



Submission to the Productivity Commission:

## BETTER URBAN PLANNING

### INTRODUCTION

1. The Urban Design Forum New Zealand (UDF) welcomes the opportunity to comment on the formal mechanisms guiding the development of our cities and towns. UDF promotes good urban design in New Zealand as further outlined at the close of this submission.

Urban design is about the quality of the urban environment, but it is not primarily an aesthetic issue. Here are two well-considered definitions:

Urban design is concerned with the design of the buildings, places, spaces and networks that make up our towns and cities, and the ways people use them. It ranges in scale from a metropolitan region, city or town, down to a street, public space or even a single building. Urban design is concerned not just with appearances and built form but with the environmental, economic, social and cultural consequences of design. It is an approach that draws together many different sectors and professions, and it includes both the process of decision-making as well as the outcomes of design.

*(NZ Urban Design Protocol 2005 page 7)*

Good design is not just about the aesthetic improvement of our environment, it is as much about improved quality of life, equality of opportunity and economic growth.

*(UK Commission for Architecture and the Built Environment 2002)*

2. The UDF agrees with the Productivity Commission that the current Resource Management Act is silent on the matter urban planning, which can contribute to poor quality urban environments. The complexity of urban environments requires carefully planned and managed responses, notwithstanding the random and unpredictable nature of the economic, social, cultural and political forces shaping them. We consider that the principles of good urban design can provide a guide to assist with New Zealand's planning process.

UDF is further concerned that the processes defined in the RMA have led to an overly legalistic planning system, where large amounts of energy, talent and money are spent on bureaucratic procedures and legal fees, rather than on the physical built environment which should be the focus of our collective efforts. Anecdotal evidence suggests the dominance by lawyers of our planning system is near the top of the scale when compared to other developed countries.

## THE ISSUES PAPER OF DECEMBER 2015

3. UDF notes that the Productivity Commission's Issues Paper portrays planning in general, and urban design in particular, as a negative activity, necessary perhaps to control 'un-priced negative externalities' (page 8). The Issues Paper seeks views on alternative ways of guiding urban development, such as private bargaining and private covenants on land, that blend more easily with a neo-liberal economic viewpoint than traditional 'top-down' planning.

However, UDF considers that planning is not just about controlling 'negative externalities'. Reducing controls to those that fit an economic theory does not consider the positive outcomes that planning can achieve in New Zealand's urban environment. The alternative planning processes considered by the Issues Paper are limited and it would be worth considering further examples that have a more tangible relationship to New Zealand's present urban condition.

In particular, UDF considers that private covenants under the Property Law Act create a large number of risks for buyers who want to modify or change their property. They will typically work against the overall trend of increasing urban densities over time.

The covenants that we are aware of do not optimize resource allocation; in fact they do exactly the opposite. They become an obstruction to future growth and diversity. The UDF considers the existing Property Law Act and its use of covenants should be severely restricted, and should incorporate a use-by date whereupon they expire.

4. It is worth considering recent **positive** New Zealand urban planning examples such as the development agencies that have developed the comprehensive neighbourhood of Hobsonville, the Wynyard waterfront development and the Tamaki redevelopment. These examples provide excellent case studies on how intensive urban planning could be advanced in greenfield and brownfield locations, and in retrofitting existing suburban neighbourhoods.

The UDF was impressed by the 2008 paper from the Department of Internal Affairs titled "Building Sustainable Urban Communities" which set out a possible framework for such comprehensive redevelopment in urban areas. We are disappointed that these ideas have not been progressed, and note that the work is not even referenced in the Issues Paper. Had those ideas been vigorously pursued in 2009, New Zealand would now be seeing a lot more progress on house supply than is currently evident.

## THE RESOURCE MANAGEMENT ACT AND THE URBAN DESIGN PROTOCOL

5. The deficiencies of the RMA in encouraging good quality urban environments have been well documented in various papers. Positive goals for urban development are not emphasised in the Act, while the largely negative requirements to avoid/remedy/mitigate adverse effects have led inevitably to a starting point that any development is, if not actually bad, then at least unfortunate.

This may be an interpretation that was not intended by the authors of the Act, which does refer to the provision of peoples' 'social, economic and cultural well-being', and the 'maintenance and enhancement of amenity values'.

While these provisions could be seen as promoting a good urban environment (after all, it's where 85% of people live), in general the Act has been administered from a development-is-bad viewpoint.

6. The way the RMA has been administered by territorial authorities has had a further detrimental effect on urban development. The system favours third parties and discourages applicants. Third parties may have rights to appeal any development and cause significant delays to the development process. Councils tend to take a conservative approach to any form of development control infringement due to the fear of litigation – another aspect of the overly-legalised procedures. Applicants have a heavy incentive to submit a proposal that can be non-notified in order to avoid the risk of appeal, with all the associated costs and delays.

