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New Zealand Productivity Commission  
Using Land for Housing Draft report

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## **NZCID Submission to the Productivity Commission on the Using Land for Housing draft report<sup>1</sup>**

The New Zealand Council for Infrastructure Development (NZCID) is the peak industry body for the infrastructure sector and promotes best practice in national infrastructure development through research, advocacy and public and private sector collaboration. NZCID members come from diverse sectors across New Zealand and include infrastructure service providers, investors and operators.

### **Key points**

We commend the Commission's breadth and depth of research and discussion on factors contributing to New Zealand's land supply challenges.

The scope and findings of this study point to a much bigger issue which is that land supply cannot be disaggregated from development, infrastructure, resource management, planning and local governance.

We support the majority of the Commission's findings and recommendations, but consider that they will not resolve the underlying problems inherent in New Zealand's wider planning and governance system and thus will not in fact achieve the outcomes New Zealanders desire.

A first principles review is required of the legislation and structures which sit behind the core local government, planning and resource management activities which are the subject of this inquiry.

Such a review is outside the scope of the Commission's brief, but the Commission can and should make a recommendation for a much more comprehensive national investigation into local government, planning and resource management in New Zealand.

We support a Royal Commission.

We have developed a substantive research paper on the need for reform and will provide this to the Commission once complete.

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<sup>1</sup> This submission represents the views of NZCID as a collective whole, and may not necessarily represent the views of individual member organisations.

## Introduction and structure of this submission

NZCID welcomes this opportunity to provide feedback to the Productivity Commission (the Commission) on the Using Land for Housing draft report (the Report).

NZCID congratulate the Commission on publication of an extremely comprehensive, well researched and detailed report.

We are particularly pleased to see the Commission has recognised the fundamental interrelatedness of resource management, infrastructure and development and how this combined activity is undermined by existing statute and governing responsibilities.

We consider that the Report provides a valuable contribution to the understanding of not only land supply, but housing and infrastructure across New Zealand in general.

In recognition of the wide ranging impacts that recommendations within the Report pose to many different and various activities currently undertaken in New Zealand, including infrastructure, NZCID has structured this submission as follows:

Part 1 will provide commentary on the general contents of the Report.

Part 2 will discuss the planning law and governance system and why substantive change is immediately required.

## Part 1: NZCID feedback on the Report

### Chapter 2: Cities Growth, and land for housing

NZCID agrees that the land supply issue is limited to cities, specifically, growing cities. S.2.1

We acknowledge the benefits of cities, including, for example, the economic uplift created by agglomeration. S.2.2

We acknowledge the private value of amenity, how this drives demand for city living and how it can conflict with city growth.

We also agree with findings, illustrated through the Alonso-Muth-Mills model, that some cities in New Zealand, principally Auckland, suffer from distorted land use patterns born out of local policy. S.2.3; S.2.6

We note the correlation identified by the Commission between geographical constraint and regulatory strength and regulatory stringency and land price. S.2.4

We agree with the Commission that the primary responsibility of councils is to their [existing] residents and that this may subsequently lead to policies which require national intervention.

We are one of the parties who share long standing concerns about New Zealand's planning systems.

We agree that there is inadequate understanding of the costs of urban planning and that these costs may in some circumstances exceed the benefits. S.2.5

We note public interest and willingness to participate in planning decisions, including overwhelming opposition to building heights in the Proposed Auckland Unitary Plan (PAUP). We agree with the Ministry of Business, Innovation and Employment (MBIE) that this down-zoning between the draft and proposed unitary plan was deliberate and resulted from public opposition. Box 2.3

We note that land values have increased absolutely and relative to house prices in high growth centres.

We note that larger houses increasingly tend to be constructed to the exclusion of smaller, more affordable homes.

We note the paucity of information relating to land use regulation (among other things) across councils. S.2.6

We note that New Zealanders currently spend more on housing than most other OECD countries.

We agree that land use regulations disproportionately impact the poor and that housing now poses a macro-economic risk to New Zealand. S.2.7

However, several questions emerge from Chapter 2 which we consider the Commission needs to address in the final report:

- Given public opposition to building height changes under the PAUP, what is the appropriate response? Is it to overrule what appears to be a very strong public opinion or is it to review the decision to intensify under the Auckland Plan (which also received strong public backing)?
- What is the amenity that residents fear will be lost from intensification and what is its value? For example, is it encumbered view shafts, reduced access to sunlight, less privacy or increased congestion? Is it a combination of these things and what is their value? It is possible that existing and future residents prefer, in general, higher house prices with higher amenity than lower house prices with uncertain amenity?

- Who has the right to determine who “owns” natural resources such as view shafts and sunlight and who has the right to restrict what others do with their property? There is a lack of discussion in the Report, generally, on the issue of resource management and property rights. This discussion is critical to understanding how important land supply is in the context of overall well-being.
- We are disappointed that Auckland Council was the only council to decline to participate in the Commission’s NZIER survey. We consider the exclusion of Auckland Council materially affects the quality of information available and encourage the Commission to place a second request to the Auckland Council to respond to the survey before the final report is published.

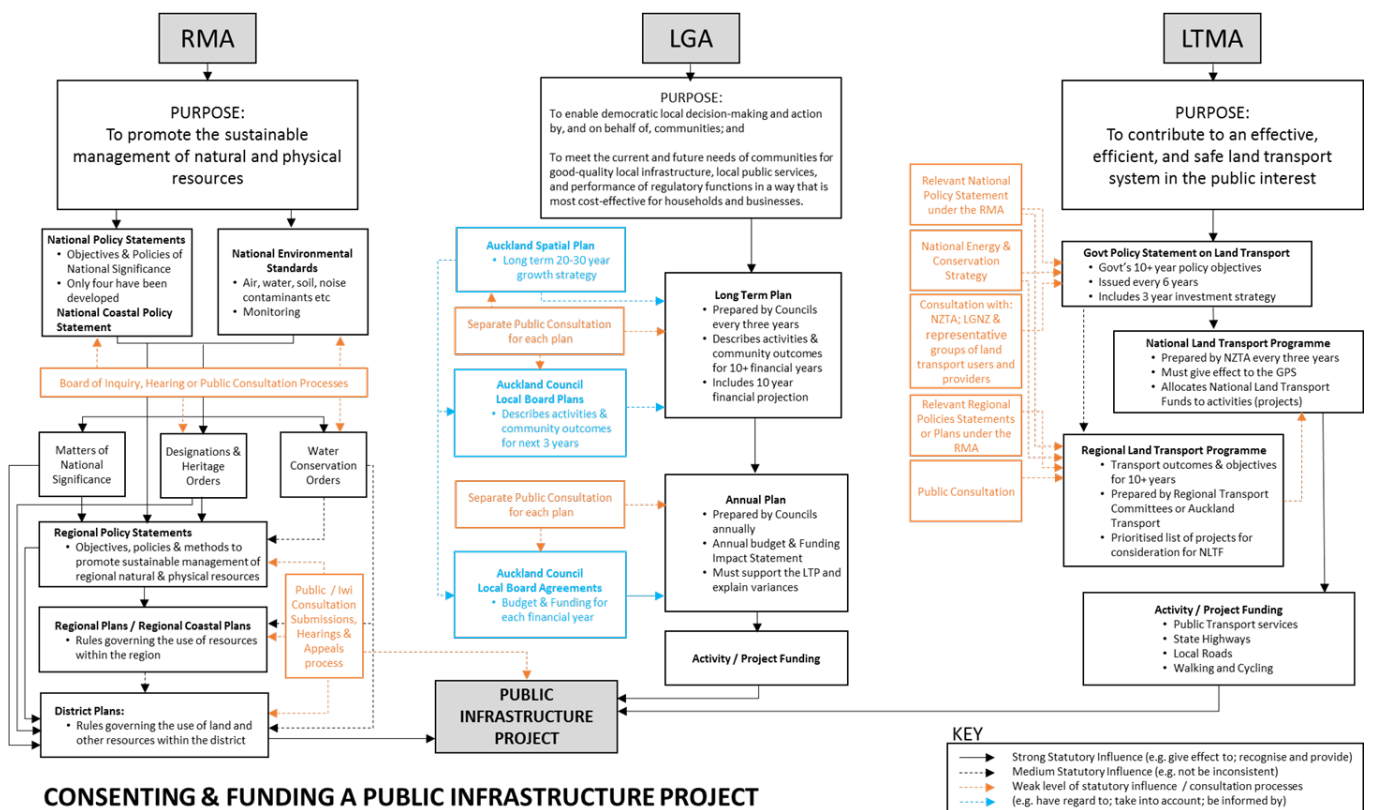
### Chapter 3: Integrated planning

We agree with the Commission that effective urban planning links land use with transport.

