

Submission to the New Zealand Productivity Commission Regarding Using Land for Housing

Thank you for the opportunity to make a submission.

I am a full member of the New Zealand Planning Institute, who has worked as a town planner since 1997 in the following countries:

- New South Wales (Australia) 1997-2001
- England 2002-2006
- Wales 2006-2010
- New Zealand 2011 to present

My qualifications are a Bachelor of Economics and a Masters of Urban and Regional Planning (with Honours) from the University of Sydney, Australia.

My current job title is a Policy Analyst and I currently employed in Local Government. I confirm that my submission is a personal submission.

My contact details are provided at the end of this submission.

My submission consists of the following responses to questions posed in the Issues Paper as well as several attached documents for papers I have previously written in regards to planning matters in New Zealand, under either the *Resource Management Act 1991* and the *Local Government Act 2002*. These documents have been attached separately – in order to not to exceed size limitations on my email account. These documents are:

- Report which compares the resource consenting framework in Wales and New Zealand titled '*From the Welsh Valleys to the Hutt Valley*' written in 2011
- Personal submission on Amendment 3 of the Local Government Act 2002 to the Select Committee written in 2014
- Report titled '*Managing Water Quality in Urban Areas*' written in 2014
- Letter to the Parliamentary Commissioner for the Environment written in 2014 raising concern about lack of focus on urban environments
- Letter of Concern to Various Political Parties and Environmental Groups regarding Resource Management Act Reforms
- Report titled '*Alternative Analysis of Local Government Submissions on the Resource Management Act Discussion Document, Focusing on the Concerns of the Local Government Sector*' written in 2013

The attached documents are considered useful in providing supporting information, given the very broad nature of questions posed in the Issues Paper.

Response to Questions in the Issues Paper

Question 1

A purely economic viewpoint of planning is way too narrow.

Assumptions used in neoclassical economic theory do not apply in real world situations – such as the assumptions of:

- perfect competition,
- perfect information,
- no imbalances in power,
- no outside interference,
- no irrational decision making,
- no group behaviour or long standing cultural attitudes/preference,
- no discrimination, and
- no decision making based on emotion or feelings.

Planning restrictions have largely arisen as a result of real world problems. Prior to planning systems being created in various countries, there were serious problems with overcrowding, slum housing, unsanitary housing, unsafe housing, poor quality housing of inferior materials, housing check to jowl with polluting industries etc. etc.

A lack of regulation also appears to have lead in NZ to

- the leaky building crisis;
- poor quality of rental housing stock on average - with the vast majority failing to meet a trial warrant of fitness;
- poor quality of public housing stock built post 1950;
- proliferation of damp and cold houses built with little consideration of home heating and insulation;
- a proliferation of very unattractive commercial buildings of inferior building materials which are underused, difficult to adapt and deteriorating in prime trading positions;
- a loss of heritage resources;
- proliferation of housing built in high hazard areas;
- extensive native vegetation clearance; and
- a number of examples of very ugly and visually prominent higher density housing (built between the 60's to 90's) - which now form part of the reasons, residents have low opinions of this house type on average.

There is a need to consider a much wider range of factors

- the multiple wellbeings: economic, social, environmental and cultural;
- amenity, both private amenity considerations and wider amenity such as the pleasantness of streetscapes, feeling of safety, feeling a connection to local areas;
- cost of infrastructure and other service provisions;
- environmental damage;
- heritage and cultural values;
- natural hazard risk and a huge lack of information about where land of high hazard is and what is an acceptable level of hazard risk;
- urban design, the appearance of a place can have a major influence of how we feel about.

- Considerable discrepancies between perception of outcomes and actual outcomes. A survey of businesses that finds businesses feel they are subject to high costs and delays, is not actual proof that these costs and delays are as high as they are perceived to be.
- the importance of providing for local democracy and the right for individuals to have their say on important matters, rather than fully relying on levels of government to make the right decisions on their behalf

Question 2

The current planning system does appear to be working in a reasonable fashion, although there is always room for improvement. A major problem for the NZ planning system is a lack of national planning guidance, to help understand, interpret and deliver on sections 5 to 8 of the RMA at a local level. Most national and regional guidance provides little practical assistance to local government. A lack of national guidance was a major criticism of the Parliamentary Commission for the Environment (PCE) in reports published pre 2000. Many current problems stem from a lack of central government commitment to promoting the ideas of sustainable management (lip service rather than action).

PCE wrote back in 1998 that *“the extensive criticism of the RMA is largely about process. The merits of advancing sustainable development and improving environmental management appear to be largely forgotten.”* As well as *“the strategic management of urban living must encompass the management of amenity values, heritage and urban design.”*

See Parliamentary Commissioner Report – *Towards Sustainable Development, The role of the Resource Management Act 1991* (PCE Environment Management Review No. 1), Office of the Parliamentary Commissioner for the Environment, August 1998

Geoffrey Palmer in his September 2013 report *‘Protecting New Zealand’s Environment: An analysis of the government’s proposed Freshwater Management and Resource Management Act reforms’* confirmed that *“Successive governments have in large part failed to develop the guidance intended to assist in the implementation of the Act on cross-cutting national issues”*. This has been a major failing in to the operation of the RMA to date.

In contrast, local authorities in England, Wales and various states of Australia have greatly benefited from national guidance which covers a wide array of matters. NSW Government's introduction of requirements for residential flats (SEPP 65 - which was recently reviewed) has confirmed the value that this had in improving this type of development. Rather than acting as an obstruction, the guidance provided a clearer path of achieving acceptance, whilst responding to community concerns.

I was working as a town planner in England and Wales when new national flood policies were introduced. This has meant that local authorities in England and Wales were able to avoid many of the major problems experienced by local authorities in NZ in introducing sensible hazard management policies.

It is considered that the RMA could be adjusted to assist the supply of housing growth. However, it needs to be considered that the key purpose of the RMA is sustainable management not housing growth. This means that the RMA should not

be amended to provide for housing at any cost approach. Even the NSW Government White Paper on Planning reforms and the Queensland draft planning bill recognises that housing growth can be inappropriate in some cases.

The RMA would benefit from greater direction of how to deal with trade-offs and conflicts between achieving the different purposes and principles of the Act. This would be difficult without establishing clearer environmental bottom lines - for when environmental harm is considered too great to justify additional development.

Huge information gaps are likely to continue to hinder the supply of land for housing, for example the majority of land has passed over into private ownership without any prior investigation of hazard risk or environmental values such as biodiversity, heritage, cultural, landscape ect. This means that land identified for additional housing (greenfield or intensification) needs to be investigated for these items, which takes time and resources.

Question 3

Quality of information available

Level of information of known risks and environmental constraints

Quality of built development

Demand for additional land for housing

Level of supply in relation to level of demand (not just theoretical demand based on NZ Statistics population projections) but observed levels of demand in terms of developer uptake of land

Question 4.

Would a significantly increased supply of development capacity lead to an increased supply of affordable housing, or would further regulatory or other interventions be required to achieve that outcome?

Increased land supply would not be sufficient in itself to ensure an increase in affordable housing. New housing in a former New Zealand Housing Estate in Pomare, Hutt City has a starting price of \$349,000 for the smallest house on the smallest section. Compared to the rest of the country, this is an affordable house price. However, it is doubtful that this price would be considered affordable by a significant proportion of Hutt City residents, especially as this price is higher than many existing houses in the area.

New homes in a recently approved development in Silverstream, Upper Hutt also have a starting price of around \$450,000, which is of questionable affordability for the area.

