

INQUIRY INTO HOUSING AFFORDABILITY – FURTHER SUBMISSION

To : New Zealand Productivity Commission

From : Property Council New Zealand

FURTHER SUBMISSION BY PROPERTY COUNCIL NEW ZEALAND INCORPORATED ON THE INQUIRY INTO HOUSING AFFORDABILITY

PROPERTY COUNCIL NEW ZEALAND (at the address for service given below) makes the following follow-up submission on housing affordability issues in New Zealand:

Background

1. The voice of commercial property in New Zealand, Property Council is a not-for-profit organisation representing the country's commercial, industrial, retail, property funds and multi-unit residential property owners, managers and investors – including thousands of New Zealanders with retirement savings in listed property trusts, unlisted funds and KiwiSaver.
2. Our 550 member companies, with a multi-billion investment in commercial property, range from leading institutional investors, property trusts and financial organisations to private investors and developers. Property Council proudly champions quality urban design, local government efficiency and financial accountability, a friendly investment environment and an affordable property market.

Scope of the Inquiry

3. In its submission to the New Zealand Productivity Commission (“the Commission”) in August 2011, Property Council addressed two specific public policy concerns, which significantly impact on the cost of residential property development, and consequently the affordability of housing:

- the supply of land and basic infrastructure; and
 - the efficiency of taxes, levies and charges imposed at all stages of the housing supply chain.
4. Property Council makes further comments in relation to a number of recommendations set out in the draft report, including:

Chapter 7 – Urban Planning and Housing Affordability

Auckland Council show in its final Auckland Plan how it has considered and reconciled affordable housing alongside its other priorities.

Bring significant tracts of greenfield and brownfield land to the market in Auckland – identify and assemble land that could be quickly released and identify significant tracts of land with the potential for (say) 50 years development, with at least 20 years' worth under preparation for development.

Auckland Council look to collaborative models for the process of identifying, assembling and releasing large scale tracts of land.

Territorial authorities:

- ***Take a less constrained approach to the identification, consenting, release, and development of land for housing in the inner city, suburbs, and city edge.***
- ***Adopt a strategy that allows for both intensification within existing urban boundaries and orderly expansion beyond them.***

- *Develop strategies that promote adequate competition between developers for the right to develop land.*

And:

Chapter 8 – Charging for Infrastructure

That the Government update the Best Practice Guidelines to Development Contributions, based on a process that takes account of the experience of both councils and the industry.

The principles in the guidelines might be given statutory status by being incorporated into Schedule 13 of the LGA.

That the Government leads training to enable councils to enhance their skills in implementing the proposed Best Practice Guidelines for Development Contributions.

That as part of the process of updating the Best Practice Guidelines to Development Contributions, the Government:

- ***identify information that councils would need to provide in regular reports to demonstrate compliance with the Guidelines***
- ***develop a process for regular auditing of councils to assess their adherence to the Guidelines.***

5. Property Council's comments in response to the proposed recommendations set out in Chapters 7 and 8 of the Commission's report reflect this organisation's view about an appropriate approach to urban planning and charging for infrastructure.

Urban Planning and Housing Affordability

6. In its submission in response to the draft Auckland Plan, Property Council attempted to inform Auckland Council's understanding of the factors that drive investment decisions. An evidential step-by-step assessment was proposed. For the purpose of Property Council's analysis, an assessment methodology in relation to Auckland's residential apartment market would include:

VALUATION TEST: what can an apartment sell for? A developer must be able to match the sales price for each apartment with a valuation. Without it there is little chance that a purchaser can get a mortgage for an apartment that is above valuation.



MARGIN ON LAND TEST: what is the net margin on land? Take the sales value of an apartment; subtract GST, the funder's margin, sales commission, interest, construction, marketing, consultants, and local government costs (including consents, development and reserve contributions).



RENT YIELD TEST: can an apartment achieve a rent yield of 6.5 per cent or higher? An investor requires a lot of equity in an apartment before rental starts to cover the mortgage, body corporate fees, and local government rates.



LOCATION TEST: does the location of the apartment provide the urban and physical amenities necessary to generate consumer demand?



REGULATORY TEST: if the planning rules are too onerous, the development will not stack up.



WEALTH OF PURCHASER TEST: can the purchaser afford to buy an apartment at the sales price?