We agree that the planning framework in New Zealand is largely comprised by the Resource Management Act (RMA), Local Government Act (LGA) and Land Transport Management Act (LTMA) and that integrating these pieces of legislation is complex.

We consider, however, that the Commission has under-emphasised just how intricate and unworkable the planning framework is. Figure 1 illustrates the actual nature of relationships criss-crossing the three main planning statutes.

Figure 1: The infrastructure planning framework



We note feedback from two councils, Western Bay of Plenty and Tasman, in relation to the workability of planning statute, but also note that these are not councils facing the greatest growth pressures. Councils facing the biggest growth challenges do not find planning statute workable. S.3.2

In practice, the three key planning statutes are overly complex, duplicative, slow, difficult to understand and reduce the ability for transparency and public participation.

We commend the Commission on its discussion of spatial planning and strongly support the extension of regional spatial planning across New Zealand. S.3.3

We agree that restricting the supply of land increases the price of land and that there is, therefore, a need for flexibility in the administration of urban boundaries.

We agree that local authorities should ensure there is sufficient development capacity in their district plans. R.3.1

We agree that there is often a difference between theoretical capacity and actual development capacity in cities and support the idea of an urban feasibility model. R.3.2

We note the Commission's concerns around over-protection of highly productive soils from development. However, while we generally agree that land will and should migrate to its highest use [F.3.11], we caution against policies which lead to decisions based on locational convenience rather than strategic priorities. Regardless of whether the service is food production, infrastructure, parks or schools, land provision must recognise some activities are essential and justify certain protections when the location of those activities coincides with areas of housing demand. In such instances, it is likely that the long term costs of directing growth elsewhere are lower than consuming land highly valued for a specific purpose. S.3.4

We agree that large land price differentials should trigger a review of land use rules. R.3.4

We agree that statutory consultation requirements, particularly those under the LGA and RMA, are duplicative, time consuming, costly and consider that they make effective spatial planning difficult. F.3.12

### Spatial planning

In fact we would go as far as to say that effective spatial planning is not currently possible in New Zealand, because:

- environmental and strategic planning is conducted under separate Acts, meaning there is no clear way to give weight to spatial planning;
- planning is segregated from funding by legislation, meaning spatial plans are extremely difficult to implement;
- central government, the major investor in New Zealand, is not engaged in long term planning and is reluctant to commit long term funding, meaning local spatial plans are essentially "wish lists";
- local authorities, who through water, transport and community facilities will largely implement spatial plans, are small and disconnected from their neighbouring, related council areas so cannot spatially plan;
- regional councils, who could plan spatially, are under resourced and perform little implementation;

We note that these are systemic, structural issues that cannot be overcome without substantive change.

The potential of spatial planning to align different community objectives, different public agencies, different public services and draw local communities into the decision making process is, in our view, so significant that spatial planning warrants a degree of "reverse engineering".

That is, if we cannot effectively plan and implement spatially, as we indeed cannot under the current system, then this fact justifies changes to statute and structures to facilitate this essential activity. Spatial planning is discussed further in Part 2 below.

## Chapter 4: Supplying and releasing land

We agree that land supply matters for housing affordability. [S.4.1]

We agree with the Property Council that the PAUP provides inadequate land supply for housing.

We support the Commission's recommendation that high growth councils express land supply targets in terms of both zoned and serviced land and report on their performance. [R.4.1]

We support in general improved information gathering, publication and benchmarking across councils, including in relation to housing. [S.4.2]

We support the efficient use of public land and agree with the Commission that, where public land is not utilised, it should be made available for other uses including housing. [R.4.4]

### Not all land is equal – some protections are warranted

However, we do not consider land protected for future use to be underutilised. It is essential in a growing, particularly intensifying, city that infrastructure to meet growth can be provided when and where required. The most effective means to ensure provision of essential services is through an infrastructure designation which protects corridors linking infrastructure networks. Such designations may, in some cases, remain in place for decades before utilisation.

For example, extending through Orakei, Meadowbank and St Johns in Auckland is a corridor which has, for many decades, been held in public reserve as a potential future transport corridor (Figure 1). This corridor may or may not be required for additional transport services. However, it is a strategic priority that it is retained in order to provide future residents with the option to improve transport connectivity should they require it.

Figure 2: Eastern corridor designation in the PAUP



The expansion of development onto land previously intended for infrastructure reduces future options and increases costs to taxpayers. For example, the Western Ring Route through Auckland is a transport corridor which had been on transport authority plans for several decades (see Figure 2). Despite the intention to direct services through that corridor, successive councils allowed development to intrude and



eventually consume entirely available land. As a direct consequence, the Waterview Connection finally had to be constructed as a \$1.4 billion tunnel to avoid development in a long since identified corridor when other similar sections were completed a decade earlier for around ¼ of the cost.

We do not support the conversion of land designated for infrastructure to housing unless there is compelling evidence that this land will not be required for its original purpose.

We encourage the Commission to acknowledge that land designated for infrastructure serves a specific purpose and should not be considered for housing development.

Figure 3: 1955 De Leuw Cather Transport Masterplan (with Western Ring Route highlighted)



## Chapter 5: Regulations and approval processes

NZCID recognises the importance of regulation in preserving public and private well-being, but also agrees that it may inhibit the delivery of housing, infrastructure and other services. S.5.2

We agree that prescriptions around minimum dwelling size, balconies and car parks, among others, will place upward pressure on house prices.

However, while we agree that the Commission has adequately discussed the costs of these requirements, we do not consider it has been robust enough in its evaluation of benefits. It is thus not possible to gain an understanding of whether there will be a net improvement to society from removing these restrictions.

### Car park minimums

In particular, we remain cautious with respect to removal of car park minimums. Car park requirements undoubtedly have an impact on housing and other 'vertical' construction costs, but their implementation is not targeted at this sector.

Car park minimums are designed to achieve several mainly transport related outcomes, including:

- protecting on-street parking for a wider range of commercial and non-commercial activities,
- lessening the traffic impacts of drivers circling destinations "looking for car parks", which studies have shown can have very significant impacts on congestion,<sup>2</sup>
- reducing "free-rider" impacts.

The free-rider issue is of particular significance and should be recognised by the Commission.

Removing car park minimums is, in our view, likely to lead to redevelopment of land currently reserved for parking.

However, we consider that the Commission has not adequately accounted for the incentive for businesses and households to "free-ride" off existing limited on-street parking, public off-street parking and car parking provided by (other) businesses.

We are concerned that blanket removal of car parking requirements will in many cases incentivise short term development decisions which lead to less car parks being provided than would be the case in, for example, a new greenfield development area.

Our concern is that the reduction in car parking will negatively impact long term transport outcomes.

Blanket removal of car parks should only be considered alongside blanket removal of urban limits and blanket removal of building height restrictions.

Retention of urban limits both increases the value of land, thereby distorting the true cost of providing car parking, and restricts the ability of developers to provide car-dependent services in areas of cheap land (usually on the urban fringe), regardless of consumer preference.

