

23 January 2015

Mr Steven Bailey  
Inquiry Director  
New Zealand Productivity Commission  
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Dear Steven

PRODUCTIVITY COMMISSION INQUIRY – USING LAND FOR HOUSING

Please find attached Auckland Council's response to the Productivity Commission's *Using land for housing* Issues Paper.

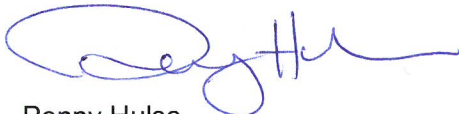
I would like to thank the Productivity Commission for the opportunity to respond to the Issues Paper and endorse the importance of housing to support growth in Auckland.

Auckland Council has provided responses to a number of questions posed in the Issues Paper and provided a number of recommendations for the Commission's consideration. The response builds on information provided to the Commission in earlier stages of the inquiry and information provided by Auckland Council in response to the Commission's 2011 Housing Affordability Inquiry.

Auckland Council supports the response submitted by Auckland Transport.

If you require any clarification on the response or further information please contact Dr Roger Blakeley on 021 2296928 or by email at [roger.blakeley@aucklandcouncil.govt.nz](mailto:roger.blakeley@aucklandcouncil.govt.nz).

Yours sincerely



Penny Hulse  
Deputy Mayor

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## 1.0 Introduction

1. Auckland Council (Council) welcomes the opportunity to submit on the Productivity Commission's *Using land for housing* Issues paper (November 2014).
2. Auckland is New Zealand's largest city and commercial centre. It is home to over a third of New Zealand's population, accounts for a third of all national employment, and contributes 35 per cent of national GDP. Most population growth in New Zealand occurs in Auckland and the population of the city is expected to reach 2.5 million by 2040. This level of growth in Auckland presents significant opportunities and challenges.
3. Auckland's concentration of population within and its physical form puts pressure on resources and creates challenges for environmental and resource management. This makes it even more important that Council takes a strategic approach to land release so that the right land is released in the right places at the right times. We must also ensure that land release aligns with the provision of appropriate infrastructure and amenities that is able to meet the needs of the current population as well as anticipate future needs.

## Auckland and housing

4. Auckland recognises the importance of enabling sufficient housing development to support growth. We also recognise that effective land release is only one part of the solution and that working collaboratively with government and the development sector is essential.
5. Council has extensive infrastructure experience, including planning, phasing, delivery, integration, and maintenance. This experience is of a scale and complexity not otherwise experienced in New Zealand.
6. Council has also worked closely with Government to address Auckland's unique housing needs. Through the signing of the Housing Accord and the establishment of the Housing Project Office (HPO) we have made significant progress on delivering on the intent of the Housing Accords and Special Housing Areas Act (HASHA).
7. Council signalled in its briefing to the incoming government that key issues, including responding to growth demands for housing and transport infrastructure, need to be tackled collaboratively by Auckland and Government to ensure New Zealand's overall success. The Government and Council must continue to work together on these significant issues and to address impediments to growth, keeping New Zealand competitive in the global economy. As well as supporting ongoing work, Auckland seeks Government support in responding to future challenges.

## **Approach to this Inquiry**

8. Council supports the inquiry's focus on development capacity. Development capacity is defined in the terms of reference as "the potential for housing supply across all existing and prospective new urban areas that is enabled by the zoning decisions, planning regulations and processes, and infrastructure investments of the local authority". This focus is appropriate given that land supply is only one aspect of a complex problem, and that solutions that address land supply in isolation will only address one part of a much larger, more complex issue.
9. This response to this issues paper builds on our response to the Commission's 2011 inquiry into housing affordability. Council reiterates that it is unhelpful to take a narrow view of housing affordability based solely on property purchase prices. Focussing on price points alone fails to take into account other immediate and ongoing costs of housing choices such as transport costs, accessibility of employment, impacts on employment choices, proximity to family and community networks, education and leisure and ignores the realities of the trade-offs people make.

## **Overview of Council's response**

10. In preparing Council's response, Council has focussed on answering questions that draw on our experience and learnings in a way that can constructively support the inquiry. In addition, Council's key messages in response to the inquiry are:
  - Auckland is successfully releasing land for housing
  - Land supply is one part of the solution to enabling affordable housing in Auckland
  - Certainty and flexibility are needed at different stages of an effective and engaged planning process
  - Partnerships are required to enable development capacity for housing.

