

## USING LAND FOR HOUSING SUBMISSION

To: The New Zealand Productivity Commission  
From: Property Council New Zealand

### Introduction

In summary, our view is that consideration of *economic implications and impacts on development* in plans and consent processes is going to be key to ensure that decisions made by councils account for *all relevant factors* and are therefore holistic. Siloed decision making, which only considers particular aspects of the planning and land development system, will result in suboptimal decisions and will continue to inappropriately hinder development and housing supply.

Property Council supports the Productivity Commission in its inquiry. Facilitating development, to increase supply and address housing affordability concerns, is a big issue for New Zealand; and there are a number of factors which have contributed to, and continue to contribute to, the situation of undersupply that we are currently in.

Development is difficult and risky. In particular, there are considerable barriers to intensification or higher density development, including fragmented land ownership and few opportunities to agglomerate sites to achieve scale, high costs for acquisition of land and old buildings, the cost of demolition and consenting, fragmented zoning in some areas, opposition from local communities - and high holding costs whilst these processes take place.

Many of these barriers are outside of the direct control of councils. However, councils can have a significant positive impact by ensuring that requirements in regional, district and unitary plans and consents do not add inappropriate costs and delays to an already complex, risky and expensive process.

In practice, many council officials *do not* take into account the needs of developers and implications on commercial feasibility when taking decisions and imposing requirements. In this respect, we are not advocating that development feasibility is the *only* factor that is relevant – rather that it is a key relevant matter for consideration, which is currently largely ignored or misunderstood by council officers. This leads to disproportionate and often conflicting requirements being placed on developers and has significant implications for the commercial viability of development and housing supply.

One example of this is the nature and extent of the obligations imposed on developers in the Proposed Auckland Unitary Plan (PAUP) - where developers are being required to provide 6 star homestar and universally accessible homes, which are subject to strict urban design obligations and development controls. With land prices in the region so high, the cumulative impact of the requirements are not

conducive to encouraging higher density development, and increasing supply - let alone the provision of more affordable houses.

We have undertaken detailed fine grain analysis which shows that currently the zoning, and other provisions within the PAUP, work against providing the land and development capacity required for Auckland's growing population. This is because the council focussed on theoretical planning enabled development capacity, without proper consideration of commercial factors or economic realities. To be effective, the PAUP and other plans throughout the country, need to account for economic factors and implications on development feasibility in order to adequately provide for growth.

These planning documents send powerful investment signals to industry. As such, requirements and zoning need to send a reliable, strong signal out; or we won't get the levels of development we require – particularly in areas of under supply.

As such, we consider it important to:

- i. implement requirements for council officers to understand and consider feasibility and the impacts on development, from their *requirements in plans*, to help ensure proportionality in terms of what is being required
- ii. require that council officers and CCOs, *when assessing consent applications*, understand and consider the implications of their decisions and requirements on development and its feasibility. This will be key to achieving balanced decisions which account for all relevant factors
- iii. ensure that all parts of council and CCOs are committed to enabling and facilitating development and increasing supply. If not, inefficiencies and delays will continue.

Legislative as well as culture and practice change is likely to be required to address these issues. Housing affordability can only be addressed through collaborative effort from councils and the private sector.

## **Background**

Property Council is a member-led, not-for-profit organisation offering a collective voice for the commercial property industry. Our members include the owners, investors, managers and developers of office, retail, industrial and residential property; as well as planners, policy makers, engineers, lawyers, architects and other property professionals.

Our broad membership requires us to consider all aspects of the built environment, and we promote sound policies and requirements which benefit New Zealand as a whole. We advocate for quality urban growth that supports strong national and local economies.

We strive to serve our members through research, policy development, advocacy, education and networking event programmes nationally and regionally, raising the industry profile as we go.

Q#	Question and Property Council view
1	<p><u>Is it helpful to think of the planning and development system as a means of dealing with externalities associated with land use and coordination problems? What other factors should the Commission consider in evaluating the role of the planning and development system?</u></p> <p>Focussing on externalities is too restrictive, and does not account for the other purposes and outcomes of the planning and development system. For example, plans provide a <b>powerful investment signal to industry</b> regarding whether to expand capacity and take on risk and finance to facilitate development and growth. Without strong, clear signalling in plans, through rules and policies which facilitate development, this will not eventuate – having negative implications for housing supply and economic growth.</p> <p>Focussing purely on externalities also <b>does not ensure cohesive rules and requirements which are integrated with achievement of national and local priorities</b>. For instance:</p> <ul style="list-style-type: none"> <li>▪ in Christchurch we have concerns that the proposed Christchurch Replacement District Plan (CRDP) will not encourage investment and development and facilitate the rebuild.</li> <li>▪ In Auckland the Proposed Auckland Unitary Plan (PAUP) has rules and requirements which are overly prescriptive and restrictive of growth and development. This is likely to contribute to housing affordability concerns if supply does not increase sufficiently.</li> </ul> <p>A more facilitative approach is required in both of these plans to ensure the future vibrancy of local communities by attracting investment, development and urban growth – whilst still dealing with externalities and coordination issues.</p> <p>Plans require an <b>overarching objective or strategic vision</b> for a region/district and then all other rules and requirements must be assessed in relation to achieving that vision, whilst balancing conflicting interests appropriately. Neither the PAUP nor the CRDP have achieved this. Auckland Council did have a compact city vision, which it said it needed to achieve in order to house, service and employ New Zealand’s growing population in a sustainable manner. However, the cumulative effect of the PAUP’s rules do not enable this. Key issues included insufficient upzoning, vast amounts of heritage protections and development controls which act to hinder and stymie development. <i>See Annex 1, Annex 11 and Annex 4a-c in this regard.</i> Christchurch City Council did not have an appropriate strategic vision to enable the rebuild. <i>See Annex 3.</i></p> <p>Planning instruments and requirements should: integrate and balance competing interests, including economic, environmental and social goals; have democratic accountability; and ensure future needs are met. In this respect, we note that the RMA currently does not adequately consider economic implications and therefore does not encourage holistic/integrated decision making. It is also important to note that the RMA was introduced an effects based assessment process, however it is being used by councils in a predominantly planning based manner - which is more suited to the town and country planning legislation which the RMA superseded. As such, we do not consider the RMA is being implemented appropriately.</p>
2	<p><u>Can the current land planning and development system be made to work better to benefit cities throughout New Zealand? Is a different type of planning system required to meet the needs for housing in New Zealand’s fastest growing cities?</u></p>

