



Using Land for Housing – Draft report

Submission to the Productivity
Commission

August 2015



For a better working life

New Zealand Public Service Association

Te Pūkenga Here Tikanga Mahi

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Preamble

Who we are

The New Zealand Public Service Association *Te Pūkenga Here Tikanga Mahi* (the PSA) is the largest trade union in New Zealand with over 61,000 members. We are a democratic organisation representing members in the public service, and the wider state sector (the district health boards, crown research institutes and other crown entities, state owned enterprises, local government, tertiary education institutions and non-governmental organisations working in the health, social services and community sectors).

In developing this submission we sought the views of

We have nearly 8,000 members working in local government across the country (including Canterbury and Otago following our merger with the Southern Local Government Officers' Union in April) many of whom work in relevant areas such as policy, planning and building consents. We have developed this submission in conjunction with those members.

We note that the draft report is wide ranging and because our primary interest is in the impact on local government not everything is relevant or appropriate for us to comment on. Accordingly this PSA submission will address:

- Issues of local democracy, to which we have a long standing commitment
- Proposals that facilitate or act as barriers for staff to do their job properly
- Proposals that affect the income of local government
- Proposals that affect the relationship between local and central government
- Co-ordination issues
- Criticism of council performance that by implication criticises the performance of our members
- Proposals that affect the structure or function of local government

Introduction

Issues of housing affordability are complicated

Housing is a critical component in achieving healthy, sustainable communities as it both produces and reduces wealth inequality. However, the issues are complicated and it is not just about land supply and the number of houses, it is about affordable, safe, healthy homes for the community, and those on low to middle incomes in particular (which of course includes many public sector workers).

Local authorities, and our members, play a critical role in ensuring our communities are well housed. In addition to their role as planning authority and regulator, they are also infrastructure providers, social housing providers, funders,

We need better collaboration between local and central government

facilitators, community liaison and advocates. We believe that by working in a collaborative way with government on housing issues, local government can be more effective in meeting housing need. Giving enhanced power to central government to intervene in local democratic and planning processes is not a fair nor sustainable option. Central government can also make poor decisions and often the consequences will be left to local communities/local government to resolve and pay for.

Local government planning

Good planning systems are essentially democratic. They have diverse inputs, (including engagement with developers) that are distilled down to final decisions and plans that suit the community. This includes areas of high growth, such as Queenstown Lakes District Council, where Urban Design Committees have been used, particularly pre resource consent application.

Chapter 2 - Cities, growth, and land for housing

F2.7 F2.15

This chapter contains an interesting discussion about the importance of cities to the nation (the tension between local and national interests), the impact of housing costs on social issues (including inequality) and the tensions between the market and regulation. In the context of this latter discussion F2.15 strongly suggests that land use regulations are inherently problematic. The implication of the earlier F2.7 is that increasing formal rights to consultation have led to the regulatory process being captured or politicised.

If that is what the Productivity Commission is intending we disagree with that view. The planning processes that local authorities are involved in are inherently political and the formalising of rights of consultation does not automatically mean that community groups that disagree with planning proposals have more influence now than they did in the past. Such groups are quite capable of organising outside of the formal consultation processes and bringing political pressure to bear. We are not sure that much has changed.

The PSA agrees that constraints to housing supply can impact on labour market performance and productivity, not to mention inequality. We are not convinced that pointing the finger at 'restrictive land use regulations' is the main problem. Issues around regulation and its impact in this area are complicated and we note Adams and Watkins in their report on *The Value of Planning* conclude that "one of the main messages from this report is that we still have only limited knowledge of the economic impact of planning and that the claims [of] those who suggest otherwise are often dependent on a narrow conception of planning, an artificial

view of how markets really work, and an over-reliance on heroic methodological approaches.”¹