## 2.0 Key Messages

### Auckland is successfully releasing land for housing

12. Auckland is already focussed on ensuring there is adequate land supply for housing on a number of fronts. Auckland's spatial plan, *The Auckland Plan*, sets a target of an average seven years supply of 'ready to go' land for housing. Ready to go land is defined as land zoned urban and with bulk infrastructure services in place for water (including waste water).
13. The high level Development Strategy in the Auckland Plan sets out how future development will achieve the quality compact urban form sought by Aucklanders. This includes ensuring high quality urban design, making efficient use of land, and providing staged expansion within the Rural Urban Boundary (RUB)<sup>1</sup>.
14. It is critical that the right land is released, and in the right places at the right times. Council is working to enable this through the development of a Land Release Programme. The Land Release Programme focuses on land currently zoned Future Urban Zone (FUZ)<sup>2</sup> within the RUB. The purpose of this programme is to ensure Council takes an evidence based and future focussed approach to ensuring there is sufficient development capacity serviced by infrastructure to accommodate Auckland's future growth.
15. The HPO is responsible for delivering on the Housing Accord. Working alongside Council Controlled Organisations (CCOs) the HPO ensures infrastructure is in place to support future housing in the SHAs and for other growth areas within the RUB. Auckland has established 80 Special Housing Areas (SHAs) under the Housing Accord. These SHAs are expected to supply about 11,000 dwellings or sections over the next three years of the Housing Accord and eventually deliver approximately 43,000 new dwellings.
16. The HPO is also responsible for integrating housing policy and delivering and implementing the Council's *Housing Action Plan*<sup>3</sup>. The *Housing Action Plan* primarily focuses on non-regulatory tools to improve the supply of affordable housing. The HPO models a customer-centric one-stop shop approach that means the customer has one main point of contact within Council and the CCOs<sup>4</sup>. The benefits of this model are time saving, increased consistency and clarity of communication.

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<sup>1</sup> The Rural Urban Boundary (RUB) in the PAUP replaces the Metropolitan Urban Limit. It defines the extent of urban development to 2041 and areas to be kept rural. Its purpose is to help achieve well-planned, efficient urban development, conservation of the countryside and its productive rural landscape, and improve certainty about the sequenced provision of infrastructure to support growth and development in existing urban areas and greenfield areas.

<sup>2</sup> The Future Urban zone applies to land that will be urbanised within the next 30 years. In the interim, it enables rural uses and activities to continue.

<sup>3</sup> Auckland Council Housing Action Plan: Stage 1 (December 2012)

<http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/theaucklandplan/Documents/finalhousingactionplanstage1.pdf>

<sup>4</sup> Primarily Watercare and Auckland Transport

## **Land supply is one part of the solution to enabling affordable housing in Auckland**

17. Land supply is only one part of a complex problem<sup>5</sup>. Addressing land supply in isolation from other components of development capacity and market influences will only address a small part of a much larger issue and may not provide the sort of transformational change Government, is seeking for New Zealand.
18. The provision of infrastructure is essential to achieving the development capacity that will meet Auckland's affordable housing needs. It is critical that there is strong alignment between land use and infrastructure. Infrastructure lead times need to be understood well in advance of actual development to ensure that infrastructure provision occurs at or shortly after development.
19. Council also recognises that market opportunities vary depending on location of housing. Housing typologies that earn good returns in one location may have little/no demand in others. Section and dwelling prices vary greatly across the region, although land development and building costs may be reasonably consistent across the region with some exceptions depending on site/location specifics.
20. Council considers there are risks that the recommendations from this inquiry will have limited impact or unintended consequences if the scope of the Commission's inquiry remains narrow. Council considers it important to explore:
  - The structure, capacity and capability of the development industry to respond to greenfield and brownfield development opportunities and to bring land to the market in a timely way
  - Housing market regulation and competition across the housing and construction supply chain
  - Demand in housing markets. How much unmet demand is there and how can it be characterised?
  - Exploring housing choice options such as alternatives to the freehold tenure model
  - Impacts of changes in rental housing, social housing and alternative housing options on home ownership
  - The development cycle<sup>6</sup> and its impact on the timing, volume and delivery of houses.

## **Certainty and flexibility are needed at different stages of an effective and engaged planning process**

21. Auckland has a unique planning framework and operating model. The Proposed Auckland Unitary Plan (PAUP), although not yet operative, enables a more flexible approach to development in line with the strategic direction contained within the Auckland Plan Development Strategy.

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<sup>5</sup> McKinsey Global Institute (October 2014): A blueprint for addressing the global affordable housing challenge.

<sup>6</sup> Attachment A: Council's Housing Project Office's *Housing Delivery Cycle* (11 December 2014).

22. The early engagement on the PAUP and the shorter timeframe for development is already having a positive impact on the housing market through providing more certainty for land owners and developers and the wider community.
23. To improve certainty for the community and developers, Council supports a focus on public participation and quality decision making at the plan making level. Council also supports streamlining and rationalising the preparation of the plan documents stipulated in the RMA (see section 3.2 for possible options for improvements).