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	<p>Yes, it needs to <b>take a more holistic approach</b>, rather than largely considering externalities. For instance:</p> <ul style="list-style-type: none"> <li>▪ It needs to account for and appropriately consider the <b>achievement of national and local objectives</b> – such as encouraging investment and economic growth and increasing supply to help address housing affordability concerns. Use of planning policy guidance, such as that used in the UK, should be considered. This should apply to all councils and be flexible in linking local and national objectives.</li> <li>▪ It should <b>account for the needs of the region/district’s future inhabitants and those who might not engage in the planning process</b>. The current system tends to favour existing home owners (NIMBYs) over those looking to get on the housing ladder (young people and future residents) – e.g. in Auckland officials had to significantly down zone from their draft unitary plan due to pressure from existing home owners. This will make development more difficult and may mean dense development targets are not achievable. This will exacerbate supply and affordability concerns. <i>See Annex 11.</i></li> <li>▪ <b>Planning systems need to consider the economic impacts of requirements</b>, as well as planning for and managing externalities. In Christchurch, the proposed CRDP does little to attract investment into the rebuild.</li> <li>▪ Council officials undertaking assessments and imposing requirements in <b>consent processes</b> should be under an obligation <b>to take economics and development feasibility into account</b>. This is vital for balanced decision making, proportionate requirements and fair assessments. <i>See Annex 10.</i></li> <li>▪ Proper recognition of the built environment should be reflected in the RMA, to assist in ensuring more balanced council policies, practices and requirements. In addition, the RMA needs refinement to i) properly plan for and facilitate growth in urban areas ii) control the extent of planning prescription in urban areas to facilitate development and growth efficiently iii) require more cohesive holistic interpretations.</li> </ul> <p>Taking a holistic approach, which considers all relevant factors, should help ensure that appropriate trade-offs are made in order to achieve quality outcomes for local communities.</p>
3	<p><u>What criteria should the Commission consider in evaluating the current land planning and development system in New Zealand?</u></p> <p>Is there a clear vision or overarching strategy in plans and are all rules, policies and requirements facilitative and proportionate to achieving the vision?</p> <p>Is there sufficient integration with, and achievement of, national and local issues and concerns?</p> <p>Are key issues being addressed (e.g. transport, infrastructure, investment/development, sustainability etc)?</p> <p>Do the rules and process account for all interested parties, not just a particular group/groups?</p> <p>Are there sufficient quality resources to achieve objectives and vision?</p> <p>Are there inefficiencies/waste? In this respect, the current focus of Councils on notification and appeals is wasteful, the right balance between competing priorities has not been achieved. More Council effort should be spent on research, proper stakeholder engagement/collaboration and s32 analysis to achieve better understanding of the issues, outcomes and efficiencies – and thereby avoiding appeals and combative processes.</p>

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4	<p><u>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?</u></p> <p>Sufficient economic capacity or feasible development capacity is certainly required. <i>See Annex 4a-c</i> which describes the importance of this.</p> <p>Other factors, such as provision of infrastructure, and more effective consents processes will also be required <i>see Annex 7a-b and Annex 10</i>.</p>
5	<p><u>What data sources will be most useful in identifying effective local authority planning processes for the development of land for housing?</u></p> <p>House prices  Consents issued  Code of compliance certificates issued</p>
6	<p><u>Are there other local authorities exhibiting good policies or practices in making land available for housing that the Commission should investigate?</u></p> <p>Tauranga City Council has some good policies and practices.</p>
7	<p><u>What policies and practices from other countries offer useful lessons for improving the supply of effective land or development capacity for housing in New Zealand?</u></p> <p>Councils should have to demonstrate planning ahead to secure sufficient housing supply.</p> <p>The development agency approach used in Australia and the UK can be useful, in coordinating urban renewal and development on sites where there is market or regulatory failure. As we understand it, the main purpose of such an organisation would be to identify market failures or regulatory or other barriers to viable development and work to rectify the issue where possible. The body could also:</p> <ul style="list-style-type: none"> <li>▪ be a repository for key information, knowledge and expertise - accumulating best practice</li> <li>▪ implement strategies, policies and actions to benefit New Zealand as a whole</li> <li>▪ ensure longevity, and decisions which endure over time, in urban planning and policy.</li> </ul>