Chapter 3 – Integrated Planning

- F3.12* Spatial plans and district plans tend to be two very different types of documents. Most spatial plans do not contain sufficient information and detail to prevent the need for a separate public consultation exercise.
- F3.15* We are not convinced that there is a need for a new legislative avenue to better integrate spatial planning and land-use regulation for larger cities. The Local Government Act already provides a legislative avenue. Christchurch’s South West Area Plan for example, was prepared under the current legislation. Developing legislation of this type would also raise questions of its relationship to the Resource Management Act – would we be in fact further complicating the legislative framework?
- F3.16* This finding is odd. Councils are responsible for many more activities than just housing supply and it is important that spatial plans address their ability to achieve those other goals.
- F3.17* It is recognised that central government’s responsibility for services such as health, education and social services gives it a particular interest in the development of spatial plans. There is benefit in central and local government working together on these plans, but on a co-operative basis that balances the interests of both levels of government.
- F3.19* Central government does have regulatory expertise and a voluntary peer review exercise may be useful for councils. We are not sure that Treasury would be the best placed to conduct that peer review – MBIE also has relevant expertise.
- R3.7* While acknowledging that central government approval of plans is quite common overseas, we are not comfortable with such an approach in New Zealand. The recommendation as worded appears to give central government a veto and we would prefer guidance by government, rather than a directive approach. If the recommendation stays in the final report there would need to be a dispute resolution process provided for.

¹ http://www.rtpi.org.uk/media/1024627/rtpi_research_report_value_of_planning_full_report_june_2014.pdf p.71

Chapter 4 - Supplying and releasing land

- F4.10* Some of our members question whether there is reliable information at present about plan changes, as this one of the intentions of the new National Monitoring System. Plan changes vary considerably in size and scope so it can be difficult to generalise about which local authorities take longer to make plan changes operative. Consultation and appeals can add to the time taken for plan changes but this is a necessary element of local democracy.
- R4.5* The proposal that local authorities should set policies for the publishing of and consulting on draft plan reviews or plan changes ahead of notification, could be useful. Some plan changes do not warrant much pre-consultation, while others do. This would be of most benefit if accompanied by government guidance as to what is expected. There is also a need to be realistic about the possible effects on time periods – pre-consultation on a new draft district plan prior to official notification could add considerably more time.
- R4.6* The proposal for MBIE to conduct an evaluation of the Independent Hearings Panels in Auckland and Christchurch should make it clear that the evaluations should be undertaken in partnership with the councils concerned.
- Q4.3* We have serious concerns about narrowing eligibility to make further submissions on plan change processes. Categorising submitters in order to exclude certain parties could be discriminatory and advantage landowners and developers over community groups.
- Q4.4* Similar concerns apply to question 4.4 which could exclude some submitters from site specific proposed plan changes. This could adversely affect people with a real interest in a site-specific change that could drastically alter their community.

Chapter 5 – Regulations and approval processes

- F5.14-5.18* Given current policy settings and incentives, no matter how much land is released if it is at market prices then very little affordable housing will eventuate. Greenfield land values would need to drop substantially (estimated by some as much as 35%) for the market to provide housing that could be accessed in an unsubsidised way by middle income households.
- Inclusionary zoning (IZ) policies would assist in providing some cheaper land to achieve affordable housing outcomes. Such measures are needed as releasing land for housing is not just about the making the planning system more efficient and responsive, it's also about allowing a greater range of households to participate in the housing market. Affordable housing needs to take into account price, i.e.

relative to the rest of the market, as well as by income, i.e. relative to existing purchasers. IZ offers an opportunity to provide for middle income households. An example is the redevelopment of one of Christchurch City Council's social housing complexes. The affordable housing provision is to be priced at a point where households earning under 120% of median household income can afford to purchase (i.e. pay no more than 30% of their income on housing costs). By way of comparison, such incomes in Christchurch cannot affordably purchase a house at the lower quartile house price. In this way, central and local government land development can be used to demonstrate how upzoning that includes IZ can work.

Evidence for the Auckland Unitary Plan suggests that based on residual land values mandatory requirements of 15% affordable housing component in medium to high value greenfield and brownfield areas is a feasible IZ measure. Additional incentives such as density bonuses or other planning concessions would often be needed.

What appears key to making IZ policies work is flexibility over densities, certainties over requirements, clear planning guidance and efficient consenting processes. Given inclusionary zoning seems to work best in strong, growing markets it should be considered as a mandatory requirement, and voluntary elsewhere.