There are a number of compelling reasons to manage the release of land on the urban periphery, just as there are reasons to manage building heights. There should thus also be a measured approach taken to car parking minimums.

Consideration of removing car park minimums should only be undertaken in light of both their cost impact on vertical construction and their impact on transport performance.

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<sup>2</sup> Donald Shoup, *The High Cost of Free Parking*, 2005.



Transport modelling and wider cost-benefit analysis should be a precondition for the removal of car parking minimums on a case by case – place by place – basis, in full recognition of alternative transport options.

We therefore do not support R.5.3.

We note the Commission's discussion on building heights and agree that height limits place upward pressure on house prices.

While we support the extension of cost-benefit analysis to planning decisions (R.5.4), we consider the Commission must clarify its position with respect to local decision making. There remains a degree of conflict between the LGA's requirement for local decision making and the RMA's Section 13 requirements for evidence based decisions.

Is the purpose of local planning to represent local desires for local communities, or is it to objectively assess the lowest cost/greatest net public benefit and, where required, "over-rule" local preferences?

There is evidently some conflict between what communities want (often, for example, more restrictive building controls) and what is most efficient from a national or regional economic perspective.

What is the process to value and understand whether a local community values, for example, more restrictive building heights above and beyond higher transport, water and property costs? What if those communities are prepared to pay for the costs their additional amenity places on wider society?

This is, perhaps, the most essential planning issue sitting at the core of urban development and is not well articulated in the Report.

Given that the purpose of planning and government in general is to maximise well-being or "utility", we can see no reason why a community prepared to meet the additional costs of its decisions (for example, by forcing growth into more difficult to service areas) should be required to accept planning decisions it overwhelmingly does not support.

The key point is that costs, be they planning, infrastructure, housing or otherwise, are allocated to those who benefit from those decisions.

We encourage the Commission to recommend transition to governance rules and regulations which do not incentivise or disincentivise intensification or expansion, but solely attribute the costs of decisions to the communities which drive those costs.

The Commission's subsequent discussion of a shift back to land value taxation (S.9.6) may present the best opportunity to address the question of whether local communities are prepared to pay for the costs of their amenity.

We agree that local authorities should review district plan controls to ensure they are not excessively restrictive. R.5.5

However, the Commission misses, in our view, an opportunity at this point to connect the issue of excessive building controls to the question of why local authorities would want to enforce excessive building controls. This misallocation of priorities underlines to us a critical overarching issue with local government, highlighted elsewhere by the Commission, which is that the incentives driving some council decisions are distorted.

We agree with the Commission's assessment that the RMA is of such significance to the question of land supply for housing that it must be included in the report. S.5.5

We consider that the RMA does not adequately recognise or prioritise the importance of housing and urban environments.

We agree that the RMA should be amended to make provision for housing and urban environments, but consider this option to be a piecemeal response to a symptom of a problem with the RMA, not the underlying problem. While it may assist to some degree housing specifically, it will not address the issue of why councils have enforced the RMA the way they have, which results from poor alignment of the LGA and RMA (see Part 2 below).

### Streamlining approval processes

We note the discussion on streamlining approval processes. S.5.6

We consider there is scope to reduce the steps and cost required to obtain building and infrastructure approvals.

Currently there are a number of highly regarded organisations in New Zealand who provide advice and other services to both public and private clients applying for and evaluating resource and building consents.

Under the current system, an organisation may be contracted by public authorities to provide quality advice in respect of one consent application, yet must apply to those same authorities for approval when representing an applicant on another consent application.

In our view, this is unnecessary.

Certain organisations should be able to apply for approval authority and be licensed to sign off a range of consent applications without the requirement to also receive approval by the relevant authority.

The criticality of brand and reputation to the sustainability of organisations involved in providing approvals is sufficient to ensure poor decisions are not made with any greater frequency than if public authorities issued the consent themselves.

Insurance can, and should, be levied by public authorities to ensure the long term costs of any poor approval are not passed on to taxpayers.

This process could reduce by months the time required to receive approvals, but perhaps more importantly, would establish an environment where approval processes could be monitored and benchmarked.

Existing public agencies could retain approval services and compete with private licensed organisations helping to drive more efficient, effective and better decisions.

We encourage the Commission to investigate the potential for licensing appropriate organisations with (limited) approval powers.

### Rules standardisation

We note the discussion of standardisation across district plan rules, including the Commission's question into the potential for greater standardisation across telecommunications, gas and electricity infrastructure. Q.5.2

We strongly support greater standardisation across New Zealand of the land use and other district plan rules governing infrastructure delivery, including water and transport.

Currently, different councils enforce different rules around footpath width, road depth and strength, water pipe construction and composition, mobile phone tower height, telecommunications cable depth, gas pipe structure and electricity infrastructure location, among myriad others.

In many cases, there is little consistency across comparatively small district plan areas, despite little or no variation in geography, topography or above ground activities.

We do acknowledge that there is some degree of need for differing standards, such as for housing or infrastructure in earthquake-prone areas.

However, the plethora of rules reduces the ability of developers and contractors to achieve efficiencies from national scale operations, increases complexity and cost and supports New Zealand's small, localised housing and contracting supply sector.

Claims that separate rules are required for separate locations are only partially based on fact, as evidenced by Auckland's significant reduction in rule requirements through the PAUP.

We consider there is much scope to develop at least regional, if not national, rather than district, rules for the delivery of housing and infrastructure.

This process should be aligned with regional spatial plan development under legislation.

## **Chapter 6: Planning and delivering infrastructure**

We note the discussion of infrastructure and agree with the Commission that infrastructure is essential to the delivery of housing. S.6.1

We commend the Commission for identifying the difference that location can have on infrastructure costs.

We have long been concerned that public debates around the question of "up" or "out" have been too generalised to be useful and that it is essential that the actual costs of infrastructure in and to a given location are determined before assumptions are made as to whether intensification or expansion is more or less expensive.

We consider this activity to be the foremost purpose of spatial planning and one which has to date taken a back seat to less objective, more qualitative and thus more opaque spatial planning objectives, including those relating to urban design.

We would like to see the Commission include a recommendation which reinforces that the foremost purpose of spatial planning is to align future land use decisions with existing and future planned infrastructure services and capacity.

The reason why this activity is foremost is fundamentally because funding for infrastructure is limited, whereas land use rules and regulations are less so. Stated another way, authorities can retrofit rules to fit infrastructure capacity, but it is far more difficult to retrofit poor land use decisions with critical infrastructure.

### **Brown vs greenfield growth**

We agree that in the majority of cases brownfield growth will require lower long term infrastructure investment than greenfield. S.6.2

This finding is less significant, however, than the Commission's finding that the costs of growth vary and that in some cases greenfield growth can be less expensive and brownfield costs more.

What is not discussed in the Report is what the relative benefits are of brown or greenfield development. More specifically, do consumers value brownfield or greenfield development more than the added costs incurred vis-à-vis the alternative?

A certain type of development may increase infrastructure costs but the added amenity may exceed these costs in the mind of consumers.

It is important to emphasise that the objective of policy is not to reduce costs, but to maximise net societal benefits and this point should be included in the final report.

## Infrastructure risk and council responsibility

We note the discussion of challenges in planning infrastructure, including feedback from councils highlighting issues such as the lag between investment and revenue flow. S.6.4

While we agree that sunk infrastructure investment represents a significant risk to councils and that investment decisions should thus be managed with care, it should be recognised by the Commission that a principal reason why infrastructure remains a public service is because it is the best entity to accept and manage the risk of over or under investment in critical services.

Efficient, effective and timely delivery of critical services should not be viewed by councils as a problem, but as an essential reason for their being and an opportunity to provide basic services that no other entity can deliver.

This point is notable because it highlights a potential gap between what some councils view as their purpose and core functions and what else they understand to be priority.

