguments relating to the principle of democracy, there are compelling and consistent arguments about the role of democracy in Auckland’s planning practice. These arguments are rationally persuasive. Whether they are arguments that are dialectically reasonable is harder to fathom. Given the statutory processes that the discourse has been subjected, some differences of opinion have been resolved through dialogue. However, it is unlikely, given the intensely value-laden decisions being made, that all parties would ever reach consensus. Certainly, where dialogue can be attributed to the IHPAUPs recommendations, they have. On this basis it is deemed a dialectically reasonable argument. In terms of whether the arguments are rhetorically effective, the outcome of the AUP development process would suggest that certain arguments invoking the principle of democracy were persuasive. In particular, the recommendations of the IHPAUP were generally accepted by Auckland Council. Yet, there were also some strong arguments from submitters that did not appear to persuade the IHPAUP/Auckland Council, along with dissatisfaction expressed in submissions about the extent and effectiveness of the consultation and democratic process. For these reasons, when making an evaluative judgement, it can be neither positive nor negative.

9.5 An ethic of care – the missing agenda

Kindness, within the context of an ethic of care is a missing principle from the ‘just city’ which I will now bring to the fore. Out of the five conceptions of justice explored as part of my thesis, the principle of kindness aligns most closely with a Capability(ies) approach to justice. The principle of kindness is a value that comes through most strongly in the 2018 spatial plan, although prior to that document there were inferred references to elements of kindness.

9.5.1 *Kindness*

As a value informing compact city policy, the arguments invoking kindness as a means of realising a just city are few, but present, within the 2012 spatial plan. For example, in terms of ‘care’ the explanation of Strategic Direction 1 (create a strong, inclusive and equitable society that ensures opportunity for all Aucklanders), stated:

Auckland expects we will work together to care for, nurture and support each other to fulfil our potential. (Explanation of SD1, p. 69)

All Auckland children are entitled to the basic needs of love, shelter, food and safety, as well as education and skill development, to instil confidence and pride. We need strong, healthy communities to achieve this. This Plan emphasises that families, whānau and the wider community share these responsibilities (explanation of SD1, p. 69, para 176)

A safe city is one where people want to live, work and study. It attracts enterprise and investment, is socially cohesive, and has strong communities where people care for, nurture, support and trust each other (explanation of Directive 1.7, Priority 2, SD1, para 222)

Grandparents and older people contribute as carers of children, and as guides and cultural mentors for young people. Many care for a sick or disabled partner or family member. Although this has many benefits for both older and younger generations, it can cause financial stress, and restrict opportunities for leisure and social activities for the carers. It is important that older people are supported in their roles as grandparents, carers and workers (explanation of Directive 1.11, para 2.38)

Critical hope was one of the themes within the kindness literature, and this could be evidenced in the whakataukī (proverb), in both the 2012 spatial plan and PAUP / AUP (respectively):

Ina hikina e koe te wairua o taku iti, ka taea e koe te ha - pai nga- tu-manako o taku rahi.
ko-ina - te o-haki o ta - maki makaurau / when you lift the spirit in the least of me, you

raise the hope in the whole of me. Let that be the legacy to all of Auckland” (AC, 2012, Explanation of Priority 2, SD1, p. 80).

Kotahi te kōhao o te ngira e kuhuna ai te miro mā, te miro pango, te miro whero. Ā muri, kia mau ki te whakapono, kia mau ki ngā ture, kia mau ki te aroha. / There is but one eye of the needle through which must pass the white thread, the black thread, and the red thread. Hold fast to faith, hold fast to the laws, hold fast to the love. (Kīngi Pōtatau Te Wherowhero) (AC, 2013, PAUP, p.1; and (AC, 2016, AUP, p.1).

In the PAUP (2013) it was the provisions relating to inclusionary housing is where the principle of kindness is most obvious.

The accompanying S32 report described housing “as a resource is fundamental to quality of life, while where and how housing is provided influences the efficiency of urban areas” (S32, section 2.21, p.2). A lack of affordable housing is seen as resulting in “some household's economic and social wellbeing are “disabled” rather than enabled”, reduced efficiency of the business sector due to a reduced labour force, increased demand for public services “to overcome issues of disadvantage”. Although seen as a significant political and community issue, responding to it is an attempt to resolve “significant effects on regional economic and social wellbeing and impaired urban efficiency” (S32, section 2.21, p.3). Although a discourse on kindness was not explicit and was perhaps lost in the mention of regional economic well-being and urban efficiency, it was present in the reference to social well-being. The S32 report goes on to state:

There is a clear need to enable more housing that is affordable to both current and future low to moderate income households. There is growing recognition that good quality, affordable housing is an essential component of strong communities. The health effects of poor housing are the most obvious. If people are forced into poor quality or overcrowded housing then this is likely to have a negative impact on mental and physical health. There is also growing evidence that there is a relationship between poor housing outcomes and a wide range of other social issues including learning deficiencies, crime, unemployment and family stability (S32, section 2.21, p.7).

This reflects those elements of kindness, described in Chapter 4.2, and certainly in the s32 report objectives relating to affordable housing were seen as an appropriate means of achieving the purpose of the RMA.

There is clear evidence of values associated with kindness in the submissions. For example, from a resident of the location about which they refer (hence not self-serving):

To limit the joy of living in such a beautiful area to a privileged few, who have ample land to share with minimal disturbance to neighbours and flora and fauna is both short sighted and unnecessary. [I₂₇₄]

Other submitters also reference values associated with kindness, for example:

Put people first, children's safety around schools, places to play, safe walking and cycling before traffic flow and money money money. Create a safe environment for walking and cycling and stop making the movement of cars a priority. (I₁₉₈)

There should be a minimum number of affordable houses in all new developments. These should be insulated and eco-friendly. It is unacceptable and shameful that children grow up in a first world city in cold, uninsulated and overcrowded houses for which their impoverished parents pay a market rent. And remember that unless something miraculous happens with public transport in Auckland all these apartments are going to have a car or two attached, plus nowhere to grow vegetables or to hang out washing - not very environmentally friendly or sustainable. [I₃₇₉]

- Support for people in less well-off areas to defend their suburbs.
- affordable quality housing for low and middle income families and elderly throughout the city not ghetto-ised like South Auckland
- Re build mean spirited pensioner flats that are well beyond their use by date
- No sacrifice of quality when producing affordable housing
- Considering the impact on children of growing up in apartment without access to a natural ecosystem ...

[I₃₇₉]

In relation to affordable housing, an ethic of care was explicit. For example:

I am very aware of the problems of financing affordable housing for the mentally ill, which will be seriously exacerbated by the provisions of the unitary plan, I feel very concerned about its impact on the trust. I am also concerned on the impact for young families. I quite appreciate the desire to protect the character of suburban areas, including my own, but the impact of this change of balance will force development even further out into the countryside. [I₂₂₄]

Suburbs such as Glen Innes, with high Māori population, when being subject to change need to have appropriate design methodologies applied. If, for instance, individual

houses are to be replaced with high rise accommodation for the same people, community facilities such as new marae should be considered to ensure manaakitanga for whanau and manuhiri can continue to be exercised. [I₁₂₂]

As a responsible corporate citizen and guardian of the local environment, the submitter has engaged in public consultation about preparation of the plan and has advocated for the following outcomes: focus on delivering a compact city, partnership, achieving high quality design outcomes, a comprehensive approach to housing development, affordable housing and papakainga opportunities (in suitable locations), an efficient and effective public transport system, protection and enhancement of cultural heritage, enhancing biodiversity, and promoting a culturally rich Auckland. [I₃₈₂]

We acknowledge the principle of including affordable housing in any new building developments but think this should be increased from 10% to 20% given the high need for more affordable housing in Auckland.... [NGO₅₀]

Sometimes it was difficult to determine whether a submission was made in kindness / concern for others, or whether it was meant in an exclusionary way. Fainstein (in Fainstein and Mare, 2015) refers to this as the view of an “insider”, someone who doesn’t “want the ‘other’ to intrude on whatever they have” (p. 8). For example, in one submission concern was shown about the effect of higher densities and subsequent increased traffic on “small school children”, yet there was also a reference “the highest storey housing on the north side of the street (opposite our house) blocking sunlight” (I101).

With regard to references to maintenance and repair, the discourse is not directly applicable to compact city policy, yet it cannot be considered separately from it. Many of the documents had references to maintaining essential services and infrastructure,

... in the water sector, the Auckland Council controls all aspects of the provision of water services. The Council is responsible for water policy and regulation, while its CCO (Watercare) controls all aspects of water planning, funding, delivery, operation, and retailing. The full service function of the Council empowers it to influence water outcomes to a greater degree than is possible in other sectors (with the exception of community infrastructure). (explanation of SD12, Priority 1, para 687).

... infrastructure across Auckland, and many sections require renewal or replacement. Investment in effective maintenance will ensure the maximum life span of infrastructure. It is important to apply Water Sensitive Design approaches to new development areas, to avoid the creation of new flooding and environmental problems

which are costly to fix retrospectively. Stormwater infrastructure for new growth is largely funded by developers. However, Auckland Council is responsible for the operations and maintenance costs of new infrastructure, and the need to provide for any increase in capacity of the stormwater network required downstream of growth areas. (explanation of SD12, Priority 1, para 694).

... regular resealing and maintenance of the existing rural roads, DIRECTIVE 13.10

Developing more compact urban neighbourhoods supported by quality networked infrastructure offers opportunities to create healthy, stimulating, and beautiful urban environments. These in turn enhance social cohesion and interaction by attracting people across all demographic groups to a mix of cafés, restaurants, shops, services and well-designed public spaces. Such places provide a range of activities to meet the full spectrum of people's everyday needs – for work, for play, for shopping and for education. (Explanation of D3, p. 42)

Yet, as noted earlier, the principle of kindness was most strongly present as an influence on the 2018 spatial plan. "Kindness" (p. 23) is listed as one of the core values of the Auckland 2050 plan. It stated:

Values inform our thoughts, words and actions. They shape and drive our behaviours and the decisions we make. Values are important because they help us create the future we want.

The Auckland Plan 2050 outlines a future that all Aucklanders can aspire to. It is a prosperous future with many opportunities and a better standard of living for everyone. The values of the Auckland Plan 2050 help us to understand what is important in that future:

- Atawhai | Kindness, generosity
- Kotahi | Strength in diversity
- Auaha | Creativity, innovation
- Pono | Integrity
- Taonga tuku iho | Future generations

The values also help us to understand how we will get there. Achieving the future set out in the Auckland Plan 2050 requires every Aucklander and many organisations to work together.

(Auckland Council, 2018, p.23).

This 2018 document refers to these as a “shared set of values” providing “confidence that the decision we all make are the right ones for today and for future generations” (Auckland Council, 2018, p.23).

In discussing the increased diversity of Auckland, and the discrimination and prejudice that exists, it stated:

It is the responsibility of all Aucklanders to challenge prejudice and intolerance through our everyday actions. We need to be proactive to ensure a sense of belonging and positive life experiences for all Aucklanders. We need to be open to learning about and valuing differences, and to understanding our shared and different histories. This will lead to living together with greater acceptance, trust and mutual respect, and people working together to create a shared future. (p. 46).

This expectation being inherently related to kindness. The 2018 spatial plan also highlights the social responsibility of organisations, and the need for them “to think differently about how they work at the local level and how current and future challenges for Auckland’s communities can best be met” (p. 57). It suggests this can be done by “providing support and [sharing] decision making” (p. 57) with locals. It also recognises the need for greater trust and connectedness within the community:

The more Aucklanders trust each other, the more connected, productive, and thriving they are likely to be. The process of fostering inclusion, however, requires time and commitment. Building an inclusive Auckland is a collaborative endeavour, as it is not within the control of any one person, group or organisation. Achieving a sense of belonging and supporting the ability to participate requires activity under all the outcomes in the Auckland Plan 2050. We can all help create a sense of belonging through our own actions (AC, 2018, p.48).

Maintenance and repair of the city also comes through as a discursive theme within the Auckland 2050 plan. While mostly relating to matters of infrastructure and utility networks there is also a reference to the quality of existing housing and the need for ongoing maintenance, repairs, and modifications. The plan states that “the effects of cold and damp housing is greatest on those with weak or vulnerable respiratory systems, mostly children and older people. Respiratory infections are a leading cause of hospital admissions for children under two years of age” (Auckland Council, 2018, p. 99). In terms of how to improve the built quality of existing dwellings, particularly rental housing, it referred to the “unwillingness of some owners to attend to repairs, maintenance and needed upgrades” (p. 99), an unkindness.