R5.1 R5.2

The decision on whether or not to remove district plan balcony/private open space requirements for apartments or to put in place minimum size requirements, is properly one for territorial authorities to make. However, it is important to note that there is good reason for these requirements and potential costs in stepping away from them.

If developments are small, built to a minimum with poor aspect, nil sun they end up being transitional spaces. Transitional housing means occupiers tend to have low engagement and ownership within the community - this can lead to social problems, crime, isolation, poor health outcomes etc.

By simply removing the requirement means the developer shifts the costs of providing open spaces to local authorities or the health and welfare system.

It is also common for district plans to specify minimum apartment sizes and many cities internationally (e.g. London, Sydney and Melbourne) have minimum apartment sizes. There is no harm in local authorities in New Zealand reviewing these rules but they should be able to make decisions locally about the level of amenity that is achievable for future occupants.

R5.4

Not all local authorities will have the capacity or capability to conduct robust cost-benefit analyses before considering the introduction of building height limits. If the government was to adopt this recommendation it would need to assist local authorities through the provision of specialist advice and extra funding, rather than

just placing another unfunded central government requirement on local government.

R5.5

If local authorities were to remove design and construction controls in the District Plan standards that exceed standards in the Building Act, then that would not remove the need to have such higher standards. The Building Code is too inflexible, and too broad in its zone categories (South Island is broadly R3) and it does not, for example, encourage the construction of better designed houses for energy efficiency. While the NZ Green Building Council's Homestar Rating tool is a 'standard', it has been developed on the basis of sound evidence and reflects minimum international building standards required in a number of jurisdictions internationally. Some councils have concerns about not having some ability to impose their own minimum standards.

Q5.3

There may be some benefit in introducing nationally consistent land use guidance for development or subdivision on land with a high hazard risk, such as flooding or liquefaction.

Chapter 6 – Planning and delivering infrastructure

F6.4

There are real risks associated with development agreements and local authorities should be free to decide for themselves whether they are a good idea. The provisions recently introduced into the Local Government Act by the Local Government Act Amendment (No.3) created additional pressure on councils to accept agreements. This in turn may place additional financial risks on councils and consequentially ratepayers.

At the time of the amendment we were particularly concerned about the statement in the *Development Contributions Discussion Document* that “developers would not need to match the standard of infrastructure that would have been provided by the territorial authority.”²

Privately provided infrastructure of inferior quality to that typically demanded by councils represents a financial risk to councils and it should not lightly be entered into. This viewpoint was emphasised by the Society of Local Government Managers (SOLGM) in their submission on the *Development Contributions Discussion Paper*.

SOLGM is unconvinced that this option would allow for sustainable asset management and associated financial disciplines. In the medium to long term, this is likely to manifest itself in greater risk of asset failure, where pressure will be put on councils to rectify problems...Other submitters have

² Department of Internal Affairs, Policy Group ‘Development Contributions Review – Discussion Paper’ Page 36

raised examples where private provision has created risks. We submit that this option needs further consideration, particularly as to the practicalities and risks before it can be pursued further.³

F6.9 We agree that several councils are likely to be facing considerable challenges regarding infrastructure provision. Pressure is on to keep rate increases low at a time when infrastructure costs are increasing for a range of reasons. Freshwater reforms could have significant implications for water drainage infrastructure. It is alarming that in light of these challenges the government has not shown any interest in expanding the range of income options for local government and has instead limited the ability of local authorities to charge for infrastructure through development contributions.

F6.12 The PSA does not support the increased use of user charges for social equity reasons – user charges can be regressive and can mean that those who depend most on local public services cannot afford to utilise them (if they have a choice). However there are also financial risks for councils, particularly if growth does not occur in the areas where infrastructure is put in.

R6.2 This recommendation is concerning. It could lead to local authorities allowing for residential intensification in areas where the existing infrastructure capacity is illusory. For example, an important issue in Wellington is the lack of storm water drainage capacity in the region. Councils such as Hutt City initially put in storm water pipes designed to handle a once in 5 year storm. Climate change and increased impervious surfaces has already compromised this standard. The May 2015 storm, for example, resulted in widespread surface water flooding or ponding.

