



NZPI Submission – Productivity Commission Better Urban Planning Draft Report BUPDR

3 October 2016

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Introduction

The New Zealand Planning Institute (“NZPI”) welcomes the opportunity to further engage in the Productivity Commission’s (the “commission”) inquiry into New Zealand’s planning system and in particular its draft report on Better Urban Planning (“BUPDR”). NZPI has consulted with its membership on a number of occasions about the inquiry. In regard to the BUPDR, NZPI has sought input from its board, branches and members, many of whom are engaged independently in the preparation of submissions to the BUPDR for other organisations.

The policy context for this submission is dominated by the unprecedented volume and diversity of central government led reform initiatives which appear to be mainly addressed at Auckland housing affordability, house price rises in other parts of the country, and wider macroeconomic considerations. NZPI is concerned that an emphasis on fixing short-term problems may damage planning systems which are designed to promote and protect natural and urban environments long term. NZPI requests that this submission be considered together with other submissions it has made this year to other related central government policy change initiatives including the Resource Legislation Amendment Bill and the National Policy Statement on Urban Development Capacity. NZPI also notes that while the issues that have triggered these different central government initiatives remain largely unresolved, circumstances have changed and central government thinking moved on which is not captured in the terms of reference for the Better Urban Planning inquiry set a year ago. Nevertheless, NZPI is of the view that there are significant issues associated with the New Zealand planning system (not restricted to urban planning) that do need attention. NZPI reiterates its position that reform is necessary.

This submission is presented in three sections:

- I. Section one provides a thematic assessment of the BUPDR in the context of NZPI’s broad view and experience of New Zealand’s system of planning;
- II. Section two contains a critical assessment of specific BUPDR assumptions and findings;
- III. Section three tabulates BUPDR findings and recommendations against NZPI’s developing view of changes that are needed to improve New Zealand’s system of planning.

Section One: Thematic Assessment of BUPDR

NZPI has significant concern with several policy themes that are evident in both the BUPDR and the previous issues document, and which have been addressed in previous NZPI submissions and the submissions of other stakeholders. These themes are traversed in this section of NZPI's submission under the following thematic headings:

- Scope of urban planning
- Importance of whole of government planning
- Spatial planning systems
- Infrastructure funding methods
- Implementation of change and reform

1.1 Scope of Urban Planning

No overall objectives for urban planning are suggested in the BUPDR. This has undermined its attempts to deduce an appropriate form of planning to deliver a necessary planning function. The BUPDR does suggest three “well-founded rationales” for urban planning as being: regulation of negative spillovers; decisions about provision of public goods; investment and coordination of infrastructure, but then goes on to assert that the deliverables from an urban planning system in New Zealand should be: openness to change and growth; sufficient development capacity; and transport accessibility. This approach appears reductionist and driven by a presumption that most urban planning outcomes and disciplines should be left to market forces. In a mixed economy like New Zealand a more balanced approach is required, as NZPI has submitted previously.

NZPI and urban planners see this urban planning inquiry as an opportunity for reflection, and an opportunity to refocus and redevelop the planning discipline to be able to work more effectively in a world of massive uncertainty and change and in a way that brings people and communities along together. Modern society and increasing urbanisation is becoming increasingly complex, increasingly diverse, with associated risks becoming more uncertain and in cases, unknowable. As a result, planning cannot be expected to produce an ideal end result, or outcome (“we know what’s best”), but needs instead to work as an integrator of knowledge that brings many differing understandings together in order to work within the tensions that commonly exist within planning and resource management decision-making. The BUPDR calls for a “more tightly defined role for urban planners” and asserts that good planning outcomes are more likely “when planning culture emphasises robust evidence”. These assertions suggest that the Productivity Commission does not appreciate the uncertain and changing contexts that apply to urban planning work today or gaps in existing knowledge that limit the creation of a robust evidence base. NZPI considers the capabilities planners should be educated with to be effective in such an environment include the ability to reflect upon and critique the planning discipline itself, possession of a broad education (including economics, determinants/drivers of land value, political science, demographics and so on), and the ability to communicate effectively to various parties and individuals when utilising conflict resolution skills.