9.5.2 Summary

Using the criteria and standards (described in section 7.3.3) the *extent* to which a principle of kindness influences Auckland's urban plan content is described as highly influential. The *focus* of discourse informed by a principle of kindness was not on involving those who were least advantaged, but instead was more generic. Hence it has been evaluated as having a weak focus on the least advantaged.

In terms of the *merit* of arguments within the discourse relating to the principle of kindness, there are compelling, but not yet consistent, arguments about the role of kindness in planning practice. These arguments are rationally persuasive. The principle of kindness was most evident in the discourse surrounding affordable housing, but as with the evaluative judgement for diversity and equity, the fact that the argument for retained affordable housing was not supported by the IHPAUP and subsequently the Auckland Council means that it cannot be evaluated as either dialectically reasonable or rhetorically effective.

9.6 Summary: Argument Evaluation – extent, focus and merit

Using political discourse analysis to reconstruct and examine arguments within planning documents has shown that the just city principles are present in Auckland's planning discourse. The following three evaluative conclusions were reached:

- i. Arguments informed the principles of equity and democracy are highly influential in Auckland's planning discourse*
- ii. Only arguments informed by the equity principle are strongly focussed on the needs of the least advantaged. Arguments informed by the principles of diversity, democracy and kindness have a weak focus on the least advantaged.*
- iii. None of the arguments that invoked just city principles were 'good'.*

Drawing on the earlier sections within this chapter, the *focus* of various arguments relating to the just city principles were found to have some degree of focus on planning for those who are least advantaged (see Figure 22).

Plan Content:	<i>Not Influential</i>	<i>Minimally Influential</i>	<i>Partially Influential</i>	<i>Highly Influential</i>
Just City Principles:				
Equity				✓
Diversity			✓	
Democracy				✓
Kindness		✓		

Figure 22: Summary – The extent of influence of just city principles

Not surprisingly, the discourse relating to the various just city principles had some focus on planning for the least advantaged. However, with the exception of equity, this discourse was generally in the explanatory text, rather than the important provisions of the document, thus it has been evaluated as being generally weak (Figure 23).

Plan Content	Focus on least advantaged		
	<i>Not focussed</i>	<i>Weak focus</i>	<i>Strong focus</i>
Just City Principles			
Equity			✓
Diversity		✓	
Democracy		✓	
Kindness		✓	

Figure 23: Summary – The focus of arguments invoking just city principles

In terms of *merit*, the arguments invoking the just city principles were not evaluated as good as they were not rationally persuasive, dialectically reasonable or effectiveness (refer Figure 24).

Plan Content:	Rationally persuasive	Dialectically reasonable	Rhetorically effective	A good argument?
Just City Principles				
Equity	✓	✗	✓	No
Diversity	✗	✗	✗	No
Democracy	✓	✓	-	No
Kindness	✓	✗	✗	No

Figure 24: Summary – The merit of arguments informed by just city principles

The following chapter further explores the ethical content in Auckland’s planning discourse, seeking to connect some of these evaluative findings with concepts of power. This next sept in the analysis steps away from political discourse analysis as proposed by Fairclough and Fairclough (2012) incorporated as Step 3, and uses Waitt’s (2010) interpretation of Foucault’s approach to discourse analysis – Step 4 in the JCPEA.

Chapter Ten: Foucauldian-type discourse analysis

10.1 Introduction

The previous chapters explored identified the values and premises informing Auckland's planning discourse. Circumstantial premises, creating the need for action, included the urgent need to accommodate a growing population. The multiplicity of conceptions of justice informing Auckland's planning discourse was highlighted, as was the extent to which there was a focus on just city principles and planning for the least advantaged. Building on this earlier work, this chapter presents the results of the fourth step of my proposed JCPEA and explores why certain discourses may have been privileged over others. It addresses the second evaluative objective, in that it determines whose ethics prevail by exploring where the power lies within plan discourse.

In Figure 25, the fourth JCPEA step is highlighted in yellow, and applied to Auckland's planning discourse, to evaluate power (expansion view).

10.2 Familiarisation with the text – Authorship

The first step in this Foucauldian-style discourse analyses involved becoming familiar with the texts being explored. Critically thinking about how the text has been created began by exploring the authorship of the statutory plans. In Chapter Four, I referred to the work of Krumholz, and more specifically the 1975 Cleveland Policy Planning Report, a document that explicitly acknowledged authorship of the report, giving credit to the staff who worked on it. Although it was officially the document of the Cleveland Planning Commission, whose names are listed in the document, the introduction by Krumholz gives credit to the staff of the Policy Analysis division (City Planning Commission, 1975). This is either an anomaly or an aspect of planning practice that has changed during the last 50 years. Most plans do not credit planners with authorship – at best the planners are referred to as “agentless constructions” (Tett & Wolfe, 1991, p. 197). Attributing authorship is difficult when it comes to statutory documents, especially under communicative planning frameworks, and yet is important especially when it

comes to evaluating the ethical dimensions of plans. Without authorship there may be a lack of clarity about whose ethics are being invoked. As an alternative, attributing authorship generously to the community who have been involved may result in a misrepresentation of the values and ethics of particular parts of the community.

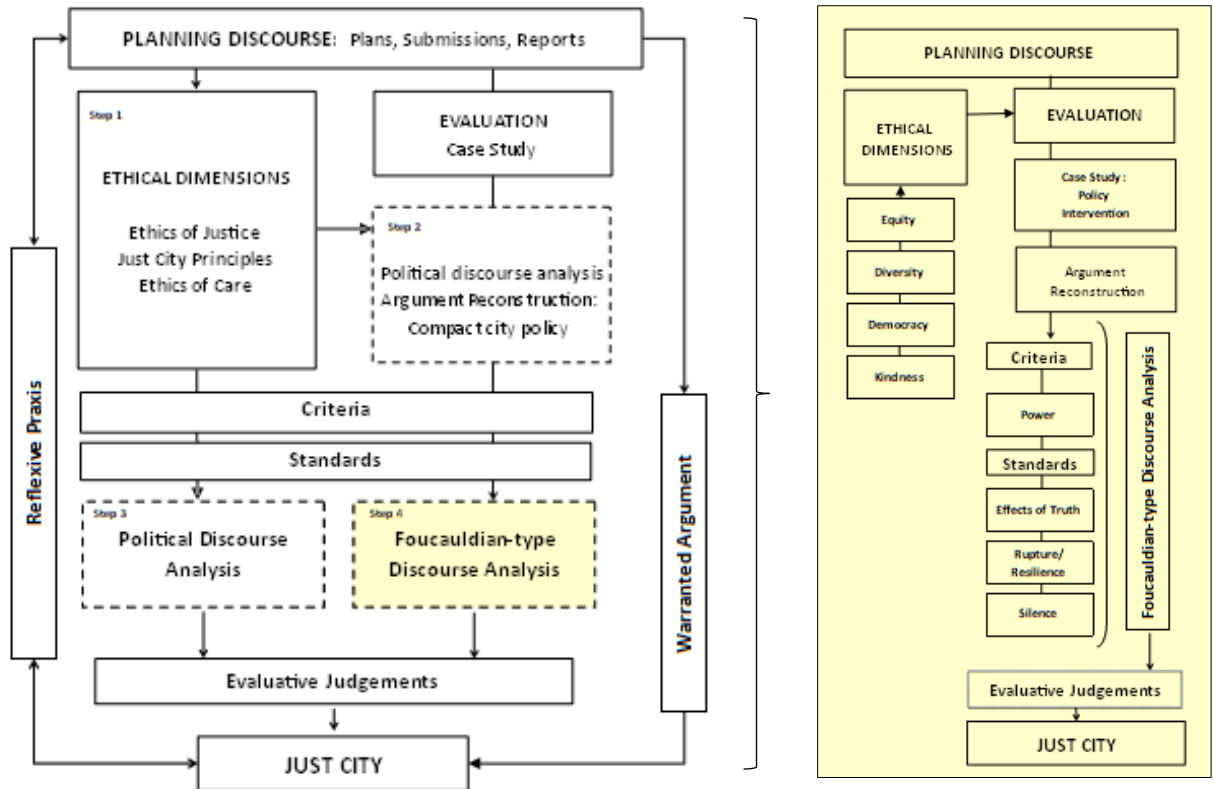


Figure 25: JCPEA Step 4 - Evaluating the power of arguments within planning discourse

According to Tett and Wolfe (1991), authorship lends itself to legitimate content, and as such is either attributed to the elected body or to “the community as a corporate entity that has undergone a ‘planning process’” (Tett and Wolfe, 1991, p, 196). This was evident in the suite of documents examined. For example, for the 2012 spatial plan, the Mayor of Auckland described how “everyone engaged in the development of this plan” (Mayor’s foreword, Auckland Council, 2012, p.5). Later in that document authorship is attributed to the elected government body, “the Mayor and Auckland Council have led its development” (Auckland Council, 2012, p. 10), suggesting they are the lead author. The names of Auckland Councillors at that time were listed

in the document, alongside their photo. This 'lead authorship' was also acknowledged in the Government's foreword: "The Government welcomes the release of the Auckland Council's first Auckland Plan and congratulates Mayor Len Brown and the Council on reaching this milestone" [Government's foreword, Auckland Council, 2012, p.6]. Although it also attributed authorship to the community involved as part of the planning process, "[i]t is significant that the Plan's development has been a dynamic process with the Council responding to feedback from submitters, the Government, Auckland stakeholders and international peer reviewers" [Government's foreword Auckland Council, 2012, p.6].

Attributing authorship to a community is problematic. Despite plan development being characterised by opportunities for public participation, it is inappropriate to attribute authorship to a single community as they are never one homogenous unit. The plans themselves recognised different parts of the community and highlighting this was a point of pride for the city. However, this recognition of difference within the community is subsequently undermined by references to community authorship implying that it is a "unitary, homogenous public sphere" (Tett and Wolfe, 1991, p. 198). Tett and Wolfe (1991) describe such broad attribution as "fake dialogue" (p. 198), and I suggest it casts doubt on whose ethics are informing the discourse.

Another form of 'voice' identified by Tett and Wolfe (1991) occurs when a plan is presented as speaking for itself, as is the case with the 2012 spatial plan: "People are at the heart of this plan This Plan emphasises that families, whānau and the wider community share these responsibilities" (Auckland Council, 2012, p. 69). In this way, any potential authorship is increasingly anonymous in a move which is intended to give greater legitimacy to the Plan (Tett & Wolfe, 1991, p. 197). Anthropomorphizing the document this way also undermines the premise of the ethical dimensions as it suggests they belong to no one, and no one is required to take responsibility for any action or recommendation.

Any mention of planners in the authorship of this plan is conspicuous by its absence: the planners are invisible in the process. Describing them as "ex-nominated", "a 'class' that refuses to be named", Tett and Wolfe (1991, p. 196) suggest that references to their input is often in terms of "staff work" or "committee" advice (p. 196). They suggest this anonymity of authorship, or masking of individual voices (or groups of voices), is a deliberate attempt to overcome contested viewpoints and to "legitimate a collective voice" (p. 198). It may also result in "fake dialogues" (p. 198). The lack of clearly defined authorship raises questions for the evaluation of the ethical dimensions of plan content, about whose values it contains. When

evaluating the ethical dimensions of plan content, the lack of clearly defined authorship raises questions about whose values it contains.

In familiarising myself with the texts being explored, the findings show that the authorship of the plans were attributed to the Auckland Council, or the IHPAUP, but there was no reference to the involvement of planners.

10.3 The effects of truth: Power, Knowledge, and Persuasion

One of the primary circumstantial premises in Auckland's planning discourse was the need to accommodate a growing population. This narrative, combined with a fear of losing productive rural land, and increasingly unaffordable housing, informed the claim for action that a quality compact city was the right action to pursue. It has become a discursive structure in the discourse, an idea that has become dominant. As such, it has a form of "social power" (Waitt, 2010, p. 233). The pursuit of a quality compact city is synonymous with economic, environmental and social sustainability and, for many, it has been uncritically accepted as truth. As a discursive structure, the quality compact city becomes hard to argue as it is firmly ensconced as common sense. The preceding chapter provided evidence of this: the **benefits** of a compact city were repeated in the various documents examined, but the **idea** of the compact city was not strongly challenged. Yet, although the discourse of the quality compact urban form appears fixed, Waitt (2010), drawing on Foucault, reminds us to be aware both of the fragility of these ideas and that they can be ruptured. Three discursive ruptures became evident in the discourse I examined.