## Asset management

We support the Commission's discussion on effective use of existing assets. S.6.6

We agree that a priority activity of councils should be to understand and identify zones where infrastructure capacity exists and seek opportunity to optimise investment. R.6.2

We note the discussion on asset management and consider this to be a critical issue in the overall assessment of councils activities relating to growth. S.6.6

We share the Auditor General's concerns over the future fundability of infrastructure and consider council asset management to be in many cases weak.

We recognise and commend the activities of Wellington City Council in regard to asset management and agree that processes there are leading and exemplary. F.6.11

However, while we would support the dissemination of Wellington City practices across other major councils in New Zealand, acknowledgement must be made by the Commission that the overwhelming majority of councils do not have the resources to sustain such an approach.

Wellington City's asset management system relies on specialist skills, advanced monitoring and computational systems and an extensive understanding of assets.

Small, rural councils in particular cannot be expected to obtain and retain the skills and systems necessary to implement best practice asset management.

Thus while we support R.6.3, we consider it aspirational rather than practical.

In order for councils to effect best practice asset management, governance structures are required which are consistent with the demand such activities place on technical expertise and financial resources.

We encourage the Commission to investigate and discuss the challenge posed to core asset management by council structures which do not support infrastructure planning, funding, delivery and operation (discussed further in Part 2 below).

## User charging

We support the appropriate application of user charges and, while we agree with the Commission's recommendation (R.6.4), emphasise the added benefit a user-based charging system provides to water provision.

We accept that metering is expensive for many smaller councils, and may not be appropriate in some areas where there is no foreseeable pressure on freshwater resources.

However, we would add that metering allows the long term cost of water service provision to be accurately, professionally and apolitically tied to demand.

As highlighted by Auditor General,<sup>3</sup> councils are not currently meeting their renewals requirements. Metering and charging for water on a use basis allows special purpose entities (generally council controlled organisations, CCOs) to assume responsibility for water provision now and into the future and be held accountable to meet performance indicators.

The disaggregation of councils and water service provision reduces potential conflict of interest, helping to improve service delivery. Currently, councils who deliver water services are also responsible for monitoring many aspects of these activities.

As a consequence, water services are not well delivered relative to other infrastructure activities.<sup>4</sup> In fact, in 2010, consultants LECG estimated there are around 35,000 cases, or approximately 100 per day, of acute gastrointestinal illness (AGI) contracted from networked drinking water due to non-compliance with the Standards.<sup>5</sup>

The Commission should emphasise the benefit of separating water service operation and monitoring in S.6.6 and incorporate non-meter benefits of disaggregating water service provision from wider council activities.

We support the Commission's recommendation to allow pricing on existing roads. R.6.5

### Infrastructure standards

We note the Commission's discussion on infrastructure standards and support the recommendation to development closer alignment between asset management information and decision making around infrastructure standards. R.6.6

The Commission correctly, in our view, highlights the cost implication to developers, and in turn new house purchasers, of increasingly stringent infrastructure standards.

What the Commission does not sufficiently discuss is the equity impact of newer, stronger standards.

Our understanding is that the majority of new standards are appropriate. That is, additional standards are generally worth the added investment in capital construction because the long term operational savings exceed upfront charges.

By increasing the infrastructure standards attached to new development, councils are passing costs onto new residents that old residents never had to bear. However, new residents are still required to subsidise through rates the high operating costs of older communities, meaning they effectively pay twice for infrastructure.

The Commission should consider options to address such issues, including whether newer developments receive some sort of rates reduction to limit their exposure to less efficient past development activities.

## Chapter 7: Paying for infrastructure

<sup>3</sup> Office of the Auditor General, *Water and Roads: Funding and Management Challenges*, 2014.

<sup>4</sup> National Infrastructure Plan 2011.

<sup>5</sup> LECG, *Study of Cost Benefit Analysis of Raising the Quality of New Zealand Networked Drinking Water*, 2010.

We consider the funding and financing of infrastructure to be critical to overcoming New Zealand's housing issue, as well as a range of other public policy challenges.

One funding avenue which we consider warrants closer consideration is tax increment financing (TIF).

We note the Commission's discussion of TIF (S.7.3) and agree that the straight adoption of TIF to the New Zealand rating system is problematic. Q.7.1

However, while we agree adoption requires some modification to extract benefit, we are concerned that the Commission appears to implicitly conclude TIF is unworkable in the New Zealand context (as TIF is thereafter excluded from discussion and no recommendation is included).

As the Commission correctly identifies, the way rates are set in New Zealand means that value uplift following an activity, such as rezoning or infrastructure investment, is not additional to the overall rates base, but simply results in the reapportionment of the same rates across the council area.

All that is required, therefore, in order to make TIF work in New Zealand is a step which segregates the TIF area from the wider rating base.

At a high level, we would anticipate TIF working as follows:

- a zone is identified as one which will benefit from, for example, investment in public transport
- a 'financial cordon' is placed around the zone, distinguishing it from the wider rated area
- the zone's capital/land value and number of properties at "year 0" is fixed through to "year Z". The fixed rateable value continues to contribute to the overall rates take of the council area
- actual rates charged to the TIF zone annually, comprising the UAGC and rising capital/land value charge on all properties, are collected by the council. The increment above that collected from the fixed rates component is redirected to the financiers of the public transport project
- council keeps control of rates revenue at all times, with the transfer of funds back to the financiers in law a payment from the council, but in practice a shadow rate based on land value improvement.
- at year Z the contract ends and the full rateable value (and public transport asset) is transferred back to the council

There are two broad advantages of this approach. First, it would incentivise a developer to maximise the rateable value of properties benefitting from, in this case, a major public transport investment. Second, it would ensure that rates revenue would be additional to, not redistributed across, the existing rates pool.

The strategic benefit resulting from better incentivising developers and increasing rates revenue is that programmes which otherwise would not go ahead or would only progress incrementally, could be delivered as a coherent package.

TIF enables master planning, engagement, capital leveraging and other beneficial activities which facilitate the completion of quality urban initiatives.

Given that TIF requires (under any circumstance) that an identified zone is "separated" in a financial sense from the wider community, this requirement is not significant from a technical perspective.

From a legal perspective, a minor addition to existing legislation may or may not be required. Targeted rate legislation in New Zealand is potentially sufficiently broad to allow a council to set a targeted rate for "1 or more categories of rateable land."



It may be possible to designate an area, in this case proximate to a public transport investment, as a defined category of rateable land under the Local Government (Rating) Act 2002.

The area could then be charged a targeted rate which could be the component subsequently transferred to the financial partner.

We encourage the Commission to engage experts on TIF and in council funding law to test options for how TIF may be used to more fairly allocate the costs and benefits of public decisions.

We could, likewise, find no convincing reason why municipal utility districts could not be implemented in New Zealand, although note that law change would be required if taxation powers were passed to the private sector.

We are aware of significant private sector interest in public infrastructure and development financing and consider there would be support for mechanisms which transfer development risk and reward to private organisations.

We note the Commission's discussion of development contributions and agree that it may be too soon to understand the impact from the latest round of regulatory changes, but are concerned that development contributions will continue to impact certainty in the sector and inhibit development. S.7.5

We encourage the Commission to continue to monitor development contributions to ensure they are fairly and efficiently managed.

## **Chapter 8: Governance of transport and water infrastructure**

We note the Commission's discussion of transport provision and consider that Table 8.1 accurately depicts the fragmented, complex and generally sub-optimal allocation of transport responsibilities in New Zealand. S.8.1

We strongly support the Commission's finding that land use and transport are not aligned through legislation. F.8.1

Land use and transport are in many regards indistinct and the closeness of this relationship must be acknowledged in legislation and in the planning and funding of growth activities.

However, we also note that transport heavily influences a number of other local and nationally significant activities, including public safety, emissions, inter-regional connectivity, freight and international competitiveness.

Noting the Commission's call for further feedback on governance issues in transport (Q.8.1), we consider that issues relating to the governance of transport may expand the size of this inquiry beyond the time constraints available.