Tuaranga Council's investigation of the feasibility of apartments found that affordable apartments could not be created, even if the Council gave land to developers for free. Source: Tauranga City Council and Western Bay of Plenty District Council (2012) *Prospects for Residential Infill and Intensification in Tauranga City*

There is a need to examine a wider array on cost pressures for housing. In addition to growing house sizes and more expensive building costs, it needs to be kept in

mind that the easiest sites to build on have already been taken. Remaining land tends to be less flat and subject to a greater range of land constraints, which can increase the cost of construction.

During the economic downturn (circa 2006-2013), housing construction fell. This fall in construction activity is believed to be linked to lower expectations as to profits that could be achieved, rather than a drop in the supply of land for housing. Likewise builders may have a financial interest in restraining the supply of new housing stock, even if the supply of land was increased, in order to boost housing land values.

Developers have clearly showed a strong preference towards catering towards the higher end of the housing market with larger housing. A movement away from this in England and Sydney, Australia was achieved through planning restrictions which requires a minimum level of housing density in residential developments (30 dwellings per hectare in England and 15 dwellings per hectare in Sydney).

Given that the NZ taxation and finance system provides strong financial incentives towards investment in the property market, it is quite possible that even if the price of new housing was regulated at the time of its first sale, that these properties could be snapped up by investment savvy landowners owning multiple properties, rather than financially constrained first home buyers.

Limitations on the ability of increasing housing supply (at least in the form of housing intensification) to deal with affordability issues is discussed in the following reports.

- CityScope Consultants 2011 *“Working paper 4: Making Medium Density housing Work” and “Improving the Design, Quality and Affordability of Residential Intensification in New Zealand”*, prepared for the Centre of Housing Research, Aotearoa New Zealand identifies *“Entrenched market resistance to multi-unit housing associated with long-standing cultural preferences and historical experience”*; and *“long-standing association of multi-unit developments with inferior housing”*, as well as widespread concerns about occupants of such housing.
- Similar price of apartments in suburban centres and suburban stand-alone dwellings is identified in *“Growth Misconduct: Avoiding sprawl and improving urban intensification in New Zealand” 2011*
- Quotable Value News Item *“Average House size by age”* 10 May 2011 states *“The average size of a house in New Zealand, based on floor area, is 149 square metres...Based on the decade built, houses had an average floor area of just under 132 square metres in 1900, while houses built since 2010 are on average 205 square metres.”*
- R Neil Gray 2009 *Strategic Projects Report* stated that the development economic forces required to support large-scale intensification such as high land to capital value and consumer demand are largely absent in Tauranga at this stage.
- Essentia Consulting Group 2012 *Independent Review - Auckland Plan Growth Capacities: The Auckland Plan “fails to acknowledge that medium rise apartment economics are unattractive for developers, as the costs exceed the markets’ ability and desire to pay. Essentia Consulting suggest that small lot and terrace housing is likely to remain the most viable form of development (and also more palatable to the end consumer)”*.
- Ministry of Business, Innovation and Employment (2013) *‘Housing Affordability: Residential Land Available in Auckland’* Presentation stated *“Currently, it is very difficult to generate a*

commercially acceptable return from development medium-or high-rise apartments in Auckland". "Apartment buildings are typically more expensive to develop, and thus to buy, than either the equivalent attached or detached house."

- Hill Young Cooper Ltd & Urban Partnerships 2007 *"Regional Intensification: Intensive Housing Demand and Supply Issues"* prepared for Auckland Regional Council. Report considered Council inducements in terms of more enabling regulatory environment or financial incentives (waiving of reserve fees, resource consent fees + development contributions) unlikely to be sufficient to stimulate demand. *"The amount of intervention required in the market place may well exceed the resources available to public agencies."*
- R Neil Gray Strategic Projects 2007 *"Residential Intensification and the Wellington Urban Development Strategy: Creating the right conditions for Intensive residential development along the growth spine."* Describes Johnsonville (7km from CBD) as yet to develop a natural market for intensive housing projects such as apartments. Demand needs to be stimulated by non-traditional measures outside District plan provisions. *"...there is no commercial rationale (at least in the current market) to shift from profitable low-medium density townhouse development to higher yield housing."* *"High density intensification is harder in lower value suburbs and infill will continue to be the norm."* *"In most cases, a new apartment or townhouse appears to cost as much if not more than the family home"*.
- Harrison Grierson 2010 *"Future Proof Implementation Group, Intensification Toolkit"*: indicate that development is likely to be less than that planned for under growth strategy. *"In Hamilton, there is a very limited market for inner city apartment living."* *"...Very limited market for intensified living in the Waikato sub-region..."*
- Beca Carter Hollings & Ferner Ltd (Beca) and Property Economics Ltd (PEL) 2011 Medium Density Strategy – Stage 1 prepared for Hastings District Council identifies the market for lot sizes below 400sqm as low.
- Tauranga City Council and Western Bay of Plenty District Council (2012) *Prospects for Residential Infill and Intensification in Tauranga City* refers to significant problems in achieving intensification in existing urban areas. Study showed that a 3 bed unit could be more cheaply built in a greenfield housing area, than any attached housing form (duplex, terrace, townhouse or apartment). Intensive housing expected to be geared to upper end of market, due to lack of price competitiveness. Even if land was supplied for free, it was calculated that resulting development would not be affordable. *auranga 2012 "Because of the cost structure of delivering residential intensification, it is not likely to assist in resolving current housing affordability challenges in the sub-region."*
- Auckland Plan 2014 – typical Auckland home is getting bigger. Between 1991-2011 the average dwelling size (excluding apartments and flats) increased by 35% from 144m² to 220m².
- Urbanismplus Ltd, Patrick Partners Pty. Ltd, Pocock Design Environment Ltd and TTM Consulting Pty Ltd. 2010 *Hasting's Urban Issues and Urban Design Framework: "A common problem across New Zealand is that it can cost the same to buy a new house and section as it does to buy a much smaller apartment."*

Question 5

Survey of relevant Council staff

Use of structure plans, concept plans, master plans, precinct planning, spatial planning tools

Reviews of housing land supply in area and development uptake.

Question 7

The Productivity Commission incorrectly identifies the United Kingdom as having similar legislation and policy frameworks to NZ. I worked as a town planner in both England and Wales for over 8 years and believe the legislative and policy framework to be vastly different (see attached report on this subject). Public attitudes and culture regarding private property rights is also vastly different.

Similar to Australian states, the member countries of the United Kingdom have separate planning frameworks (planning is devolved to national assemblies) and it is a mistake to refer to a single national planning policy. Wales continues to have an over 200 page document called *Planning Policy Wales*, which continues to provide good quality planning advice.

It is useful for the Productivity Commission to study other legislative frameworks and policies used overseas, particularly from places which have experienced rapid urban growth such as Sydney and South East Queensland in Australia. Nevertheless, it is also important to understand how the wider framework varies from New Zealand, which makes some provisions much more difficult or unreasonable to introduce.

The NSW Government is considered to have taken a confrontational approach with Local Councils, which seeks to override local opposition, rather than reducing it.

A very effective type of policy in encouraging the most efficient use of land is that used in the UK and Sydney greenfield areas to ensure new housing developments provide a minimum level of housing density. The standard in England is 30 dwellings per hectare (gross) outside of London. Councils that I have worked for have refused consents for development which provides housing at too low a density. It is this regulatory approach which is considered to be the reason why the UK has bucked the global trend towards an increase in house floor areas, with average new houses dropping from around 88sqm to 77sqm. The standard in greenfield suburbs of Sydney was 15 dwellings per hectare circa 2000. This type of rule now features in Canterbury planning documents.