Chapter 7 – Paying for infrastructure

F7.4 The PSA has no in principle objection to the use of targeted rates, but they carry the same risk as user charges – they won't provide income unless the envisaged growth occurs. We also understand that some councils have faced strong pressure from some new residents to targeted rates, as they sometimes feel that they have been unfairly charged for something that other residents expect as standard.

Development contributions may have advantages over both development agreements and targeted rates, for the reasons outlined in this submission.

R7.3 A requirement to consider a request for infrastructure could be reasonable but the issue would be how much associated pressure councils might face to agree. Also the assumption that repayments should be by targeted rates needs to be

³ SOLGM submission on the Development Contributions Discussion Paper

challenged. There should be ongoing conversations with developers about these issues and development contributions need to be part of those discussions. We understand that the Christchurch City Council hosts the Christchurch Development Forum every 2 to 3 months and this provides the development community with the opportunity to discuss development contributions as well as a range of other development issues.

Chapter 8 – Governance of transport and water infrastructure

F8.1 Q8.1

We agree with finding 8.1, about the reference to land for housing in the GPS. We have no other governance issues to address but members in Auckland have drawn our attention to the importance of rail in the mix for that Council and the need for greater assistance from central government to make sure the city's growth in housing is supported by an effective rail system.

F8.2

There are a number of major issues around water infrastructure, but these are complex issues. It is important that economic issues are balanced against environmental issues.

F8.3 R8.3

The PSA would support greater alignment between the Auckland Council's CCOs and the Council itself, and this is true for both Watercare and Auckland Transport. We have real questions about the Auckland model but would support any reasonable measure that would improve co-ordination, including the SOI proposal. For example, Watercare and Auckland Council could work better together to address storm water and related issues such as the run-off from new developments going into waterways.

Chapter 9 – Shaping local behaviour

Q9.1

We do not consider that the procedural requirements of Schedule 1 of the RMA discourage local councils from undertaking more innovative and inclusive public engagement. Rather than reaching for the legislative lever, ways of sharing best practice should be encouraged. The Commission's draft report contains several good examples of what some local authorities are doing around consultation and engagement.

Q9.2

Mechanisms such as Brisbane neighbourhood plans offer potential to engage with the community, to discuss desired housing options and outcomes, achieve community buy-in in creating more diverse housing options that include affordable housing, and higher densities in areas where it can support existing infrastructure, transport and services.

Q9.3

There is merit in issuing a national policy statement on the adequate provision of housing, whether or not it would have sufficient detail and application to materially alter District Plans. Its main value would be in adding weight to the need to increase housing supply and helping to counteract some of the local pressure to limit growth opportunities.

Q9.4

As well as population growth there are issues around providing a mix of housing types and tenures for the full range of households to create diverse and resilient communities. For these reasons affordable housing should become a consideration under the RMA for rezoning or plan change proposals. Incentives such as density bonuses can be used in conjunction with it, rather than giving Ministers the ability to direct changes to District Plans and Regional Policy Statements.

Chapter 10 – Planning and funding our future

F10.5 F10.8 R10.2

We have had mixed views from members on the value of establishing Urban Development Authorities in New Zealand with a power of compulsory acquisition.

Some see advantages if a UDA uses its ability to capture value uplift from land acquired at its underlying residual value, subject to a modest premium, and upzone it to use it to create a range of housing types, including affordable housing requirements. Some affordable housing can be built and sold to the market and other stock could be offered to organisations such as community housing providers to retain as affordable housing in the longer term.

Others have concerns about what it means for the work of existing local authorities, particularly in a city like Auckland where there is a single unitary authority over the whole of the urban area. There are also questions about what the power of compulsory acquisition might mean in practice – whether it could create a backlash in the community and what it might mean in relation to Māori land.

It is likely, should this recommendation be adopted by the government, that we would reserve our judgement on any given proposal until we have completed an assessment of the need for a UDA in that particular environment and what the implications might be of establishing one there.

For further information about this submission contact

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