The threshold of effects (less-than-minor to more-than-minor) is subjective and open to interpretation. The rule based system has created an environment where council officers take the easy approach and often err on the side of caution, concluding that infringements will result in 'more-than-minor' effects without basis for this decision.

The design will often be 'dumbed-down' to ensure its non-notified status, with a possible consequent loss of development capacity, and a poorer contribution to the urban realm.

7. In an effort address the poor quality of some developments and to introduce some guidance around good development, the NZ Urban Design Protocol was introduced in 2005. It was the result of quite wide consultation among people involved in the design and construction of the built environment.

The Protocol is a voluntary strategic action document and is not 'planning advice' in the way it is referenced in the Issues Paper. We do not agree with the comment that this document is of poor quality, but, after 10 years, it clearly needs revisiting. But it is very important that the Productivity Commission gains a broader and unbiased understanding of the history and value of urban design within New Zealand and its planning system.

For instance, the Wellington City Council Residential Design Guide (which came from the Multi-unit Design Guide) has been in existence since the Wellington City District Plan become operative. It has been in existence for much longer than the Protocol. The Residential Design Guide is a statutory guide that has resulted in greater flexibility, increased brownfield intensification and decreased costs for developers and property owners. The Residential Design Guide allows far greater intensification than just development controls (rules) would allow in Wellington.

The intensification of our cities comes with a responsibility to undertake quality urban design (see point 16). Among the parameters of quality design is the relationship of development to the existing context and environment of the street and other public spaces. The guidance and assessment criteria that relate to streets, corners, spaces between buildings, and human scale are fundamental to the way our cities and towns look and feel. This, in turn, has an influence on how attractive they are to people as places to be, which eventually flows through into the creativity and talent those people bring to the places and the hence to the economic performance of the urban environment.

The most extensive New Zealand based study on *The Value of Urban Design* was

undertaken in 2005 by the Ministry for the Environment as part of its commitment to the Protocol. This study of peer reviewed articles found that:

-Good urban design can offer significant benefits to the community; conversely, poor design can have significant adverse effects on the urban environment, society and economy.

-While good urban design sometimes costs more up front, this is not necessarily the case; moreover, long-term costs can be avoided.

-Communities value the better quality of life that good urban design can deliver.

-Urban design can affect people's ability and willingness to undertake physical exercise: good design can offer health benefits.

-Urban design can help make towns and cities safer and more secure.

-Urban design elements are interconnected: urban design is most effective when a number of elements come together (eg, mixed use, density and connectivity).

The point is often made that cities which put design values high on their list of priorities are the most successful; for example Melbourne, Vancouver, Copenhagen.

## **BETTER URBAN PLANNING**

### 8. So what might we look for in an ideal urban planning system?

Some key phrases submitted by members are:

"Proposals need to demonstrate how the development is the right outcome for the site, rather than how it fits within rules."

"Rule-based planning is inefficient and negative: it is based on what is to be avoided, as opposed to what is good in the context; effects (usually bad) rather than outcomes (may be positive)."

"A successful town or city has a clear sense of direction and a widely shared vision. There is genuine engagement with communities and leadership at many levels."

"One of the most important aspects of urban design is connectivity. We tend to focus on the façade of a building and the associated landscaping, and not on the design of how people will move around and use spaces."

"Precinct planning is better than zoning: it is finer-grained."

### 9. The formal system guiding urban form in New Zealand currently has four clearly identifiable layers:

At the biggest scale are the infrastructure moves, such as large transport, drainage, and water-supply projects. The car-based transport era of the 50 years from 1955 to 2005 has determined the overall form of our urban growth for so long now that we tend to forget how ingrained and odd some underlying assumptions are (the enforced provision of

parking on private land for instance), and how easily we could adopt a different approach. Transport infrastructure relies heavily on central government decision making.

At the next scale down are the land uses, the zone colours on the planning maps that segregate uses into discrete areas, and reinforce travel patterns between home, work and leisure. Also at this scale is the allocation of social infrastructure – the schools, libraries, playing fields and community buildings, - the provision of which is split between central and local government.

Then there are the ‘development controls’ that, within each zone, determine the heights, setbacks, yards, floor areas and a variety of other matters related to bulk and location of buildings. While these are established by the local authority, we have some sympathy with the view that, as they affect housing supply and cost, central government has a valid interest in them.

And finally, there are the rules, often referred to as ‘urban design’ controls and assessment criteria, that seek to guide outcomes on a variety of matters ranging from landscape to fencing heights to window sizes, building frontage design, size of rooms and the amount of daylight penetrating into them.

UDF has a wide-ranging interest across all these scales, especially in the influence of transport systems on urban form, and is not focused on just those labelled ‘urban design’. The public benefit of the latter category is debated within the urban design community as vigorously as by those outside it.

**10. UDF would therefore like to see a new formal system for urban planning that would have these key features:**

11. Establishing a vastly improved connection between central government and local government infrastructure planning, especially as it relates to transport.