10.3.1 Defining a 'quality compact urban form'

The first discursive rupture that presents within the suite of planning documents is in the definition of 'quality compact city'. Central to Auckland Council's vision in the 2012 Spatial Plan (to become the world's most liveable city), references to a 'quality compact (urban) city / urban form permeate the document. A Rawlsian view of 'justice as fairness' emerges as being central to the idea of a quality compact city, albeit somewhat inadvertently through the stated definition of the word 'quality'. In the 2012 Spatial Plan 'quality' is defined as:

the quality of urban structure, building and housing design, the design of public places and amenities, and the qualities of a city/region that make it an attractive and desirable place. It also means a fair distribution of standards of living (Auckland Council, 2012, p. 44).

This definition of 'quality', with its reference to fair distribution of living standards, resonates with the just city idea that public investment and regulation should produce equitable outcomes, thus ensuring the city is accessible to everyone regardless of their purchasing power (Fainstein, 2010; Uitermark, 2009). However, this is the first and last reference in the Auckland Plan to a fair distribution of standards of living. While there is no subsequent definition of 'fair distribution', its common meaning is clear, and its inclusion has implications for the AUP prepared subsequently.

The NZ planning framework is characterised by a hierarchy of planning documents, suggesting there should be strong arguments informing policy underpinned by consistent values from the spatial strategy through to the policy statement and eventually into district plan provisions. It could be expected that this idea of the 'fair distribution of standards of living' in a quality compact city might percolate through subsequent elements in the planning framework. Yet it does not.

The PAUP does not specifically define what a quality compact city is, instead noting that the quality compact city:

provides for lower levels of growth in neighbourhoods with recognised character, identity and heritage. Areas around centres and business areas, with well-connected street networks, and which offer good access to high-frequency public transport, community facilities and open space, are targeted for higher density living over time. ... As Auckland continues to grow, intensification will occur in both existing and new areas. The quality of this more compact development is critical to good public and private amenity. Intensification must also make the best use of resources, integrate with networks and services, and provide for safe and healthy lifestyles. In support of this, the plan defines Auckland's Rural Urban Boundary (RUB) which targets development in appropriate locations, rather than enabling continuous outward urban growth. ... It supports the development of a compact city where quality is paramount through good urban design. (AC, 2013, Section 2.4)

Unlike the 2012 spatial plan, the quality compact city in the PAUP is less about the fair distribution of resources. It does not strongly invoke the capabilities approach to justice in terms of ensuring opportunities for all, although a connection to this value premise could be inferred in the reference to providing 'safe and healthy lifestyles'. Similarly, connections to either a libertarian or utilitarian value premise could be inferred through references to 'the

best use of resources' or 'targeting development in appropriate locations'. The value premise in seeking a quality compact urban form is not explicit within this document.

The s32 report takes a more empirical approach to defining the quality compact city, stating that:

quality compact urban form was defined in the Auckland Plan and expressed numerically as a 70/40 split between new dwellings inside and outside the 2010 MUL baseline (representing the core urban area). The intent in the Auckland Plan and the Unitary Plan is for 70% of the required new dwellings to be located inside the Metropolitan area 2010 baseline through quality developments utilising existing capacity (vacant land and redevelopment opportunities) as well as new capacity from significant upzoning in areas with good access to employment centres and the frequent transport network. (Auckland Council, 2013, p. 13-14)

The document states that the PAUP "will enable a more appropriate overall balance (in, up and out) that will help to facilitate housing supply, employment growth and provide greater certainty, and therefore, efficiency in infrastructure provision" (p. 14). This reference to certainty and efficiency is libertarian-sounding and is the conception of justice that continues to dominate in the report of the IHPAUP.

The idea of quality was discussed comprehensively in the overview report of the IHPAUP. It acknowledges that the idea stems from the 2012 spatial plan, but then states that there is "no definition of 'quality compact urban form' in the Auckland Plan or in the Unitary Plan as notified" and does not recommend that one be included on the grounds that "the strategy is a broad one, relevant to a large number of the resource management issues facing Auckland and taking its meaning from the contexts in which it is used" (IHPAUP, 2016, Overview p.45). The panel does however consider specific words within the phrase individually, noting for example that 'quality' is a word "in common use with a generally understood meaning, as an adjective. It does not refer back to the definition in the 2012 spatial plan that specifically identified the fair distribution of standards of living as an important premise.

The Panel acknowledged that the "challenges of promoting quality in a complex and diverse environment such as Auckland through a resource management planning document" are "increased when the standards of quality are not made explicit" (Urban Growth Report 013, IHPAUP, 2016, p. 11). It concluded however that in an objective-led planning system approach the meaning needs to be contained within specific objectives, and to this end has recommend changes relating to built environment objectives which "seek to promote the enablement of

people's choices within a clearly defined framework of provisions that seek to control the adverse external effects of those choices" (Urban Growth Report 013, IHPAUP, 2016, p. 11). Given that the pursuit of a compact city necessarily relies on planning interventions and that 'providing for choice while controlling external effects' are both practical concepts, this aspect of the plan resonates with a utilitarian concept of justice.

The term quality compact urban form continues to be used in the 2018 spatial plan. Direction 1 (Develop a quality compact urban form to accommodate growth) includes focus areas that refer to accelerating "quality development at [a] at scale that improves housing choices" and to "improve the built quality of existing dwellings, particularly rental housing". In the explanatory text it states that "getting placemaking right is crucial to the Auckland Plan". While the entire 2018 document reflects much more a Rawlsian or capabilities approach to justice with references to those who are least advantaged, it still failed to define quality.

The meaning of 'quality compact urban form' as referred to across all these documents shows no evidence of intertextuality. Its meaning changes and is inconsistent between documents. Given the hierarchical nature of plans it could have been anticipated that the meaning would have been produced as a series of relationships between the documents developed between 2012 and 2018, including the co-production of the meaning with input from participants to the process. Yet each iteration or attempt at defining it invokes different value premises.

The idea of a 'quality compact urban form' as a discursive structure highlights the effects of truth to which Foucault referred. The idea of a compact city gives unity to the purpose of various plans, has legitimised planning interventions, and become naturalised as common sense. It has arisen from contextual and circumstantial premises which point to urban containment and residential intensification as being the action that ought to be taken. This truth has power – influencing future environments and curtailing property rights – and as a result has potentially placed a social limit on the understanding of other options for growth that might be available – whatever they may be.

10.3.2 Urban containment – implementing a rural urban boundary

To achieve a compact city requires urban containment. The premise behind urban containment is that by constraining development rights a compact city will be achieved. It is a premise informed by a utilitarian ideal of seeking the greatest good for the greatest number, and one that is in direct competition to a libertarian ideal, which seeks to minimise intervention. Thus resulting in the second compact city policy rupture. In the Auckland case study, this rupture becomes evident in an interesting way.

The documents all tout the idea of the quality compact city, however there is also a strong underlying current of ensuring sufficient development capacity to accommodate growth. The intention of achieving a compact city through “a little bit up and a little bit out” reflects the dialogue of the then Mayor, Len Brown (Brown, 2013). However, gaining strength around this time was a strong counter claim, one based on a more libertarian premise of letting the market provide better outcomes, particularly in relation to affordable housing.

At the national level this rupture presented itself in the text of the Housing Accords and Special Housing Areas Act of 2016, and the National Policy Statement for Urban Development Capacity 2016 (NPSUDC) both of which were predicated on the basis that urban growth boundaries were causing unaffordable housing. Echoing documents that came before it, most notably the *Using Land for Housing* report of the New Zealand Productivity Commission (2015), the NPSUDC (2016) stated:

Planning can impact on the competitiveness of the market by reducing overall opportunities for development and restricting development rights to only a few landowners (p. 4).

Around the same time, this rupture was also becoming evident at local government level as evidenced in the reports of the IHPAUP.

In the S32 report, the intent of the RUB was to be a “defensible, permanent rural-urban interface and not subject to incremental change”. This was likely in reference to the institutional circumstances described earlier (refer Chapter Seven, section 7.4) regarding the apparent failure of the previous Metropolitan Urban Limit. Their report referenced submitter evidence seeking increase development capacity within the RUB as well as submitter evidence about the effects on land values inside and outside urban growth boundaries.

The extent of the RUB and where provisions relating to it should be located in the planning framework (i.e., RPS vs District Plan level) was an issue in contention being considered by the IHPAUP. In response to submissions and following their consideration, the Panel made the following comment:

The location of the Rural Urban Boundary is recommended to be recast as a district plan rule rather than a method in the regional policy statement. The regional policy statement establishes the existence of the Rural Urban Boundary and the basis on which its location is to be determined. The recast district plan rule for its location is in a new Chapter G (with the general rules of the Unitary Plan being relocated to Chapter C). This change substantially alters the nature of the Rural Urban Boundary and is a

significant change which is expected to have important s by a change to the regional policy statement which only the Council or a Minister of the Crown can initiate. (Overview of Recommendations Report, IHPAUP, 2016, p. 75)

The discursive rupture is therefore that although the rhetoric of the compact city remains in planning discourse, the approach to its implementation has been altered. The RUB is no longer a “defensible, permanent rural-urban interface and not subject to incremental change” (Urban Form and Land Supply, S32, Auckland Council, 2013, p. 4). Instead, like the MUL and subsequent criticisms of it, the RUP is likely to be the subject of future private- or Council-initiated plan changes. An interesting finding, given that successive failures of past governance, described in sections 7.3.4, were included as an institutional circumstance which formed part of the claim for action for compact city policy. It is an outcome that gives weight to the libertarian counter-claim described in Chapter Eight.

10.3.3 Retained affordable housing

The third discursive rupture present in Auckland’s planning discourse relates to housing affordability. The 2012 spatial plan specifically contemplates affordable housing. It recognises that in order to be the world’s most liveable city, affordable housing is key (p. 33). One of the principles listed to achieve the outcomes sought by the plan is “Be affordable” (para 82), and under Strategic Direction 11 (to “house all Aucklanders in secure, healthy homes they can afford) Priority 3 is to “improve housing affordability and the supply of affordable housing” (p. 269). This priority manifests in the PAUP in RPS Objective B2.4(1) which seeks that “Neighbourhoods contain quality homes that help meet the housing needs of current and future, low to moderate income households”. The policies to achieve this objective are:

1. Encourage residential development to provide a range of dwelling types and sizes that help meet the housing needs of households on low to moderate incomes, including social housing and lower cost, market rate housing.
2. Require new largescale residential development within the RUB and encourage all other development to provide a proportion of dwellings that are affordable for the intermediate housing market.

In the District Plan part of the PAUP the Council’s objectives is that “The proportion of dwellings that are affordable to households in the intermediate housing market is increased across Auckland” (Objective C7.8(1)). Development controls were included specifying the percentage of affordable housing required in certain types of development.

It is interesting that the value premise of the discourse is changes between the RPS objective and its supporting policies (and the subsequent district plan objective) from a more Rawlsian or Capabilities style of values (seeking better outcomes for all, and in particular the least advantaged) to a more utilitarian value premise – seeking to achieve the greatest good for the greatest number – with its focus on the intermediate housing market. The s32 report explains this narrowing of focus to the intermediate market as follows:

The objective under the Auckland wide provisions narrows the focus of intervention to the intermediate housing market. The intermediate housing market refers to households who have a total income above the threshold that entitles them to access to social housing, but who cannot purchase market rate housing without spending a large proportion of their income.

As of 2013, the intermediate housing market is estimated to be 17% of all households in the Auckland Region⁶. In simple terms these households usually have incomes that are between 80 and 120% of regional median household incomes⁷. Incomes at this level usually involve at least one member of the household in paid employment

The priority given to the intermediate housing market recognises and complements the role central government plays in the provision of social housing and the broader objective of the Unitary Plan to increase the supply of housing and neighbourhoods that provide a wider range of market rate homes. (S32, 2013, Affordable Housing, p. 7).

Subsequent rules in the District Plan part of the PAUP required retained affordable housing. The S32 report notes the importance of retention, describing it as being considered “a “given”. Without retention, the first owner of the affordable unit receives a windfall, effectively undermining the public benefit and the associated costs of the intervention. A retention mechanism also ensures that there is an incentive for the owner to move into the normal housing market at some point (for example to realise full capital gains). This helps to ensure turn over” (S32, 2013, Affordable Housing, p. 7). The benefits of this approach include that retained affordable housing “helps to improve social and economic well being of these households, and the community in general” (ibid, p.22). The discourse remains informed by utilitarian values at this point.

The most discursive rupture in the discourse on affordable housing occurs in the IHPAUP report, where the value premise informing the practical argument about retained affordable housing shifts to being strongly libertarian. The Panel viewed the affordable housing provisions as being likely to “reduce the efficiency of the housing market due to effectively being a tax on

the supply of dwellings and be redistributive in their effect” and that “the imposition of land use controls under the Resource Management Act 1991 is not an appropriate method for such redistributive assessments and policies” (IHPAUP, Overview, p.59). Their recommendation was subsequently accepted by the Council (AC, 2016, Decisions Report, p. 15).