### **Partnerships are required to enable development capacity for housing**

24. Council continues to address the region's development capacity issues in partnership with others. Council considers it critical that central government works in partnership with Council and other Auckland partners to address housing affordability.
25. Council's CCOs, particularly Auckland Transport and Watercare, play a critical role in provision and alignment of infrastructure.
26. Council is exploring the following avenues to address housing supply issues:
  - The proposed urban regeneration CCO, Development Auckland, will have new functions and responsibilities to enable quality development of brownfield locations. The agency will work in partnership with the private sector, developers, iwi and central government to deliver quality housing and mixed use development.
  - Using its financial levers to improve affordable housing supply. For example, Council is piloting an Auckland Housing Bond Guarantee<sup>7</sup> to support community housing providers in addressing barriers to providing affordable housing (see section 3.5).
  - Options for regional papakāinga development.
27. Māori (Mana Whenua and Mataawaka) are likely to have an increasing role in housing and infrastructure investments, particularly given the Treaty settlement landscape.
28. Land developers and home builders also are key partners to delivering affordable housing in Auckland. They too face their own challenges to bring houses to the market. These challenges are complex, multi-sector and can include:
  - Accessing financing
  - Relatively short term business planning and reliance on borrowed capital or pre-sales
  - Addressing structural and capacity issues within the development industry which may slow its responsiveness to development opportunities

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<sup>7</sup> Auckland Development Committee Report *Proposed Auckland Housing Bond Guarantee*: CP2014/27685 dated 3 December 2014.  
[http://infocouncil.aucklandcouncil.govt.nz/Open/2014/12/AUC\\_20141203\\_AGN\\_5494\\_AT\\_SUP.PDF](http://infocouncil.aucklandcouncil.govt.nz/Open/2014/12/AUC_20141203_AGN_5494_AT_SUP.PDF)

- Managing through each stage of the development process
- Responding to changing market needs and competition
- Coping with a highly fragmented land supply and multiple owners.



### 3.0 Responses to questions of the Issues Paper

#### 3.1 Infrastructure for Housing (questions 44-62)

Recommendations:

- Council seeks closer engagement with central government on a range of infrastructure alignment issues.
- Council recommends the Productivity Commission considers infrastructure funding in the context of the Local Government Funding Review undertaken by LGNZ.

29. Land supply cannot be considered in isolation from infrastructure provision whether provision is by Council or the private sector.
30. Council is taking a 30-year view of the infrastructure Auckland will need, ensuring we have robust plans for providing the right infrastructure, in the right place, at the right time. Decades of underinvestment, combined with rapid growth, means that Auckland faces substantial demand for new and expanded infrastructure. At the same time, we also need to look after Auckland's existing public infrastructure.
31. Council funds infrastructure through the use of its existing funding tools such as rates and development contributions, however funding in Auckland is still constrained. The council's draft Long-term Plan 2015-2025 focuses investment in infrastructure to support growth in areas where multiple outcomes can be delivered at the lowest cost. The council is also looking for ways to minimise the need for new infrastructure and improve efficiencies.

#### *Planning*

32. The effective provision of infrastructure for new development must be planned at a level beyond individual developments to:
- Provide for both immediate and future development needs
  - Achieve economies of scale and coordination across individual developments within an area and between development areas
  - Deliver the best outcomes for new and existing residents at the lowest cost.
33. Council has prioritised rezoning of land for urban development where there is existing capacity and lower infrastructure investment costs. Allowing growth to occur outside these areas will require more infrastructure investment earlier. If no further development occurs in these areas there will be excess capacity and the cost recovery time frames for investment will be longer. Where this growth is not planned it may increase costs for subsequent development.
34. To allow for growth beyond the scope of what the council has planned and projected will require alternative approaches to funding and planning. These solutions have to address the issues identified in paragraph 32.

*Question 44-50: Infrastructure for housing*

35. Given the size of Auckland, the speed of growth and the scale of development required to support it, Council has developed an integrated set of planning documents to facilitate decision-making by both the public and private sector. These are:
- *Auckland Plan* sets the 30 year vision and strategy for Auckland
  - *Unitary Plan* provides the regulatory rules for what activities, including development, can occur in different parts of the region
  - *30 year Infrastructure Strategy* identifies how Council will provide the infrastructure required to serve the needs of current and future residents
  - *Long-term Plan* includes the infrastructure investments Council will make to deliver on these plans in the next ten years and how they will be funded
  - *The Land Release Programme* identifies when FUZ land will be available for urban development
  - *Forward Land Infrastructure Programme (FLIP)* has been developed to facilitate the efficient development of Auckland, including identification of places suitable for Special Housing Areas<sup>8</sup>.

*Questions 50-55: Local authorities and infrastructure for housing*

36. Council has prioritised releasing land for development where there is existing capacity and lower infrastructure investment costs through spatial prioritisation as part of the Long-term Plan 2015-2025. Investment is targeted over time so that Council's limited resources are focused into areas that will enable multiple outcomes at the lowest cost while still allowing investment to occur outside these areas.
37. In Auckland, the cost of physical construction of infrastructure in greenfield areas is generally lower than brownfield areas. However, the additional infrastructure required to either connect greenfield areas to the existing networks or provide stand-alone treatment facilities typically results in the per property servicing cost in greenfield areas being more expensive than brownfield areas. Brownfields or infill development can often be accommodated by the spare capacity within existing infrastructure, requiring no or little additional investment until that spare capacity is exhausted.
38. Council considers the 'quality compact model' is the most cost effective model for infrastructure provision and notes Auckland Transport's support in its submission for this approach.
39. Council's Land Release Programme (currently under development) will identify the phasing of when land within the RUB currently zoned FUZ will be rezoned to enable urban development. Once complete, developers will know what land will be available for development with supporting infrastructure and when it will be available.