We consider that a separate inquiry is necessary to investigate opportunities to better align transport and land use governance.

Due to the complexity of the issues, political interest and sensitivity and potential implications for all New Zealanders, we consider a Royal Commission into local government structure and resource management planning is required (discussed in Part 2 below).

We consider a Commission finding is required which highlights the complexity of the relationships between land use and transport planning and governance and the need for additional reporting.

**Water**

We note the discussion on water infrastructure and agree that provision of three waters services is critical to the supply of housing.

While we share some of the concern regarding the Commission's consideration of water issues as we do of the consideration of transport, we also observe a more focused and detailed discussion of issues relating to land supply.

Noting that water service provision is broader than the activity of improving land supply, we cautiously support the Commission's discussion. S.8.2

We nevertheless consider further national discussion and investigation is required to consider whether the structures surrounding water service provision are sufficiently integrated with wider land use and appropriate to promote the well being of communities.

We consider there to be significant additional opportunities to achieve scale economies in the provision of water services in New Zealand. Q.8.2

We recommend the Commission add a third main driver of international reform of water services (in addition to exploiting economies of scale and introducing commercial disciplines): *economies of scope and strategic capacity*.

Larger organisations, particularly in capital intensive sectors such as infrastructure, are able to leverage labour resources more efficiently to enhance strategic capability and deliver a broader, more specialised range of functions.<sup>6</sup>

The ability for Wellington City Council, for example, to identify and lead its current cutting edge asset management programme is entirely dependent upon its ability to attract and maintain highly skilled staff with a long term outlook.

For smaller councils around New Zealand these attributes are a luxury not a function of core business.

In our view, it is essential that greater scale is achieved in the provision of water services in New Zealand.

We are strong supporters of the Waikato Water Study and the decision of the Hamilton City, Waipa and Waikato district councils to further investigate shared services.

The recent Cranleigh report into the potential benefit of the three councils consolidating water services identified close to half a billion dollars of savings over the next thirty years and \$107 million over the next decade, or around 14 per cent of operational expenditure.<sup>7</sup>

Efficiencies of this scale have been realised by Watercare since amalgamation, including annual operating savings of \$104 million.<sup>8</sup>

On the issue of efficiency opportunities we recommend the Commission include a discussion point regarding efficiency potential. There is in our view some misunderstanding not only in the wider public debate but in policy circles around the opportunities for efficiencies. We consider that there may be a role for the Commission in reducing confusion:

Efficiency is often conflated with price reduction. The two, however, are quite separate. Efficiency may be realised either as a price reduction or as a service level improvement. In the case of the recently amalgamated Auckland Council, for example, very significant operating efficiencies have already been

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<sup>6</sup> See, for example, Chris Aulich, Melissa Gibbs, Alex Gooding, Peter McKinlay, Stefanie Pillora and Graham Sansom, *Consolidation in Local Government: A Fresh Look*, vol.1, 2011.

<sup>7</sup> Cranleigh, *Business Case for Water Services – Delivery Options*, 2015.

<sup>8</sup> Correspondence with Watercare.

realised and by 2020 will have saved ratepayers over \$1 billion.<sup>9</sup> These savings, however, have not materialised as lower rates because available capital has been channelled into council activities, principally transport. For many councils around New Zealand who are not currently meeting appropriate levels of service by, for example, supplying drinking water which does not meet national standards, or discharging inadequately treated wastewater into the environment, efficiencies from water service consolidation are likely to be realised less as price reductions and more as service level improvements.

We encourage the Commission not only to distinguish between price reductions and efficiency, but to consider the 'more than local' implications of improved water services.

The Commission appropriately notes that larger councils tend to perform better in terms of achieving national (freshwater) targets,<sup>10</sup> a finding consistent with NZCID commissioned research.<sup>11</sup>

Given the health and environmental benefits of improved water provision, there is a compelling case for central government leadership in encouraging fit-for-purpose governing structures for water and other similar activities, principally transport.

We note Minister for Local Government Paula Bennett's recent comments on this issue,<sup>12</sup> but are not yet convinced councils will take meaningful steps, such as those seen across three Waikato councils, to ensure services are delivered at the scale and by the parties best able to meet public expectations.

Moreover, consolidating services in the absence of wider governance reform will not resolve issues around alignment.

Cross-council shared services will require consistency across different planning processes, funding systems and prioritisation schedules with political as well as operational considerations in mind.

Such a model is unlikely to realise the full efficiencies of consolidation.

How far the Commission can reasonably proceed with its recommendations on the water industry while viewing water activities through the prism of land supply is debateable, but we do consider that consolidated service provision benchmarked across New Zealand and monitored by a focused national agency would alleviate much of the immediate need for enhanced regulation. Q.8.4

## CCOs

Under such an approach, it is likely that CCOs would represent the most efficient and effective governing bodies to oversee water and transport provision.

We would, however, reiterate that the decision to progress CCOs in water, transport and other local activities transcends the question of meeting residential growth.

Noting this, we broadly endorse the Commission's discussion of CCOs, including the identification of strengths and weaknesses. S.8.3

We acknowledge the Commission's finding that the Statements of Intent for Auckland Transport and Watercare do not give effect to the objectives of the Auckland Plan. F.8.3

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<sup>9</sup> The Auckland Long Term Plan 2012 identified efficiency savings of \$81 million to 2013 and projected cumulated savings of \$434 million by 2015, [http://www.aucklandcouncil.govt.nz/Plans/LongTermPlan/VolumeOne/section\\_1341865502987.html](http://www.aucklandcouncil.govt.nz/Plans/LongTermPlan/VolumeOne/section_1341865502987.html).

<sup>10</sup> Figure 2.2.

<sup>11</sup> PWC and GHD, *Implementing the National Infrastructure Plan in the Water Industry – A Pilot Study*, 2012.

<sup>12</sup> Paula Bennett, *Our Expectations of Local Government*, media release, 22 July 2015.

However, we would add that the Auckland Plan was not developed with sufficient engagement from, nor detailed data on, the activities and needs of Watercare and Auckland Transport.

The Auckland Plan is aspirational, while the activities of Auckland Transport and Watercare are critical.

The Auckland Plan was developed in the early stages of the Auckland Council's formation and was required to be complete within an undesirably short timeframe in order to inform other (poorly aligned) planning processes, including the Long Term Plan and Unitary Plan.

We expect significant revision of the Auckland Plan in 2016, particularly around allocations of growth and of the prioritisation of transport investments.

Auckland Transport and Watercare are more restricted in their implementation activities than the Council is through its strategic planning activities.

In the post-amalgamation structure, they have been required not only to maintain appropriate levels of service for critical services, but redesign networks and plans to fit new strategic priorities.

It is to be expected that Auckland Transport and Watercare have resisted service provision in some cases, given resource constraints, region-wide pressure for new services and the expectation that current service levels will improve under the new structure.

We consider it may be too soon to be critical of the way in which Auckland Transport and Watercare have aligned their delivery processes with land use.

Through the forthcoming revision of the Auckland Plan, we would expect much greater engagement with Auckland Transport and Watercare and much wider use of empirical information to guide strategic priorities.

We expect this process will result in a less aspirational and more pragmatic alignment of development and infrastructure service priorities. At this point, less conflict with CCOs should be expected and, if not forthcoming, additional measures should be considered.

We support the Commission's recommendations that the SOIs for Auckland Transport and Watercare be revised to ensure providing for growth is a key performance targets. R.8.1; R.8.1

We note the discussion of the Infrastructure Growth Charge, including the lack of pricing signals that the IGC sends developers as to the true cost of development.

In principle, we support development charges which reflect the true cost of service provision. R.8.3

Not discussed by the Commission, but at the core of this issue is whether infrastructure price or planning rules should be responsible for the conveyance of price signals to the market.