This rupture is significant because it signals a departure from the intentions of the local government to use inclusionary housing (i.e., requiring a percentage of retained affordable housing) as a means of achieving housing affordability in the PAUP. Instead, it returns to the premise of central government, who predicate housing affordability on land supply. The release of the 2018 spatial plan suggests this rupture continues. It reiterates that the housing system is not working and raises their intention to continue to think beyond the current approach (Auckland Council, 2018). It is a rupture that may become further entrenched or perhaps resolve following future resource management law reform.

10.4 Silence within the discourse

Being aware of silences within texts is a key aspect of a Foucauldian-type discourse analysis. It is a task that can be problematic, requiring research beyond the exploration of the discourse itself, but which highlights a form of power. For example, silences can indicate whether various perspectives are absent, or how a dominant discourse might silence alternative policy options. Evaluating Auckland’s planning discourse has highlighted three such silences, each of which is discussed further below.

10.4.1 Segregation v Concentration

My familiarisation exercise involved exploring spatial concentrations of different social variables such as ethnicity and income in Auckland. It confirmed the existence of social-spatial segregation in Auckland; a point on which the planning discourse is silent. In the pursuit of a just city, while concentrations of affinity groups in areas with porous boundaries may be acceptable or even desirable (Fainstein, 2010; Fincher & Iveson, 2008; Young, 1990), segregation is not. Segregation is an outcome that does not sit well with any of conception of justice or with the just city principles.

There was reference to concentrations of deprivation (in the Section 32 report on the PAUP), but this was raised in terms of issues “of transport and access to employment, services and amenities” (Section 2.21, Section 32 Report, Auckland Council, 2013, p. 7), as opposed to the effect of the concentration itself. This silence is, perhaps, a sign of planners grappling to deal

with the concept of public interest Lennon (2017) refers, or because of the increased politicisation of planning and the post-political age.

The discursive ruptures relating to the pursuit of a compact city through zoning for higher densities, to achieve the quality compact city, may also have contributed to this silence about segregation. New Zealand's zoning provisions are different to the American style in that it does not enforce rigid rules about housing typologies (such as the single-family zone). However, District Plans in New Zealand do establish minimum lot sizes and separation distances for dwellings as permitted activities. For example, the AUP has a single house zone, in which a standalone house, subject to height rules and separation distance rules, is a permitted activity. Such provisions can have segregatory effects relating to income/wealth. Buildings outside of those specifications incur extra costs and time delays due to the requirement to obtain resource consent (planning permission), meaning that typically dwellings are built to plan standards, resulting in a homogenous housing typology, which sell for a specific cost. While Auckland's Single Housing Zone is not the same in intent or purpose as the single-family zone in America, planners would be naïve to consider that the provisions in plans were not having a direct effect on the affordability of housing within zones and subsequently the lived experience of the city's residents. The silence about the effects of zoning on segregation could be described as deafening given the issues of housing affordability in the city.

There was perhaps a missed opportunity in the section 32 report to be more specific about the effects of zoning, segregation and the reasons for inclusionary housing provisions (i.e., retained affordable housing). Instead this silence is a "mechanism of social power" (Waite, 2010, p. 233). It privileges the dominant discourse relating to land supply for housing, silencing the voice of those who need affordable housing (or their advocates), and for whom inclusionary housing may be beneficial.

10.4.2 Trade-offs

In Auckland's planning discourse, there was a silence about the trade-offs being made. For example, while higher densities around transport nodes were promoted there was no recognition of the costs to those who might be affected by this approach. As Hendler (1995) found regarding the justification of a rapid transit line – there was little consideration of the costs that would be borne by those being displaced by this policy or living with its effects in the longer term, once developed.

Arguments invoking a utilitarian ethic were evaluated earlier as being highly influential in planning discourse; yet it is an ethical dimension not without its flaws. Determining what ought

to be done on the grounds that it will achieve the greatest good for the greatest number means that this may come at the expense of others. It is an approach that fails to consider the distributive effects of the actions deemed good, and which relies on trade-offs to achieve the outcome sought.

If planners are to realise a just city, understanding trade-offs in light of particular ethics is essential. The utilitarian approach to trade-offs, as described above, appears flawed if a just city is to be the object of planning. For a capability(ies) approach, there is no room for trade-offs between capabilities – they are all necessary according to Nussbaum (1997). Hence understanding these ethical implications becomes critical to understanding the justness of a city.

10.5 Summary – Evaluating Power

Building on the results of the political discourse analysis in Chapters Eight and Nine, which identified how and where discourse was informed by underlying political philosophies and values, this Foucauldian-type discourse analysis has identified discursive structures and explored how different sources of power have influenced planning discourse. It has been a useful way to explore knowledge and how this has evolved as truth, lead to an additional four evaluative conclusions.

- i. The lack of clearly defined authorship disguises whose ethics are contained within Auckland's planning discourse.*
 - ii. Discursive structures within the planning discourse have social power. Ideas, such as the benefits of a compact city, that become ensconced as common sense (or as per the counter-claim evidenced in the findings – the need for land supply for housing), make it difficult to argue against, or shuts debates down entirely.*
 - iii. Ruptures within the text reflect the influence of different ethical dimensions coming to the fore, some of which having the effect of weakening attempts to incorporate just city principles (most notably the principles of equity) and reflecting sources of power within the planning process.*
 - iv. Silences within the text reflect either a lack of consideration of ethical dimensions within planning discourse, or a deliberate display of power, whereby a particular ethic is elevated above another.*
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The involvement of planners in the authorship of statutory documents was not acknowledged. Instead, the authorship of the statutory documents is attributed generically to the elected body. This is not unexpected as it lends legitimacy to the content, according to Tett and Wolfe (1991). At times, the authorship was also attributed to a homogenous community, which signalled a failure to recognise differences within the community.

The compact city is a dominant discursive structure within Auckland's planning discourse, with the benefits of a compact city being reiterated in multiple documents. This is not surprising as the literature has highlighted the wide acceptance of the compact city and the shared understanding of its benefits, while also acknowledging the lack of agreement about how best it can be achieved (Ghosh & Head, 2009; Rice, 2010; Rogers, 2010). Yet there was also a thread within the literature highlighting that the benefits of a compact city are contested, and the need to consider each benefit in the context of place and time. Used as a truth may lead to policy discussions being curtailed by the uncritical acceptance or preconceived notions of what appears to be a common-sense policy response.

The findings presented above indicated at least three discursive ruptures within Auckland's planning discourse. These related to the definition of a compact city, the appropriateness of an urban growth boundary, and the appropriateness of retained affordable housing policy.

The meaning of 'quality compact city' was ambiguous at best in the earliest document, and it is perhaps not surprising that there is a lack of intertextuality between the texts. The original definition, in the 2012 spatial plan, was quite specific; quality meant a fair distribution of living standards. Yet this definition did not filter through to the subsequent documents. This is one of multiple ruptures in the discourse that relates directly to ethical considerations. While the original definition of quality reflected a Rawlsian influence in planning discourse, it became weakened in subsequent discourse to the extent that quality was seen as being a challenging complex in an environment as complex and diverse as Auckland (Urban Growth Report 013, IHPAUP, 2016, p. 11).

The discursive rupture regarding the need for a rural urban boundary appears to have resulted in a change from utilitarian ethic to a libertarian ethic, as described in section 9.3.2. The discursive rupture described in section 9.3.3 (retained affordable housing) also suggests a change of influence in ethics. The objectives in the 2012 spatial plan reflected a Rawlsian view of planning for the least advantaged; its manifestation in the PAUP (2013) reflected changed focus to the intermediate housing market, suggesting the influence of utilitarian ethics, and the subsequent deletion of these provisions by the Auckland Council, on the recommendation of

the IHPAUP suggests a shift in influence to libertarian ethics. This latter indicates a weakening in the pursuit of a just city, through enabling social well-being and human flourishing. In most cases, the ruptures were most strongly evident in the reports of the IHPAUP which suggest they have a level of power that is greater than other participants in the process.

The findings described in this chapter indicate silence about the trade-offs being made in cost-benefit analyses, undertaken as part of the statutory plan development process, and embodying the utilitarian premise of seeking the greatest good for the greatest number. There was silence in the discourse about the effects of zoning on segregation, despite acknowledgement of concentrations of deprivation and inequities in the spatial environment.

This chapter has provided an overview of the authorship of the documents, it explains how the compact city is a discursive structure within the discourse, but that it is an idea which suffers from multiple ruptures. As the fourth step of the JCPEA, it consolidated ideas about how various ethical dimensions have influenced planning discourse in Auckland and has set the context for a detailed discussion about why planners should care about the ethical dimensions in plans.

Chapter Eleven: Justice and virtue ethics in planning

11.1 Introduction

The purpose of this study was to determine why planners should care about the effect of different ethics invoked in urban policy on the realisation of a just city. So far, I proposed an approach to evaluate the extent to which ethics inform the practical arguments of planning policy, the JCPEA, and practised its application. The first three steps of the JCPEA (literature review, argument reconstruction and political discourse analysis) proved important to understand the circumstances that the policy intended to resolve, and *what* ethics were invoked in policy. The fourth step (Foucauldian-type discourse analysis) was also important as it highlighted *why* planners should care about how different ethics were invoked and by whom, identifying where power played out in the planning process. In this penultimate chapter, non-statistical empirical generalisations are drawn from my findings through “rhetoric and persuasion” (Sharp, 1998, p. 786). The findings of this research regarding the ethics informing planning discourse, presented in Chapters Eight to Ten, were deliberately detailed in order that readers of this research may be able to “intuitively transfer the findings to their own action” (Smith, 2018, p. 141). In this chapter, I discuss these findings and to aid transferability, sets of findings have been identified, and connections established with the literature that has already been introduced.

The first set of findings discussed in this chapter relate to the presence or absence of ethics in planning discourse (Step 2 via of the JCPEA). Here the findings drew attention to the implications of invoking multiple competing ethical claims, and I argue that a singular, clear, explicit, non-neoliberal ethical direction is necessary if there is to be a turn to plans capable of supporting the concept of a just city. Second, and building on this first set of findings, this chapter draws attention to the role of planning. I claim that the realisation of a just city requires planners to revisit their role of acting in the public interest, advocating actively for the least advantaged, giving planners agency to resist neoliberal structures within which they work. Third, based on findings from step 4 of the JCPEA, the findings drew attention to the effects of power in planning discourse – particularly the influence of independent hearing panels.

Specific elements of practice emerged in this part of my research as being important for the realisation of just city principles as planners grapple with their role working in the public interest. The fourth set of findings relate to what might be required from planning practice if substantive conceptions of a just city are to be realised: a city premised in the notion of kindness born of reflexive praxis. This set of findings considered i) the evidence of kindness, ii) evidence of reflexive (ethics-based) praxis as deemed to be necessary in a) understanding diversity b) deep dialogue consultation and c) the authorship of narratives. Finally, a critical discussion of the proposed JCPEA, reflecting on how it could be altered to better address earlier findings, rounds out this chapter.

11.2 Ethical presence

The first set of findings emerged from the political discourse analysis (Steps 2 and 3 of the JCPEA) and focused on the question of ‘ethical presence/absence’ in planning discourse. Two findings merit further discussion. First, the presence of multiple inferred ethical premises in arguments for or against certain actions; and second, the implications of multiple ethical dimensions in urban policy on the realisation of a just city.

11.2.1 Accommodating multiple ethical dimensions in planning discourse

Planning literature tells us that the content of urban policy is based on normative views of what is right or good (Healey, 1994; Moroni, 2019; Wachs, 2013). Theories of justice are, supposedly, used in planning to provide a base for the profession to decisions about land uses and accommodating multiple conceptions of justice can then weaken this base. Just city policy needs to be based on specific substantive conceptions of justice, which according to Moroni (2019) “will have to confront with other possible alternative conceptions” (p. 10). In this section I describe the effect of the different kinds of ethics confronting each other in planning discourse and discuss why this is important in relation to the just city principles.

My case study of Auckland city’s planning documents demonstrated that multiple ethics are accommodated in that planning discourse. However, when evaluating the extent to which ethics informed policy it was found that the arguments generally were not highly influential, or well argued. These findings are consistent with the view of those scholars who consider that planners are neglecting to consider the ethics or moral obligations of policy (for example, Udy, 1980; Campbell, 2012; Harris, 2019).