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<sup>8</sup> The FLIP enables an assessment of the readiness of city-shaping infrastructure – transport, stormwater, water and wastewater – to accommodate projected growth. It enables horizontal integration across land planning and infrastructure planning, with a 30 year horizon to ensure Auckland gets the right planning and investments, in the right place, at the right time, at an affordable cost, across multiple infrastructures.

40. For each of the areas to be made available for development Council is working with communities and developers to master plan development. This ensures that we plan and deliver infrastructure for a completed larger scale development. There are economies of scale in the construction and delivery of outcomes for network infrastructure and for some community infrastructure such as parks. For example constructing a wider road for an initial development provides for future demand at a lower cost than subsequent widening. Similar economies can also be realised with planning the route of roads or the location of other infrastructure. This drives costs down for Council (ratepayers) and both current and future developers. At the same time it also relies on Council being able to apportion local bulk infrastructure costs when that infrastructure serves a wider catchment and more than one land owner is involved. This may require infrastructure funding agreements.
41. The alternative, a more piecemeal approach with incremental development and investment, can result in early developers paying much less than subsequent developers. In some cases the first stage of development can proceed with limited infrastructure. However, the costs of subsequent infrastructure investment to support further development may be much higher, for example to widen roads, raising the costs for subsequent developers.
42. Effective infrastructure planning, phasing, and delivery requires a co-ordinated, integrated approach across all aspects of the process so that required types of infrastructure are ready to go at the right time. For example, if adequate water infrastructure is not provided residential development cannot be created or expanded. This can increase the complexity of infrastructure co-ordination challenges. Misalignment at any stage can have significant downstream impacts.

*Questions 51-56: Infrastructure charges*

43. The cost of providing infrastructure to support growth can be borne by:
  - Current ratepayers - residential and business (local government)
  - Taxpayers – income tax, GST and sales taxes (central government)
  - Developers/land owners- self funded, development and financial contributions and some kinds of land taxes
  - Ultimate purchasers (ratepayers in new developments).
44. All of these parties are working within budget constraints. Their budget constraints are influenced by when the chosen funding method requires payment. Different parties may also be responsible for funding at different stages in development, for example with a council providing initial funding for infrastructure which is subsequently recovered from development contributions as development proceeds.
  - Council considers best practice in funding infrastructure for growth should:
    - Generate enough revenue to provide for the infrastructure required to service growth
  - Target those who are or will receive the benefits of the infrastructure

- Signal the full costs to decision makers so these are considered in their decision making
- Reflect developers'/land owners' ability to pay
- Be practical and transparent.

#### *Current funding of growth infrastructure*

45. Council funds infrastructure investment from a combination of revenue sources including ratepayers (through rates), taxpayers (through NZTA subsidies), and developers/land owners (through development contributions<sup>9</sup> or Watercare's infrastructure growth charges or, in a few small isolated cases, targeted rates). Borrowing is used to spread the funding requirement across multiple years. Council's capital programme is set to maintain an interest to revenue ratio target of no more than 12 per cent.
46. The ongoing cost of the infrastructure including maintenance and running costs, and periodic renewals is funded by specific users (through water charges and public transport user charges) and by ratepayers (through the general rate).
47. In Auckland, where investment is required to support growth, it is primarily funded from development contributions. This source will fund not only the capital cost but also any interest costs incurred between construction/purchase of the asset and the development occurring. In order to manage the rate of growth of the development contribution price for the early years of the 2015-2025 Long-term Plan, some of the funding for growth is proposed to come from rates and assets sales.
48. Legislation limits the types of infrastructure that Council can fund from developers and therefore some investment, whilst driven by the growth of the city, needs to be funded by ratepayers. This includes community infrastructure such as libraries and recreation and aquatic facilities.
49. The current funding methods enable Council to fund the infrastructure required to service planned growth within modest rates increases. Only inflationary increases are required to development contributions during the period of the Long-term Plan 2015-2025. However, this affordability is achieved by focusing infrastructure investment and phasing the release of land to the lower cost areas first.
50. Council considers that the present methods meet the best practice criteria identified above.

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<sup>9</sup> In 2012 Council adopted an integrated contributions policy to fund the infrastructure investment required to meet the demand arising from growth. The costs of growth are allocated to developers based on the type and location of development. Council's contributions policy already sought to deliver most of the objectives the government identified for its recent changes to legislation. Council is currently consulting on the adoption of a draft contributions policy that reflects the changes required by the amended legislation.

