Response to the Draft Report on Using Land for Housing

Please find below my submission on the draft Productivity Commission report on Using Land for Housing. My contact details are at the end of this submission.

I do not agree with finding F2.9 that high land prices encourage the production of larger and more expensive housing.

I believe understanding the reasons why houses have become larger and more expensive needs to go beyond standard neoclassical economic theory and into wider real-life socio and political issues. High land prices encourage a greater intensity of land use. I believe it is culture, the shape of the property industry and the risk adverse nature of individuals that has led to this increase in intensity typically occurring in the form of larger and more expensive dwellings, rather than the building of a greater number of smaller housing units.

Finding F2.15 strongly suggests that all land use regulation is bad, yet history shows that an element of land use regulation and planning has existed for a considerable length of time. The inquiry seems to ignore positive aspects of land use regulation as pointed out in the recent Royal Town Planning Institute Report *"The Value of Planning"* RTPI Research Report No. 5 June 2014 by Professor Adams and Watkins.

This report points that many studies of planning *"neglect the full breath of planning, and fail to employ a variety of economic analysis that might reflect the breadth of planning. In particular, many of these studies typically:*

- *Focus on the 'costs' of development management rather than the value of planning much more broadly;*
- *Are based on an abstract and artificial view of markets, and one that often fails to take account of industry structure…..*

Consequentially, such studies not only fail to assess the 'costs' of planning reliably; they also neglect its benefits. As a result of these limitations, these studies do not provide a sound basis for policy making, including for planning policy and reform".

An element that I do not consider has been sufficiently covered is distortion in the housing market caused by the effective subsidisation of infrastructure costs in greenfield housing areas. If developers or future landowners were required to pay the full-costs of providing for the full range of infrastructure needed to support these areas – this would alter the price differential between infill housing in existing urban areas versus new build housing in new urban areas, so that new build housing became the more expensive option and not the other way around. A lower price for infill housing built a greater density has the potential to overcome the long-term cultural preference for low density housing, which is increasing proving economically and environmentally unsustainable.

I strongly agree with finding F3.14 that *"removing or relaxing RMA consultation and analytical requirements to enable faster translation of spatial plans into District Plans would increase the risk of poor-quality regulation".*

In response to Question 3.3, Council's have a range of functions that extend beyond housing growth and infrastructure provision. This includes hazard management and the protection of resources of especially high value, which contribute to public amenity such as listed buildings and other cultural sites, indigenous biodiversity of significant value, outstanding natural landscapes, notable trees etc.

etc. Although natural features may be less common in large urban centres, natural environments typically surround and contribute to the amenities of several cities.

In response to Question 3.4 – any new legislation for cities should include wide ranging opportunities for public comment, proof that specified matters have been considered (particularly a range of land use constraints which makes land less suitable for development such as high hazard risks, and outstanding heritage and biodiversity values, as well as independent scrutiny. Scrutiny by central government and other public agencies would not provide a sufficient degree of independence, nor would the ability of Council's to choose their own hearing panel members. It would be better for hearing panel members to be selected from a list of pre-approved persons and comprise members with a range of expertise (e.g. urban design, economics, traffic, biodiversity) and professional background (e.g. economist, town planner, architect/urban designer).

The creation of new planning legislation needs to be treated with caution. I remain of the view that a key problem in NZ is a lack of guidance as to the interpretation and implementation of legislation, rather than the legislation itself. This problem could be repeated with any new legislation. In the absence of new guidance from the government, it is likely that different hearing panels for new plans could reach different and inconsistent decision making about the treatment of the same planning issue.

In response to Question 4.2, I have no objection to the introduction of a system to override private covenants, when these have been found to be contrary to the general interests of a community. Nevertheless, I question whether the power to remove covenants is best placed with Local Councils. I am concerned that this could considerable add to the work burden of Councils. I suggest that enhanced mechanisms be provided to change private covenants through the legal system, especially as these agreements stem from the legal system.