There are several explanations for multiple ethics being accommodated in the statutory planning documents I studied. One reason may be to do with a lack of factual clarity about the circumstantial premises. For example, in Auckland's planning discourse, the basic argument was that a compact city (through urban containment and residential intensification) ought to be pursued to achieve a sustainable liveable city. This was a response to sustainably manage urban growth. An alternative argument, that more land was needed to accommodate housing, was also present. The arguments invoked to address these circumstantial premises drew on different underlying ethical premises: the argument for the compact city invoked a utilitarian argument seeking the greatest good for the greatest number, whereas the alternative argument seeking greater land supply for housing reflected a libertarian argument, seeking less planning intervention and a greater reliance on the market. However, the ethical basis of these arguments were not made explicit at any point meaning that such inconsistencies went unremarked.

Another explanation for the presence of multiple ethics is that there may have been a weak vision of what the discourse is trying to achieve; with different ethics informing arguments to achieve different visions. The discursive ruptures discussed in Chapter Ten, highlighted that several competing visions appeared to be sought; for example, the vision of the central government focussed on land supply for housing, while at local government level there was a stronger commitment to compact city policy. Without explicit consideration of the intertextuality of ethical meaning within various planning texts at national, regional and local level, the significance of ethical competition within the discourse, will not be considered or seen as influential.

There is also a potentially positive outcome from multiple ethics being invoked in planning discourse: the multiplicity might provide opportunities for small developments in line with the realisation of a just city. Several scholars suggest that every step towards a just and kind city is a step forward (Davoudi, 2013; Fainstein, 2010; Sandercock, 2003; Thrift, 2005). In the case study, the attempt to include affordable housing in the proposed plan was deleted and replaced by policy relating to land supply for housing; one policy approach was Rawlsian in nature (an attempt to look after the least advantaged), the other more libertarian in its approach (letting the market provide). The fact that affordable housing was at some point in the plan, even though it was subsequently deleted, at least gave the idea space to be debated. That the outcome was not as originally intended could be immaterial, as the outcome can still be conceived as a step towards a just city. However, reflecting on the findings of this study and the explanations for them, my sense is that planning discourse informed by multiple justice ethics

is not likely to be effective in the pursuit of a just city. According to Wachs (2013), plans can fail if they are too accommodating of multiple ethical positions, so this finding raises the possibility of future plan failure.

In the New Zealand context, finding that multiple ethics were accommodated within planning discourse reminds me of Mitchell's (1972) critique about New Zealanders. Mitchell, criticised the Kiwi desire to be *seen* to be doing the right thing, as opposed to actually doing it. Embedding multiple implicit references to different ethics in urban policy may be part of this condition. Fairclough and Fairclough (2012) refer to a similar condition. They describe documents having a "perceived commitment to justice ... regardless of whether it is actually concerned to act accordingly or not" (p. 176). These findings suggest that without a commitment to a single, particular ethic (or related ethics) it would be difficult to act accordingly at all. It also highlights the role of evaluating both plan content and outcomes (as I discuss further in section 11.6). The application of the JCPEA highlighted a significant challenge for planners seeking to advance a just city as the appropriate object of planning: without a systematic, formal way of evaluating the ethical premises shaping policies and decision, such as the JCPEA, the realisation of a just city may become thwarted by the multiplicity of implicit ethical arguments.

11.2.2 Taking the moral high ground: committing to a single ethic for the just city

A just city is a concept, and as such only "poses and names the problem", according to Moroni (2019, p. 9). He suggests that it is the conceptions of justice that "propose and specify a solution" (Moroni, 2019, p. 10). He did not go so far as to defend a specific substantive conception of justice as a means of achieving a just city but did note that "a just city is therefore a city whose public institutions are just" (p. 4). Like Moroni (2019), I do not defend a specific substantive conception of justice as a means of achieving a just city. I did not set out to make a call on which "moral high ground" (Fainstein, 2010, p. 29) is best, or even that one ethical dimension is necessarily better than another. However, as noted in Chapter One, just city principles align with some conceptions of justice more than others.

The results of this study showed some conceptions of justice had a stronger focus on the least advantaged than others. Arguments informed by a libertarian, utilitarian, or communitarian ethic were evaluated as having no focus on planning for the least advantaged, whereas arguments reflecting a Rawlsian or Capability(ies) approach were evaluated as having a strong focus on planning for the least advantaged. This finding, that Auckland's planning discourse invoked these different conceptions of justice and care at various times in the production of the statutory plans and a lack of focus on the least advantaged, suggests a latent intent for Auckland to be a just city, but that this intent was thwarted by the presence of multiple competing

conceptions (solutions) of what constitutes a just city and the lack of a sustained focus on the needs of the least advantaged.

Without a strong conceptual base, founded on ethics that support just city principles, these results align with the view of Harvey and Potter (2009): the concept of a just city needs to be more than a “hazy outline” (p. 40), particularly if the needs of the least advantaged are at its heart. It also requires an approach to systematically evaluate the ethical arguments invoked in the production of statutory plans, in order that attempts to realise a just city are not thwarted by a multiplicity of ethical concepts being invoked as premises within arguments. In my argument, this lack of focus may also be explained by a concurrent lack of clarity about the role of planners working in the public interest.

11.3 Working in the public interest – Reimagining the role of planner

This study found that public interest was not a premise explicitly invoked in underlying ethical arguments for or against planning policy in Auckland. It also found that there was some confusion in the discourse. An acknowledged need for planning interventions on public interest grounds, on the one hand, was undermined by the search for the least restrictive policy approach on the other. One particular finding called into question the entire purpose of planning, when the IHP suggested that “the use of land use controls under the Resource Management Act 1991 is not an appropriate method for such redistributive assessments and policies” (Overview Report, IHPAUP, 2016, p.58-59); this begs the questions what is the purpose of land use controls if not to be redistributive? There are several possible explanations for this finding, but drawing on the literature reviewed for this study, they can be seen to resonate with the view of Lennon (2017); that planners are grappling with their role of working in the public interest and that this role has been undermined and compromised by neoliberal ideology (see also Gunder, 2016; Leffers, 2015)

The finding that *public interest* is largely absent as an explicit argument/influence in the case study discourse reflects the role of planning over time, and the ruptured nature of what the term encapsulates. For many decades the role of the planning profession was to protect the interests of the public, protecting city residents from negative outcomes the free market was unable to resolve, acting as a moderating force in the regulatory system, ensuring a balanced view was presented to decision-makers. Marxist critique suggests that in this role planners are working in the interests of the state rather than the public. Advocacy planners limited the public interest role specifically to specific groups, an idea that Fainstein refocused to those

who were least advantaged, and for communicative planning theorists the idea of the public interest stemmed from reducing the influence of those with power. In the last few decades, the idea of working in the public interest has become further confused. It is an idea that is undermined by neoliberal governments, and reforms to tighten timeframes, streamline processes and introduce performance targets, alongside public attacks on the knowledge and value of planning. Planners have effectively been silenced (Grange, 2016), and their role to act in the public interest has been diminished. Under emerging populist ideals, the public interest lies with the “popular will” (Sager, 2020, p. 86) of the people; another interpretation of public interest, and one which Sager warns is exclusionary. I argue that understanding what is meant by ‘good’ and giving agency to planners working in neoliberal settings to pursue outcomes in the public interest is essential to realise a just city.

The meaning of ‘working in the public interest’ has changed over time and is dependent on the ethical premise underlying policy. While I disagree with the “hard-line Marxist” (p. 16) view of planners working against working class interests (Potter et al., 2018), and only ever being “a functionary of the capitalist state apparatus” (Gleeson & Low, 2000a, p. 122) to the degree that it was not included as an ethic of justice in the JCPEA, I do agree with Harvey’s (1973) view that when dealing with complex justice issues in cities it is important to correctly “conceptualise the situation” (p.22). In conceptualising a just city, with its focus is on the least advantaged as I have adopted, its realisation is dependent on certain ethical dimensions being invoked in urban policy (as discussed in the previous section). It also requires a commitment by the planning profession to a shared purpose, such as the one I proposed in section 2.2.1, which explicitly refers to planning interventions required for the public’s immediate or future interest and focussing specifically on the needs of the least advantaged, to realise a city that is just.

The application of the JCPEA, and subsequent finding vis-à-vis public interest, suggests that planners and those involved in planning processes are grappling with what it means to be working in the public interest. Alternatively, it may indicate the idea of working in the public interest is taken for granted; or that it has been taken over by other interests. Earlier, the tension between the role of planning in protecting the public interest and becoming the scapegoat for neoliberal governments was noted, and that planners are distancing themselves from planning outcomes and/or describing their role as neutral. I posit that addressing this requires planners to mobilise their agency and, drawing on the idea of planners being “neutral arbiter[s] of the public interest” (Potter et al., 2018, p. 14) as per the advocacy planning approach, argue planners need to be *non-neutral* arbiters of the public interest, focussing on the needs of the least advantaged in the pursuit of a just city. In my argument I consider that

this reimagined role of planners becomes increasingly important when considering the power of the ethical premises invoked by different parties in public interest arguments, and a framework such as the JCPEA, can help bring the idea of public interest into focus.

11.4 The effects of power on ethics invoked in planning

Part of the purpose of the JCPEA focused on exploring the effects of power in planning through a Foucauldian-type analysis. This analysis revealed discursive ruptures and silences that were present in the planning discourse examined, and helped highlight what Richardson (1996) refers to as the manifestation of power in the inherently argumentative policy making process. What can be inferred from this finding is that if planners reimagine their role as non-neutral arbiters of the public interest, then they need to understand and expose mechanisms of power that undermine the pursuit of a just city, and subsequently challenge such manifestations of power in the planning process.

Based on my findings, independent hearing panels appeared to have significant power on the ethical direction of urban plans. A note of caution here: the case study only explored planning discourse relating to a small subset of urban policy and therefore the finding may not be transferable to other policy areas. However, it highlights an area that would be useful to research further as it could have implications for planning practice in New Zealand in the future.

The premise behind the use of independent hearing panels reflects neoliberal ideals to simplify and streamline planning processes. As New Zealand heads into a phase of further changes to the planning framework, the “Randerson Report” (see section 6.4) anticipates a much more extensive use of independent hearing panels in order to address “[e]xcessive complexity, uncertainty and cost across the resource management system” (Resource Management Review Panel, 2020, p. 26), and to address “weak and slow policy and planning” by “[improving] the quality and speed of regulation and [reducing] appeals on plans” (p. 26). It is evidence of what Harris (2019) referred to as the “ideological campaign against planning” (p.4). Given the findings of this study relating to ruptures and silences within the text, the potential use of independent hearings panels for plan development in the future highlights that planners not only need to consider the ethical dimensions of plans, but also track how and where they change during the course of a plan’s development, in order that this can be made transparent. This requires some aptitude for the reflexive praxis as indicated in the application of JCPEA process.

11.5 A just city in practice

One anticipated outcome of abductive research is that it can contribute to the development of a new theory or can expand an existing one (Tavory & Timmermans, 2014). Constructing meaning from my findings to contribute to or expand just city theory began in Part One, where explore the potential meanings of a just city, its gaps, and ethics that could fill that gap.

The literature review identified specific substantive conceptions of what constituted a just city. In the language of abductive reasoning, these were the “signs” or “signifiers” of a just city, the “object” being explored (Tavory & Timmermans, 2014). Empirical observations of these signs of a just city were identified and analysed in Part Two, and now, I draw meaning from these findings, the “interpretant” step (p. 23) in an abductive process, gaining an understanding of how these signs affect a just city. Tavory and Timmermans (2014) refer to a chain of signs, objects, and interpretants, and it was only through looking at multiple signs that a “novel interpretation” (p. 30) of just city theory could emerge. One novel interpretation of just city theory that I draw is not so much a retheorising of the just city, but rather the suggested addition of a fourth principle. Further meaning can be inferred from the findings, connecting just city principles with planning practice, and these are also discussed below.

11.5.1 The principle of kindness and the importance of reflexive praxis

The literature described how kindness, as a practical response to people’s needs, has always been part of the rationale of planning, evidenced in attempts to recognise difference and ensure inclusion, to achieve equitable outcomes, and the adherence to democratic processes. Kindness has also been evident in the work of local government, the day-to-day repairs of the city, the attempts to create urban places that people can connect within, and yet this study found it was conspicuous by its absence in planning discourse. In Part One, I disagreed with Forester’s (2020b) view that claiming acts of kindness would undermine them, and on the basis of my findings I stand by that earlier opinion.

