

**SUBMISSION ON NEW ZEALAND PRODUCTIVITY COMMISSION DRAFT REPORT
TOWARDS BETTER LOCAL REGULATION**

To : The Productivity Commission
From : Property Council New Zealand

Introduction

The Productivity Commission is consulting on its draft report “Towards better local regulation”. The report considers local government regulation, the roles of central and local government and actions which can be taken to improve processes and outcomes in this area.

Due to the number of other consultations taking place at this time, Property Council has not been able to review the report as thoroughly as it would wish to. The report considers important matters, and Property Council would like to work with the Commission to help address these going forward – particularly in relation to the resource consent regime. Indeed, one of Property Council’s suggestions is to increase engagement and make more use of the skills and experience of those in the industry to help achieve constructive solutions to issues and areas of concern.

Overall, Property Council supports much of the findings and recommendations included in the Commission’s report. The evidence is well presented and reflects many of our members’ experiences. The recommendations appear well thought out and sensible.

In short, Property Council advocates that a holistic approach is taken in respect of rectifying the issues the Commission raises. This will require co-operation between central government, local authorities and the industry/private sector. Regular consultation/engagement, meaningful monitoring and information sharing can help improve satisfaction, consistency in approach and

efficiency across the country. In this submission Property Council briefly considers central government's role, the need for greater stakeholder involvement and various competency and complexity issues.

Background

Property Council is a not-for-profit organisation representing the country's commercial, industrial, retail, property funds and multi-unit residential property owners, managers and investors – including thousands of New Zealanders with retirement savings in listed property trusts, unlisted funds and KiwiSaver. Our 600 member companies, with a combined \$24 billion investment in commercial property, range from leading institutional investors, property trusts and financial organisations to private investors and developers.

Property Council advocates our members' interests to central, local and other government-associated bodies. Property Council, like other organisations that represent commercial and industrial ratepayers, has an interest in achieving public policy outcomes that:

- enable the delivery of an appropriate level of investment in the services and infrastructure necessary to improve productivity-driven economic growth
- minimise disincentives for commercial investment within any given city, district or region
- ensure the equitable and proportionate allocation of cost, which reflects the distribution of benefits
- achieve a public policy environment that contributes to the long-term economic health of communities throughout New Zealand, as well as the economic prosperity of New Zealand as a whole.

Central government's role

As a general principle, Property Council agrees that there are functions which are best undertaken by those closest to the community which will be affected by them. However, as recognised in the Commission's report, society is becoming more and more interconnected - both throughout New Zealand and on a global basis. In addition, many of the issues faced by

various local authorities are often similar in many respects. As such, Property Council considers that central government should play a greater role in:

- regularly engaging with local authorities across the country to identify and rectify issues and concerns
- providing strategic direction to local authorities and ensuring national consistency in approach (where appropriate)
- regularly monitoring/auditing the work and systems of various local authorities, and taking remedial action where appropriate
- providing and updating national guidance
- sharing best practice across local authorities
- facilitating information and data sharing, training and communications across the country
- identifying and assisting local authorities which have skill or resource constraints (for example through arranging work placements, secondments or sharing the workload with other local authorities)
- setting national standards to ensure greater consistency and efficiencies
- regularly reviewing how processes and systems are being implemented and operating.

If undertaken on an ongoing basis, and in a holistic manner, such a process would:

- help ensure robust, effective local government rules, policies, processes and plans
- provide central government with essential information for policies and legislation
- establish ongoing working relationships, and facilitate collaborative working and decision making to address issues
- encourage greater efficiencies and cost savings.

External stakeholder input

Property Council advocates for greater involvement of external stakeholders in local government activities. This could be done through various measures, including establishing evaluation boards, peer review boards, panels or workshops with key stakeholders and

representative bodies in order to consider local government rules, processes, plans and policies - particularly those which are subject to high levels of dissatisfaction - as well as to progress key initiatives. This would improve levels of understanding between local government and private sector groups, and help ensure greater accountability at a grass roots level.