There is a need to go beyond looking at just increasing a supply of land for housing – to considering how efficiently land is being used for housing. An average new house size of approx. 206sqm (about the third highest in the world) is not an efficient use of land and is contributing to housing affordability issues.

During my time in England (2002-2006) national policies which created strong expectations on local Councils to provide a specified level of housing to meet future population growth, did make some allowance for local situations. It was possible for Councils to argue that certain conditions (typically land constraints) meant that the housing target or housing density sought by the English planning department was unachievable.

The examination of economic costs and benefits of zoning provisions appears to be in its infancy around the globe, as highlighted by the recent Australian Productivity Commission report on valuing non-market outcomes released 2014, OECD reports and UK government reports on Ecosystem assessment circa 2012.

Canada has several examples whereby Councils have been able to substantially reduce community opposition to particular intensification projects. My understanding is that Vancouver was able to obtain support for housing intensification initiatives by just over 50% of the population. Obtaining a higher level of community support for a policy concept (rather than a specific project that people can more clearly see the benefits from) may be unrealistic and unachievable.

Question 8

The RMA and LGA above are the principle pieces of planning legislation. The *Environment Act 1986* is also of importance, as the founding legislation for the Ministry for the Environment and the Act that sets out its legislated role.

Question 9

District Plan documents are difficult for the lay person to read and understand. Planning consultants are practiced in the interpretation and reading of these documents. The situation is similar to many individuals needing professional help in the filling of tax returns. It is difficult to get members of the public to read documents of this size.

District and regional plans vary in readability and complexity. Problems can exist with a lack of internal consistency (difficulty with complying with multiple rules and provisions at the same time), vague and imprecise objectives/policies/rules, planning terminology which varies from dictionary meanings creating higher levels of confusion (for example the lay public often interpret 'maximum permitted height' as the maximum height a developer can apply for, rather than the maximum height that a developer is guaranteed will be acceptable) and lack of explanation for limits (particularly permitted development limits) chosen. Several district plan provisions are too imprecise and aspirational to require the type of development sought. Another area of complication are situations where Councils have realised that earlier planning documents provided overly generous provisions, which need to be reined in. Many weak levels of control were put in the 80's and 90's, at a time that Councils had little appreciation of their effects.

For example a review of height limits in Petone West as a result of a recent plan change, found no strong justification for the generous permitted height limit of 30m established circa 1995, in addition to evidence that buildings of this height could have significant harmful effects on the surrounding area. This height limit has since been lowered to 12 to 20m.

Other problems are created by Councils facing pressure to use a different activity status for applications from what they apparently want. Some controlled activity statuses are starting to be used as restricted discretionary (eg. non-compliance with a design guide or other document that requires a value judgement triggers Restricted Discretionary consent). Activities with lots of reserved matters of discretion are

identified as restricted discretionary activities, with the appearance that this activity status has been chosen because of the presumption of non-notification of resource consents. Several examples exist (including within the Greater Wellington Regional Council (GWRC) draft natural resources plan where an activity that is being discouraged is proposed as a Discretionary rather than a Non-Complying activity.

There appears to be tradeoff between achieving simplicity and providing certainty. Local plans are easier to read and understand in England and Wales, because they do not need to identify the types of development that require consent (this is determined at a national level) and only three activity statuses effectively apply (permitted, fully discretionary and non-complying). These plans identified general items that would be considered (e.g. visual impact on streetscene, consistency with pattern of housing in area and whether a reasonable degree of amenity remained for neighbouring properties) rather than containing numerical limits like building height, setbacks and site coverage which frequently appear in NZ plans. I consider it is the desire to provide greater certainty to landowners/developers as to what precisely requires consent, what types of consent, identification of acceptable limits etc. that has introduced far greater complexity in District Plans, but does have the benefit of providing a far greater degree of certainty as what type of development is acceptable.

What helps the intelligibility of plans

- Direct language which clearly identifies the action desired and outcome sought
- Use of plain language (where practical). The need to be able to legally enforce provisions had led to many provisions becoming more complicated.
- Explanations for the limits chosen (eg. need for consent and variation between consent activity statuses).
- Identification of how resource consents will be treated (or assessed) which go above permitted development limits. For example a maximum permitted height of 20m, does not prevent an application for a 25m height building from being applied for.

Question 11

Steps taken by Local Authorities to make people aware of plan changes are:

- Direct mail outs to occupiers and landowners
- Direct notification of key stakeholders e.g. community boards/councils, resident groups, utility providers, members of development industry
- Direct notification of statutory consultees eg. adjacent Councils and NZTA
- Advertising of plan changes in local newspapers
- Commissioning of articles in local newspapers (many councils have regular Council pages in local newspaper – eg. Hutt Council and GWRC have regular Council pages describing current projects and activities).
- Creation of summary document in as plain English as possible.
- Highlighting new consultation on Council website.
- Ability for public to send comments by post (use of freepost) and email.
- Copies of plan changes available from local libraries and Council offices

- Copies of plan changes downloadable from the Council's website.
- Information drop-in sessions within affected communities (depending on type of plan change).

The issue is not generally in making information available and giving people an opportunity to comment, but getting the public to take an active interest. The general public have little awareness of the role of District plans and pay little attention to them, until they either want to do an activity requiring resource consent or a resource consent is lodged for neighbouring land.

My employer has recently released a Discussion Document on options under consideration to achieve higher housing densities in a particular area. Very few residents of this area have chosen to take advantage of the opportunities provided for them to collect information. For example, residents often complain about a lack of information sharing, but are frequently unwilling to read documents, ask for or seek out additional information or lodge a submission.

Question 12

What steps do local authorities take to understand and incorporate the views of people who are potentially affected by Plan provisions or changes, but who do not formally engage in the Plan process?

It is very difficult to get the general public to comment (either formally or informally) on plan changes. Plan changes tend to be of low public interest, with little understanding by the public how it affects them. It is not uncommon for members of the public to have no knowledge of the Local District Plan, until a resource consent for development is submitted in their neighbourhood. Many residents appear to have the false expectation that they will be notified of resource consents on adjacent land and do not understand that the District Plan sets out the framework for judging what is acceptable in their area.

My employer is engaging the services of a market researcher to gather public views on a Discussion Document on providing for residential intensification. This research will feature a survey of 100 local residents. Whilst this is expected to be useful in collecting information about views held by the general populace, this can also be a problematic way of collecting information, as persons surveyed tend to have lower levels of knowledge than submitters and may feel they are less affected. The way a question is asked, can also have a dramatic effect on the results received.

Officers frequently consider consultation responses for any earlier related projects, and may use previous lists of submitters to help decide which organisations and individuals will be directly notified of a plan change.

Various Councils appear to be looking at ways of allowing more informal types of comments on plan changes, such as use of social media.

