



The New Zealand Planning Institute's Submission on the Productivity Commission's 'Using Land For Housing Report'.

**4th August 2015**

## **NZPI's Response to the Final Draft Report – Using Land for Housing**

**The NZPI thanks you for the opportunity to provide further comment on the Productivity Commission's work on Using Land for Housing.**

NZPI is pleased to see reference to its submission in the Draft Report and that some of its general feedback on the Issues Paper are reflected in its findings and recommendations.

In particular, NZPI was pleased to see that the Commission is giving consideration to particular recommendations made in our earlier feedback, including that:

- the current rating system be reviewed to better encourage the efficient use of land;
- there is room for a greater level of national direction and involvement in the land planning and development system; and
- the transport system can have significant impact on the supply or development capacity.

NZPI is keen that the Commission takes a wide-reaching approach and assessment to the issues which drive the use of land for housing, and overall housing affordability. Unfortunately, some of our members perceive that the Commission is advocating a growth at any cost approach, which leads us to encourage the Commission to adopt a wider lens in their investigations and report.

NZPI would like to reiterate the point from its earlier feedback that thinking in isolation of the planning and development system as a means of dealing with externalities associated with land use co-ordination problems may not be helpful and is too narrow an approach. Any next steps on addressing this issue need to be comprehensively considered alongside urban development strategies and other external factors that also play a role in influencing the availability of land for housing and the affordability or access to, appropriate housing.

NZPI supports the use of spatial planning as being integral to the successful development of any City. However, we caution that spatial planning cannot be limited to just address the provision of land for housing and must be an integrated process which includes all elements that make a successful, livable city. These include locations for employment, social and public services and facilities, transport networks, infrastructure, parks and reserves, amongst other matters. As part of this equation, planning needs to also consider land uses that service urban centres; for example, ensuring that there is sufficient agricultural land available within such a proximity that would not result in higher costs for produce. Some of our members believe that taking a simple market approach to decide which is the best use of land is erroneous and does not factor in the complexities of either the economy, best urban form or the environment.

As part of undertaking spatial planning, the NZPI agrees and strongly supports that land use policies and transport infrastructure should be effectively aligned. To be successful, some NZPI members consider that this needs to be accompanied by political fortitude and agreement and adherence by central, regional and local government to agreed regional transportation plans and strategies.

NZPI also reiterates its concern that the Housing Accords and Special Housing Areas Act 2013 does not create a suitable framework for planning decisions. From some of our members' experience, the general public is least likely to engage on strategic plans and district plan changes covering wide areas. The ability of the general public to comment on resource consents is already heavily restricted, and is largely justified on the ability on the public to have previously commented at the plan change stage. Restricting the eligibility of submitters to comment on site specific plan changes would be a strong discouragement for community participation in local decision making. The goal of such plan changes should not be a quick plan change process, but the introduction of a quality planning framework. Where there is early engagement, as we outline above, these planning processes tend to proceed through on a timely basis.

NZPI would caution proposing another new statutory pathway. We believe that the provision of incremental strategies or amendment of short term programmes can be readily included in the existing RMA planning documents. In terms of infrastructure and development programmes these can also include opportunities for adjustment and variations in programming as part of the provisions in RMA planning documents. The Crown already has the opportunity to submit and influence the content of such plans, as well of course, as being actively engaged at the front end plan review and development phases. NZPI consider that these do not warrant 'new legislative avenues' in order to bypass existing LGA and RMA processes. In our opinion, this would make a complex system even more complex. Many of our members remain of the view that a key problem is a lack of guidance as to the interpretation and implementation of legislation, rather than the legislation itself. This problem could be repeated with any new legislation. Further, some of our members are concerned about the singular focus on the fastest growing councils without considering the wider implications that legislative change may have on the rest of the country.

#### F2.15

Some of our members were concerned with the implication in F2.15 that land use regulation is “bad”, given that history has shown that there is a valid need for a degree of land use and regulation in some form. Our members believe that the Commission needs to carefully consider the positive aspects and benefits of land use regulation, rather than focus on the costs of planning. Of concern is that such approach biased against the costs of planning does not provide a sound basis for policy making, and potential reform.

#### Q9.1 and R4.5

The NZPI uphold early engagement as being best practice. Experience has shown that the planning processes are much smoother and easier if the community is well engaged early on in the process. Most councils already undertake pre-consultation at various stages of plan formulation, e.g. at problem recognition stage, option choice stage or close to formal notification. Where a council has not engaged early and proposed major changes, the result is generally significant delays, depending on the issue. The costs of doing this early engagement can be seen as a disincentive; however, we believe that the benefits strongly outweigh the time and costs that can be associated with a process that where the community has not been engaged. NZPI does not consider that the procedural requirements of Schedule 1 either discourage or prevent this early engagement occurring.