This study evidenced some reference to care ethics in planning discourse. Although infrequent, there does appear to be a “bubbling up” (Cloke et al., 2020, p. 4) of kindness discourse in the Auckland context, evidenced by the explicit inclusion of kindness as a value informing the 2018 spatial plan. This finding suggests the possibility of planning becoming an “institutional space of care”, where care is invoked as a form of resistance to neoliberal styles of governance, with their focus on speed and market-led processes (Power and Bergen, 2019, p. 4). The references

to kindness in this study did not come across as acts of “self-promotion and arrogance, humiliation and shaming, one-upmanship and condescension, or worse”, which Forester (2020b, p. 14) expressed concern about, but rather highlighted the importance of reflexive praxis as part of the principle of kindness.

Reflexive praxis involves questioning the practices that have evolved in planning. Explicitly identifying ethical dimensions within plans, bringing them to the surface as Schön (1983) refers, and then critiquing them, can be transformative in terms of learning and informing new policy. It is a task that will require planners to consider the extent to which interventions have responded to the “suffering or vulnerability” (Forester, 2020b) of others. It is especially important to recognise misplaced kindness but also to recognise destructive attempts at any of the lofty or utopian just city principles. Reflexive praxis, as part of a principle of kindness, presents the profession with an opportunity to act in the public’s interest, and to work towards a city that is not only just, but one which creates the conditions for human flourishing, a just and good city. The JCPEA developed for this thesis explicitly encourages this kind of reflexive approach connecting principles to practice and could help planners move beyond the concerns that Fainstein (2010) expressed about the focus in communicative planning on process.

11.5.2 Connecting principles to practice

Early in this thesis, I argued that utopian outcomes such as the those sought by just city principles, were a means of providing hope and momentum to planners and decision makers who might strive toward a just city. Utopian ideals present a fertile ground for reflexive praxis as the process of reflecting on the ‘signs’ of a just city and drawing meaning from them, as I have done in this research, has highlighted the nexus between just city theory (utopia) and practice. Rather than providing answers, my findings simply raised more questions, particularly about the complexity of meaning behind the utopian ideals of a just city. Three aspects of planning practice stood out as particular challenges: understanding diversity; consultation processes; and narrative ownership.

(a) Understanding diversity in planning practice

In Fainstein’s (2010) concept of the just city, policy should strive for recognition and acceptance of difference. She recognised her use of the term diversity was broad, referring to it as a “convenient shorthand” (p. 67) that includes physical and social diversity. Elsewhere the literature highlighted that planning in accordance with a principle of diversity requires planners to listening and hearing the voices of difference, but that this is not being done well (Sandercock, 1998; Young, 1990; Fincher and Iveson, 2012; Osborne, 2015).

The case study found that references to diversity were often aspirational. For example, the idea of diversity in Auckland's planning discourse appeared to more closely resemble commercialised urban branding; it was represented as a 'commodity' contributing to the vision of Auckland becoming the world's most liveable city. Social cohesion, the idea that groups of people who were different in terms of say, ethnicity, age, or income levels, could live amicably, empathically and generously alongside each other in desirable homogeneity, was not represented in the discourse. Rather, the kind of social cohesion envisaged was presented as merely some ill-defined factor contributing to 'liveability' under compact city policy. Diversity and cohesion were portrayed as a means of gaining prosperity and opportunity, revitalising neighbourhoods, and as a link to the global economy. This finding reflects Fainstein's (2005a) view that diversity discourse can be limited to the idea of a solution to achieve economically competitive cities. In practice, there were no clear definitions of what 'diversity', or 'social cohesion' entailed in terms of planning commitments and certainly no attribution of these ideas to any particular ethical standpoint that might have made the views in the plans more intelligible

One challenge relating to physical (building) diversity became evident in the submissions. Although only a small sample was examined, several referenced fears of higher density zoning resulting in slums – essentially segregating lower socio-economic communities into distinct spatial areas. In this regard, it is not just the discourse of diversity that needs to be evaluated, but also the effect of this discourse in terms of spatial outcomes. Elsewhere in the Auckland discourse, challenges associated with diverse populations were described, and the reference to Aucklanders as being "generally accepting" (2012 spatial Plan, p. 86) of diversity, and in particular the word generally, suggests a less accepting view of the diversity within the city. Limiting this case study to compact city policy may also have limited the analysis of diversity in planning practice. For example, some of the submissions examined for this study also contained references to heritage and culture policy; some strongly advocating for recognition of cultural diversity and others against. However, within compact city policy, the arguments relating to diversity within the case study discourse were not strong, and my findings suggest there are aspects of diversity that are not yet well understood in practice.

The 'broadness' of the term diversity makes it difficult to plan for in practice, and many questions remain unanswered. Although several ideas to overcome the aspirational and anecdotal references to diversity in planning practice were presented in Part One, such as Fincher & Iveson's (2008) cross-group decision rule, and de Souza Briggs' (2008) ideas regarding the need to forge connections, bridge differences, and build on aspects of shared

identity, there was no evidence of these in this case study. However, this finding is likely due to the method of analysis used in this study. Other methods such as interviewing planning practitioners may delve more deeply into how the consultation was undertaken and may have revealed evidence of such rules. Alternatively, quantitative analysis exploring neighbourhood homogeneity and/or the porosity of borders would contribute to a discussion on diversity.

Communities cannot be neatly categorised; they are complex entities and can be characterised variously. How to evaluate these aspects of diversity is one such question that requires further research, but as part of planning practice could begin to be addressed through reflexive praxis – evaluating the content and outcomes of urban plans to make sense of diversity will require more attention to the ethical drivers behind concepts such as stigmatisation, ‘unbounded’ identifiers of individuals in community, desirable homogeneity or affinity clustering.

(b) Consultation through deep dialogue

In terms of democracy my findings supported Fainstein’s (2010) concerns about the focus on process over substance in policy development. Consultation as part of the plan development processes came across in the Auckland discourse as having been successful, yet there was a small number of submitters who questioned the fairness and efficacy of consultation processes. The JCPEA did not evaluate the quality and efficacy of the consultation methods used. Hence the findings could only raise questions about the extent to which participatory processes contributed to the delivery of just city outcomes.

Reflecting on the discourse associated with the principle of democracy raises questions about the extent to which planners are involved in the development of “critical consciousness” (Freire, 2017, p. 9) of those involved in planning processes. Freire’s (2017) concept of “conscientizacao” (p.41) requires the need for dialogue with those who are least advantaged, transferring to them opportunities to participate equally in planning matters. He highlights that simply following a democratic process, with participation points at certain stages of policy development, is not necessarily democracy. Instead, democracy requires planners to be deeply engaged in dialogue, allowing all parts of a community to critically challenge their viewpoints. Consensus seeking, which can result in the removal of opportunities to debate and damage democracy (Allmendinger & Haughton, 2012; Swyngedouw, 2010), should not be the goal but rather to ensure that provisions of a plan result from dialogue and debate.

For planning practice to deliver a just city, the democratic processes of deep dialogue might need to be pursued. Freire (2017) describes how it is only when the “oppressed find the oppressor out” (p. 39) and begin to reflect and then act on this knowledge that they will have a

voice. This is a lesson that I suggest is equally applicable in reverse. It is only through deep dialogue with all parts of a community that *planners* can critically and seriously reflect on their praxis, and in particular whether or not their plan development processes reflect democratising processes.

(c) Authorship: Owning the just city narrative in urban plans

One further finding was that there was a lack of clearly defined authorship within the statutory plans, and that this disguises which ethics are contained within planning discourse. One explanation of this might relate to the lack of attribution of the work to planners. They have become “agentless constructions” (Tett & Wolfe, 1991, p. 197), as I found during the course of this research. This is not altogether surprising. Anonymity of authorship of city plans is due to both the range of interests being mediated within them and, by masking individual voices (or groups of voices), lending legitimacy to a collective voice (Tett & Wolfe, 1991). But this anonymity also acts to silence the voice of planners and their ability to champion public interests or to be recognised as parrhesiastes, advocating for justice or kindness on the public’s behalf.

This unsurprising result raises further questions. For example, if a just city is the appropriate object of planning, can planners own the narrative of a just city? Could they take this opportunity to act as parrhesiastes, rather than neutral bystanders in the processes of planning, but rather participants in a political process who have a role in weighing up different ethical arguments and making recommendations to decision-makers? Again, this has not been answered in this study, but is an area that requires further research.

11.6 Reflecting on the JCPEA

In the final discussion of findings in this chapter I turn to my proposal to systematise planning practice through the use of a guidance model; the JCPEA. One of the gaps that this thesis sought to address was the lack of a systematic, formal way of evaluating the ‘justness’ of urban policy and the extent to which various ethics inform the practical arguments of planning policy. The JCPEA was an attempt to address this gap. As it stands, the JCPEA is a high-level evaluative approach, looking at specific ethics of justice and/or just city principles. It was designed to systematically compare different forms of contemporary planning discourse against the ideal of a just city. In this regard, it was useful for my thesis and delivered focus to my intent to assess the role of ethics and principles in planners’ practice. However, the preceding discussion

indicates there are still many unanswered questions about ethics in planning, and abundant room for further development of the JCPEA.

Based on the findings of this study, I suggest a JCPEA could be refocused on the purpose of planning. If planners are to reclaim their role as non-neutral arbiters of the public interest (as I suggest is ideal), they would be required, professionally, to focus on the needs of the least advantaged, and act as parrhesiastes holding politicians to account in the pursuit of a just city. My JCPEA could be altered to aid them in this role. Such a shift in the purpose of the model would require an evaluation not only of planning discourse, but also of plan outcomes – an aspect that was outside the scope of this research. Evaluating plan outcomes, and other methods of analysis such as interviews and spatial analysis would be a useful way to delve more deeply into some of the theory-practice issues discussed above. Using some form of spatial analysis would be particularly useful to explore the effects of just city discourse (and in particular discourse relating to zoning) on diversity. The use of interviews could evaluate the quality of consultation and explore concepts such as conscientizacao.

Reflexive praxis was always part of the JCPEA. However, following the above discussion it could become equal to the evaluation, transforming a Just City Plan Evaluation Approach to a Just City Plan Evaluation and Action Approach (JCPEAA), refer Figure 26. These changes would also better reflect the theory-praxis nexus. Such a model would help practitioners address what might be perceived as a commitment to justice in planning discourse, by also evaluating the actions that this discourse engenders, and use this knowledge to instigate further action. If used iteratively, a JCPEAA could usefully result in steps towards a just and kind city.

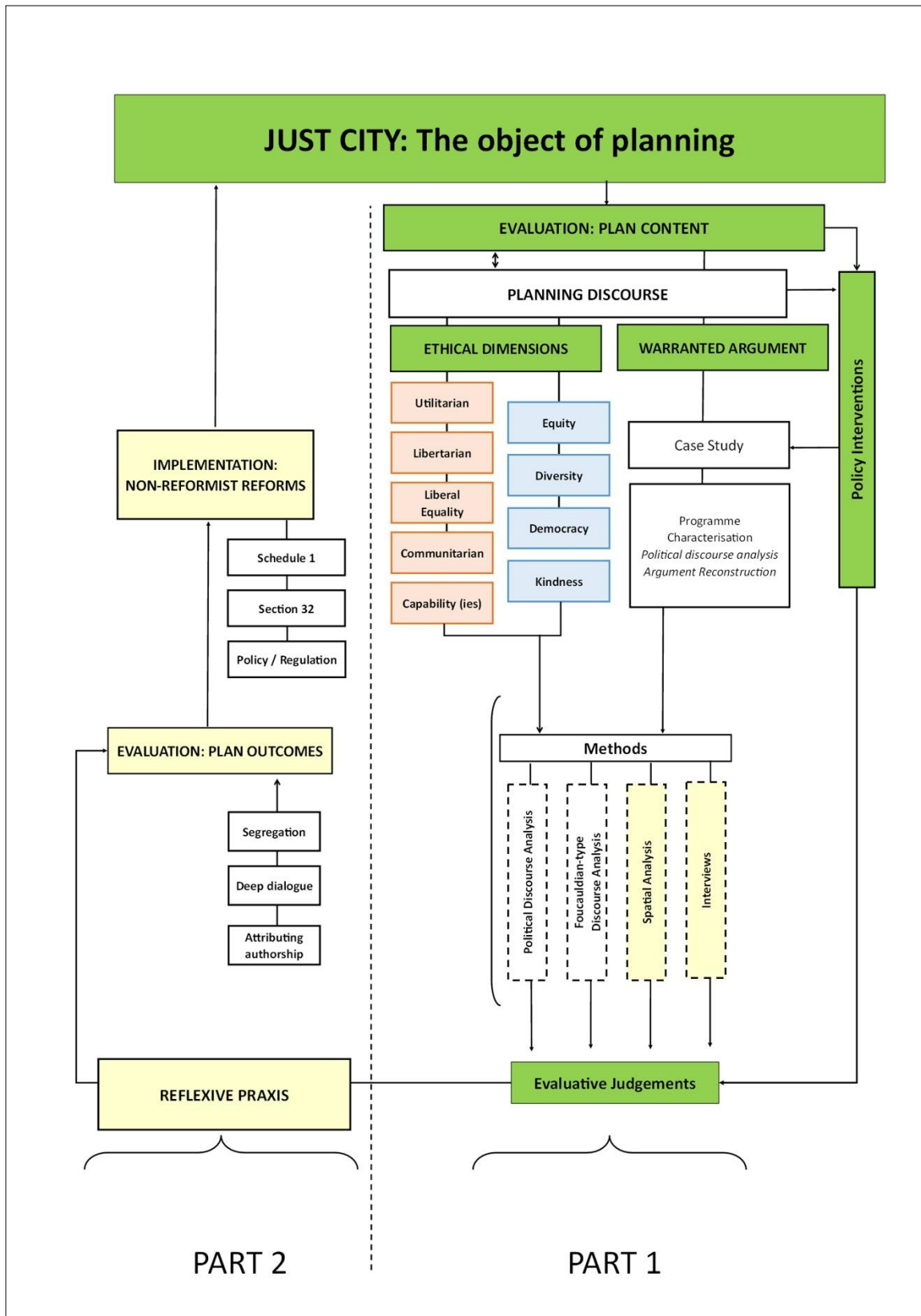


Figure 26: The Just City Plan Evaluation and Action Approach (JCPEAA)