I prefer the approach used in the United Kingdom, whereby local councils take no account of the contents of legal covenants and neither enforce, uphold or dismiss them. Resource consents are assessed against relevant planning considerations and should they approved development that is inconsistent with legal provisions, it is up to the individual parties to address these restrictions separately through legal channels.

The most effective way of preventing restrictions being imposed through private subdivision covenants would be through legislative change.

In response to Question 4.3, I have very serious concerns as to the merits of excluding persons from making further submissions based on the type of submitter. I feel this type of categorisation is likely to prove cumbersome and could be very discriminatory to some types of submitters. Landowners should not automatically be treated as a higher class of submitter, than concerned community groups.

Rather I suggest the use of exclusion criteria based on subject matter, which could then be fairly applied to all types of submitters. This type of approach was used by the NSW Commissioners of Inquiry for Environment and Planning circa 2000, whereby there was no automatic right to make a reply to submissions received. Rather, Commissioners would sift through the submissions and identify 1) new matters raised and 2) where supportive information was lacking. The Commissioners would then request or invite further comments from most the affected/interested parties, although all submitters were able to make additional comments on the limited subject matter identified within a specified time period.

In response to Question 4.4, I am very strongly opposed to narrowing the eligibility of persons to make a submission on site specific plan changes. I consider such an action, contrary to the basic democratic principles that the RMA legislation is founded on. I believe the Commission needs to look very carefully at who is directly affected. I do not agree that only landowners and residents within or immediately adjacent a proposed site are the only directly affected parties. I strongly hold the view that local community groups and organisations (e.g. resident action groups, heritage groups and environmental groups) have a right to participate in decision making in the communities they care about. I am very strongly concerned about what appears to be attempt to silence part of the community, rather than the better management and consideration of submissions received.

I am strongly opposed to using the notification criteria in the HASHA Act, which is excessively limiting on the general public to comment. It should be recognised that the HASHA Act was rushed through parliament as a short-gap measure under urgency provisions, with what I consider to be a lack of adequate analysis.

I have been involved in plan changes with 30m height limits in suburban areas, which is far above the predominant building height of the surrounding area. Buildings of these heights, particularly in highly prominent locations, are considered to directly affect more than just immediate neighbours. They have the potential to be both attractive landmarks in the cityscape signalling economic confidence in local areas if done well, or permanent ugly blots of the landscape if done poorly. Tall buildings of this height also have the potential to create long shadows that stretch over multiple properties. An isolated 7 storey building in Eastbourne, Wellington built in the 1970's remains an ugly and prominent blot on the landscape, which is visible from a wide area, over both land and sea.

There is also a tendency to use changes in built form in one locality, to justify future changes to neighbouring localities and apply initial provisions more widely. Higher density precincts can spread over time. Buildings which alter the character and appearance of existing areas, have a tendency to justify further changes to this character. It is better for a whole community to have a debate as to what is the most appropriate housing density and character of an area, rather than allowing such changes to occur in a piecemeal fashion.

Active community groups such as Wellington based Waterfront Watch and Petone Planning Action Group have demonstrated their potential to lead to improvements in proposed planning schemes. The ability of these groups to function should not be unfairly prevented.

Involvement of community groups in the submission/hearing process is better than encouraging a system of protests having to occur outside the official planning system. It is naïve in the extreme, to think that placing restrictions on the types of submitters, will prevent all members of the public from making its voice heard. Recent protests outside the RMA system include marches against the Auckland Wharf construction and online petition/tree vigil to prevent native tree felling in Auckland.

The general public is least likely to engage on strategic plans and district plan changes covering wide areas. The ability of the general public to comment on resource consents is already heavily restricted, and is largely justified on the ability on the public to have previously commented at the plan change stage. Restricting the eligibility of submitters to comment on site specific plan changes would be a strong discouragement of community participation in local decision making. The goal of such plan changes should not be a quick plan change process, but the introduction of a quality planning framework.