#### Q4.2

Many of our members agree that private covenants are a significant constraint, and can act to undermine what is being sought to be achieved through district plan controls. For example, while a district plan may provide for more intensive development, a private developer may impose strict covenants on the size of a dwelling, the number of dwellings, floor areas, and even the types of materials used. At present, these covenants put councils in an unenviable position when it comes to assessing applications. This may only be able to be addressed through legislative change, preventing the imposition of such covenants in the first place where they conflict with district plan provisions.

#### Q4.3

Further submissions were already limited / constrained through the 2009 amendment to the RMA. Many of our members were concerned about any further narrowing the eligibility of parties. Any further narrowing would make assessment of eligibility even more cumbersome than it is and could result in significant errors and oversights, leading to delays.

#### Q4.5

NZPI is not unduly concerned as to who makes the decisions. Its concern is as to the quality of the decision makers, and believes that this should be the focus. The Making Good Decisions programme has no doubt improved the quality of decision makers and decision making, but there remains room for improvement. NZPI would welcome the opportunity to discuss options on how to achieve this further. Some of our members consider that the approach taken in some jurisdictions of a hearing panel being selected from a list of pre-approved persons and comprise members with a range of expertise (e.g. urban design, economics, traffic, biodiversity) and professional background (e.g. economist, town planner, architect/urban designer) should be explored further as part of this work.

#### Q5.2 - 5.4

Some of our members believe that there would be great benefit in providing a level of standardisation in land use rules, and believe this has been an opportunity lost since the inception of the RMA. An example of wasted time and effort has been giving effect to the National Policy Statement on Electricity Transmission, with each council having to interpret how to best give effect to it. Instead of each council and its community having to grapple with this, the Crown could and should have released an NES with standardised land use rules to accompany it. In saying this, while standardisation may work for some activities, NZPI recommends that there needs to be flexibility built to deal with local situations, or matters of national importance or significance that should not be compromised by any standardised provisions.

As the Commission is aware, a key plank of the current RMA reforms proposed by the Minister for the Environment is developing template plans and provisions. We are aware that the Ministry is currently undertaking a large work programme addressing these very questions to which NZPI has had an input and we recommend that the Commission should discuss this matter directly with the Ministry for the Environment.

#### Q9.3

Some of our members consider that there would be merit in such a NPS. A NPS would have the benefit of adding considerable weight to the need to increase housing supply, and would help counteract some of the local pressure to limit growth opportunities. To be most effective, we recommend that the Crown should consider a comprehensive planning approach which may need to be accompanied by regulation.

#### Q9.4

The Minister for the Environment already has power to direct changes to district plans and regional policy statements under s25A of the RMA. However, the provision of sufficient development capacity to meet population growth is not a specified function for Councils under ss30 or 31 of the RMA, and if introduced would require legislative change first.

#### Q10.1

NZPI supports the notion of an Urban Development Agency, as noted in its earlier feedback. We concur that a more collaborative, partnered approach needs to occur in some cases to drive development to occur, as having enabling provisions in plans can only achieve an opportunity, rather than ensuring an outcome.

The terms of reference for such an agency would require collaboration on a regional basis with both the councils in the region and government. In this way there is a prospect of all parties agreeing and supporting their regionally based Development Agency.

We urge there be further consideration of how such an Agency may be formed and function, and that there is reflection on why there has been in some cases a previous reluctance for public and private sector partnerships to achieve the same end. Accompanying this needs to be consideration of what existing legislation already exists. For instance, we note that territorial authorities already have powers to enter the public housing field. Some of our members believe that, to be successful, any agency would need to include representatives from the relevant regional council(s) and territorial authorities, central government agencies, and the private sector.

In terms of next steps, NZPI encourages the Productivity Commission to reflect on its recommendations with a view to alignment with other pieces of legislation and strategy (both horizontal and vertical) and the avoidance of duplication. In keeping with the need for horizontal and vertical alignment, NZPI also encourages the Commission to reflect on regional differences throughout New Zealand and not impose a one size fits all approach if possible. For example, there is little point in enabling significant residential development if it is not sustainable or would be in conflict with other environmental, social, cultural or economic goals established for that region.

NZPI thanks the Productivity Commission for this opportunity to comment on its Draft Report and encourages queries to be directed to either Bryce Julyan, Chair of NZPI ([Bryce.julyan@planning.org.nz](mailto:Bryce.julyan@planning.org.nz)) or Susan Houston, CEO of NZPI ([susan.houston@planning.org.nz](mailto:susan.houston@planning.org.nz)).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Susan Houston', with a long horizontal flourish extending to the right.

Susan Houston  
CEO