11.7 Summary

The aim of this research was to explore a relationship between planners' orientations toward ethics and the idea of a just city: should care about the ethical dimensions of urban plans? I developed a heuristic framework (the JCPEA) to support my systematic evaluation of planning discourse in order to determine if there were motivations for planners to care about the effects of ethics on the realisation of a just city. I assumed given the history of urban planning, with its claims of creating a better future for residents as a result of interventions, that planners were more likely than not to advocate towards the idea of a city that was just and that traces of Fainstein's ideas of a just city would be evident in New Zealand planning discourse.

At the practice level, in response to my finding that highlight the potential for power to manifest in discourse, I suggest that this is one particular reason for planners to be motivated to consider the role of ethics in planning. Findings that point to the complexity of planning practice and the effects of power also highlight the importance of reflexive planning praxis, particularly in relation to specific planning interventions (such as zoning), and tasks (such as consultation and plan writing). In existing planning literature, the role of planners working in the public interest is highlighted as a contentious issue with some considering it a weakness in planning practice. In my findings, the evidence of competing ethical perspectives in plans and the unacknowledged presence of neoliberal discourse suggests that the issue of in whose interests' planners work is unresolved in the New Zealand context. How planners might learn to recognise the influence of ethical premises in their work will require more specific training. My suggestion to extend the idea of a just city to one that includes kindness is born out in some evidence of discursive shift under the 6th Labour government, where kindness is actively articulated. The central idea of 'caring' for others in an ethical framing of capabilities underwrites the potential for planners to work in the public interest.

In the context of future planning reform, the use of a framework such as the JCPEA or its successor, the JCPEAA, is posited as being useful to understand power in planning practice. It provides a set of ideas about how planners might differently interrogate the work of planning documents and having done this seek to reclaim their role as non-neutral arbiters of the public interest. Its value, as with any model, is in its ability to generate a conversation about difficult topics with contested viewpoints, creating space for democratic debate and discussions, delivering a discourse of possibility and hope that the realisation of a just city requires.

Chapter Twelve: The Extended Just City Project

12.1 Introduction

This thesis has argued that the use of an evaluative framework to systematically unravel planning discourse is necessary to understand why planners, in pursuit of a just city, should care about the ethical dimensions of arguments informing policy. It sought to address a criticism in scholarly literature; that planners are out of their depth when it came to ethics and that considering ethics has been neglected for decades (see Campbell, 2012; Harris, 2019; Hendler, 1995; Udy, 1980). Although there are multiple interpretations of what might constitute a just city, based on different theories of justice, I adopted Fainstein's concept of the just city, an evolving planning paradigm, as part of the purpose of planning. It is a view consistent with my own ethical leanings as a planning practitioner, and Fainstein's focus on the least advantaged encapsulates what I have argued is central to the idea of working in the public interest. Following a review of ethics of justice literature, and a close and critical examination of two other relevant existing concepts (Fainstein's idea of the just city, and care ethics), I extended Fainstein's concept by adding a fourth just city principle – kindness. I call this the *extended just city project*, in recognition that it draws on both care and justice ethics and is intended, through reflexive planning praxis. Drawing on the literature base, I developed and applied the JCPEA; an evaluative framework to help systematically unravel the complexity of ethics in planning. In drawing this thesis to a close, I conclude that mobilising the idea of a just city requires a reimagined role for planners where they use their agency as non-neutral arbiters of the public interest, acting as parrhesiastes, focussing on the needs of the least advantaged.

The six requisites for planners seeking to realise a just city represent the culmination of my work. First, planners working on the extended just city project requires reconnecting with theory; an understanding of what the ethical premises that informs their work and the effect these premises have. Second, the extended just city project requires a shared understanding of, and commitment to, working in the public interest, and subsequently, third, an understanding that attempts to work in the public interest can be thwarted by the presence of multiple ethical

premises invoked in planning discourse. Fourth, the extended just city project requires an equal commitment to four principles – equity, diversity, democracy, and kindness; and giving meaning to them in planning requires reflexive praxis. Fifth, in making judgements about the effect of ethics in urban policy, there needs to be a framework against which the evaluand (planning discourse in this case) can be judged, such as the Just City Plan Evaluation Approach (JCPEA), and the results reflected upon. Finally, it requires recognition that planning a caring and just city (in whatever form that might take) can be sought incrementally through non-reformist reforms; recognising, as others have noted before, that every step towards a just and kind city is a step forward. This chapter explores each of these conclusions in the context of the research question, providing answers as to why planners should care about ethical dimensions in plans.

This study makes several knowledge contributions to planning theory and practice, drawing on the findings and lessons learnt, following the development and application of the JCPEA to Auckland's planning discourse (as described further in section 12.3). Areas requiring further research are identified before a closing comment, reflecting Freire's (1994) view of critical hope, that I apply to the extended just city project; a just and kind city that is anchored in planning practice.

12.2 Reimagining the role for planners: caring and justice

As described above, this study concludes with the idea of the extended just city project. What this entails is drawn from the double storey that was this thesis; the review of literature drawn largely outside the planning discipline, and the development and application of the JCPEA. Each of the six requisites of the extended just city project are presented below.

12.2.1 Ethical arguments matter

The success of plans is related to the strength of their ethical arguments (Wachs, 2013). Although critics have suggested the consideration of ethical dimensions in plans is a task neglected by planners, my findings suggest otherwise. This study found evidence of multiple inferred ethical dimensions which had varying degrees of influence on Auckland's planning discourse. However, when an argument is diluted by accommodating multiple ethics, the likelihood of success is jeopardised. For planners, the first step in mobilising a just city is to reconnect to theory. As Fainstein (2005b) acknowledges "political mobilization requires a goal

to mobilize about” (p. 128). The dilution effect of accommodating multiple ethics in planning discourse impacts the achievement of that goal.

In this research, I found that arguments informed by Rawlsian or capability(ies) ethics were strongly focused on the needs of the least advantaged. This focus, however, was diluted by other arguments informed by libertarian, utilitarian and communitarian ethics which had less focus less on the least advantaged. This dilution effect was most noticeable in the evolution of the affordable housing provisions in Auckland’s Unitary Plan. Planners should care about the potential for the dilution of ethics in the planning process if they are to pursue a just city because it directly impacts those for whom the interventions were originally intended.

The effect of ethical premises informing policy depends on the merit of the argument. Fairclough and Fairclough (2012) consider a good argument to be one that is rationally persuasive, dialectically reasonable and rhetorically effective. In the case of this research, there was only one line of reasoning that could be considered as being informed by a good argument – the libertarian argument. This approach focuses on private property rights and seeks minimal intervention by planners. If the just city as originally envisaged by Fainstein (2005b) and extended by my fourth just city principle is to be the appropriate object of planning, planners must care about the *merit* of ethical arguments informing policy; a good argument is one that is justifiable, reached through dialogue, and persuasive (Fairclough and Fairclough, 2012). If a just city (in my extended sense) is to be mobilised, then a commitment to a particular ethic (Rawlsian), or set of ethics (Rawlsian and capability(ies)) which resonate with the four just city principles, is required.

12.2.2 Planners: Non-neutral arbiters of the public interest

The idea of planners as non-neutral arbiters of the public interest stems from the influence of advocacy planning on Fainstein’s concept of the just city. Rather than advocating for specific groups, Fainstein (2010) argued in *The Just City* for planners to “take an active role in deliberative settings in pressing for egalitarian solutions and blocking ones that disproportionately benefit the already well off” (p. 173). In this way, rather than the neutral planners that Davidoff (1965) envisaged, planners working on the extended just city project are non-neutral; critically considering the ethics invoked, in whose interests they lie, and responding practically to the needs of others. In a non-neutral role, planners can become defenders of the public interest in a post-political and post-secular world, acting to resist the effects of neoliberalism on planning practice. Such a critical role however requires that the effects of ethics on particular groups are made explicit as they evolve in planning discourse, and by doing so, could present a healthy democratic space for public debate.

12.2.3 Exposing mechanisms of power

A Foucauldian-type discourse analysis identified the importance of power manifesting at certain times in the planning process. In the case study, the ideal of a compact city was both a discursive structure, presented as common sense within the discourse, as well as a point of rupture. The libertarian line of argument within the discourse suggested that it was not the appropriate claim for action, arguing instead for unconstrained development. Another rupture, tied to the first, related to how best to achieve a compact city (i.e., urban containment and residential intensification vs unconstrained development guided by the market). The third rupture was how best to address circumstances relating to urban growth and growing housing unaffordability. It was in relation to where in the planning process these ruptures occurred that the effects of *power* became apparent. In the case study, it was in the reports of the independent hearing panels where power became apparent, and a particular ethical dimension (libertarian) became more dominant. It is these kinds of embedded, and unacknowledged, manifestations of power (Richardson, 1996) that planners should be concerned about.

The findings of this study showed that different ethics invoked at different points in the plan development process have different levels of power. In turn, this highlights the importance of understanding the role of planners working in the public interest.

12.2.4 The importance of reflexive praxis

Central to the realisation of the extended just city is the act of reflexive praxis, the process of learning from experience. In this thesis, the importance of reflexive praxis emerged out of the consideration of care ethics and the just city principle of kindness. While Forester (2020b) exposed a “curious silence about kindness in planning” (p. 63), and then went on to say that “naming and claiming” kindness would undermine the action, I disagreed on that grounds that understanding kindness requires deliberative reflective praxis by planners about the extent to which interventions have responded to the suffering or vulnerability of others. The findings of this research showed an emerging desire for kindness as an ethic to inform the development of policy in Auckland. However, without reflexivity there is increased potential for colonial kindness (Magnet et al., 2016) or the emergence of the dark side of planning (Yiftachel, 1998); unintended, but unkind nevertheless.

The importance of reflexive praxis was also highlighted in the discussion regarding other just city principles, in particular the principle of diversity. This study found that diversity is a concept that has been embraced in planning discourse at a generic level, but that there are aspects of planning practice that could be further explored if diversity is to be meaningfully

fostered. In particular, identifying and then reflecting on the effect on diversity of different ethics invoked in specific planning interventions, such as zoning, might help to ascertain whether or not they have an effect on the homogeneity of a neighbourhood, or the porosity of borders, or social cohesion.

Much can also be learned by reflecting on the success or otherwise of democratic planning processes. The JCPEAA (the revised JCPEA) elevates reflexive praxis to a position equally important as the evaluation of ethical content itself. This was partly in response to the discussion on findings relating to the just city principle of democracy, which highlights the work of Freire (2017) and his view that simply following democratic processes, without subsequent action, is not necessarily democracy. It also stems from the effect of the politicisation of planning which, when exacerbated by neoliberal governance, as described in Chapter Four, lessens the opportunity for democratic debates and deep dialogue. It is through reflexive praxis, and making the ethics trail explicit, that planners can draw on the different ethics invoked in different policy options to raise the “critical consciousness” of communities, create space for democratic debates, and to speak as advocates on behalf of the least advantaged.