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	<p>Any such agency must not become a bureaucracy. It should draw on private sector experience and, in this respect, we note that many of the boards of such agencies overseas have private sector participants. It would also be important that any such agency is not subject to party politics, as certainty and consistency is required for acceptance by the market and longevity in terms of outcomes. The devil will be in the detail as to whether such a model is likely to be successful in New Zealand or not.</p>
8	<p><u>Alongside the Resource Management, Local Government and Land Transport Management Acts, are there other statutes that play a significant role in New Zealand's planning and development system?</u></p> <p>The Building Act. In this respect, we note that currently some councils are imposing requirements in plans which go beyond the requirements under the Building Act. This increases costs and complexity and therefore has implications for development and supply. Homestar and lifemark/universal design conditions in the CRDP and PAUP are examples of this. <i>See Annex 6 and relevant sections of Annex 1 and Annex 3.</i></p> <p>The Public Works Act has relevance to acquiring key sites for development and enabling amalgamations to achieve sufficient scale for larger projects and higher density development.</p>
9	<p><u>How easy is it to understand the objectives and requirements of local authority plans? What improves the intelligibility of plans?</u></p> <p>Tauranga City Council has plans which are relatively easy to work with. They do not have large numbers of policies and assessment criteria, and this helps ensure the plan is not overly complex. Too much policy and framework, which tries to anticipate all issues, is not helpful. Excessive complexity not only dampens development, by making requirements onerous for industry, it also make things difficult for those processing the consent - and you end up in a paper war.</p> <p>Both the PAUP and CRDP are lengthy and have a large number of requirements. In addition, neither document had a clear overarching vision which is facilitated by the policies, rules and requirements of the plan. This lead to disjointed objectives and conflicting rules and requirements.</p> <p>Fact sheets summarising key issues can be helpful. Auckland Council produced these on the unitary plan and held open days where questions could be raised with officials.</p>
10	<p><u>Is ensuring an adequate land supply for housing an objective of current District or Unitary Plans? If so, what priority is this objective given?</u></p> <p>In the Bay of Plenty area there are objectives to identify future growth areas. However no explicit priority is afforded to this.</p>

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	<p>In Auckland this is a stated objective, however the practical and cumulative effect of the other requirement in the PAUP are likely to mean that there is not sufficient development capacity in the PAUP and therefore higher density development will be more difficult – meaning more greenfields may eventually need to be released. <i>See Annex 4a-c on the economic capacity for residential development in the PAUP.</i></p> <p>In short, without looking at economic factors and impacts on development feasibility, it is impossible to afford appropriate priority to/provide for land supply for housing.</p>
11	<p><u>What steps do local authorities take to ensure that all people potentially affected by land use Plan provisions or changes have the opportunity to comment? How effective and efficient are these steps?</u></p> <p>Councils err on the side of caution and probably over-notify or allow for comment. This is not always efficient or effective.</p> <p>Whilst this is generally true, in Christchurch the timescales for the proposed CRDP were too short for effective engagement and comment on the Council’s proposals. The community therefore had little chance to add value.</p> <p>In Auckland the Council undertook extensive community engagement, where officials went out to local board areas and presented and sought views from residents. They also had open days and held workshops. Even with all of this however, they were unable to take residents on a journey with them to understand the requirements of the region as a whole (i.e. increased investment to house, service and employ a growing population). In addition, councillors voted on the PAUP just before a local election, which meant that they were likely influenced by NIMBY interests in order to retain their seats. As such, they lost focus on what was required for Auckland’s future.</p> <p>Members have advised that charrettes or other methods of engagement might have been more successful in taking people with the Council – e.g. if local boards were each told how much dense development they needed to accommodate to fulfil the compact city vision and then they could feed into where in their local area that development went (albeit they would require advice from Council officials, residents and industry experts in order to achieve a feasible and acceptable outcome).</p>
12	<p><u>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?</u></p> <p>These people are generally left out of the process.</p> <p>In Auckland, clearly young people and new residents are affected by housing unaffordability. They did not appear to formally engage in the process and therefore the PAUP was revised to benefit existing residents over them (i.e. large swathes of the residential zones have blanket heritage protections covering them, and zones enabling higher density development have been decreased – neither of which are helpful to increase development/supply and address housing affordability concerns).</p>

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13	<p data-bbox="183 272 1285 300"><u>How can the Plan development process be improved to increase the supply of development capacity?</u></p> <p data-bbox="183 349 2103 564">Councils often focus solely on the potential for development which is enabled by the planning rules and requirements. However, whether or not development will take place depends on a range of other factors, including: property size, property dimensions, property contour, location of existing buildings, natural features, access, planning rules/zones, market demand for proposed dwelling type by locality, land value, capital improvement value, access to wastewater, sewerage, water, utility connections, infrastructure capacity, demolition/relocation costs, ground clearance, earthworks, construction costs, professional fees, council fees and contributions, finance and holding costs, real estate agent fees, rates, insurance, legal costs, profit and taxes. The analysis of these factors is required to determine the likely economic capacity enabled by the plan, i.e. the development under the plan which will be commercially feasible.</p> <p data-bbox="183 576 2103 639"><i>See Annex 4a-c for Property Council and its members' analysis on the amount of commercially viable development, enabled under the various versions of the unitary plan, in this respect.</i></p> <p data-bbox="183 689 2103 753">Analysis of economic capacity, or development feasibility, will then help councils assess the cumulative impact of the plan's requirements, and determine whether the plan enables sufficient development and growth. We consider this essential for robust decision making and achievement of sound outcomes.</p> <p data-bbox="183 802 2103 866">In Auckland, Property Council and its members engaged with and worked with council officials over a number of years to try to ensure that the PUAP considered economic factors and development feasibility. However, this was ignored when the PAUP was eventually notified.</p> <p data-bbox="183 916 2103 943">There is also a need to enable private changes to the RPS, as the RPS impacts on the rules. Being unable to change the RPS can mean developers are inappropriately constrained.</p> <p data-bbox="183 992 1615 1019">Integrating planning instruments on a nationwide basis, by increasing consistency and reducing complexity, will result in efficiencies.</p> <p data-bbox="183 1069 2103 1165">Reducing delays and inefficiencies with appeals should also be considered, as these add significant costs and risks for development. These either hinder development or mean that developers do not even consider taking projects forward. <i>For example see Annex 7a.</i> One of the main problems with plan changes is the time taken to resolve appeals – which can often be frivolous and vexatious.</p>
14	<p data-bbox="183 1219 2103 1283"><u>How accurate are local authority assessments of the demand for and supply of land? How well do they reflect market demands and the actual development capacity of land? Are there any good examples of supply and demand forecasts?</u></p> <p data-bbox="183 1332 2047 1359">Generally councils overestimate available capacity/the supply of land available for development, and do not pick up on market realities. This leads to suboptimal outcomes.</p>