### *Alternative funding tools*

51. Council is open to considering other methods of funding infrastructure for growth where it can be shown that these will better meet the region's needs. Council is considering the merits of a range of other tools to fund infrastructure to support growth<sup>10</sup>. We also recommend the Productivity Commission considers infrastructure funding in the context of the Local Government Funding Review undertaken by LGNZ.
52. Alternative funding methods are particularly relevant where growth occurs outside the areas where Council has planned to invest in infrastructure. For these areas to develop earlier than planned presents a funding and planning challenge.
53. Options for alternative funding differ in terms of:
  - Who makes the initial investment
  - Who ultimately pays
  - When they pay
  - How ongoing operational costs are paid for.
54. In considering alternative funding tools, particular attention needs to be given to the following in addition to the best practice criteria noted above:
  - Who takes the investment risk and how risk can be mitigated or minimised
  - How it impacts on incentives to develop in particular areas
  - How it impacts on funding for a council's planned infrastructure developments.

### *Questions 60 and 61: Council Controlled Organisations*

55. A significant proportion of Auckland's infrastructure development and services are delivered by Council Controlled Organisations (CCOs). Council considers the CCO model is currently the most effective model for the delivery of transport and water services in Auckland. Late last year Council undertook a review of the CCO model to assess whether it was still fit for purpose. Council is able to provide further information on the advantages and disadvantages of the CCO model (as compared to alternatives) if required.
56. The recent section 17A amendments to the Local Government Act 2002 require all councils to regularly review the cost effectiveness of alternative funding, governance and delivery models for services, including services relating to the provision of transport and water infrastructure and delivery.

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<sup>10</sup> Note that in a related context the council is consulting on alternative funding mechanisms for transport investment.

### 3.2 Planning Processes (questions 9-20)

#### Recommendations:

- Council recommends more streamlined, timely and less costly processes that still enable a high degree of public participation and quality decision-making at the plan making level.
- Council recommends streamlining and rationalising the preparation of the plan documents stipulated in the RMA, in particular:
  - Where there is only one RMA plan for a region (e.g. there is a unitary authority or regional and district councils have jointly prepared a single combined RMA plan) remove the requirement to prepare a regional policy statement
  - Changes to the requirement for further submissions
  - The ability for local authorities to reject private plan changes:
    - Where the topic or land subject to the plan change has been through the RMA Schedule 1 process within the past five years, or
    - While the local authority is taking a full plan review through the Schedule 1 process.

58. Auckland's fast-tracked Unitary Plan process is the largest planning exercise ever undertaken in New Zealand. Although the process is not complete, the shorter timeframe to develop the PAUP is already having a positive impact on the housing market through providing more certainty for land owners, developers and the wider community.

#### *Question 9: Accessibility of plans*

59. Council's objective was to create a plan that would be as accessible as possible to the general public.

60. Key principles adopted in drafting the PAUP included:

- Having an 'outcomes' focus
- Drafting in plain English
- Avoiding repetition
- Minimising content
- Making the plan web-friendly and having strong links between the maps and the text.

61. The RMA presents a number of challenges in applying these principles, in particular requirements to repeat objectives, policies and rules at the regional policy statement, regional plan and district plan levels.

62. In order to avoid some of this duplication, the PAUP 'tags' certain provisions as being 'combined' provisions. The RMA does not clearly specify that unitary plans can take this approach.
63. The RMA requires three tiers of plans within a unitary plan: a regional policy statement, a regional plan and a district plan. Council believes that the benefits of preparing a regional policy statement virtually drop away when there is only one plan for a region.
64. Council recommends that where a local authority is specifically required to prepare a spatial plan, the regional policy statement requirement should be removed from any resulting RMA unitary plan. If this approach is adopted, unitary plans should still be able to specify that certain objectives and policies are of strategic importance, can only be changed by the council (or councils), and that all plan changes must be in accordance with those objectives and policies.

*Question 14 – 15: Demand and supply forecasts*

65. Demand and supply forecasts are only one of a number of important factors councils are required to consider under the RMA when preparing district plans. Other factors such as the protection of the environment and natural systems, historic heritage and the maintenance and enhancement of amenity values also need to be taken into account. There are inevitably tensions between the need to provide sufficient capacity for population growth and the desires of the community to see the areas they value (urban and rural) maintain their existing character.
66. We have received significant feedback on these issues through the development of the PAUP.
67. As part of this PAUP process, Council developed a population and employment capacity for growth model to test the capacity for growth under various scenarios. The model is also being used during PAUP hearings. Council's evidence to the Independent Hearing Panel was that Auckland has the capacity to accommodate the projected dwelling growth under the Auckland Plan out to 2026, and beyond to the medium and long-term. This includes redevelopment of properties in the residential zoned areas, new development in business zones and future plan changes such as FUZ capacity in greenfields.