In addition, monitoring and review by central and local government of rules, policies and processes must not be purely quantitative and/or in relation to compliance with statutory timescales. To be effective, it must include analysis of external stakeholder satisfaction with the rules, policies, and processes, as well as other relevant qualitative information.

The consent process

There are a number of concerns related to the rules in district plans and the resource consent process. For instance:

- Currently developers face a range of barriers under the RMA consent processes, when trying to undertake truly innovative projects. Rigid application of RMA requirements results in less innovation and decreased quality in design and delivery.
- The large volumes of information required by district plans and assessment criteria often lead to undesirable delays. Delays and increased costs have impacts on progressing key public sector issues, such as housing affordability.
- Too commonly developers have had to refinance their projects, due to delays. Uncertainty surrounding processing times and delays act as disincentives to undertaking development projects and the additional impost also, in many cases, inflates purchase prices.

Property Council considers that central government could take a greater role, along the lines described earlier in this submission, to help improve this process and increase consistency in approach across the country.

Assuming that conflicts of interest can be avoided, consideration should also be given to encouraging greater involvement of skilled, experienced people from within the industry, who

understand development issues, with assessing/reviewing resource consent processes and applications. They could provide assistance to local authority staff, who would make the final decisions and have particular responsibility for collating information and ensuring the consent application undergoes a robust review process. Property Council members have a range of views on potential ways to make the system more efficient and workable for all involved, and would be happy to work with the Government and local government on this matter. Simplification of the process is vital.

Property Council has not had time to properly consider the Commission's findings in relation the appeals process. However, on the basis that there are difficulties with the current system, our members would not wish to see this important check and balance on the consent process taken away.

Rules and consents on heritage buildings

Another area where it is going to be particularly important for local authorities and the private sector to work together is on strengthening buildings to resist earthquakes. The costs of doing so are going to be high – particularly for heritage buildings which may need strengthening to a level of at least 67% of NBS. Local authorities and private sector representatives will need to work together to determine which buildings are of value to the community and should be strengthened. They also need to find solutions to fund the cost of strengthening the identified buildings. Rules in district plans and the application of the consent process needs to be practical, and proper collaborative engagement on this issue will be needed to avoid the worst case scenario – where building owners have no choice but to simply lock up their building and walk away from it. This worst case scenario is not hypothetical; our members are trying to deal with these issues already.

Competency and complexity

Property Council strongly submits that central government should play a key role in monitoring, information sharing and ensuring consistency in approach across the country where issues are particularly complex and technical and have significant ramifications for both the private sector

and for progressing national policy issues. This is particularly important, given that local communities may not have the time or expertise to get involved and hold local authorities to account for their rules and policies in such areas.

A clear example is in the case of development contributions, where a lack of technical expertise and understanding of the law is leading to many local authorities developing and applying inappropriate policies and rules. The myriad of rules and policies being applied across the country are complex – resulting in inefficiencies and increased costs. This has resulted in a number of court cases, where private sector claims have been upheld. Given the limited appeal rights allowed under the development contributions regime, and the costs associated with bringing matters to the high court, these cases are likely to represent only a fraction of the issues facing the industry. Local authorities’ policies and rules in this respect are also having implications for key policy initiatives such as housing affordability.

The development contributions scenario also shows that implementing measures such as best practice guidance on their own will not be sufficient – guidance exists but it is not applied consistently and is out of touch with the issues facing the industry. A holistic approach, along the lines outlined in this submission, needs to be taken (i.e. information sharing, the development of national standards, regular monitoring and reviews, appropriate resourcing, an appeals mechanism, engagement etc).

Conclusion

Property Council is grateful for the opportunity to provide comments on the report, and would be happy to work with the Commission further on this issue.

DATED 6 March 2013

A handwritten signature in blue ink, appearing to be 'A. 2013', with a long horizontal flourish underneath.

Connal Townsend, Chief Executive
On behalf of Property Council New Zealand

ADDRESS FOR SERVICE: PO Box 1033
Auckland, 1140