We consider a planning system which is less restrictive in terms of planning controls and which instead uses the relative costs of infrastructure to guide development is likely to lead to a closer relationship between market preference and the actual costs of development.

The Commission should investigate options for replacing planning controls with empirical data on the actual cost of services to defined locations.

## **Chapter 9: Shaping local behaviour**

We note the Commission's discussion of local behaviour, including the tendency of existing residents to seek to restrict development in their local area. S.9.1

We note that property owners tend to be more engaged politically and are incentivised to be cautious with respect to new development in their areas. Fs.1-6

However, the Commission appears in our view to have over-emphasised the more pecuniary reasons for why property owners oppose development and under-emphasised the amenity components.

Also not highlighted by the Commission is the role that planning legislation plays in facilitating objections to new development.

The effects-based approach of the RMA allows, and to some degree even encourages, parties to oppose development (and other activities including infrastructure delivery) by institutionalising a reactionary approach to planning focused on negative consequences rather than strategic outcomes.

The Commission must develop a deeper understanding of how much existing landowners value current levels of amenity and discover whether those land owners are in fact prepared to fund the cost of this amenity (principally infrastructure costs) in order to protect it or, rather, whether they are acting more narrowly under provisions made possible in the RMA.

Where residents are prepared to cover the full costs of services there may be net infrastructure savings and amenity benefits from directing development elsewhere.

## Engagement

Understanding these costs and benefits will require engagement and we support the Commission's discussion of the importance of engagement. S.9.3

We consider there is overlap and duplication across engagement processes, particularly with respect to the LGA and RMA.

We consider that major projects identified in and consulted upon through spatial plans should have the strategic priority of these projects recognised through RMA consultation processes (such as applying for designations).

Currently, it is possible that a major project forming a critical component of national, regional and local policy can be agreed upon politically, aligned strategically, justified economically, but fail to receive approval under the RMA. Indeed, this is exactly the scenario for the proposed Basin Reserve Flyover.

Approvals should be required to take into consideration strategic factors.

One option would be to grant 'in principal' consent to identified national and regional priorities, which may then just have to demonstrate effects have been minimised in order to receive approval.

Another option could be to insert a condition that strategic alignment is taken into consideration in the evaluation of environmental and other effects.

## Planning complexity and fragmentation

We commend the Commission for identifying a fragmentation across central and local government in regard of planning.

In our view, the low level of central government engagement in planning and approval processes is a major issue for New Zealand and an ongoing cause of policy misalignment.

We have no opposition to the development of a National Policy Statement (NPS) on land for housing, but consider such an initiative to represent a continuation of New Zealand's piecemeal approach to resource management planning.

While it may or may not have the desired effect of materially improving land supply (which the Report demonstrates is a much more complex issue than that able to be influenced by an NPS), such a narrow approach ignores other issues characterising New Zealand's flawed planning framework.

Problems outlined elsewhere in the Report, including misaligned LGA, LTMA and RMA planning objectives, different planning horizons, different incentives, separate funding systems, fragmentation, complexity and other factors will not be resolved with an NPS on housing.

The RMA is 'dis-integrated' with the wider planning framework and much more substantive change is required.

## Incentives

We note the discussion of whether councils want their territories to grow and support the thesis of the New Zealand Initiative that local government incentives are poorly aligned to public needs. S.9.4

We agree that councils, generally, are required to meet the high initial costs of growth but have limited access to the upside, which is largely realised through central government taxation.

We consider the Commission needs to expand its consideration of the incentives currently influencing councils and explore options to encourage councils to desire and, where appropriate, compete for growth.

We do not maintain a strong position on how best incentives can be realigned to promote local and national outcomes, but consider that substantive reform of taxation powers should be investigated.

We note the Commission's discussion of land banking and agree that the activity is a symptom more than a cause of land supply challenges. S.9.5

We note the Commission's discussion of land tax and consider the tax warrants serious consideration.

However, we do consider there may be scope for higher charges for infrastructure providers if land value replaces capital value in rating evaluations.

We do not consider it efficient nor desirable to charge infrastructure providers higher prices for land whose value is conditional upon the provision of those same services.

We encourage the Commission to engage affected infrastructure providers to understand their exposure to a change in rating methodology to reduce the risk of sudden and unexpected changes in costs to regulated service providers.

## Chapter 10: Planning and funding our future

We note the discussion on planning and funding our future and agree that there is little indication that housing needs, particularly in Auckland, will be met in the medium term. S.10.1

We strongly support the investigation of options to aggregate land to attract and achieve scale development. S.10.2

We agree with the Commission's finding in regard to the benefit of scale development (F.10.1), but would add another major benefit is the capacity to 'build through the bust'.

As witnessed through the wake of the global financial crisis, house building, particularly in Auckland, reduced to levels far below that needed to support population growth. Indeed, at the time of the Auckland Plan's development, around 3000 houses were under construction in an Auckland market which required a number closer to 10,000.

Had supply continued at 2004-2007 levels, it is unlikely that housing affordability would be an issue today.

It is, furthermore, conceivable that if the price of housing fell in the near future that, in contrast to Government objectives, construction would fall back again.

This could see the skills required to lift New Zealand's construction production depart, again, overseas, further exacerbating the lag between demand and construction.



Policy must address the cyclical trend which has evolved whereby construction lags demand by years through the good times, but by months through the bad times.

Policies which incentivise and enable developers to continue to deliver homes through periods of low prices is essential to reducing expectations that house prices always rise, and therefore speculation, and ensures a steady flow of properties to reduce house price inflation in the future.

Scale development, particularly in partnership with the public sector (for example, as a minimum purchaser), can survive lower demand periods and in doing so help retain the skills and processes necessary to more quickly respond to demand and reduce house price inflation.

Scale development should be facilitated in locations where there is high existing and future demand as a strategic priority to improve the resilience of the construction sector.

One policy inhibiting scale development is access to contiguous land holdings.

We agree that land amalgamation is an issue (F.10.2) and consider that options to facilitate amalgamation should be given serious consideration.

### Urban development agencies

We support the concept of urban development agencies.

We consider urban development agencies, with or without compulsory purchase powers, could help improve the delivery of various housing types, through all stages of the housing cycle and leverage scale economies.

By bringing together activities normally separated into distinct public and private roles, including masterplanning, infrastructure delivery, social housing provision and market property development, an urban development agency approach can deliver better public outcomes without significant increases in public spending.

Urban development agencies can bring useful experience and market understanding into public processes, while retaining a broader set of objectives from development than possible under market-led development.

An urban development agency can leverage the public balance sheet to develop land which is uncommercial from a strictly market perspective, but which is providing a net cost from a public perspective (for example, contaminated land).

Likewise, it can develop in areas deemed unviable from a strictly market perspective, for example, in lower socio-economic neighbourhoods, but which have high demand and where housing can progress wider public objectives.

And, again, the development agency model can build through periods deemed high risk from the wider market, such as through periods of recession.

We support the limited application of compulsory land purchase, but consider that this power should be limited to a national urban development agency, or to a regional development agency operating on behalf of a central government party.

We consider there is a case for several urban development agencies in New Zealand, but that there should be no more than one agency operating in a given area.