Question 13

I consider the plan change process in NZ could be improved by:

1. Removing the need for Councils to summarise submissions by individuals and organisations and allow summaries to be arranged by issues. Summary of submissions by individuals/organisations is considered unnecessarily time consuming and of benefit to few parties, particularly when a large number of submissions have been received.
2. Removing or greatly restricting the use of further submissions. My experience is that further submissions rarely provide useful additional information, and are often trivial in nature. Use should be restricted to purely new issues – such as requests to extend plan changes areas to include additional land.
3. Removing the automatic right for submissions on plan changes to be heard which raise non-relevant matters.
4. Requiring all Councils to appoint an independent commissioner as the Chair of Hearing Panels for Plan Changes. Independent Commissioners tend to have greater planning knowledge, are less influenced by local politics and less committed to delivering on a Council promise (which may have been made with incomplete or inaccurate information).
5. Limiting the right of appeal on plan change decisions, but this is dependent on their being an adequate examination of planning issues by an independent party.
6. Possible use of external review of plan changes. For example, state planning departments in Australia have to approve plan changes, to ensure they represent good planning policy and practice. New District Plans also go through a system of external plan review in England and Wales. An external review would allow changes to provisions considered ineffective and inefficient which are not raised by submitters.
7. Planning documents to provide clear direction on what to do when priorities clash (housing growth versus hazard risk or housing growth versus protection of significant biodiversity, landscape, heritage and/or cultural resources).
8. National guidance which sets a presumption that a range of land constraints (eg. hazard prone land, contaminated land, archaeological items and land of high biodiversity value) are investigated upfront, prior to plan changes taking place.

Question 15

How well do zoning decisions in District Plans and infrastructure planning in Long-Term Plans reflect demand and supply forecasts?

This is a difficult question, especially as Councils can make a wide variety of zoning decisions for a range of reasons. I am not convinced that demand and supply can be accurately forecasted in some cases. My employer engaged an economic analysis of the effects of a plan change to create a mixed-use area and whilst the general conclusions were used in supporting the plan change, little weight was given to the actual figures calculated due to doubts as to the reliability of the economic model used and the reasonableness of assumptions made.

Most plan changes I have seen for a change of zoning from land from recreational to residential, have included an examination of the level of new housing which this land is likely to support.

My employer has examined the high demand for certain types of housing in particular cases, such as the demand for smaller elderly units, when considering zoning changes to support the establishment of retirement villages.

Question 16

A reluctance in NZ to impose regulations appears to have led to severe problems having occurred, which proves the need for regulation, before this has been introduced eg. leaky building crisis, design guides to address poor quality of building design and restrictions on building in flood plain areas.

Question 17

The characteristics for testing effectiveness of proposed rules or plan changes are:

1. Are provisions strong enough to allow consent to be refused in the event of significant harm being caused?
2. Are provisions specific and precise, not vague and aspirational?
3. Is the purpose of rules and policies clear?
4. Are rules and policies internally consistent?
5. Is it realistic for a development to achieve all rules and policies?
6. Are rules needed? Is outcome sought necessary or just desirable?
7. Examination of whether rules and policies would allow for development which is financially viable.
8. Examination of whether rules and policies would accommodate any necessary services, accepted business practices (eg. late night or early morning trading/service delivery) or current market trends.
9. Success of former plan policies and rules in achieving precise objectives. The best method appears to be a qualitative study of approved resource consents to see whether it lead to desirable development or not.
10. Objectives based on what planning rules and policies are able to achieve, rather than what is dependent on wider factors.

I am of the personal view that planning provisions which establish minimum bottom lines are more effective than policies which encourage or promote best practice.

Best practice is typically too high a bar to demand. Provisions should consider the ability to achieve an objective by multiple means.

To date, I am convinced that recent changes to s32 of the RMA have led to any real improvement in testing the effectiveness of proposed plan changes.

Question 19

What impact does transport planning have on the supply of development capacity?

New development is generally expected to provide a suitable level of vehicular access. If regional roads or highly trafficked local through routes are heavily congested, it creates pressure to limit additional development which would exacerbate the situation. It is known that residents of new housing areas in Western Sydney have had to pay relatively high development contributions towards new regional road infrastructure.

I have seen plan changes in New Zealand which require major road transport upgrades or new roads to occur after a specified number of new houses has been built.

Providing new roads for greenfield development is very expensive. A lack of adequate vehicular access to a new area proposed for development, is likely to lead to a delay in the development of this land.

It is suggested that the Productivity Commission read the research paper prepared by the New Zealand Transport Agency in 2013 on the *Impact of Urban Form on Transport*

<http://www.nzta.govt.nz/resources/research/reports/513/docs/513.pdf>

Question 20

Are there examples of effective integration between regional policies and district plans, and what are the features of processes that lead to effective integration?

The RMA requires local plans to give effect to regional plans, although it generally does not specify a time frame for doing so. This legislative requirement forces a degree of consistency. The LGA also forces a minimum degree of co-operation between Councils in the area.

The Wellington Regional Policy Statement (RPS) was only formally adopted in 2013. At present, multiple Councils have not satisfied requirements for cultural and built heritage, landscape, biodiversity and coastal protection specified in the plan. The RPS gives no direction on which priorities take precedence in the case of policy conflicts, such as the approach to be taken when the area's most likely to be successful in achieving higher housing density close to or within town centres, are subject to high hazard risk.

In reality, regional Councils and territorial authorities appear to have different priorities and different types of experience in planning matters. Concern is raised that regional plans transfer responsibility and obligations onto territorial authorities without adequate consideration of the financial implications of doing so. Regional

plans tend to be more aspirational and difficult to interpret and implement, which is more likely to occur when policy drafters are removed from the task of implementation (i.e. task is given to territorial authority to implement policy).

In the Wellington region, territorial authorities appear to be being pulled in two different directions by the regional council (in terms of increased demands to protect various items) and the central government (seeking greater deregulation and removal of constraints to land development).

Question 21

I do not consider planning rules and policies in the Hutt Valley unnecessarily restrict the use of land for housing, although the zoning of some land does need to be adjusted from time to time as situations change. Most rules and policies do not prevent development from occurring per se but rather set limits for when resource consent is triggered and type of activity status. A well prepared and well-reasoned resource consent should generally be able to achieve resource consent, regardless of whether it satisfies the numerical limits which establish the permitted development baseline. For example a maximum permitted height of 8m, would still allow for the approval of a 10m high building, where this has no significant effects on the surrounding area. The resource consent process provides flexibility to assess the merits of development not expressively provided for.

Restrictions on housing supply are more likely to come from topographical and infrastructure constraints, coupled with a historical lack of investigation of a range of constraints.

A lack of genuine restriction on house supply is considered to be demonstrated by the very small percentage of resource consents which are declined and the small number of private plan change requests received.

Question 22

Planning rules and policies in the English and Welsh planning system provide little certainty to landowners and developers seeking planning permission/resource consent. These systems provide higher certainty through other means such as pre-application enquiries and 'outline consents' – which allows for some aspects of projects to be agreed – without the full set of details being submitted (eg. approximately floorarea, height and siting of buildings). The English and Welsh planning system have demonstrated that providing high levels of certainty is far from essential. Higher levels of certainty typically come at the cost of lower levels of flexibility and often the ability of the public to participate in decision making.

The focus in NZ in providing certainty on building bulk and location that can be achieved has led to some very unattractive and poor quality buildings. Several buildings have been designed to comply with rules, even when this has compromised design, rather than designing a more attractive building that triggers resource consent or a higher activity status.

It is very hard to provide certainty on issues of quality of design. Various consultation activities indicate that design is important to the public. Consultation on

a Vision Statement for the industrial estate at Seaview/Gracefield – indicated that the public were seeking higher design controls even on commercial/industrial land.

Question 23

I believe my employer consistency applies plan policies and rules to all resource consents.

In my many years of employment in local government in several Councils, I have rarely seen cases of inconsistent application of policies and rules.

Nevertheless, it is common for the private sector to raise concerns regarding lack of consistency. My experience is that most allegations of this nature are false.