12.2.5 Evaluating ethics – a critical planning practice

To care about ethics informing planning discourse and to subsequently generate discussion and debate, planners need to be able to make judgements about the premises invoked in policy, for or against certain actions, using criteria and standards. This presupposes that there is a specific object being evaluated, and in this thesis, I have argued for a just city as the object of planning, and the least advantaged, those without a voice, as those for whom planners should advocate. While to some extent my advocacy for a just city reflects my own justice orientations as a person and a planning practitioner, an ethical reorientation of planning towards justice and kindness has been borne out in my research. In making judgements about the effect of ethics, there needs to be a framework against which the evaluand (planning discourse in this case) can be judged. To this end, I developed the Ethics in Planning Evaluation Approach the (JCPEA) and applied it to planning discourse from Auckland, New Zealand’s largest city, to evaluate the extent to which ethical dimensions influence plan content, the degree to which various strands of discourse focused on planning for the least advantaged, and the merit of the various arguments invoked.

12.2.6 Nonreformist Reforms

In *The Just City*, Fainstein (2010) recommends the concept of the just city is achieved incrementally through nonreformist reform; affecting change by using existing institutional frameworks (Fainstein, 2010; Fraser, 2003). Although not a finding stemming from the application of the JCPEA to Auckland's planning discourse per se, reflecting on its application has led me to the view that the idea of nonreformist reform lends itself to the New Zealand context.

The literature signaled that urban plans are not routinely evaluated – for either outcome or content. However, New Zealand's planning framework builds plan content evaluation into the plan development process by way of the Section 32 Evaluation Report (as discussed in chapter Six, section 6.4). In this regard, New Zealand's planners are fortunate. It presents an opportunity for the kind of nonreformist reform to which Fainstein refers and could be a practical way to take steps towards a just and kind city as envisaged by Davoudi (2013), Sandercock (2003) and Thrift (2005).

The RMA requires, as part of the plan development process, that the costs and benefits of alternative options be evaluated in order to determine which is the most appropriate way to achieve the purpose of the act, or the objectives of the plan (section 32, RMA, 1991). Currently the legislation requiring this evaluation is quite utilitarian in its focus, with its reference to identifying and assessing the costs and benefits of the provisions being proposed. However, I posit that the existing institutional framework gives planners the opportunity to engage with the ethical dimensions of a plan and to challenge the "appropriateness" (section 32, RMA, 1991) of provisions.

The existing section 32 provisions require an assessment of the social and cultural effects of provision (as well as economic and environmental effects) and is a provision that could be repurposed to make transparent (ideally in public deep dialogue processes or at least articulated in the plan documents) the trade-offs being made in a CBA, and thereby take on the mantle of working in the public's interest. It could be used to identify the ethical arguments in planning, and to address silences in the text, for example the effect of zoning on diversity. In pursuit of a just city, planners could also use the existing evaluative framework to advocate for the least advantaged – setting out how each option being considered would impact on them. Documenting these findings through a Section 32 report would be a powerful form of nonreformist reform. Rather than seeking to realise a just city through specific lists of policies in furtherance of just city principles as Fainstein (2010) did, a just city could be championed by

planners (in their reimagined role) through the evaluation of the normative values and ethics informing the plans.

Further research into how the planning profession (in New Zealand) could engage in nonreformist reform, using existing institutional processes to engage with and critically consider the ethical dimensions of planning discourse would be a fruitful area for further work.

12.3 Contribution of Thesis

Ethical values in political decision-making matter because of their impact on the lived experiences of citizens. That there is doubt about the extent to which planners engage with ethics in urban plans suggests a problem that goes to the heart of the planning profession as its legitimacy rests on such interventions being made on the basis that they will improve outcomes for the public good. To address this doubt, this thesis makes three contributions to planning and just city literature.

12.3.1 Theoretical contribution

A benefit of abductive inquiry is its contribution by way of extending an existing theory. With regard to just city theory, Part One of this thesis highlighted that while justice ethics have long been used to inform policy, care ethics have not. This was evident in Fainstein's (2010) just city concept, in which she deliberately excluded care ethics and considerations of what might comprise a "good city" (p.5). I posit this was a way of bounding her just city idea, but for planners working in the public interest understanding what makes a good city is equally as important as what makes a city just. In addressing this gap, the first contributions of this thesis is of a theoretical nature, seeking to bridge planning theory and practice through extending the conceptual understanding of a just city.

In my experience as a planning practitioner and teacher, there is what I would describe as an anti-planning-theory feeling within planning practice. Yet, at a time when the world is facing big challenges including rising inequality and poverty, as well as issues relating to diversity and democracy, the need to connect theory and practice becomes increasingly necessary. I have chosen to contribute to build up the connection between planning practice and theory through exploring and extending the ideal of a 'just city'. I advance the theory of a just city beyond the three principles identified by Fainstein (2010) by including kindness as a fourth principle, where kindness is defined as reflexive planning praxis that responds practically to the needs of others through everyday actions, policy, or regulation.

Extending the conceptual understandings of what constitutes a just city by including kindness was borne out of the first research objective: to identify specific substantive conceptions of a just city. In Chapter Three, five Western philosophies of justice (libertarianism, utilitarianism, Rawlsian, communitarian and capability(ies) approaches to justice) were mined for specific substantive conceptions of what constitutes the “just”. Chapter Four, examined Fainstein’s concept of a just city, addressing the second research objective. My review of the extant literature identified an acknowledged gap in her concept of the just city; ethics of care were absent. Chapter Five addressed this gap, exploring the literature on ethics of care, and extending the concept of a just city by including a fourth principle – kindness.

Using kindness as a principle to guide planning policy stems partly from current academic discussions about ethics of care. Its use in planning is not new, with Abercrombie (1933) first writing about prioritising the needs of others and seeking harmonious relationships in cities. But the changes in planning theory through the decades meant care ethics were relegated in favour of process. Recently however, care ethics as they relate to cities have been re-emerging, through the work of feminist geographers calling for a care-full city, and the work of Fainstein and others writing about just cities. Naming care ethics as the principle of kindness is also grounded in religious and humanist narratives, and as such is a virtue with “a shared moral tradition” (Benson, 2018, p. 6), in both a secular and non-secular way. As noted earlier, I draw on Nussbaum (2013), to suggest that a principle of *kindness* is “religion-like” (p.105), a symbol of “overlapping consensus” that “resonates”, (p.387), and respects “the plurality of cultures and histories” (p.67). It is also a less-gendered concept than *care*, which has traditionally been placed as a role of women. My approach of using kindness as a criterion for a just city, is a form of public theology in that it does not elevate a particular religious view as being right or better. Rather it is an attempt to address the current gap in just city concepts, tackling what might be considered a good city, and going beyond justice to address human flourishing. But it is not without its problems.

There is a dark side to kindness. Used as a brand for governance, complete with celebrity endorsement, it has the potential to disguise social control. Planners need to be aware of the potential for colonial kindness, or kindness that is not kind. This requires them to engage in reflexive praxis about the nature and outcomes of planning policy and gaining awareness of the ethical dimensions of the planning agendas they promote. It requires planners to engage in deep dialogue with the multiple voices of a community and using their voice to shift power to those who are least advantaged. It is this critical reflexive praxis that is the bridge connecting theory with practice.

12.3.2 Methodological contribution

The second contribution my thesis makes is methodological. Combining ideas from just city literature, plan evaluation literature and evaluation theory, I developed and applied the Just City Plan Evaluation Approach – a framework to guide evaluative judgements about why planners should care about how the ethical dimensions of plans might affect the realisation of a just city. It is a dual-method approach to plan content evaluation. The first method explores the practical reasoning of the policy content – the claims being made, the circumstances being faced, and the goals and the means to achieve the goals. Using specific substantive conceptions of justice and principles of justice, the values informing these arguments are identified. The second method applies a Foucauldian-type lens to the findings, to explore if particular conceptions of justice have become normalised and where the power lies. In the same vein as Sen (2010), the JCPEA is a framework to support planners as they engage with the normative ethics invoked in planning policy to enable the realisation of a just city, or at least point to injustices that may be perpetuated in planning. It does not claim that one ethical dimension is necessarily better than another, but rather is an approach to identify if and how the ethical dimensions are being considered, and the effects of this on the realisation of a just city, and if there are issues of power that could or should be addressed.

12.3.3 Contribution to practice

Having applied the JCPEA, it led me to theorise that the pursuit of a just city (in my extended sense) requires a re-imagining of the role of planners in their role as defender of the public interest in a post-political and post-secular world, and as resisters of the unexamined prevalence of the effect of neoliberalism on planning practice; a role that I believe can only be successful if it involves evaluating the ethical dimensions of planning discourse and reflexive praxis. My thesis is not utopian in the sense that I am not trying to reform the planning system in hopes of fair and just outcomes. However, diagnosing how plans perpetuate certain under-examined discursive practices, and the extent to which such practices materialise in urban residential environments, is a first step in this direction. Hence, in response to Fainstein's (2010) call for planners to consider the needs of the least advantaged, the third contribution of this thesis is to start a conversation in New Zealand about contested values in the policy development process and how power can manipulate and control knowledge resulting in unjust outcomes.

12.4 Towards a just city: areas for future research

This study has raised important fundamental questions about the pursuit of a just city, most of which relate to the role of planners. I discuss three potential areas of future research below.

12.4.1 The role of planning in a post-political, post-secular society

The public derision of planning, together with attempts to limit both participatory processes and the role of planners as champions of the public interest, is characteristic of the post-political condition (McClymont, 2019). To address this condition some scholars suggest a role for planners as parrhesiastes to challenge assumptions (the discursive structures that have become truths), liberate discussions, speak on behalf of those who are not being heard, encourage debate on difficult topics with contested viewpoints, and ultimately to delve into spaces of possibility and hope (Fischer, 2003; Grange, 2017; Swyngedouw, 2010). Instead of being the scapegoat for politicians, they have a role to hold the politicians accountable. However, as Fainstein and Fainstein (1982) referred, this is not without its risks to individual planners. They noted that in planners should “give voice to the poor” pushing against capitalists and politicians “as far as possible ... without becoming unemployed” (p.17). Hence, an area that requires further research is whether there is a greater role for planning institutes to reduce the risk to individual planners, by acting as the champion of the profession, standing behind individual planners as they delve into debates, and create spaces of possibility and hope.

12.4.2 Planners promoting conscientizacao

One of the theorists whose work I drew on in the conceptualising of a just city was Freire, who wrote about the least advantaged being empowered to debate and fight for their own needs. His work has not been central to just city literature but could be. His ideas resonate with the idea of planners working in the public interest, but such advocacy should not be a “gift bestowed” (Freire, 2017, p.41) by planners on those who are least advantaged, but rather should be “the result of their own conscientizacao” (p.41). How to do this is unclear, but if it is about raising the “critical consciousness” (Freire, 2017, p. 9) of a group, then simply ‘consulting’ with certain groups as part of a democratic process is unlikely to achieve this. To develop a full picture of a just city, exploring how planners can promote the idea of conscientizacao is an area that requires further research.

12.4.3 Addressing the archaeology of knowledge: What do planners know and what are they taught.

One of the limitations of this research was that it assumed that planners had an awareness of the ethics and principles used in the JCPEA. To explore the extent to which planners understand different ethics (be they the five Western ethics used in this study, or otherwise), and to connect this knowledge to underlying bodies of knowledge that have become discursive in practice, is an area that could be further researched. It would also be useful to know the extent to which ethics are taught in planning schools, and how the purpose of planning is taught, in order to better understand why it is that scholarly articles are describing planners as grappling with the idea of working in the interest of the public.

12.5 Closing comment

In this thesis I have argued that, as part of the organisation of cities, planners have a specific role to respond practically to the needs of others through policy. Central to this role is considering what ought to be done in certain circumstances, which raises the need to understand the ethics invoked in arguments. These arguments, used in urban plans, matter; they are critical to praxis, impacting the lived experiences of city residents. In the extended just city project, I posit that both justice and virtue ethics require careful consideration and evaluation. The JCPEA (or the revised JCPEAA) is presented as a heuristic framework to make these ethics transparent, and for planners to use in their reimagined role as defenders of the public interest and to create spaces for dialogue and debate about what ought to be done in a city, or in any aspect of planning practice. It is a time of exciting possibility for the idea of a just city in New Zealand. The focus of the current Labour government on enhancing justice and removing injustice, and its intention to replace the Resource Management Act 1991 provides an opportune time to discuss ethics in plans, to focus on a particular ethics, to address the silences, ruptures and subsequent power imbalances in planning discourse, and to take steps not just towards the realisation of just city ethics and principles in practice, but also to reflect on planning more broadly.

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