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	<p>For example, the Capacity for Growth Study in Auckland is based on theoretical planning enabled capacity for development under the PAUP's rules. It does not take into account commercial realities and, as such, cannot accurately predict levels of actual likely development under the PAUP. Refer to <i>Annex 4a-c and Annex 5 on this</i>. We worked with the Council, from the time of the Auckland Plan, to ensure that commercial realities were accounted for in the PAUP to ensure zoning and other requirements would facilitate the growth that the region needs. Members devoted their time and analysis in this respect. However, this was ignored in the notified PAUP, meaning we had to commission research to provide to the Independent Hearings Panel in this respect (<i>Annex 4a and Annex 5</i>).</p> <p>Our overall view is that planning enabled capacity <i>and</i> development feasibility need to be calculated and accounted for in plans. This is referred to as economic capacity and should be a key component upon which plan policy, rules and requirements are based – including decisions affecting land supply - to ensure proportionate requirements in plans and robust outcomes are achieved. It also serves to ground planning documents in reality – rather than being purely ideologically based.</p> <p>Tauranga City is generally ok in its assessments, albeit NZTA may disagree.</p>
15	<p><u>How well do zoning decisions in District Plans and infrastructure planning in Long-Term Plans reflect demand and supply forecasts?</u></p> <p>See answer to 14 above. If councils do not accurately assess the economic capacity for development they are unlikely to zone appropriately and appropriately plan for infrastructure requirements. Supply of infrastructure is a key issue and constraint in growing local areas.</p>
16	<p><u>How effective are local authorities in ensuring that the rules and regulations governing land use are necessary and proportionate?</u></p> <p>Generally requirements in plans are overly prescriptive and, as such, act to dampen quality innovative development.</p> <p>Assessments of environmental effects, detailed urban design requirements and integrated transport assessment requirements result in lengthy, complex, expensive consultants' reports which are not necessarily proportionate to impacts, and increase costs and delays in the consent process. Excessive complexity also makes it difficult for council staff assessing the application, resulting in additional delays, risks and holding costs for developers.</p> <p>Requirements which go above and beyond the Building Act requirements also increase costs (e.g. lifemark, homestar and universal design obligations in the CRDP and PAUP). See <i>Annex 6 on Green Star/homestar requirements in the PAUP</i>.</p> <p>In Wellington, the Regional Council requirements are particularly onerous – see <i>Annex 7a and Annex 8 on issues with residential development in Wellington</i>.</p>

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	<p><b>Officials should have obligations to consider the implications of their requirements (in plans and consenting) on the feasibility of development. This is key to ensuring they are appropriate and proportionate to impacts – <i>Seen Annex 10</i></b></p> <p>Insufficient section 32 analysis leads to more contention at the appeal stage. E.g. the lack of analysis on economic capacity for development in the PAUP has led to the Council engaging multiple consultants to justify its planning based position. If the Council had undertaken a proper empirically based section 32 analysis, which considered economic capacity for development, this could have been avoided. <i>See Annex 5 rebuttal evidence.</i></p>
17	<p><u>What are the characteristics of the most effective processes for testing proposed rules, Plans or Plan changes?</u></p> <p><b>Real stakeholder engagement</b> – stakeholders should be involved with developing <b>section 32 reports</b> for new requirements and section 32 reports should be robust and genuinely consider all the options. Also, international research relied on in this respect should be robust and reflect NZ circumstances. This is not always done well. For instance, the Homestar requirements in the PAUP and CRDP are based on section 32 analysis which does not consider the option of a non-mandatory incentives based process. Developers were not adequately consulted and therefore the implications of this and the cumulative effect of this and other requirements in the Plan was not considered until the Independent Hearings Panel stage of the process. <i>See Annex 6 evidence to the Independent Hearings Panel on this.</i></p> <p>A lack of robust engagement with stakeholders and section 32 evidence likely increases costs for councils as they are then challenged at appeal and have to employ specialist expertise to justify their requirements in plans after the event. This then raises concerns for industry/other stakeholders if they cannot afford to employ their own experts on appeal.</p>
18	<p><u>How effective are local authority processes for connecting decisions across the different planning frameworks? Which particular processes have been successful? What explains their success?</u></p> <p>We agree with MfE, there needs to be better integration of objectives across planning frameworks for robust holistic decisions, and achievement of national and local priorities. This disconnect is also seen in how the CCOs and Auckland Council operate. A lack of an overarching combined vision leads to disagreement between the Council and CCOs which stymies development and places developers in a no-win situation – <i>see Annex 10.</i></p> <p>Development agencies have been successful in doing this in specific areas. However the devil is in the detail of how these agencies operate, including their powers and governance, as to whether they can be supported and successful. Private sector expertise on the boards of such agencies have been described as best practice overseas.</p>