*Question 16 and 17: Identifying options and trade offs*

68. Another key principle of the development of the PAUP was that the 'planning gain' be proportionate to the 'planning pain'; that regulations applied through the PAUP were proportionate to the scale of the effects they seek to manage. Council intended to prepare an enabling plan that freed up some of the controls in Auckland's numerous operative regional and district plans. For example, permitting small-scale commercial and residential developments without the need for a resource consent across many parts of the city (subject to compliance with development controls).

69. Testing the rules included in the PAUP was a fundamental part of the overall plan development process. This was to ensure the rules were able to be understood, easily implemented and achieved their intended outcomes and avoided unintended outcomes.
70. The key processes used by Council were:
- Involving staff from Council's resource consents department from the early stages of development through to the notification of the PAUP
  - Establishing a panel of independent experts as a sounding board for early ideas and working drafts
  - Holding workshops with key stakeholders on early ideas and releasing early working drafts for feedback
  - Assessing over 21,000 pieces of written feedback on the draft Auckland Unitary Plan prior to notification
  - Releasing the draft Auckland Unitary Plan for feedback prior to public notification
  - Undertaking a section 32 cost benefit analysis that focussed on policy changes in the PAUP<sup>11</sup>.

#### *Changes to Schedule 1 of the RMA*

71. The current plan-making process under Schedule 1 of the RMA can be inflexible and is a primary cause of significant costs and delays. There are opportunities to speed up the plan-making process and reduce costs, while continuing to enable a high degree of public participation. By amending Schedule 1, the process undertaken by Council under the special legislation for the PAUP could become the norm for plan changes and full plan reviews.
72. Another significant issue that has emerged from the PAUP process is the value of the notification and submission process for the plan. Auckland Council has been fully supportive of the PAUP however as the Proposed Plan has now entered the hearings stage it is timely to reflect on the process to date. The following figures are illustrative of the volume of submissions and submission points received for the PAUP:
- 9,500 primary submissions received, raising 93,000 submission points
  - 93,000 further submissions received, raising 1,500,000<sup>12</sup> further submission points.
73. To achieve a more streamlined, targeted, timely and less costly process that still enables a high degree of meaningful public participation and quality decision making, Council recommends that Schedule 1 should be amended to:

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<sup>11</sup> The independent audit of this report has identified matters of importance but also highlights the challenges of pure cost benefit analysis in a political decision making process.

<sup>12</sup> Figures have been rounded for ease of comparison



- Remove the further submissions process, while enabling hearings panels to invite comments from directly affected parties who have not submitted if necessary
- Require councils to publish draft plan changes and draft full plan reviews for informal feedback prior to notifying them for formal submissions and hearings
- Enable plan changes that are site-specific to be notified on a limited basis to directly affected parties only (similar to the current HASHA process)
- Require hearings to be conducted by RMA accredited independent commissioners who make recommendations to the council, noting that the decisions remain with council with appeal rights available if recommendations are rejected
- Remove the opportunity to appeal plan changes and full plan reviews to the Environment Court (except in limited circumstances, similar to those in the PAUP processes), while retaining the opportunity to appeal to the High Court on procedural matters.

#### *Private plan changes*

74. Private plan changes can be a very useful mechanism for enabling the private sector to respond to development opportunities. However they can clog the planning system and put councils into a reactive position, rather than a proactive one.
75. Providing councils with the ability to reject private plan changes will:
  - Reduce costs to all parties associated with plan-making, reduce associated delays and uncertainties of outcome, and reduce complexity of administration at the consenting stage
  - Avoid litigation of issues that have recently been through a plan-making process
  - Allow councils to be more proactive in plan-making, as their resources are not diverted to plan changes on topics that have recently been through a plan-making process
  - Enable councils to focus on taking full plan reviews through the plan-making process without having to divert resources onto private plan changes to operative plans.

### 3.3 Rules (questions 21-27)

Recommendation:

- Council believes there is scope for standardisation of regional rules on natural resources and definitions at the national level

*Questions 22, 23 and 25: Implementation and effects on land use*

76. Planning rules need to provide a combination of both certainty and flexibility. The PAUP includes a purpose for each rule which helps to explain the outcome desired. The PAUP also contains rules which set a baseline, but do not make it impossible to achieve the same or a better outcome through an alternative approach. For example, developments which infringe most development controls are a restricted discretionary activity, but also non-notified. This gives certainty of process but flexibility to create an innovative solution. This approach presents an opportunity to specify notification status for all activities in a plan (see section 3.4 approval processes).
77. In terms of what is more important, certainty or flexibility, neighbours and the community generally want certainty so that they know what can or cannot happen in their community. Based on the experiences of the HPO, flexible provisions that are focused on achieving clear outcomes, rather than focusing on achieving a metric or measurable rule/performance standard, are what developers want and will create more development opportunities.
78. Providing a more flexible, and where appropriate, a more enabling approach to development was one of Council's key drivers during the development of the PAUP. Council saw the development of the PAUP as a major opportunity to address concerns about the lack of flexibility in parts of Auckland's legacy operative regional and district plans.
79. Some examples of a more flexible and enabling approach include:
- Replacing the Metropolitan Urban Limit (MUL) in the Operative Regional Policy Statement with the Rural Urban Boundary (RUB)<sup>13</sup>. The RUB is based on accommodating up to 40% of Auckland's urban growth over the next 30 years in greenfield areas. The MUL is far more constraining.
  - In the majority of cases, infringing development controls results in an application being dealt with as a non-notified restricted discretionary activity. This approach provides a great deal of flexibility for resource consent applicants to put forward alternative proposals that do not strictly comply with the PAUP, and have them assessed on their merits without the risks associated with notification (e.g. delays, costs and uncertainty).