Question 26

Design guidelines appear to have little effect on the supply of land for housing. They are not intended to prevent housing. Their role is to ensure that an appropriate standard of building design is achieved. Design guides are commonly used in NZ, Britain and Australia. The NSW Government has recently reviewed SEPP 65 for residential flat buildings, and updated its design guidance for this type of development. The Victorian/Melbourne government has decided to introduce design guidance for apartments, in response to a study of apartments in Melbourne which found that a number of developments were failing to meet certain design standards, particular for internal amenity (eg. ability to achieve natural lighting, natural ventilation and space for storage). Minimum unit size controls were introduced in Auckland, after problems with 'tiny flats' materialised. The Concrete and Cement Association in NZ as has released apartment design guidelines in an attempt to lift quality standards.

http://www.ccanz.org.nz/files/documents/4f553995-3dd0-41cd-8650-4f7d7d4ec11f/CCANZ_Apt_Design_Guide_2014.pdf

Research on higher density housing types of NZ have identified a need to achieve a good standard of design, to order to achieve acceptance of this housing type by the general population – who largely view apartments as poor quality housing for the socially/economically disadvantaged.

Research on the need to consider building design is contained within:

- Boffa Miskell Nelson Intensification Study Stage 1 2007 identifies compact development requires a design approach to achieve a quality environment, largely due to lower buffer space between dwellings. There is a high risk that allowing or encouraging higher density development, without controlling quality, will create poor quality environments.
- University of Auckland, National Institute of Creative Arts and Industries '*Future Intensive: Insights for Auckland's Housing*' 2012 states "*Multi-unit housing tends to be shaped by the requirements and strategies of investors, rather than the needs of owner-occupiers. Investor demands might result in the creation of housing stock that is less attractive to owner-occupiers*". Infill development can lead to a loss of green space and gardens, loss of privacy between houses and extensive impermeable surfaces. It points out design flaws in three large apartment complexes.

- Housing New Zealand (2004) *“Best practice in Medium Density Housing Design”* – good design becomes critical above a density threshold of approximately 30 dwellings per hectare.
- Wellington City Council Plan Change 72 – Council decision in 2010 refers to need for increased regulation, due to poor previous development.
- City of Melbourne 2013 *‘Future Living: A Discussion Paper identifying issues and options for housing our community’* states *‘Good design means optimising rather than maximising the amount of development on a site to deliver well designed apartments with good levels of internal amenity. Good internal amenity refers to the elements of an apartment which is comfortable for residents to live in. These include good levels of light (both sunlight and daylight), a good outlook, natural cross-ventilation to enable the flow of fresh air, privacy between neighbouring buildings and protection from noise.’*
- Urbanismplus Ltd, Patrick Partners Pty. Ltd, Pocock Design Environment Ltd and TTM Consulting Pty Ltd. 2010 in *Hasting’s Urban Issues and Urban Design Framework* : *“Poor quality development will set the market context for all subsequent developments that follow. Some developers will follow suit with equally poor outcomes, and some (especially higher-quality) ones would be deterred from entering the market. “*
- Queensland Government and Brisbane City Council 2011 *‘Residential Form Handbook’* comment that well designed buildings can achieve higher densities than surrounding areas without appearing out of place.
- Review of existing development in Christchurch carried out by Boffa Miskell in 2010 titled *‘Technical Report on Urban Design’*. This report refers to significant concerns regarding quality of *infill development* by Council planners and residents of inner city neighbourhoods. The market, even with voluntary design guides, was not considered to produce satisfactory or desirable urban design amenity outcomes. *“This confirms there are substantial amenity issues being generated by recent developments in both zones [Inner-city Living 3 and Living 4 Residential zones] and that current planning controls and existing non-statutory guidance are insufficient to achieve satisfactory or desirable urban design amenity outcomes.”*
- Harrison Grierson 2010 in *“Future Proof Implementation Group, Intensification Toolkit”* report there is a *“General consensus that the built quality of some of the areas where there has been intensification has been poor.”*
- Urbanismplus Ltd, Patrick Partners Pty. Ltd, Pocock Design Environment Ltd and TTM Consulting Pty Ltd. 2010 in *‘Hasting’s Urban Issues and Urban Design Framework’* refers to development aimed at low-medium affordability end of market has had *“reduced attention to materials, detailing and integration with the local surroundings. Development may have comprised on-site amenity and privacy due to the squeeze to maximise building coverage.”*
- *Hastings District Council 2013 Section 32 Evaluation Report* points out that poor quality infill housing has lowered the quality and undermined the character of the Hastings residential area. *“Some of the factors that have resulted in poor quality developments are: new infill dwellings being disproportionately large in relation to the site, leaving very little or no open space around the dwelling; the development results in a loss of greenery and a significant increase in hard surfaces (e.g. concrete, tarmac, paving); and high front fences for privacy (because the only private outdoor space for the front house is in the front yard). This ultimately results in a less attractive streetscape and compromised amenity for residents and neighbours”*. Other poor outcomes are high fences along the driveway to create privacy for rear units, and garages and driveways dominating the street frontage.

- Nelson City Council 2010 in Nelson Resource Management Plan *Section 32 Report for Proposed Plan Change 14: Residential Subdivision, Land Development Manual and Comprehensive Housing* stated that there are many examples where the location and style of dwellings, garages, manoeuvring areas and fences in the front yard create a streetscape that is unsafe, unattractive and dominated by vehicles.
- City of Melbourne 2013 *'Future Living: A Discussion Paper identifying issues and options for housing our community'* undertook a case study of 25 housing developments against 14 design criteria which collectively housed 3,500 apartments. 16% were rated good, 48% average and 36% poor. *"A number of common design issues were identified that led to a high proportion of poor and average results. These related to small apartment sizes, lack of apartment choice, dominance of car parking, poor internal amenity (light, ventilation and privacy), poor building and apartment layouts, limited flexibility and adaptability, poor environmental performance, limited communal space and facilities and lack of storage space."* *"A good standard of building design and amenity is not being achieved for a significant proportion of new residential developments within the City of Melbourne."*
- City Futures Research Centre, University of NSW 2010 *"Living Well in Greater Density"* – refers to several problems with medium and higher density developments in Sydney, including space not well designed to several users (children, older persons and less mobile), as well as lack of attention to the appearance of developments and lack of attention to the location, form and design of open space.

Question 27

The effect of variations in planning provisions between different Councils appears to be largely offset by the regular use of planning consultants. Resource consents generally represent a very small percentage of total development costs.

Question 28

What makes preapplication advice services more effective are:

- Formal prearranged meetings with draft/preliminary plans tend to be most effective, as allows for better information exchange about the nature of proposal.
- Ability of Council to provide coordinated feedback from multiple sections of Council – eg resource consent officers and engineers/transport officers.
- Ability of Council to provide reliable information, so there are no surprises at a later date. This is also dependent on applicant's willingness to supply information in good faith.
- Contact with Council made at an early stage for large scale works, before full design details are committed to:
- General guidance documents can assist on more standard matters, eg. how to submit more simple types of applications.
- Regular council contact.
- Pre-application services adequately staffed and resourced.

Free advice and cost-recoverable pre-application enquiries both offer benefits and disadvantages. Free advice can encourage more enquiries to be made at an early

stage, but can lead to costs being transferred from the private to the public sector. Free services have a tendency to be overused.

Question 30

There is very little evidence that resource consent processing times result in unnecessary delays in the development of land for housing. Biannual surveys by the Ministry for Environment prove that most resource consents are determined within 20 working days. This time period is faster than average processing times within NSW, England and Wales.