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	Smart Growth in Tauranga has encouraged collaboration across different planning frameworks and consideration of cross boundary issues.
19	<p><u>What impact does transport planning have on the supply of development capacity?</u></p> <p>A huge impact - transport connections are a necessity, in order to increase development and ensure quality of life for residents. This should be a key focus of the Productivity Commission's inquiry. There is significant international evidence on the need for transport to open up development opportunities.</p>
20	<p><u>Are there examples of effective integration between regional policies and district plans, and what are the features of processes that lead to effective integration?</u></p> <p>No examples which stand out as exemplars.</p> <p>Can only get effective integration if there is an overarching vision and then all regional and district rules and policies are assessed and imposed in relation to achieving that vision. Also need robust section 32 analysis.</p> <p>Smart Growth in Tauranga has encouraged collaboration between councils through a spatial plan development. Similar work is taking place in the Waikato.</p>
21	<p><u>Do rules or Plan requirements in your area unnecessarily restrict the use of land for housing? Why are these requirements unnecessary? What are the impacts of these rules and requirements?</u></p> <p>Yes, as they do not account for implications on economic capacity or development feasibility. See attached <i>Annex 4a-c</i>. The cumulative impacts of various requirements on development are particularly important to assess in this respect. The impact of not doing this analysis is insufficient supply and increased house prices.</p> <p>Similarly, overly restrictive development controls and requirements, e.g. which go beyond the requirements of the Building Act, will restrict the use of land and supply of housing. See <i>Annex 1</i>.</p>
22	<p><u>How important is it that rules for development and land use provide certainty?</u></p> <p>Developers need certainty and flexibility – certainty helps them assess development feasibility, obtain finance and take on risk. Flexibility in development controls and urban design requirements is required to account for site specific complexities and circumstances. Overly restrictive requirements lead to suboptimal outcomes, as the requirements will only suit a certain number of sites and developers will be forced to look to tick boxes rather than focus on functionality. See <i>Annex 1, Annex 2, Annex 3, Annex 9</i></p>

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23	<p data-bbox="183 277 1339 304"><u>Are rules consistently applied in your area? Is certainty of implementation more important than flexibility?</u></p> <p data-bbox="183 352 1375 379">Application of rules and requirements can vary depending on the council official involved with the application.</p> <p data-bbox="183 427 2101 491">There is need for a measure of certainty and flexibility to account for site specific circumstances and ensure balanced, common sense decisions and proportionate appropriate obligations being placed on developers. See <i>Annex 10</i>.</p>
24	<p data-bbox="183 549 1720 576"><u>Which local authorities have the best approach to implementing land use rules or Plan requirements? What makes their approaches the best?</u></p> <p data-bbox="183 619 344 646">No exemplars.</p>
25	<p data-bbox="183 695 1167 722"><u>Do second-generation Plans take a more flexible or enabling approach to land use control?</u></p> <p data-bbox="183 770 2101 834">No, second generation plans are not easy to work with and take a more regulatory response to addressing issues. As such, they try and plug holes with regulation or overly prescriptive requirements. This leads to a tick box exercises rather than assessments on the merits.</p>
26	<p data-bbox="183 887 2101 951"><u>What effect do design guidelines have on the availability of effective land for housing? Are the processes by which land use can depart from a design guideline transparent and applied consistently?</u></p> <p data-bbox="183 999 2101 1062">Overly prescriptive urban design requirement can increase costs and complexity if they are not able to be easily achieved due to site specific circumstances. They can also lead to suboptimal outcomes where a tick box approach is adopted to just fulfil the requirements, rather than what is best for the particular site.</p> <p data-bbox="183 1070 763 1098"><i>See Annex 9 and the urban design section of Annex 1.</i></p>
27	<p data-bbox="183 1158 2101 1222"><u>How many developers work in more than one local authority? Do variations in planning rules between councils complicate, delay or add unnecessary cost to the process of developing land for housing?</u></p> <p data-bbox="183 1262 645 1289">Many developers work across boundaries.</p> <p data-bbox="183 1297 2101 1361">Variations definitely add to costs and complexity and delays. This was a key driver of the Property Council Waikato branch advocating for local government amalgamation in the region. The aim was to have a consistent set of rules and terminology across the region to decrease costs for business and development. Every individual and seemingly small</p>

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	<p>difference across boundaries adds to complexity e.g. pipe sizes and pressurised drainage systems varying across regions leads to inefficiencies. A more uniform system can enable economies of scale, and decreased costs.</p> <p>In Auckland, it is positive that the PAUP has consistent rules across the region. National planning template structures should be considered.</p>
28	<p><u>Which local authority pre-application advice and information services are the most effective for communicating expectations and reducing unnecessary cost for applicants? What makes them effective?</u></p> <p>The Housing Project Office pre-application process is helpful.</p> <p>Other pre-application processes can be time consuming, and take even longer than the build. For example, one project took 18 months with 7 variations. Another project was started in January 2013, submitted for the pre-application process in August and wouldn't go for resource consent until 2014.</p> <p>Challenges arise when different planners/officials attend the various pre-application meetings and raise different issues, creating extra work and delays. Changes are constantly requested and officials can request some questionable detail, e.g. where to locate the water cylinder, and the colours and type of fences.</p> <p>Multiple pre-application meetings should not be required, if developers are properly informed at the initial meeting of everything that needs to be addressed. Again, we reiterate, the meetings need to be run by experienced council officials who understand commercial realities in order to make appropriate, effective decisions.</p>
29	<p><u>Which processes are most important to applicants for providing consistent and efficient assessments of resource consent applications?</u></p> <p>All processes must be efficient, proportionate and appropriate to avoid undue costs and inefficient delays. This is only possible if council officials understand the implications on development and feasibility from their requirements.</p> <p>Clear information requirements, processes and timelines are key.</p>
30	<p><u>Have resource consent processing times resulted in unnecessary delays in the development of land for housing? If so, do you anticipate that the recent changes to processing timeframes will address delays?</u></p> <p>Resource consent processes are complex and result in significant delays. Much of that delay results from reviewing reports which are required by the district plan rules. Changes to processing times in legislation are positive, but, on their own, they will not rectify the situation. Officials still hold up processes. Key issues resulting in delays include: conflicting priorities within council holding up processes (e.g. parks and maintenance teams not being willing to take on parks, but urban design teams requiring them – puts the developer</p>