<sup>13</sup> The RUB contains future urban zones which include residential and business land, open space and community facilities. Future Urban Zone land within the RUB comprises approximately 10,000 hectares

*Question 27: Consistency across jurisdictions*

80. Different planning rules and documents can be confusing and complicated and Council believes there is scope for some standardisation across the country in terms of some regional rules dealing with natural resource and definitions. However, it is critical that resource management plans reflect the unique communities and issues within regions and therefore any standardisation must allow for local variation.
81. It is also the role of local government and its communities to determine the objectives, policies, issues, rules and methods for their area, not that of central government. A 'one size fits all' approach will not work and would dis-enfranchise communities.

### 3.4 Approval Process (questions 28-43)

#### Recommendations:

- Council supports further engagement with Government on changes that will reduce costs and delays associated with the processing of consents, and provide greater certainty for the community in the notification and appeals stages of the consenting process.
- Council supports streamlining and rationalising the notification provisions in the RMA.
- Council also supports an investigation into restricting rights of representation on appeals where appropriate.

#### *Question 28: Pre application information and guidance*

83. Under the heading 'Approval processes', the Issues Paper asks a series of questions about the resource consenting practices of local government. The discussion draws heavily on the Ministry for the Environment's survey of local authorities, with the inference that consenting practices have a material effect on the supply of land for housing. Yet, all of the exemplars of best practice referred to in the report discussion (and canvassed in the Ministry's survey) are standard practice at Council. For example:

- A comprehensive pre-application service is offered to prospective applicants
- Key account, project management and major infrastructure teams are in place to manage consenting relationships and processing paths
- Internal guidance, training and tools (e.g. checklists, report templates) are provided to staff to ensure that lodgement, reporting and decision-issuing phases are robust and efficient
- Application processing against both statutory timeframes and elapsed days is a key focus of departmental monitoring and reporting
- All consent decisions are made by appropriate staff, duty commissioners or independent commissioners, under delegated authority
- Standard conditions are employed where appropriate, and draft conditions are shared with applicants.

84. This suggests the supply of land for housing is more profoundly influenced by other factors beyond the direct control of the regulatory arm of local authorities.

#### *Question 32: Notification*

85. Council considers that the notification provisions of the RMA are one of the greatest sources of uncertainty and potential cost and delay associated with the resource consents process.

86. The majority (>98.5%) of applications are processed by Council without recourse to public notification.

87. However, a significant amount of time in the application assessment process is spent on making a decision on whether or not to notify individual applications under the RMA.
88. Although the number of applications for judicial review of notification decisions is very small, the potential threat of litigation can drive complex, repetitive and often excessive reporting for all applications at this early stage in the process.
89. Council estimates that as much as 30-40 per cent of the time spent on processing an average application is devoted to this assessment, which, to a large extent, duplicates similar considerations associated with the substantive assessment of the proposal. Apart from being confronted with the time, effort and cost of making this determination, applicants are also faced with the uncertainty of outcome. That uncertainty can lead to a lack of innovation in design, as developers seek to avoid notification by working within the confines of plan performance standards.
90. The RMA could specify that all plans must state whether an activity is to be notified, limited notified (e.g. to adjacent property owners) or non-notified, removing the costly case-by-case assessment that is currently required in most situations. While the RMA already allows councils to specify whether an activity is to be notified or non-notified, it does not require them to do so, nor does it allow plans to specify limited notification. Limited notification is often the most appropriate way of allowing affected parties to participate in decisions that will have an adverse effect on them. The RMA should allow plans to specify limited notification. As the RMA does not currently provide this, many councils have tended to opt for the default of not specifying whether an application should be notified or non-notified.
91. Stipulating whether activities are to be dealt on a non-notified, limited notified or notified basis would remove the costly case-by-case assessment that is currently required for most proposals, irrespective of their relative significance and effect. It would enable the debate over appropriate notification paths to be resolved during the plan preparation process.
92. This change could also lead to an increase in the volume and proportion of activities that are publicly notified, as a result of the relative conservatism of some communities and plan drafters. This potential outcome would need to be balanced by other means to provide incentives for quality decision making on applications and reduce avenues for costs, delays and uncertainty associated with the appeals process. For example, appeal rights on consent decisions should be restricted to points of law, where those decisions are made by independent commissioners.
93. In addition, there may be scope to restrict rights of representation on appeals where appropriate, so that interested parties (as opposed to affected parties) will have limited avenues to litigate.