Central government must understand the relationship between urban transport and urban development, and acknowledge that a transport system based exclusively or even primarily on private cars is incompatible with the intensification of large cities.

Efforts to intensify, particularly in Auckland, will continue to be frustrated by the space taken by cars, and the hoped-for productivity gains through agglomeration effects will remain illusory. If every household still feels the need for two or three cars, and every car needs six or eight carparks, then intensification will be strongly and justifiably resisted, sprawl will continue and affordability will continue to decrease. The physical space taken for the needs of the transport system (cars) will overwhelm the main purpose of the city, which is to bring people closer together.

This is the key point, the same one expressed more generally in the Issues Paper (page 10):

‘the fundamental challenge for city authorities is to reduce the negative externalities associated with agglomeration, without destroying the benefits that are brought by self-organisation.’

In our view, the Auckland City Rail Link should have been completed by now, and planning for further rail/light rail routes should be well advanced. In Christchurch, a new public

transport system should be up and running, and stimulating new intensive development along its length. The shape of the new city should be being set around its transport system.

Planning for road-user pricing in major urban areas should be near the implementation phase. Transport systems for the 21<sup>st</sup> century that will support intensification, agglomeration and productivity gains need not cost more overall than the car-based system of the late 20<sup>th</sup> century, but the funding structures need to be re-built from first principles.

12. Upholding of the essential protection of the natural environment in and around cities and towns, such as coastal and fresh water systems, volcanic cones, areas of bush, and air quality. These are things that New Zealanders value, and their status under the RMA should not be diminished.
13. Promoting a quality, design-led urban environment which incentivises developments providing for the needs of people, complimented by timely delivery of social and physical infrastructure.
14. Incorporating processes which are democratic, but are not slow.

There should be research into new ways of planning where technology allows greater public interaction with the planning system. A recent example was the Christchurch City Council's 'Share an Idea'. The result was 106,000 ideas from the community which were reflected in the draft Central City Plan. This process got the whole community involved in the planning of their city in a positive way.

Routinely, all development applications would be advertised, and anyone could make a submission to the decision-making body. However that body's decision would be final with no right of appeal except in certain extraordinary circumstances.

15. Retaining zones to separate incompatible land uses, but with more flexibility about how they are applied.

Although we have not had the chance to think through an actual mechanism, the idea that zones and their associated development controls can respond to both price signals and the wishes of the community is worth pursuing. Such a mechanism could allow, for instance, for one neighbourhood to retain a lower density character while another chooses to intensify in return for getting new community facilities and shared open space, all facilitated by a financial transfer of some type.

We support the exploration of some of the mechanisms designed to achieve similar outcomes, as suggested in the Issues Paper.

16. Imposing fewer rules and allowing more discretion.

There is an increasingly strong push toward more dense forms of housing, which require a higher quality of design. As people choose to, or need to, live closer together, the issues of their dwelling's visual and acoustic privacy, orientation, identity, and connection with the outdoor environment become more challenging. At the same time, these issues become much harder to deal with through traditional planning rules, because the number of variables increase exponentially. One-size-fits-all planning rules designed to preserve residential amenity will certainly fail as densities increase.

UDF considers that, in urban areas, a more discretionary planning system is required where outcomes are controlled less with planning rules and more with design review. The role of design review (sometimes referred to as peer review) is well established in engineering, and, in urban design, it has established a strong track-record with review panels in Auckland, Queenstown and other cities. It has played a key role in the widely acknowledged success of Hobsonville Point in Auckland.

This is not to say there should be no firm rules, but they should be focussed on those that have an impact on the public realm – height, frontage setback, site coverage, front landscaping etc.

Those that deal with internal site amenity and impacts on neighbours may well need some rules where physical dimensions are critical, but other matters such as privacy and overlooking are better dealt with by design review, albeit with some well understood guidelines.

The Auckland Design Manual is a good example of this guidance.

The Urban Design Forum thanks the Productivity Commission for this opportunity to comment, and would welcome the opportunity to discuss further the ways in which the quality of the urban environments we are about to create will be enduring and successful in fostering community well-being.

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The Urban Design Forum NZ promotes good urban design in New Zealand.

UDF partners are the Planning, Landscape, Architecture, Engineering and Surveying Institutes.

UDF is modelled on similar groups in Australia and England.

The purpose of UDF is to:

- promote cross-disciplinary understanding of urban design amongst urban professionals;
- raise awareness of the benefits of urban design at both national and local levels;
- provide a forum for discussion of design-based approaches that are relevant to the development and management of New Zealand towns and cities.

Membership is open to anyone interested in urban design and includes planners, architects, landscape architects, engineers, surveyors and other professionals, together with politicians, academics, developers and individuals.

The organisation is overseen by an elected National Committee who provide their service on a voluntary basis.

[www.urbandesignforum.org.nz](http://www.urbandesignforum.org.nz)