Q#	Question and Property Council view
	<p>in an impossible position); lack of infrastructure being provided; overly complicated reports being required/disproportionate to the impact of the development; the same information being requested multiple times.</p> <p>Larger projects almost always result in delays and these can have significant ramifications. For instance, delays during earthworks season can set back a project for an entire season.</p> <p>One of the most costly part of a consent process is when one applies for a Section 224(c) or 223(c) from council. This process is at the time when a development has some of the highest holding costs - and council delays have significant impacts. <i>See Annex 10 regarding issues with Auckland Council on this.</i> One member reported a section 224(c) cost \$400,000 in holding costs due to Council delays of 2 months.</p> <p>The council planning regime is very risk averse, and processors lose perspective. Over-involvement of third parties in consents and private plan changes leads to inefficiencies as applicants spend hundreds of thousands of dollars on one issue, and this is generally not proportionate to the impact of the issue.</p>
31	<p><u>What explains the variation between jurisdictions regarding requests for additional information and use of stop-the-clock provisions when assessing resource consent applications?</u></p> <p>Possibly availability of experienced, senior staff?</p>
32	<p><u>What are the impacts of notification on the supply of development capacity? How could the processes surrounding notification be improved?</u></p> <p>Notification is a huge impediment to development and therefore a massive factor in the decision whether to undertake development. This is because it results in lengthy and costly processes for developers and thereby increases risk significantly. In addition, it can be open to misuse by those pushing their own interests rather than having a genuine involvement in/being impacted by the project. <i>See Annex 7a.</i></p> <p>In general, notification is overused. Rather than apply the statutory gateway test, Councils will most often apply a conservative approach and notify – even for relatively minor breaches of the rules where it is difficult to ascertain the exact effect. Proper consideration of scale and effects, the real issues involved and who is truly impacted is key to ensuring a better balance.</p>
33	<p><u>What explains the reduction in the prevalence of pre-hearing meetings?</u></p> <p>Potentially because, in some cases, they are not particularly useful.</p>

Q#	Question and Property Council view
	They should be encouraged, and the processing planner should be attendance.
35	<p><u>Does the type of person making the decision on resource consent applications affect the fairness, efficiency or quality of the outcome? What difference (if any) does it make?</u></p> <p>It makes a big difference.  Skilled officials who are able to understand and successfully negotiate competing priorities and interests make a big difference in terms of achieving timely, quality outcomes.  Councils need to be able to attract and retain these people – <i>see Annex 10</i></p> <p>Local Government elected members should not be making resource consent decisions as they lack the experience, independence and training to make robust decisions.  Independent Commissioners are generally better in this respect.</p>
36	<p><u>Does the use of external experts (for example as independent commissioners or contracted staff) in making resource consent decisions create conflicts of interest? If so, how are these conflicts managed?</u></p> <p>If anything, there is less conflict using independent commissioners or contracted staff.</p>
37	<p><u>What processes do local authorities use for ensuring that consent conditions are fair and reasonable? How successful are local authorities in meeting the “fair and reasonable” test?</u></p> <p>Conditions are often overly onerous. At a certain point in the consent process applicants are basically ‘hostage’ – they have already invested too much time and expense to not have the consent go through. Officials realise this, and some take advantage by imposing inappropriate conditions.</p> <p>Members report unreasonable conditions can also be unrelated to the development.</p> <p><b>Officials need to have obligations to consider the impacts on development and feasibility (holding costs, interest rates, certainty requirements, impact of third party conditions, affordable housing etc) in order to take proportionate and appropriate decisions. This is vital as conditions can have a massive impact on the viability of development. Increasing costs in even one area can significantly increase costs and impact the end result. Having senior officials key performance indicators linked to achieving development related targets could also assist with ensuring more appropriate and proportionate conditions (i.e. fair and reasonable) – see Annex 10.</b></p>
38	<u>In your experience, what impact do conditions on resource consents have on the viability of development projects?</u>

Q#	Question and Property Council view
	Can have a big impact and result in projects not going ahead. See answer to question 37.
39	<p><u>Which local authorities have been most successful in providing coordinated decisions over applications to use land for housing? What explains their success?</u></p> <p>The HPO is Auckland is actively trying to achieve this, however it still requires broader powers to take decisions when different parts of the Council, and also CCOs, have conflicting priorities and disagreements with each other. <i>See Annex 10.</i></p>
40	<p><u>Are there issues relating to the process for challenging or changing decisions which impede the supply of effective land for housing?</u></p> <p>They are lengthy and costly – <i>see Annex 7a</i></p>
42	<p><u>How easy is it to obtain a Plan change or variation in your area? What are the major barriers?</u></p> <p>Not being able to obtain a RPS change is a major barrier, as this leads to difficulties with affecting rule/other related changes.</p> <p>The extent of the rights currently afforded to third parties is also a major barrier. Third parties currently have no responsibilities or obligations which is problematic. They often group together as incorporated societies and then disband if the Environment Court awards costs against them. Also, costs are not awarded in any case on plan policy matters. As such, these groups have nothing to lose by dragging things out – making third party costs and risks considerable for developers. Costs include opportunity costs, holding costs, real costs etc.</p>
44	<p><u>What is your experience working with the infrastructure component of the land supply system?</u></p> <p>Provision of core infrastructure is challenging for local government due to balance sheet constraints, local government politics and constrained responsibilities under the Local Government Act. In fast growing areas, provision of infrastructure is a barrier to development. We need to find alternate ways of providing infrastructure. <i>See Annex 7c and Annex 10</i></p>
45	<p><u>Are there particular aspects of the system, or particular types of infrastructure, that are problematic?</u></p> <p><i>See Annex 7b and Annex 10</i></p>