In response to Question 4.5, I support the use of independent commissioners. I do not consider Elected Members to be sufficiently accountable for their decision making under most circumstances,

to ensure the best outcomes. Nevertheless, the use of independent commissioners whilst ensuring a degree of political neutrality, does not prevent commissioners from reaching different opinions on the same subject matter. I believe Councils should retain the right to reject recommendations from Independent Commissioners, as there could be legitimate cases where this is justified, such as Elected Members possessing greater local knowledge. A key issue to look at, is ensuring that Independent Commissioners are allocated sufficient time to properly consider all relevant matters and not forced into rushed decision making. Commissioners also need to feel ensured of their payment and their ability to find future work, regardless of whether their recommendations meet the preferences of those footing the bill.

In relation to finding 5.1, it is recognised that requirements for balconies add to building costs, which need to be factored into any decision to mandate their use. Nevertheless, I wish to point that reported surveys of apartment occupiers have indicated that this is very desirable feature. Urban Taskforce May 2015 publication 'Urban Ideas' identifies the balcony as the most important feature for occupants of Sydney apartments. This publication is published by a Property Lobby group.

http://www.urbantaskforce.com.au/urbanideas/may2015/.

Cityscopes 2011 report on the improving the design quality and affordability of residential intensification in New Zealand for the Centre for Housing Research, also identify the popularity of balconies and open space areas with occupants of higher density housing.

http://www.chranz.co.nz/pdfs/improving-the-design-quality-affordability-residential-intensification.pdf

Benefits of private open space is also referred to in the City of Melbourne's Future Living Discussion Document, which includes an objective of improving the design quality of apartments, following a case study analysis which revealed that many apartments in the city had low levels of internal amenity, particularly in terms of a lack of natural light and ventilation, which balconies provide.

https://www.melbourne.vic.gov.au/BuildingandPlanning/FutureGrowth/Documents/future_living_discussion_paper.pdf

In response to Recommendation 5.4, I support the intention of encouraging robust cost-benefit analysis of building height limits, but have strong doubts as to the ability to do so. A key failure of recent changes to s32 of the RMA, was a lack of consideration of the capability of local councils to carry out more sophisticated cost-benefit analysis, including the ability to quantify social and environmental effects. The building of this capability is likely to require advice and funding from the central government, such as provided by the UK Government in their investigation of the value of ecosystem services. I have looked at the s32 evaluation reports for multiple Councils in New Zealand (including Auckland, Christchurch, Hamilton and Hastings) for residential intensification and have found little evidence of identifying and measuring effects of greater building height on residents of existing development.

My own investigation of the effects of taller buildings have shown a direct link between the height of buildings and scale of potential effects on neighbouring residents, particularly in terms of loss of sunlight and overshadowing, loss of privacy and sense of overlooking, and loss of outlook. Resident objections to taller development are often a logical reaction to such effects. To reach the same level of private amenity as they enjoyed before, these residents would need to relocate to another location. Their ability to relocate would depend on the effect that changes had on their property value.

These adverse effects are hard to quantify and assign a monetary value to. Whilst it is recognised that building height restrictions limit the scale of development that can be achieved and hence financial returns available and the likelihood of development taking place, how should this reduction in development potential be balanced against adverse effects on existing residents? This situation is particularly difficult, for areas built at low densities in the 1940's and beyond, where the majority of both residential and commercial buildings are of low height (8m or less). The introduction of significantly taller development into these low density neighbourhoods can have strong positive economic effects, but it can also be at the cost of very significant adverse effects on the amenity of existing residents.

To help balance the positives of greater building height with its possible high social costs, it would assist if minimum standards were established as to what is the maximum acceptable impact of taller development on lower height development and the minimum acceptable amenity standard for new development. For example, Councils in Australia put in place standards which require development to achieve a minimum time period of direct sunlight each day for both adjacent and new development.

In relation to Question 5.3, there is benefit in developing nationally consistent land use rules or nationally policy for development/subdivision on land with high hazard risk (hazard prone) such as flood zones (for a 1 in 100 year event or less) and land prone to liquefaction. There would be benefits in further extending the application of building/subdivision standards used in Canterbury further afield. Greater guidance is also needed as to whether urban intensification should be pursued in high hazard risks areas.