1.2 Importance of “Whole-of-government” Planning

There is a consistent message throughout the BUPDR of “poor central-local government relationships”, and of poor/minimal engagement of central government in urban development

planning and local government. While there are recommendations to address that matter, the report lacks specifics and in its “cut to the chase” summary opines that: “a future planning system should be based on a productive and collegial relationship between central and local government”. NZPI has made a number of detailed suggestions about this issue in submissions to this inquiry, and in submissions to the proposed National Policy Statement on Urban Development Capacity and the Resource Legislation Amendment Bill. The Productivity Commission’s inquiry presents the best opportunity New Zealand has had in decades to build a formal partnership between central and local government – especially at a time when sharp population, immigration and urban growth changes present major coordination and planning issues. Meaningful engagement, consultation and compromise will be required to build a genuine partnership.

NZPI wishes to make a clear distinction here between the desirable goal of a collaborative partnership in planning, and any approach which grants central government new rights of control over local urban planning. NZPI opposes BUPDR Recommendation 7.10 for example, which recommends that central government should have the power to: override local plans; require common land use approaches; direct CCOs to increase their supply. And while NZPI supports, and has advocated for, better central government policy guidance through promulgation of National Policy Statements (NPS), NZPI does not support BUPDR Recommendation 8.1 which recommends a Government Policy Statement on environmental sustainability. For example, how would national priorities be given effect in a local context? National guidance on sustainability reporting is supported by NZPI, but that could be promulgated through an appropriate NPS.

Spatial planning in particular can provide the mechanism for collaboration and partnership between local and national government at urban level.

1.3 Spatial Planning Systems

NZPI strongly supports spatial planning as part of the urban planning toolkit. However, we caution that spatial planning cannot be limited to addressing the provision of land for housing and must be an integrated process which includes all elements that make a successful, livable city. These include locations for employment, social and public services and facilities, transport networks, other infrastructure, parks and reserves, amongst other amenities. NZPI also reiterates a concern based on our members’ experience, that the general public is least likely to engage with strategic and district planning processes that cover wide areas. Enabling public participation at local level is an extremely important objective for any planning system in a democracy. As noted above, the goal of this review should not be a quick change process, but the introduction of a quality planning framework for all of New Zealand. Good local spatial planning processes would make a significant contribution to improving urban planning.

However, while the BUPDR finds in favour of spatial planning, its definition of infrastructure is such that nationally provided infrastructure (health and education for example) and its reliance or demand on local infrastructure (e.g. footpaths or cycleways for kids to get to a school), as well as social and community infrastructure (e.g. community hubs, libraries and public entertainment) are largely excluded from the definition of the infrastructure planning that would be part of spatial planning. This would put spatial planning into a local silo ignoring the need for the collaboration and partnership which NZPI believes is required between central and local government.

Further to this theme, NZPI notes that the BUPDR adopts a definition of what an urban environment consists of, which excludes most social and community infrastructure. This is a point of view which could never be substantiated, and is despite quoting extensively from international definitions which align urban planning with “place-making” which also requires stakeholder collaboration at various levels (including central government). Despite this the BUPDR does find that some sort of “hybrid” planning system somewhere between one which is prescriptive and one which is collaborative “may be optimal” – without developing this thinking further.

NZPI considers that these threads all come together in good spatial planning which is about the planning, partnerships and processes needed for good place-making. That should be the prime objective and outcome of spatial planning .

1.4 Infrastructure Funding Methods

The BUPDR recommends (Recs 7.1 and 7.2) planning system changes that prioritise responding to growth and requiring that planning decisions on land release be driven by land price. These are supply management approaches. Yet while noting that Councils face challenges in funding infrastructure needed to support growth, BUPDR does not make a case for appropriate demand management approaches. These presently include developer levy tools that can promote development where surplus infrastructure supply exists. But this tool has little effect in developing land-banked property. There is little discussion and no recommendations supporting the introduction of value uplift or betterment levies common in overseas jurisdictions. While BUPDR mentions targeted rating tools, these already exist and provide Councils with limited power to use economic incentives to shape urban development. This is a major deficiency in the BUPDR particularly because, if a more laissez-faire approach to managing release of development capacity is to be adopted, this needs to be coupled with an improved ability to see the costs of new infrastructure, and the impacts on existing infrastructure, met by developers. Planning tools are required to enable both supply management and demand management objectives to be delivered.