Q#	Question and Property Council view
	<p>Council funds are often taken up paying for deferred maintenance issues, which should have been managed over an extended time frame. Thus infrastructure provision is always an issue.</p>
46	<p><u>What are the opportunities to improve this part of the land supply system?</u></p> <p>Need consideration of other means of financing/attracting investment into infrastructure. Align incentives and objectives of infrastructure providers to increasing development. Consider the likes of Flow Systems in Australia – private infrastructure providers.</p> <p><i>See Annex 7b and Annex 10</i></p> <p>For some councils, better management of their infrastructure and the finances associated for future requirements is required. Members report funding improvements which are often not the result of growth, rather they are focussed on fixing old systems.</p>
47	<p><u>Is there sufficient alignment of incentives for the various organisations involved in the provision of infrastructure to support housing? If not, what could be done to improve alignment?</u></p> <p>No, in Auckland developers experience problems getting Watercare and Auckland Transport to facilitate development. They don't seem to have linked objectives with the Council to enable greater development <i>see Annex 10</i>.</p> <p>Local government needs to be incentivised to support land supply, infrastructure and development. This requires a culture shift to enable change and reform old embedded ways of thinking.</p> <p>Incentivise competition to improve innovation and alternative solutions.</p>
48	<p><u>Are there differences in the approaches taken between council controlled and private infrastructure organisations (eg, electricity lines companies)? What is the nature of these differences? What explains the differences?</u></p> <p>Private providers often benefit from greater scale and efficiency so they can fund capital growth more easily. They are also less constrained by legislation so they can raise revenue in different ways.</p>

Q#	Question and Property Council view
50	<p data-bbox="183 277 1738 303"><u>Is there evidence that territorial authority debt levels are acting a barrier to the provision of infrastructure for housing in rapidly growing areas?</u></p> <p data-bbox="183 354 1585 379">Auckland, Tauranga and most councils experiencing growth are struggling to finance the infrastructure required for development.</p> <p data-bbox="183 427 2101 488">Currently gold plated stormwater solutions are being required by some parts of Auckland Council – this conflicts with the Housing Project Office’s desire for density. <i>See Annex 10.</i></p>
51	<p data-bbox="183 542 2101 603"><u>How variable are the practices and processes around infrastructure charges across different jurisdictions? Does variability complicate, delay, or add unnecessary cost to the process of developing land for housing?</u></p> <p data-bbox="183 654 1912 679">Members have experienced large variations in charges, even to do fairly standard work. Some councils appear prone to gold-plate or double dip in this respect.</p> <p data-bbox="183 730 2101 833">Territorial authorities often apply complicated formulas and models to calculate levels of development contributions. Too commonly the assumptions and components of the models do not appropriately link the causal relationship between the development and the need for capital expenditure on infrastructure. Due to the absence of the causal link, development contributions charges are variable and inconsistent and inflated.</p> <p data-bbox="183 884 2101 1056">A lack of transparency has allowed territorial authorities to “double dip”, for instance, by collecting capital income from existing users (such as depreciation collected through rates or user charges) for the express purpose of contributing to replace aging assets, only to then charge the costs of infrastructure (particularly replacement) onto growth related development. In essence, collecting for the same purpose twice. Our members have also informed us of “triple dipping” : i) the developer pays for infrastructure and then vests it in the territorial authority at no cost; ii) the territorial authority charges the developer a hefty development contribution (in some cases of almost \$1million); iii) purchasers of the property pay connection costs and increased rates.</p> <p data-bbox="183 1107 2101 1168">Council Controlled Authorities, who charge infrastructure growth charges (e.g. Auckland Council’s Watercare Services Limited), should have these charges subjected to the same rules, notification and appeal rights as development contributions. Otherwise there is little scrutiny over the level of these charges and whether they are appropriate.</p> <p data-bbox="183 1219 1518 1244">Complexity and variability in this area increases costs and risks for developers and thereby impact on housing development.</p>
52	<p data-bbox="183 1295 1057 1321"><u>Are there particular examples of good practice regarding infrastructure charges?</u></p>

Q#	Question and Property Council view
	Tauranga City Council provides opportunities to review whether charges are reasonable i.e. the council provides sufficient detail to understand the charges.
53	<p data-bbox="185 316 2101 379"><u>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?</u></p> <p data-bbox="185 427 1120 451">Infill can be less expensive if infrastructure with sufficient capacity is already available.</p>
54	<p data-bbox="185 502 1713 526"><u>Do development contribution policies incentivise efficient decisions about land use, or do they unduly restrict the supply of land for housing?</u></p> <p data-bbox="185 574 2049 598">The purpose of DCs is to allow for the efficient delivery of infrastructure. DCs can be used to incentivise development e.g. Rotorua doesn't charge DCs to incentivise growth.</p> <p data-bbox="185 646 1780 670">Inappropriate DCs can dampen development by unreasonably increasing costs, leading to less development and developer infrastructure provision.</p>
55	<p data-bbox="185 730 1646 754"><u>Are development contributions used exclusively to drive efficient decisions about land use, or are they used to promote broader goals?</u></p> <p data-bbox="185 802 1881 826">Have been used to promote broader goals – e.g. in Auckland. However, this may change once the Local Government Act amendments bed down/take effect.</p>
56	<p data-bbox="185 880 1792 944"><u>How effective have the recent changes to development contributions been that were introduced in the Local Government Act 2002 Amendment Act 2014?</u></p> <p data-bbox="185 992 1041 1016">The changes are positive, however it's still too early to determine their impact.</p> <p data-bbox="185 1064 1668 1088">They should be complemented with national guidance, and the objections process will also be key to ensure the legislation is adhered to.</p> <p data-bbox="185 1136 2049 1200">The complexity and underlying assumptions in modelling that calculates the charges also needs scrutiny, or the lack of transparency will mean inappropriate charges are still levied. NPV based charges in particular can adversely impact growth. This is due to the front end loading effects of this type of model.</p>
57	<p data-bbox="185 1289 1265 1313"><u>What is the likely effect of long-term infrastructure strategies on the availability of land for housing?</u></p> <p data-bbox="185 1361 1131 1385">If effective, will enable more integrated assessment of future land supply requirements.</p>