### 3.5 Other Factors influencing the supply of development capacity (questions 63-74)

#### Community housing

Recommendation:

- Council supports growing the community housing sector, including identifying and supporting opportunities for iwi authorities.

94. Council has made decisions to further explore other levers for influencing housing affordability.
95. Council has recently approved a housing bonds guarantee pilot supporting community housing providers to remove barriers to providing affordable housing. The objectives of the pilot are to leverage new investment, initially from the philanthropic sector, that could enable affordable homes to be built, to grow the capability and resources of the community housing provider sector and to provide early leadership providing a clear path for the provision of socially responsible accommodation.
96. Council has a role to play in providing social housing services<sup>14</sup>. Council already works in partnership with Government, the business community and voluntary agencies to fill the gap in emergency housing.

#### Housing for Māori

Recommendation:

- Council recommends undertaking a coordinated and timely approach to engaging Māori.

97. Council recognises its partnership with Māori (Mana Whenua and Mataawaka) in addressing housing for Māori in Auckland.
98. The Auckland Plan includes targets to reduce the gap in home ownership rates between Māori and the general community to less than 10% by 2030, and to significantly increase the number of papakāinga in Auckland.
99. Council has now taken some important steps towards enabling these outcomes, including supporting Special Housing Areas on Māori Land and Treaty Settlement Land. However Government and Council need to work closely to provide integrated advice and support to Māori housing developments, ideally using the joint agency

<sup>14</sup> Auckland Council *Social Housing Asset Management Plan Summary* (April 2013)  
<http://www.aucklandcouncil.govt.nz/EN/planspoliciesprojects/plansstrategies/Councilstrategies/Documents/socialhousingassetmanagementplan.pdf>

model which has been successfully implemented in the Tauranga area. Opportunities for iwi emerging through the social housing reform programme may also have a positive impact on meeting the housing needs of Māori in Auckland.

100. The Treaty settlement landscape (i.e. commercial right of first refusal over Crown land and properties for the next 172 years) is likely to impact the role Māori will play in Auckland. The first SHA in Auckland was a Tamaki Mana Whenua Collective led initiative and provides an example of the potential outcomes of our shared commitment going forward.

101. Through pre- long term plan engagement, Mana Whenua have identified affordable housing and papakāinga development as key strategic priorities. As a result, Council is also consulting on options for regional papakāinga development in the 2015-2025 LTP consultation which proposes:

- Funding of \$13.4 million over the LTP period for marae and papakāinga development
- Potential dedicated capex fund ring fenced with Watercare and Auckland Transport for roading and water infrastructure for marae and papakāinga development
- Facilitation of a joint agency investors' forum with other partners to maximise available support<sup>15</sup>.

102. Post settlement iwi will be looking to re-invest settlement monies in long-term investments in urban development and to promote specific outcomes for Auckland, the environment and iwi through partnerships, investment and greater involvement in decision making.

103. As noted in the Auditor General's December 2014 report, *Government Planning and support for housing on Maori Land: Progress in responding to the Auditor General's recommendations*, it is expected that the PAUP will provide greater flexibility for housing and a wider range of development options for Māori land (and land that is returned to Māori through Treaty settlements) by introducing policies, objectives and rules with these aims in mind.

104. The Auditor General also specifically commented on the approach Council had taken to pre-consultation and ongoing engagement with Māori during the PAUP process and to the inclusion of specific policies in the proposed regional policy statement which relate directly to Māori land. These specific policies are designed to enable the occupation, development and use of Māori land for the benefit of its owners, their whānau, and enabling Mana Whenua to occupy, develop and use Māori land within areas scheduled for natural heritage or historic heritage values in ways that recognise those values.

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<sup>15</sup> Budget Committee Report Long term Plan 2015-2025 Priority proposals for Māori: CP2014/24502 5 November 2014. [http://infocouncil.aucklandcouncil.govt.nz/Open/2014/11/BUD\\_20141105\\_AGN\\_5253\\_AT.PDF](http://infocouncil.aucklandcouncil.govt.nz/Open/2014/11/BUD_20141105_AGN_5253_AT.PDF) (page 57)

105. The PAUP also provides for integrated Māori development plans. This would allow applicants to apply for consent to develop land beyond the specified controls for that land's use. These would be processed on a non-notified basis, reducing risk and cost of development.

106. As part of preparing this response Council sought comment from Mana Whenua on the Commission's inquiry. Te Rūnanga o Ngāti Whātua recommends:

- Iwi and Mana Whenua engagement is a determinant of successful planning and consenting processes
- Planning regulations should adequately account for the unique situations of Māori land owners in developing land for housing.
- Te Rūnanga o Ngāti Whātua strongly opposes loss of property rights or regulatory takings to use land for housing.