7. Property Council argued that Auckland Council should undertake a granular analysis of study zones. The presentation of information should be appended to the Auckland (Spatial) Plan to provide an evidential reference pertaining to the use of land resources. Information can be used to provide certainty about how the Auckland Council intends to plan for and implement a framework for growth noting the requirement for growth areas to be achievable from a market perspective. Property Council would envisage the granular analysis including:
 - map of each suburb outlining the actual site activities and built form;
 - a schedule of every site in the suburb, including land area and the gross floor area;
 - study outputs; and
 - recommendations for growth, the actual population that can be achieved, and matters to be included in the unitary plan.
8. Auckland Council needs to understand the influence of market forces and how it affects development opportunities. The Auckland Council cannot assume that 100 per cent of land is available to develop. By way of example, if an existing high density centre turns out to have only 34 per cent of land available to be developed, then the growth assumption is wrong. Overlay that analysis with the historic rate of uptake to model the potential for the available land to be redeveloped and it is possible to accurately assess the feasibility of the 75:25 split between growth in existing urban areas, and growth in new greenfield areas and rural satellite centres.
9. The benefit of undertaking an evidential granular analysis is it would allow the Auckland Council to make informed decisions that can partially or wholly resolve issues such as:

- upzoning to allow for additional height to increase the number of dwellings;
- zoning more residential or commercial land than is required so that a target population can be accommodated; and
- decide that the actual capacity of existing urban areas is less than forecast.

10. The Commission's recommendations would be strengthened if it were to adopt a planning approach that required territorial authorities to undertake a granular analysis of study zones throughout each respective district. That is not to say that territorial authorities will necessarily follow the evidence of quantitative research. However, without empirical data that codifies the opportunities and limits to growth (as well as the likelihood that growth will occur, i.e. is the area market attractive), spatial and unitary plans do not show whether sufficient land has been zoned to address supply constraints.

Charging for Infrastructure

11. Property Council continues to believe that the absence of a merit-based appeals mechanism to allow developers to challenge the charging of a development contribution undermines transparency in the contributions regime. In the absence of a merit-based appeals process, there is no incentive for territorial authorities to ensure transparency in the application of a policy that has emerged as a key alternative to property rates.
12. The draft recommendations in relation to the *Best Practice Guidelines for Development Contributions* appear to assume that territorial authorities develop and administer policies that comply with the statutory provisions of the Local Government Act 2002. This assumption is not correct.
13. Since the passing of the Local Government Act 2002, the development community, using the judicial review option available through the High Court,

has launched and one several cases that confirm examples where territorial authorities have operated outside of the law.

14. Property Council supports a series of alternative recommendations to provide for a merit-based appeal mechanism applicable to the charging of a development contribution. The option available to the Commission would be a recommendation in favour of a two-step process of reform involving changes to the Local Government Act 2002, and the Resource Management Act 1991. This would involve:

- Repealing the enabling provisions of the Local Government Act 2002, which provide for territorial authorities to develop policies on development contributions. In accordance with that amendment, territorial authorities would not longer be able to levy development contributions;
- Amending the Resource Management Act 1991 to provide for a National Policy Statement (“NPS”) on Development Contributions. The proposed NPS would codify: (a) the precise basis on which a development contribution could be levied; the amount of contribution to be levied; and (b) the limitations that apply to a territorial authority levying the contribution. It is essential that any NPS on development contributions includes a provision that provides for merit-based appeals, so that developers who are dissatisfied with a territorial authority’s interpretation or application of NPS could appeal it through the Environment Court (which is what happens now in relation to financial contributions);
- Acknowledging that in the transitional period between amending the Local Government Act 2002 and amending the Resource Management Act 1991, territorial authorities would still have the ability to levy financial contributions. This transitional arrangement would provide

territorial authorities with an avenue to levy growth-related contributions until such time as a NPS can be developed.

15. Property Council does not accept the argument that a merit-based appeal would create the conditions for frivolous litigation. The development community specialises in constructing and retrofitting residential and commercial property, not litigation in either the Environment Court or the High Court. The circumstances that provoke a merit-based appeal or judicial review scenario relate to the practices of local government rather than the development community's desire to spend money litigating contributions invoices before a judge.

DATED this 10th day of February 2012.



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On behalf of Property Council New Zealand

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