Q#	Question and Property Council view
58	<p><u>Do councils in high-growth areas require a greater range of approaches for funding infrastructure?</u></p> <p>Yes The way council costs are managed, and forward planning, should also be considered.</p>
59	<p><u>What alternative approaches for funding infrastructure should be considered in New Zealand's high-growth areas?</u></p> <p>Private provision PPPs See <i>Annex 7b</i></p>
60	<p><u>What are the main advantages and disadvantages of having infrastructure vested in Council Controlled Organisations?</u></p> <p>Disadvantages: Watercare's infrastructure growth charge is a DC but is not caught by the Local Government Act requirements. Charges are increasing and it is not clear they are proportionate/appropriate. CCOs objectives are not always clearly linked to facilitating residential development and this can put developers in a no-win situation, hindering development – <i>see Annex 10 regarding issues in this respect</i></p> <p>Advantage: Developer doesn't have the ongoing maintenance and depreciation issues</p>
61	<p><u>Does the use of Council Controlled Organisations create challenges with respect to integrated provision of infrastructure to support housing?</u></p> <p>Members report having issues with Watercare and Auckland Transport in coming to the table and facilitating development. See answer to question 60.</p>
62	<p><u>Has the National Infrastructure Plan helped promote coordination of infrastructure investment? Is there sufficient integration between central and local government infrastructure planning?</u></p> <p>There is probably insufficient integration between central and local government on infrastructure provision.</p>

Q#	Question and Property Council view
63	<p data-bbox="185 236 1232 263"><u>What impact does heritage protection have on the supply and development of land for housing?</u></p> <p data-bbox="185 312 2103 376">Blanket restrictions, such as the pre-1944 demolition control in the PAUP, have significant implications in hindering development. They add further cost, complexity and risk to an already difficult process.</p>
64	<p data-bbox="185 429 2069 456"><u>Are there good examples of local authorities, in areas where there is a housing shortage, working well with landowners who want to build housing for whānau on Māori land?</u></p> <p data-bbox="185 505 987 533">Western Bay of Plenty and Tauranga City Council work well in this respect.</p>
66	<p data-bbox="185 579 2103 643"><u>How important is the aggregation of land for housing development? How difficult is it? Do some local authorities have processes in place that make land aggregation easier – if so, which ones, and how?</u></p> <p data-bbox="185 692 2103 756">Land aggregation is key for dense residential development – both infill and greenfields. It is extremely difficult for developers to facilitate this, as individual land owners need to be aligned in their views and the process is costly.</p> <p data-bbox="185 805 1498 869">Auckland Council has helped with land aggregation for development. Smart Growth in Tauranga provides a framework to encourage land aggregation, but it doesn't necessarily make it easier.</p>
67	<p data-bbox="185 919 2051 946"><u>Is there a need for public agencies that can aggregate land in New Zealand cities? If so, who should establish these agencies? What powers and functions should they have?</u></p> <p data-bbox="185 995 2103 1059">Yes, this should be seriously investigated. They would need real powers to agglomerate sites, masterplan, provide infrastructure – i.e. do things which the market is unable to easily take forward. However, they should not undertake development or work which the private sector can take forward. They should also have private sector board members.</p>
72	<p data-bbox="185 1110 1693 1137"><u>What are the advantages and disadvantages of the Housing Accords and Special Housing Areas Act 2013 and of its implementation to date?</u></p> <p data-bbox="185 1187 2103 1251">They are positive in focussing council's minds and efforts on facilitating residential development. However, it is still too early to determine whether they will be effective as the design and construction phases are still to come.</p>

Q#	Question and Property Council view
	<p>The HPO in Auckland is reported as having positive processes and practices. However there are still issues, <i>see Annex 10</i>, and members report that as SHA developments are afforded priority, non-SHA developments are experiencing additional delays and the associated holding costs. This has serious implications, as non-SHA development will still be essential to increasing supply in the region.</p>
73	<p><u>Are there wider lessons for New Zealand from the planning and development processes that have been used in greater Christchurch?</u></p> <p>Timeframes for responding to the proposed CRDP have been too truncated.</p> <p>The CRDP requires a vision to attract investment to facilitate the rebuild – and all requirements in the plan should be assessed in light of this objective. The rebuild is the key issue for Christchurch. <i>See Annex 3.</i></p> <p>CERA (or any future development agency) needs private sector members on its team/board to assist with attracting investment and development and increasing transparency.</p>

## Annexes

1. PAUP submission (illustrating the likely impact on development of zoning and planning requirements)
2. Hamilton City Council PDP submission (illustrating the likely impact on development of zoning and planning requirements)
3. Christchurch Replacement District Plan submission (illustrating the likely impact on development of zoning and planning requirements)
4. Analysis on commercially feasible development enabled by the Auckland Unitary Plan
  - a. Adam Thompson
  - b. Patrick Fontein (documents 1-4)
  - c. Martin Udale (early, high-level analysis provided to the Council to encourage consideration of development feasibility in zoning and rules prior to notification)
5. Rebuttal evidence on commercially feasible development enabled by the PAUP
6. Greenstar/Homestar evidence to the Independent Hearings Panel (rules going beyond Building Act requirements, which load costs of achieving sustainability targets onto developers)
7. Residential development papers (setting out key issues and barriers for industry)
  - a. Wellington

b. Tauranga

8. Wellington development costs paper
9. Consents and urban design – Wellington, Tauranga, Waikato (setting out key issues and barriers for industry)
10. Consents paper – Auckland (setting out key issues and barriers for industry)
11. Email to Auckland Council Officials and Councillors prior to notification of the PAUP (setting out the implications of having overly prescriptive rules)

Property Council is grateful for the opportunity to comment on the Commission's inquiry.



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**Connal Townsend, Chief Executive**

On behalf of Property Council New Zealand, P O Box 1033, Auckland 1140

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