1.5 Implementation of Change and Reform

Very little attempt is made in BUPDR to examine how the various recommendations would or could work together, nor how they might integrate with NZ’s existing planning framework. NZPI appreciates that the terms of reference for the Productivity Commission’s work was a first principles review of New Zealand’s urban planning system, and that it should not engage with other government initiatives to change the planning system (eg Resource Legislation Amendment Bill and the National Policy Statement on Urban Development Capacity) but that should not be interpreted as an excuse to come up with a set of recommendations without engaging with the mechanics of implementation. NZPI notes that an important requirement of the *Better Urban Planning* inquiry is the production of a “framework against which current practices and potential future reforms in resource management, planning and environmental management in urban areas will be assessed”. The BUPDR appears to have interpreted this requirement simply by asserting that the deliverables from an urban planning system in New Zealand should be:

- openness to change and growth;
- sufficient development capacity;
- transport accessibility; and,

that meeting those requirements is the necessary and sufficient test for reforms to NZ's urban planning system. NZPI does not agree with this interpretation as discussed above, fundamentally because NZPI does not accept BUPDR's minimalist view of urban planning. Nor does the above sufficiently recognise that urban planning has the potential to have a significant effect on existing Part 2 matters of the RMA such as indigenous biodiversity, landscapes, European and indigenous cultural heritage and built structures, amenity, quality of the built and natural environment and environmental sustainability, which are cornerstones of the existing Act.

Finally, NZPI submits that consideration of the feasibility and viability of any proposed changes should be an important part of any assessment framework. In later sections of this submission NZPI will build on its own policy research investigation of what needs to change in NZ's planning system (taking a practical and pragmatic approach), and highlight those parts of the BUPDR that support and flesh out that structure.

Section Two: Critical Assessment of Specific BUPDR Assumptions & Findings

NZPI reiterates its request that the commission reviews NZPI submissions to the Resource Legislation Amendment Bill and to the proposed National Policy Statement on Urban Development Capacity. These submissions, along with NZPI's submission to the commission's urban planning issues paper, comprehensively set out NZPI's approach.

Two specific matters are addressed in this section of this submission:

- appropriate urban planning regulation needed to address market failings
- possible split urban environment and natural environment regulation

These are not thematic matters but are significant and have been raised by senior NZPI members.

2.1 Appropriate Urban Planning Regulatory Role to Address Market Failings

One of the stated objectives of BUPDR is a more “tightly defined role for urban planning”. This is despite the patterns of market failure that are evident today in urban environments (such as housing affordability and cumulative stormwater damage) and which can be anticipated tomorrow (opposition to intensification for example). The quality and utility of urban planning in finding solutions to these problems is itself a public good – something that markets are not capable of valuing correctly – despite the obvious fact that competent urban planning and administration would be a source of competitive advantage for New Zealand. NZPI considers that an urban planning system that encourages informed civic engagement and collaboration increases the likelihood of competent and responsive urban redevelopment initiatives and in turn yield a more efficient mixed economy. However the measures of success for this urban planning function are commonly related to social outcomes or “liveability” indicators. For example, per capita square metre of open space, population within walking distance to high frequency public transport, percentage of persons with a sense of pride in the look and feel of the local area, number of FTE employment opportunities per hectare, and percentage of children walking or cycling to school. Such measures should, in NZPI's view, be as important in urban planning and place-making as measures relating to developable land capacity and network infrastructure. Other more challenging planning matters are on the horizon and relate to issues such as climate change adaptation (Finding 8.7), natural hazard management, integrating transport and land use planning, providing for neighbourhood built and natural heritage. In NZPI's view the market has typically avoided involvement in such issues because of associated uncertainties and revenue challenges. Partly because of that reality urban planners are usually the professionals at the coal-face in working these issues through with affected communities.