Question 31

Various councils in their submission on the RMA reforms (announced February 2013) referred to the very poor quality of some resource consents submitted. Some Councils indicated that their practice was to accept poor quality resource consents and try to bring them up to standard via further information requests, rather than reject them upfront as unsuitable for processing.

Question 32

Biannual surveys by the Ministry for the Environment prove that the notification of resource consents rarely occurs (applies to approximately 5% of resource consents).

My experience of determining resource consents in England and Wales, was that public submissions could be helpful in adding to Council officers' assessment of applications. The English/Welsh system does not seek to prevent notification (like the NZ system), rather it reduces the effect of such notification. There is no automatic requirement for a plan change hearing in these countries, in the event that an opposing submission is received and there are no third party rights of appeal.

Rather than seeking to further reduce already highly limited notification provisions, it would be preferable to reduce the ability of submitters to cause delay in the assessment of applications – such as limitations as when a plan change hearing is needed and possible restrictions on third party right of appeals.

I suspect that more applicants are fearful of the threat of public or limited neighbour notification than need be. This may lead to more applicants seeking affected owner consents from neighbouring properties than is required by Councils.

Question 34

Prehearing meetings do not have to resolve all issues to be successful. This is very narrow view of success and unrealistic for most pre hearing meetings on larger plan changes. Pre-hearing meetings are useful in pooling expert evidence provided by multiple parties, and getting a mix group of people in a room to explore the degree of agreement and disagreement between parties. A successful pre-hearing meeting could narrow the level of disagreement rather than eliminate it. Pre-hearing meetings need to be seen as independent from the final decision making. Participants need to be able to trust the facilitator. The facilitator generally needs to be able to explain ideas in simple language.

Question 35

I consider that there is a major difference in decision making depending on the type of decision making. Decision making by Council officers is generally cheaper, more efficient and more transparent than other means. Officers have a high level of knowledge of relevant rules and policies and consistently apply them.

When working in Wales and England, I saw a number of cases whereby elected members when making decisions on planning applications, took into account a range of irrelevant considerations or acted in a politically biased manner. Elected Members can often have a poor grasp of planning and concern is raised that many elected members do not read material provided by Council offices or the applicant. Decision making by an independent commissioner is preferred over elected members.

Question 38

Council officers are generally careful to ensure that conditions of consent do not significantly affect the viability of development projects. Officers often seek comment from applicants as the suitability of certain conditions such as any restriction on trading/servicing hours. There are cases whereby consent conditions are used to limit the scale of works/activity to that specified by the applicant, which can be problematic, for applicants which have not adequately considered their requirements. Many consent officers are well aware that consent conditions should not be used as defacto refusals – to change the nature of the proposal put forward.

My suspicion is that the biggest problems with consent conditions, has arisen in cases, where Councils do not feel that planning provisions are strong enough to refuse undesirable development outright (e.g. development with a controlled activity status) and have tried to reduce effects through conditions instead.

Question 41

Plan changes can be crucial to provide for the release of land for housing and to allow for significant intensification of existing urban or rural areas. The need for a plan change varies depends on the extent of vacant developable land available and existing permitted development limits. The advantage of using plan changes over resource consents, is that plan changes affect the bar used to determine whether an application is acceptable or not and the likelihood of future consents being notified or not. Resource consents are determined within the framework set up by the planning provisions. Plan changes change this framework.

Question 42

How easy it is to obtain a plan change or variation varies greatly by type. Plan changes are often time and resource intensive. Plan changes require an ever greater evidence base to support and are likely to be challenged by a range of stakeholders. The planning system in NZ is very litigious and the ability to engage the public is frustrated by very low levels of knowledge/awareness. Groups of property owners around the country have sought to frustrate attempts by Councils to identify hazards such as flooding and coastal erosion.

Many plan changes are delayed by appeals. The cost of appeals is disproportionately bourn by Councils. For example an appeal on the creation of a mixed use area cost the appellant \$500 to lodge and time to respond to mediation.

In contrast, settling the appeal cost the Council in excess of \$15,000. Wellington Regional Policy Statement was delayed by four years due to appeals.

Question 43

Effect of plan changes on development capacity vary widely by type. Plan changes to rezone land for more intensive purposes help build capacity. However several Councils have not previously adequately provided for matters of national significance (under s6 of the RMA), so that plan changes to introduce protection for significant cultural and heritage features, landscapes and biodiversity would reduce development capacity.

Question 45

The typical method for stormwater treatment for new development in NZ has little regard for environmental effects and is capable of leading to further deterioration of water quality in rivers and harbours. This is unlikely to improve in the absence of on-site stormwater management controls e.g. water sensitive design/sustainable urban drainage solutions.

Infrastructure management has often not had adequate regard for full system costs (eg. new pipes could cumulatively lead to treatment plant upgrades) or life-cycle costs (eg. new pipes now will add to future maintenance costs).

Question 48

It is suggested that the productivity commission review submissions lodged on the 2013 Development contributions discussion paper and the Local Government Act Amendment 3.

Private sector companies have less motivation to consider long term costs such as future maintenance requirements. Private sector companies may choose a lower quality of infrastructure provision and seek to transfer future risks to the public sector or future landowners.

The '*Development Contributions Discussion Document*' stated that "*developers would not need to match the standard of infrastructure that would have been provided by the territorial authority*".¹ Privately provided infrastructure of inferior quality to that typically demanded by Councils and their CCOs represents a financial risk to Councils, as emphasised by SOGLM (Society of Local Government Managers) and Parmerstone North Council in their submissions on the Development Contributions Discussion Paper.

"...Territorial authorities would be under no legal obligation to accept, or take over responsibility of the private infrastructure if the developer/body corporate failed. However, territorial authorities have statutory responsibilities relating to public health and safety that would eventually compel a territorial authority to take over responsibility for the infrastructure. Ultimately ratepayers may 'foot-the-bill' for

¹ Department of Internal Affairs, Policy Group '*Development Contributions Review – Discussion Paper*' Page 36

*upgrading infrastructure not designed to Council engineering standards, or potentially infrastructure that has not been subject to appropriate ongoing maintenance, repair or renewal. A territorial authority that permits developers to build and operate core infrastructure runs the very real risk of inheriting problems that require resolution at a later stage, the cost of which will fall on ratepayers...*²

Risks identified with the use of privately provided infrastructure in submissions are identified below:

- Quality of infrastructure may be below Council standards;
- Infrastructure provided may not at accepted safety, affordability to users and sustainable standards demanded by community;
- Privately provided infrastructure may not be suitably maintained or repaired.
- Difficulties in ensuring that privately provided infrastructure is maintained in good condition, especially when ownership and responsibility is split between multiple parties. Collective responsibility can lead to collective neglect, particularly if parties cannot agree amongst themselves or can not be held personally liable.
- Private developers may not be willing to build or operate infrastructure to the same standard as that provided by Councils.
- Developers have a financial incentive to supply infrastructure which as lower upfront costs, but potentially higher long-run operating costs.
- Developers providing infrastructure may cease trading by the time that problems with privately provided infrastructure is detected, so that the Council *'is the last man standing'*.
- Privately provided infrastructure could alter the economies of scale enjoyed by Councils in the supply of infrastructure, and hence increase the cost of Council supplied infrastructure.
- Issues of equity and fairness if one group of residents have lower standards of infrastructure than other groups.
- Possibility that home owners with responsibility for maintaining private infrastructure will demand lower Council rates.