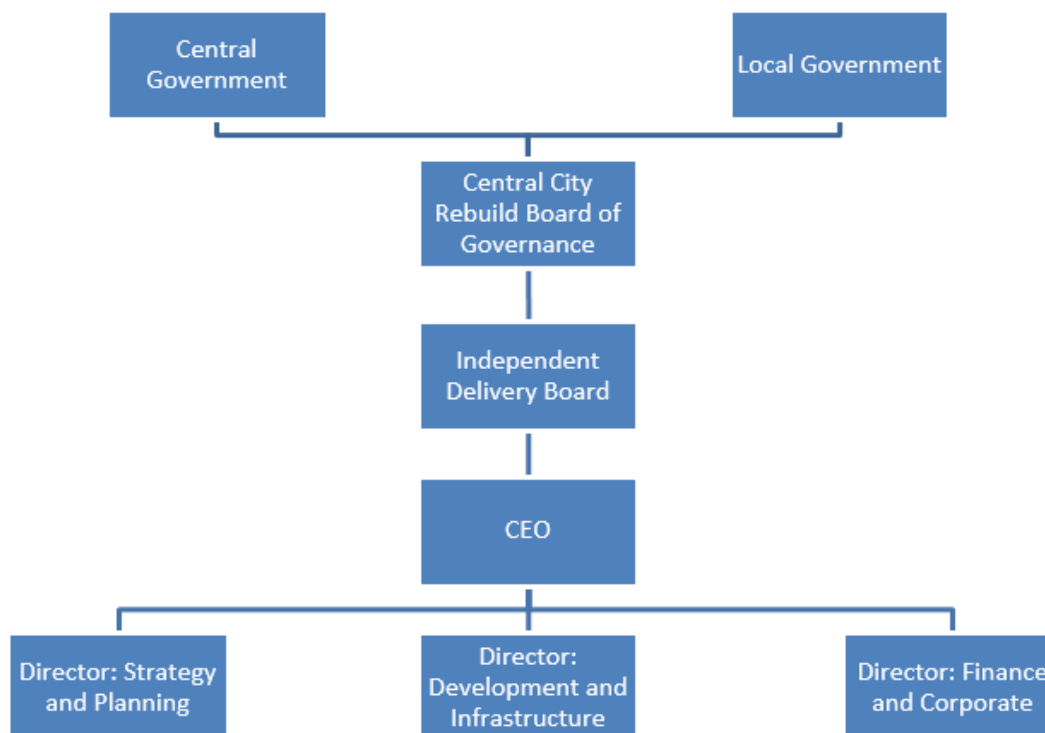
We support the establishment of urban development agencies in Auckland, Wellington and Christchurch and, potentially, Tauranga and Hamilton.

Urban development agencies should operate on behalf of both central and local government.

They should be benchmarked against the performance of their equivalent agencies elsewhere and monitored closely to ensure they are delivering value for money for the public and “crowding in”, not crowding out, private activity.

Figure 2 sets out a high-level governance structure for a hypothetical Christchurch urban development agency.

Figure 2: Governance model for a Christchurch CBD rebuild agency



The governing or shareholders board would include representatives from central and local government, as well as, potentially, CBD property owners and iwi. It would agree and identify outcomes to be achieved from the rebuild.

Responsibility for implementing the identified outcomes would be passed to the independent delivery board comprised of experienced directors with relevant expertise, such as finance, project management and property development.

The delivery board would provide strategic direction and ultimately oversee the central city rebuild via an appointed CEO, who would in turn take responsibility for all operational decision making.

This model very closely resembles Option 2 identified by the Advisory Board reporting back to the Minister for Canterbury Earthquake Recovery on post Canterbury Earthquake Recovery Authority (CERA) CBD governance.<sup>13</sup>

### Value capture

We note the Commission’s discussion on value capture. S.10.4

We strongly support consideration of value capture tools in the formulation of urban development policy.

<sup>13</sup> Advisory Board on Transition to Long Term Recovery Arrangements, *First Report to the Minister for Canterbury Earthquake Recovery*, 2015.

Infrastructure investment, as well as planning rule change, can and does impact property values. Where public investment, for example, in transport, leads to a discernible improvement in proximately located property values, there is a compelling case for implementation of value capture mechanisms, both from an equity and from an implementation perspective.

In the first instance, there are significant equity issues present each time public investment sourced from the general population is invested in an asset which confers immediate property value improvement to a comparatively small, spatially defined group. The objective of public capital investment is to provide open access services rather than deliver land value increase to local property owners. Equally, rezoning land to allow for different or more intensified use places pressure on existing services, potentially reducing the amenity enjoyed by existing residents and businesses.

By taxing the capital gain on land which results from public investment or rezoning, authorities tax an income stream which is otherwise transferred wholly to property owners.

In the second instance, where value improvement can be captured, it can be tied to the planning, funding and delivery of the investment to facilitate implementation.

With particular regard to major public transport investments, which tend to support increasing population densities, land value capture provides an additional funding mechanism which can reduce political opposition to the investment and accelerate delivery.

Combining land use and transport in this way also facilitates wider integrated planning, so that zoning and densities can be optimised for, among other factors, accessibility, mobility and connectivity.

The Auckland City Rail Link, for example, is currently under development but cannot proceed without additional (assumed to be central government) funding. If value capture was a well-utilised tool in New Zealand, there is a likelihood that the CRL would now be under construction, due to both reduced political as well as financial sensitivity.

It is also possible that different zonings and project design would have been considered with value uplift maximisation included as part of a combined land use-transport programme, helping to facilitate a better project.

Application of some form of capital improvement charge to properties within, for example, 1km of each of the almost 50 rail stations in Auckland, plus the wider CBD, could leverage significant value given that many of these same properties appear to have enjoyed above average value growth over the past five years because of public investment in rail.

An accurate estimate of what value has actually accrued to properties proximate to rail is not possible with existing public information, but we consider this may be a potentially very valuable exercise for the Commission to undertake.

We recommend the Commission undertake an ex poste case study of land value uplift following a recent major transport investment in New Zealand, such as rail electrification in Auckland, and provide a "strawman" of how value could have been captured and from whom.

We thus support the Commission's finding that it is justifiable for the public to capture land value improvement resulting from public actions. F.10.10

We agree that there is no case for capturing value from developers resulting from their own activities. F.10.11

We note the challenge experienced overseas of sustaining land value increment taxes and betterment levies. F.10.12

However, we still consider there is a place for value capture, particularly as a mechanism to fund infrastructure.

An urban development agency will help the public capture land value, but note that the overwhelmingly majority of land value improvement will remain with private property owners.

We do not consider this fair or efficient and note that in the absence of value capture there are no substantive taxes in New Zealand which target capital improvement.

Unlike many overseas countries, New Zealand does not have a strong capital gains taxation policy (though the existing approach will be strengthened later this year) and our rating policy, as acknowledged by the Commission, only captures relative property value improvement, not absolute value uplift.

The absence of such tax may have been excluded by the Commission as a significant factor in its 2012 housing affordability report, but subsequent house price inflation, evolving Government policy and the consideration of value capture in the current Report strongly suggests that the Commission should reinvestigate this decision in light of latest information.

We hold no firm position on what value capture mechanism is best fit for New Zealand, but note that where value capture targets capital gain (realisable upon sale), central government is the most appropriate institution to manage unpredictable cash flows.

Where value improvement is targeted through increasing land taxes above and beyond the wider rating area, local government is likely the most appropriate institution to manage such policy.

We consider that some form of flexible land value tax or capital gains tax may help to avoid incentivising investment in property over other economic activities and, when tied to the infrastructure which gives rise to capital improvement, can assist integrated urban planning, funding and delivery.

## **Conclusion**

We congratulate the Commission on recognising the breadth and complexity of issues arising from its investigation into land supply.

However, recommendations are so numerous and so broad and cut across so many issues that we consider this Report to reveal something much more fundamental is undermining the systems governing of urban growth and development.

The Commission is obviously limited by its terms of reference, but we consider there is scope for the Commission to highlight the depth of issues holding back land supply, note that they cut across sectors and responsibilities which fall outside the scope of this investigation and recommend that the Government conduct a fuller inquiry into local government, resource management and infrastructure activities in new Zealand.

## **Part 2: The need for a more strategic response**

### **Land supply is part of a bigger picture**

We commend the Commission for taking a comprehensive approach to the consideration of land supply for housing.

We expect the Commission to receive some critique of its decision to take such a wide ranging view of factors which influence land supply, including that the report suffered from “scope creep”.

While we consider the Commission could have, and should in its final report, emphasise the limitations of this study, specifically that findings and recommendations are made from the perspective of addressing land supply for housing, we strongly support the inclusion of highly complex institutional variables including, statutory frameworks, governance arrangements, infrastructure funding and regulation and political incentives in the discussion.