2.2 Legislative Split for Urban Environment and Natural Environment?

There is a limited discussion within BUPDR of the possibility or desirability of changes in the separation of the regulation of the urban environment from the regulation of the natural environment. This appears to have informed a very pointed question (Q13.1) whose two options both assume that built and natural environment legislation or regulation should be separated. However, in an urban context these two environments are inextricably linked and cannot be forced apart. Members consider that either of these suggested approaches will lead to less consideration of

the effects of urban development on the natural environment than presently occurs, noting, by way of example frequent complaints about the effects of stormwater discharges from urban development upon receiving environments which include: overland flow paths; ephemeral streams; urban streams; urban estuarine environments; inshore seabed ecosystems; and coastal marine areas. And noting also the desire for the protection of mature vegetation, either as a forested area or individual specimens within urban areas.

Because urban environments and natural environments can be close to each other (or entwined as is the case with the Waitakere Ranges) – for example housing in a coastal area or a subdivision adjoining a regional or local reserve – the potential for impact and damage is significant. This can include: effects on natural water; potential for drainage systems to be overwhelmed; clearance of vegetation; loss of habitat for flora/fauna; loss of landscapes; threat from invasive and introduced species; and cumulative effects of any/all of the aforementioned. The ideal of integrated planning is that the planning for development happens together with the planning of methods and approaches that avoid, remedy and mitigate adverse effects. That said NZPI notes that current implementation of this approach under the RMA has not dealt with the problem of stormwater damage to urban streams. Councils permit development provided certain methods to manage/mitigate stormwater flows are incorporated in plans, but don't then come under much obligation to ensure those systems are properly built and maintained. The relevant Regional Council will monitor the stream, find it is degrading, report to the responsible territorial authority about the cumulative effects measured in the stream, but the Council will do little, and there it will stop. Unless there is rigorous and systematic enforcement of resource consent conditions relating to stormwater discharges for example, or enforcement of something akin to the licence to operate an onsite wastewater system, then little will change for the better.

NZPI submits that territorial and regional authorities need to make planning decisions in an integrated way – i.e they each need to permit development while ensuring systems are in place that deliver environmental outcomes/protect natural resources. These urban and natural planning processes need to be subject to nationally set environmental bottom lines not being exceeded. This is where some sort of separate regulatory oversight appears to be necessary and might be administered through an Environmental Protection Agency which would have the power to “stop and search” and to impose a development moratorium or other control to stop additional development, or to remediate development that was causing exceedances.

Section Three: Assessing BUPDR against NZPI's Advice on Planning Reform Needs

NZPI notes the appetite for reform evidenced by the work of the Productivity Commission, the Resource Legislation Amendment Bill and proposed National Policy Statement, and that is contained in think pieces that have been produced by Local Government New Zealand (LGNZ) and very recently by Environmental Defence Society working with LGNZ, Employers and Manufacturers Association and the Property Council of NZ. As part of its own monitoring of planning profession activities in New Zealand, and its engagement with the need to provide submissions, NZPI has conducted its own internal investigation into the need for planning framework reform as a basis to work from. We have drawn from valuable research conducted by several other New Zealand based organisations, and from our members. We recognise that no single organization can legitimately claim the high ground when it comes an activity as multi-disciplinary as natural resource planning. We draw here from a range of sources including the views of NZPI members, whose job it is to implement the planning system as it stands, and to make the best of it working for public and private sector organisations. Many have worked professionally within both Town and Country and RMA planning systems, and many have worked in other national jurisdictions. Because of their day-to-day experience of planning, and because they get on a daily basis the feedback and opinions of developers, communities and individuals, politicians, and those at either end of the conservation/preservation to development spectrum, they are well placed to comment and to advocate how the system can be improved, and also to reflect and suggest where major change is needed.

NZPI has drawn on that institutional knowledge and on Local Government New Zealand (LGNZ) and Productivity Commission work and analysis. NZPI's synthesised findings are summarised in this section, under these headings:

- ways the current planning framework needs to be refocused
- practical planning institution and instrument reforms required

Where appropriate, BUPDR recommendations that are in support with NZPI findings are also tabulated.