The World Bank Group reveals that 30% (or \$US20,632 million) of private investment in infrastructure around the world between 1990 and 2012, comprise projects which have been cancelled or under distress.³

² Parmerston North Council's Submission on the Development Contributions Discussion Paper

³ The World Bank Group, Private Participation in Infrastructure Database
http://ppi.worldbank.org/explore/ppi_exploreSector.aspx?sectorID=4

Research by OECD reveals risks if the public sector becomes dependent on private sector investment in infrastructure.

“But experience shows that financing urban infrastructure through PPI [private provision in infrastructure] has not proven to be “low hanging fruit”. Indeed it appears to be a fairly unpredictable source of finance, given the number of problems encountered with even the relatively limited number of transactions completed. Those local governments strapped for funding and keen to expand their investments would be wise to recognize these limitations. Federal governments encouraging local governments to use PPI to support their investment programs need to recognize that PPI entails important fiscal risks as well. Because the future fiscal obligations taken on by local governments in PPI don’t show up in traditional accounting frameworks, federal governments would be well advised to put in place safeguards to ensure that those local governments with fragile finances don’t take on more risk than they can bear in the interest of mobilizing funding through PPI in the short run...”⁴

“However, a number of experiences involving the private sector since the 1990s have fallen short of expectations for all parties involved and led in some cases to highly politicised debates and international arbitration. In particular, the expected surge in the flows of private investment did not materialise. The causes were often a poor understanding of the opportunities and risks involved by private sector participation in a complex sector, as well as inadequate framework conditions. This contributed to catalysing public attention on the role for private sector participation in developing and managing water systems, as well as more generally on the conditions under which water services can be provided safely, affordably and sustainably...”⁵

It is noted that there have been several failed public-private partnerships in New South Wales, which include the Sydney ‘Cross-City’ Tunnel, Lane-Cove Tunnel (Sydney), ‘AirLink’ (Sydney Airport Railway Link) and ‘Reliance’ Rail.

The report ‘*Better Local Government? An analysis of the government’s proposals for local body reform*’ adds that “*Privatising the operation of local services, or building*

⁴ P. C. Annez (2006) ‘*Urban Infrastructure Finance from Private Operators: What we learned from Recent Experience?*’ page 22 World Bank Policy Research Working Paper 4045 http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2006/10/25/000016406_20061025122215/Rendered/PDF/wps4045.pdf

⁵ OECD (2009) ‘*Private Sector Participation in Water Infrastructure: OECD Checklist for Public Action*’ Introduction page 9

*infrastructure using private/public partnerships simply shift where costs fall: they seldom reduce the costs of maintaining a robust asset base.*⁶

Issues with private public partnerships in Australia are discussed in the Western Sydney Regional Organisation of Councils 2010 report "Getting Western Sydney Going: Financing the Infrastructure needs of Western Sydney".

<http://lateraleconomics.com.au/wp-content/uploads/2014/02/Getting-Western-Sydney-Going.pdf>

Question 53

Are there particular types of development (eg, greenfields, infill etc) that are less costly to service with infrastructure? What evidence can you provide about any variation in infrastructure costs?

A lot of research has been carried out on infrastructure costs within Australia. It is strongly suggested that the Productivity Commission read the research papers produced by Curtin University Sustainable Policy Institute (Western Australia) of the costs of greenfield development versus redevelopment of existing urban areas. The first paper in the series can be read on

<http://crcsi.com.au/assets/Resources/b6e1625f-d90b-433d-945a-6afeff2e42f6.pdf>

The above paper identified that "for each new block on the urban fringe compared to redevelopment there is an infrastructure subsidy from various levels of government of around \$85,000". This subsidy goes some way to explaining the continuing popularity of greenfield urban expansion.

Companion papers can be accessed via the environment design guide website.

<http://www.environmentdesignguide.com.au/pages/content/gen--general-issues/gen-83-the-costs-of-urban-sprawl--infrastructure-and-transportation.php>

Curtin University of Technology was also commissioned by Parsons Brinckerhoff Australia to prepare a report on 'Assessing the costs of alternative development paths in Australian cities' which compared transport and infrastructure costs per 1000 dwellings for urban redevelopment and fringe/greenfield development. This report identified urban redevelopment had a cost saving of \$86 million alone in upfront infrastructure costs (in 2007 dollars) and \$250 million for annualized transport costs over 50 years. (page 1)

They calculated a cost of approximately \$309 million for inner city redevelopment and \$653 million for fringe development [per 1000 dwellings] for upfront infrastructure provisions costs, as well as recurring transport, greenhouse gas and activity-related health costs (page 3).

This report provides a breakdown of inner city and urban fringe initial capital costs (2007 dollars) of approximately \$50 million and \$136 million respectively.

⁶ P. Harris (2012) 'Better Local Government? An analysis of the government's proposals for local body reform' Report commissioned by PSA page 15

The Victorian Transport Policy Institute in April 2014 has also recently released a report on infrastructure savings from the application of Smart growth Policies.
http://www.vtpi.org/sg_save.pdf

The same issue has also been explored by the South Australian Government in its 2013 Discussion Paper on Urban Infill vs Greenfield expansion report
http://dpti.sa.gov.au/__data/assets/pdf_file/0009/123210/InfraPlan_Report_Infill_versus_Greenfield_Development_Adelaide_-_Final_report.pdf

Infrastructure Australia in their 2013 'National Infrastructure Plan' identifies the total economic and social cost of continued urban fringe development as ultimately unsustainable. Stating:

"While greenfield development has the immediate appeal of more affordable housing, it imposes more double the development and transport costs of infill development. The cost of fringe expansion, which are born by Government and residents are unsustainable and will reduce economic performance and liveability into the future."

Question 56

Insufficient time has elapsed to understand changes arisen from the recent amendment to the Local Government Act. Nevertheless, it is suggested that the Productivity Commission should review the regulatory impact statement (RIS) and submissions received on this act.

Several of the changes made to the development contributions system appear to be window dressing and did not substantially change the system. The New Zealand, NSW and Victorian Governments have all recently reviewed their development contributions systems and each has found that the general principle of developers contributing to infrastructure costs is sound.

The RIS for the bill identified:

- Uncertainty over the outcomes for pursuing preferred option⁷;
- *"The fundamental theoretical underpinnings of the development contribution system are generally sound."*⁸
- The 'Development Contributions Review – Discussion Paper' identified several restrictions on the use of development contributions under existing provisions, including the principle that *"development contributions can only be charged to fund the portion of new infrastructure that is related to growth."*⁹
- Acknowledgment that *"changes to the development contributions are unlikely to significantly improve housing affordability"*,¹⁰

⁷ Regulatory Impact Statement – Improving Development contributions, Agency disclosure statement page 1

⁸ Regulatory Impact Statement – Improving Development contributions, paragraph 27

⁹ Department of Internal Affairs, Policy Group (2013) 'Development Contributions Review: Discussion Paper' page 18

¹⁰ Regulatory Impact Statement – Improving Development contributions, paragraph 158-159

- Possibility raised that territorial authorities may already be compliant with the proposed changes¹¹;
- Majority of development contributions under existing provisions are expected to be used for hard infrastructure (roading, water and waste)¹²;
- The size and variability of development contribution charges for residential developments in New Zealand are broadly comparable with those of New South Wales and Queensland in 2010, municipal infrastructure charges in Canada in 2009 and some states in the United States of America in 2012.¹³
- Typical development contribution charges represent only a small proportion (3%) of national median house price in New Zealand¹⁴, and presumably a smaller proportion again of the cost of new houses¹⁵; and
- The average proportion of development contributions to house prices has increased slightly since 2008¹⁶.