We agree that land use, including the supply of land for housing, cannot in any reasonable sense be disaggregated from the drivers and impediments of land demand.

We agree that the drivers and impediments to land demand cannot be disaggregated from the statutory frameworks which oversee resource management.

We agree that resource management cannot be disaggregated from the institutions responsible for regulating and enforcing laws governing land use.

We agree that land use cannot be disaggregated from development.

We agree that development cannot be disaggregated from infrastructure.

In short, we agree that the issue of land supply for housing is a central part of a much larger web of highly complex relationships intrinsically linked to the core governing structures and legislation which oversee resource management, development and infrastructure in New Zealand.

The Commission has evidently reached its conclusions by approaching New Zealand's wider resource management, development and infrastructure system through the prism of land supply.

But this is not the only area where the overall system is found to be wanting and in major need of reform.

NZCID has reached similar conclusions through the prism of infrastructure.

For a decade, we have watched major infrastructure projects demonstrating short, medium and long term net economic and social benefits to New Zealanders far in excess of their negative impacts on the surrounding environment deferred, delayed, revised and reduced to satisfy approval processes.

We have seen funding time and time again prioritise short term, less efficient infrastructure solutions over long term benefits to New Zealanders.

We have seen infrastructure organisations undermine, underinvest and undervalue services essential to the well-being of communities and consumers because they lack the resources, lack the capacity, lack the incentive and lack the holistic perspective to operate in manner best suited to lifting the long term well-being of New Zealanders.

It has become clear to us that stitch-ups of existing legislation and governing frameworks are inadequate to address the magnitude of the problems facing not just infrastructure, but almost every sector dependent upon New Zealand's fundamentally flawed resource management and governing frameworks.

We add that the Property Council has reached similar conclusions through the lens of development and that the Employers and Manufacturers Association has reached their consistent conclusions via the perspective of business.

Resource management is disjointed from development and development is disjointed from infrastructure and infrastructure is disjointed from resource management in statute, in responsibility, in funding and as a connected activity which should be designed to meet the long term needs of New Zealanders.

We must reform the resource management, development and infrastructure system and that means reform of the RMA, LGA and LTMA as well as council structures and the governance of council activities.

### **What are the frameworks?**

The legislative framework which governs resource (including land) management, development and infrastructure is comprised of the RMA, LGA and LTMA.

The implementation of this framework sits largely with local government.

Local government is comparatively poorly resourced, with limited powers of taxation and funding heavily dependent upon politically sensitive land taxes.

Local government must, therefore, carefully prioritise its activities according to:

- managing effects on the natural environment as specified under the RMA;
- managing costs to ratepayers, which tend to be driven by transport and water infrastructure, under the LGA;
- meeting requirements for transport as specified in the LTMA in order to receive funding;
- and achieving this within the context of a three-year electoral cycle and local government purpose statement to facilitate local democratic decision making.

These therefore are the principal drivers of local government actions.

Local government has no statutory responsibility for macro-economic outcomes nor macro-social outcomes, including those relating to health, education, justice or housing.

It does have significant responsibility for managing environmental effects, as per the provisions of the RMA, but which should not be confused with achieving broad environmental outcomes. Local government has little statutory responsibility nor accountability to achieve tangible environmental outcomes.

Local government thus lacks 'bigger picture' outcome drivers.

An ongoing risk therefore remains that local government will ignore wider and longer term issues in an attempt to limit the impact on its core constituents (ratepayers and voters) in the short term.

One governing mechanism to ensure that long term issues are considered is to legislate for long term planning and implementation activities.

Central government has been active in requiring longer term thinking and action from local government.

However, these activities, firstly, pass costs onto local government and, secondly, require skills, technology and investment which small, rates-dependent councils cannot sustain.

Local government, in short, is not incentivised nor resourced nor structured to promote the general well being of New Zealand and New Zealanders and this puts it in conflict with the government and the nation as a whole.



Changes are required to realign the activities and capability of local government with broader national outcomes.

### **What sort of changes are required?**

Changes are required, in the first instance, to the LGA because it sets out the purpose, responsibilities and objectives of local government.

Because the activities of regulation and transport are so significant to local government in purpose, public expectation and in resourcing, it is problematic to reform the LGA without considering the RMA and LTMA.

Because planning is the core element of resource management and essential to delivering long life, high cost services like infrastructure, planning cannot be separated from a discussion of how the LGA, RMA and LTMA can be optimised.

Because planning necessarily includes activities which involve and rely upon central government, central government's role in local governance, resource management and transport must also be investigated.

Because form should and must follow function if implementation consistent with objectives is to be achieved, substantive changes to local government or its activities must include revision of the structures in place to effect legislation.

### **What NZCID considers is necessary**

NZCID considers that first principles revision of core local government statute, including the LGA, RMA and LTMA, is now required.

Revision must consider local government structure and resourcing, planning and implementation and central government participation.

On the basis that form should follow function, and assuming that local government substantially retains its responsibilities for local decision making, regulation, infrastructure and local public services, NZCID makes the following observations:

- infrastructure is inherently long term in its effects and resourcing requirements – local authorities must therefore be able to plan strategically;
- resource management, in particular, the management of land, is inherently political – local authorities must be able to engage residents and make decisions in a way which is fair, transparent and balances private property rights with wider public rights;
- central government funds or cofunds the majority of urban infrastructure and is ultimately responsible for public outcomes – central government must have a formalised say in what local authorities plan to do;

Given the requirement to plan, implement and operate infrastructure and other services over the long term, local government structures must be able to sustain the skills and capital which permit long term integrated planning.

Councils must therefore be large enough to attract and retain highly skilled labour and leverage capital resources to cover high sunk costs.

Given the wide spatial impacts of infrastructure which tend to influence activities at a regional scale, council areas of responsibility should be large enough to represent regional interests.

Given the requirement to balance competing community interests, local government structures must support local engagement and decision making.

Councils must therefore be small enough to consult communities and reflect individual community characteristics and demands.

The regional scale objectives of local government resulting from infrastructure responsibilities are in natural tension with the local scale objectives of communities to retain and promote their identity and amenity.

A two-tier local government structure is therefore required which enables regional planning and decision making in regard to infrastructure decisions and which also enables close community engagement and decision making.

We support the establishment of regional-scale authorities responsible for regional activities such as infrastructure, regulation and spatial planning, supported by community councils responsible for engaging local communities and providing local activities including parks and community facilities.

Given the technical nature of regional infrastructure provision, the need to plan and deliver long term within the context of a three year electoral cycle, and the necessity to focus on implementation, we consider regional CCOs are required for water and transport provision.

Given the relationship between infrastructure and land use, we consider spatial planning is required which aligns investment with development over the short and long term.

Effective spatial planning requires that the planning elements of the RMA are brought under a single Act with the infrastructure funding and delivery requirements of the LGA.

Given that central government funds at least half of transport infrastructure and almost all major social infrastructure, central government must be an active partner in the development of spatial plans.

Active partners must have co-responsibility.

Central government must develop spatial plans with regional authorities and plans must be signed off by both a responsible Minister and relevant Mayor before becoming operative.

Regional spatial plans should be required under law and, in aggregate, should comprise an integrated New Zealand infrastructure and development spatial plan supported, monitored, benchmarked and implemented by central and local authorities.

We encourage the Commission to consider reforms along these lines which move New Zealand away from incremental, policy-by-policy, issue-by-issue changes to inconsistent, complex and misaligned legislative frameworks.

We note that the Commission is not in a position to make such a recommendation, but it can identify that issues currently affecting local government, resource management and infrastructure are systemic, structural and in need of first principles review.

We ask the Commission to recommend that the Government initiate a Royal Commission into local government and planning law reform.

We thank the Commission for this opportunity to provide feedback.