3.1 Ways the Current Planning Framework Needs to be Refocused

In throwing its weight into the growing debate, NZPI has also engaged with its branch chairs, board members, and broader membership to research and describe the New Zealand planning system change requirement. These ideas are summarised in the following bullet points:

- The RMA framework could remain, to enable development to occur within agreed, regulated and monitored environmental bottom-lines, but it needs to include land use, infrastructure plans and outcomes, and be organised so that it has direction at a national level, and outcomes delivered at a local level.
- National direction policy statements that are geared toward urban development should be about strategic forward planning, rather than reactive issue planning. All s6 matters require national policy statements to provide national direction.
- Noting that RMA District Plans have adopted the Town and Country Planning Act approach – it should be recognised that these types of zone controls are effects based planning, they deliver certainty, and can be implemented with much less legal and consultant cost than less prescriptive approaches.
- Any new planning framework needs to enable interagency cooperation inherent in a framework of multiple layers. Distinct national issues and plans, and local issues and plans. All existing plans will need to be reviewed.
- There is a need to standardise rules and systems for example with a national template and/or national guidance, allowing for local overlay provisions and variation.
- Provide clear rights of involvement, participation and of appeal in plan making.
- Planning needs to be conceptualised as a public good where public and private property rights are protected, rather than simply as a user pays service for permission to develop.
- Economic and social externalities of development including losses and gains affecting public and private property need to be provided for in the present RMA framework by means of national policy statements and enhanced s.32 type processes

It is important to recognise that these recommendations are focused on outcomes rather than processes. They also rely on significantly more national guidance and direction than has hitherto been provided by central government. There is a theme of interagency cooperation and collaboration in these recommendations which are consistent with spatial planning.

3.2 Practical Planning Institution and Instrument Reforms Required

Building on the practical commentary and directions described in the foregoing section, NZPI considers that a set of integrated reforms are needed to NZ's planning framework. Changes are needed at national, regional and local level and incorporated to form what could be collectively named a National Sustainable Development Plan, and which would incorporate the present RMA and relevant provisions of the LGA, the LTMA, and the Maori Land Act.

NZPI Proposals for reform and structure	BUPDR Recommendations in support
National Level Components	
<ul style="list-style-type: none"> • Production of National Sustainable Development Plan (Outcomes, Spatial) • Promulgate Nation Policy Statements (that give effect to the Plan) • Provide for all infrastructure of national importance (roads, energy networks, ports, telecommunications) • Set bottom lines for natural resources • Regulated by Environment Court 	R7.9, R8.1, R8.3, R9.3, R12.2
Regional Level Components	
<ul style="list-style-type: none"> • Regional Environmental Protection Agency & Resource Allocation • Produces regional natural resource plan (allocations & consents for water) • Monitors and Regulates regional bottom lines • Regulated by Environment Court 	
Local Level Components	
<ul style="list-style-type: none"> • Produce and administer District Sustainable Development Plans (Outcomes, Spatial) • District Sustainable Development plan protects property rights, allocates property development rights, manages supply of local infrastructure consistent with national plan and administers its financing and implementation of economic incentive instruments, regulates land development and use, gives effect locally to the National Development Plan in accordance with national policy statements, but subject to bottom lines. • Monitors and regulates local environment 	R7.8, R9.1, R9.3, R10.1, R10.2, R10.3

What is evident here is that BUPDR does not appreciate the important role that the regional level of planning has, particularly in regard to the monitoring and enforcement role that is essential if natural resource bottom lines are to have any tangible effect.

Variations in this are of course possible. For example public network infrastructures might be managed regionally, rather than locally. However there will be a need to ensure that conflict of interest issues do not arise through locating service provision and service environmental regulation under the same roof.

Fundamentally these changes are in recognition of a shift in New Zealand's development from a pattern where the receiving environment was largely undeveloped or rural land, to one where the receiving environment consists of urban land that is already developed and is the home, work and play environment for many people.

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