Question 58

I believe councils in high growth areas need a greater range of approaches for funding infrastructure. Funding infrastructure entirely from a mixture of development contributions and local rates is unlikely to be sufficient. Regional, state and national governments contribute to infrastructure costs elsewhere, and reduce the funding burden on local councils.

Problems with water infrastructure in NZ have a long history and were raised by the:

- The Local Government Infrastructure Advisory Group 2013
- 2011 report by Water New Zealand 'Future Face of Urban Water Services'.
- The report '*Ageing Pipes and Murky Waters, Urban Water system issues for the 21st Century*', by the Office of the Parliamentary Commissioner for the Environment (2000) identified the need for a major redesign of current water infrastructure (particularly in relation to urban stormwater and wastewater management), if environmental standards were to be cost-effectively maintained.

¹¹ Ibid. paragraph 92

¹² Ibid. paragraph 25

¹³ Department of Internal Affairs, Policy Group (2013) Ibid. Page 19

¹⁴ *Regulatory Impact Statement – Improving Development contributions* Ibid. paragraph 33

¹⁵ The average size of new houses is significantly above the average size of existing houses and combined with more expensive building materials is expected to be reflected in house price. This point is also raised in the '*Development Contributions Review*', Footnote 19 page 20.

¹⁶ Department of Internal Affairs, Policy Group (2013) Ibid. Footnote 19 page 20

Question 63

Relatively few buildings benefit from protection as listed buildings. The increased recognition that a significant proportion of land (particularly along the coast) may have archaeological/cultural value to Iwi has the potential to affect the supply and development of land for housing. This issue appears to be raised in submissions to the Kapiti Coast Proposed District Plan and the Auckland Unitary Plan.

Relatively weak heritage protection in NZ was highlighted in a 1996 report for the Parliamentary Commissioner for the Environment report. There is lack of information to suggest that the situation has changed.

<http://www.pce.parliament.nz/assets/Uploads/Reports/pdf/Pre97-reports/Historic-and-Cultural-Heritage-Management-in-New-Zealand-June-1996.pdf>

Question 66

Intensification of many suburban areas has already occurred, so that there are now limited further infill development opportunities, where a new house can be positioned on spare land to the front or rear of an existing house.

Whilst many suburban areas continue to be characterised by low height development, there is now little space left between many single storey dwellings.

The greatest opportunities for increasing the number of houses in existing urban areas is from the clearance of existing housing stock and rebuilding at a higher density.

As there are few large undeveloped areas remaining, it is likely that obtaining a site which offers sufficient economies of scale to make comprehensive development viable, would require the acquisition and amalgamation of multiple existing housing sections. It is anticipated to be difficult to persuade multiple landowners to sell land at the same time.

Question 67

A public agency with the ability to aggregate land would be beneficial. Such an agency would need access to considerable sums of money to acquire and hold land, before onselling to an interested developer. The ability of an agency to acquire large amounts of surplus land from government agencies such as Housing New Zealand, KiwiRail and Ministry for Education would greatly assist in putting larger land parcels to its best use, rather than being fragmented into smaller land parcels and developed in an ad-hoc manner.

Question 68

To what extent do central or local government policies and practices prevent or discourage landowners from selling or developing land for housing?

This question is very broad and difficult to answer.

I would argue that there is a lack of empirical research as to the actual versus the perceived effects of government practices on developer/landowner behaviour. Rhetoric often states that the need for a resource consent and particularly a higher

level of resource consent status (Fully Discretionary or Non-Complying) discourage certain types of developments. Whilst it is agreed that the average lay person might be discouraged from pursuing a project by the need for consent (especially if there are other options available which can avoid this), this is considered unlikely to be a significant deterrent for more knowledgeable and savvy land developers. For example, in Hutt City a non-complying activity status for small-scale retail in a commercial area next to the historic Jackson Street shopping retail strip, was not effective at either discouraging this type of resource consent from being submitted and has not lead to the refusal of any resource consent lodged. In this case, the deterrent of the higher activity status was largely theoretical, and likely to be overridden by the applicants expectations of achieving a good return on investment in this popular location. This planning provision has now been amended.

Planning practices are generally geared or designed to allow for land development, with the exception of land identified as having particularly high non-use values. The aim is generally to control some aspects of development, to ensure adverse effects are prevented or minimised, rather than to prevent development. The planning system is able to be sufficiently managed, so that a developer with a well-prepared resource consent application, can quickly obtain any necessary resource consents in the vast majority of cases.

This is considered to have a similar effect to the need for various investors to seek professional assistance in the preparation of an annual tax return. Typically the cost of preparing the tax return, is not so great as to discourage the investment from occurring in the first place. Resource consent fees, financial and development contributions typically represent no more than 5% of total project costs, which is generally too small to affect economic viability.

The development industry appears to have a substantial fear of notification of resource consents. This fear appears to stem not so much from a fear of how local opposition may affect the assessment of a resource consent (and it is seen that the percentage of resource consents refused is far below the percentage of resource consents notified), but from a fear of higher costs for the processing of resource consents and the possibility of a long delay, should neighbours appeal any consent issued.

It is possible that developers seek to avoid developments which have a higher chance of public notification, especially if there are other attractive development prospects with lower risks. The possibility of direct notification is higher for developments which breach any performance standards such as maximum height, setback from boundaries, site coverage etc. Theoretically, the lower the level of these performance standards, the more likely that developers will not seek permission for more intensive forms of housing. In practice, the very small percentage of resource consents which are refused in New Zealand, raises real questions as to whether planning provisions are sufficiently strong enough to turn down unacceptable development.

Nevertheless, there are always exceptions to generalisations. Performance standards which establish high building heights have also been found to discourage

smaller developments, as developers could have a fear that these developments would be adversely affected by taller development built nearby.

An expectation that land outside an identified urban area is to be rezoned to allow for urban style development, is likely to encourage landowners to delay land sales until this rezoning has taken place. The public nature of Council decision making means that landowners on the current urban/rural fringe could have several years of warning of possible changes to planning provisions. A similar situation could apply regarding expectations that new infrastructure needed for development is to be rolled out at public expense (such as a major expansion of the reticulated water network).

Q72 What are the advantages and disadvantages of the Housing Accords and Special Housing Areas Act 2013 and of its implementation to date?

The above Act does not create a suitable framework for planning decisions, so that its use appears limited to cases where Councils have developed modified or alternative planning frameworks (eg. draft plan changes/precinct plans) to guide decision making. For example, the Auckland Housing Accord rests on the provisions of the draft Auckland Unitary Plan. The Wellington Housing Accord was introduced after a residential plan change became operative. The wording of the Christchurch Housing Accord suggests the Council did not wish to use the planning powers contained in the Act.

The Housing Accord and Special Housing Areas Act 2013 is considered to be contrary to the purpose and principles of the Resource Management Act 1991. It is considered to be a poorly drafted piece of legislation, which was rushed through parliament without sufficient public scrutiny.

The Productivity Commission are asked to consider the content of the few submissions lodged with the Select Committee on the Act, particularly the submission made by LGNZ, Future Proof, the New Zealand Institute of Architects and the Environment Defence Society. These submissions raised concern regarding:

- Lack of robust assessment of whether a special housing area is required and whether it can be adequately and affordably serviced by infrastructure;
- Having the ability to compromise the integrity of District Plans;
- Providing an inadequate decision-making process;
- Leading to inefficient and uneconomic infrastructure investment;
- Leading to the development of socially and economically isolated communities;
- Leading to the likely loss of productive agricultural land;
- Leading to high environmental, cultural, economic and social costs.
- Providing for the overriding of local democracy.

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