I also support nationally consistent minimum amenity standards for existing and future residents. Minimum amenity standards are contained in the recently adopted Apartment Design Guide for New South Wales and have the benefit of removing the need for Councils to make their own assessment of what is an adequate level of amenity to provide for.

http://www.planning.nsw.gov.au/betterapartments

In response to Question 5.4, the benefit of national direction as to what should be a permitted residential activity depends on how it is written. It has the potential to greatly assist Councils to introduce more flexible land use provisions in the face of high community opposition. A key problem with guidance in the past has been its vagueness and lack of consideration of how to deal with competing objectives. For example, several Councils have policies which promote both an increase in housing densities and the protection and maintenance of existing character and amenities. Such policies tends to be inherently contradictory and it would be better for the Government to make clear, that changes to existing character and amenity are acceptable to provide for housing intensification.

An increase in the number of permitted activities, has the potential to lead to the use of more permitted activity conditions. It needs to be recognised that it is very difficult to control building design for activities identified as "permitted" or "controlled" activities. A clear statement as to whether the government supports the control of building design or not for various scales of development would assist. Whilst the control of design issues increases cost, it is also considered to be consistent with the Urban Design Protocol championed by the Ministry for the Environment in 2005.

Should it be the intention of the Commission to considerable expand the typical range of permitted residential activities, this would most efficiently been achieved by a general permitted development order similar to that used in England, which sets out the types of development which do not require consent. This order is particularly useful in discharging Councils from the responsibility of managing

any adverse effects which may arise from more liberal provisions and makes clear that the adoption of such provisions is mandatory and can-not be prevented by local opposition.

In response to finding F5.17, additional guidance would assist with the usage of incentive-based inclusionary housing policies. Incentive based provisions allow a developer to be rewarded for doing something desirable and above requirements. This leads to the question as to what are appropriate physical limits for development. Should the limit for development be reduced, to allow for a top-up provision for undertaking other desirable activities? If multiple incentives or bonuses for good behaviour are offered, would this lead to over-development of a site? Would this approach, reinforce a view that good behaviour is to be rewarded, rather than expected?

I do not have an in-principle objection to the use of incentives, but rather I caution care as to their usage. Incentives need to go beyond density bonuses or height increases.

In response to Question 9.1, I do not consider that the procedural requirements of Schedule 1 of the RMA discourage local councils from undertaking more innovative and inclusive public engagement. Several Councils exceed the consultation requirements of Schedule 1. Many Councils undertake pre-consultation at various stages of plan formulation, e.g. at problem recognition stage, option choice stage or close to formal notification.

It may be unrealistic to expect a high level of engagement by all members of the public in Council planning. Engagement is highest for more place specific and policy/rule specific provisions.

A key issue for planning provisions, is that many of the benefits associated with an increase in density are not secured through the RMA plan change process. For example, a commitment to town centre improvements, transport and cycling infrastructure, street furniture upgrade, upgrade of local park amenities etc. etc. could all prove beneficial in gaining public support for higher housing densities, however none of these initiatives can be secured through the District Plan, and rely on such promises being delivered on through subsequent annual plans/long term plans decided and consulted on under the provisions of the LGA Act 2002. It is therefore very difficult for town planners to guarantee local improvements will be made.

In response to Question 9.3, I support the use of a national policy statement relating to the adequate provision of housing. A national statement would have the benefit of adding considerable weight to the need to increase housing supply, and would help counteract some of the local pressure to limit growth opportunities.

In response to Question 9.4, care needs to be exercised in granting Ministerial power to direct changes to district and regional plans. Whilst I have in-principle objection to such a power, its usage needs to be controlled to prevent abuse. There needs to be a clearly spelled set of criteria for deciding that an area provides insufficient development capacity. Consideration also needs to be given to whether land in the District is suitable for additional development in terms of its hazard risk and effects on land of high identified historical, cultural or biodiversity value.

Thank you for the consideration of my submission.

Name: Allison Tindale
Address: 8 Duncraig Street, Silverstream, Wellington 5019
Email: allitin@hotmail.com
Submitter Number: 008