NEW ZEALAND
PRODUCTIVITY COMMISSION
Te Kōmihana Whai Hua o Aotearoa

Using land for housing

Issues Paper
November 2014

The Productivity Commission aims to provide insightful, well-informed and accessible advice that leads to the best possible improvement in the wellbeing of New Zealanders. We want to gather ideas, opinions, evidence and information to ensure that this inquiry is well-informed and relevant. The Commission is seeking submissions on the questions contained in this paper by 22 December 2014.

Using land for housing

Issues paper – November 2014

The New Zealand Productivity Commission

Te Kōmihana Whai Hua o Aotearoa[1]

The Commission – an independent Crown entity – completes in-depth inquiry reports on topics selected by the Government, carries out productivity-related research, and promotes understanding of productivity issues. The Commission aims to provide insightful, well-informed and accessible advice that leads to the best possible improvement in the wellbeing of New Zealanders. The Commission is bound and guided by the New Zealand Productivity Commission Act 2010.

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[1] The Commission that pursues abundance for New Zealand.

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The issues paper

This issues paper aims to assist individuals and organisations to participate in the inquiry. It outlines the background to the inquiry, the Commission's intended approach, and the matters about which the Commission is seeking comment and information.

This paper contains many specific questions to which responses are invited. These questions are not intended to limit comment. Participants should choose which (if any) questions are relevant to them. The Commission welcomes information and comment on all issues that participants consider relevant to the inquiry's terms of reference.

Key inquiry dates

Receipt of terms of reference:	9 September 2014
Due date for initial submissions:	22 December 2014
Release of draft report:	May 2015
Draft report submissions due:	July 2015
Final report to Government:	30 September 2015

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Why you should make a submission

The Commission aims to provide insightful, well-informed and accessible advice that leads to the best possible improvement in the wellbeing of New Zealanders. Submissions help the Commission to gather ideas, opinions and information to ensure that its advice is relevant, credible and workable.

Submissions will help shape the nature and focus of this inquiry. Inquiry reports may cite or directly incorporate relevant information from submissions. There will be an opportunity to make further submissions in response to the draft report.

How to make a submission

Anyone can make a submission. It may be in written, electronic or audio format. A submission can range from a short letter on a single issue to a more substantial document covering many issues. Please provide supporting facts, figures, data, examples and documentation where possible. Every submission is welcomed; however, multiple identical submissions will not carry any more weight than the merits of the arguments presented. Submissions may incorporate relevant material provided to other reviews or inquiries.

Submissions may be lodged at www.productivity.govt.nz or emailed to info@productivity.govt.nz. Word or searchable PDF format is preferred. Submissions may also be posted. Please email an electronic copy as well, if possible.

Submissions should include the submitter's name and contact details, and the details of any organisation represented. The Commission will not accept submissions that, in its opinion, contain inappropriate or defamatory content.

What the Commission will do with submissions

The Commission seeks to have as much information as possible on the public record. Submissions will become publicly available documents on the Commission's website shortly after receipt unless accompanied by a request to delay release for a short period of time.

The Commission is subject to the Official Information Act 1982, and can accept material in confidence only under special circumstances. Please contact the Commission before submitting such material.

Other ways to participate

The Commission welcomes engagement on its inquiries. Please telephone or send an email, or get in touch to arrange a meeting with inquiry staff.

1 What the Commission has been asked to do

The Government has asked the Productivity Commission to undertake an inquiry into the supply of land for housing in New Zealand.

Over the next few decades, the population of some New Zealand cities will grow significantly. The number of dwellings required to house the population of these cities will grow at an even greater rate because of demographic trends that mean that fewer people are living in each dwelling. Ensuring that there is sufficient and affordable housing to accommodate this growth is of critical importance to how our cities function, and to the broader wellbeing of the population.

Over the past decade, housing supply has struggled to keep pace with demand and there have been significant increases in housing costs, especially in our main cities. A lot of factors affect the supply of affordable housing, but one of the most important is the availability of land. Planning systems and land regulations imposed by central, regional and local governments affect the speed and efficiency with which land is made available for housing, including through more intensive use of land within existing city boundaries.

This inquiry will examine the by-laws, processes and practices of local planning and development systems (see Box 1 for the Commission's definition of these systems) across New Zealand's faster-growing urban areas, to identify councils that are effective in making enough land available to meet housing demand and processes that could be adopted more widely. Approaches used overseas may also provide valuable lessons for New Zealand.

Box 1 **Local planning and development systems**

For the purposes of this inquiry, the Commission has defined "local planning and development systems" to include:

- the legislative frameworks governing land use, the planning and funding of transport infrastructure and services, and the planning and funding of infrastructure needed to make land viable for housing (the Resource Management Act 1991, the Land Transport Management Act 2003 and the Local Government Act 2002). These frameworks are described in Section 3;
- the rules, plans, policies and pricing regimes used by local authorities to give effect to

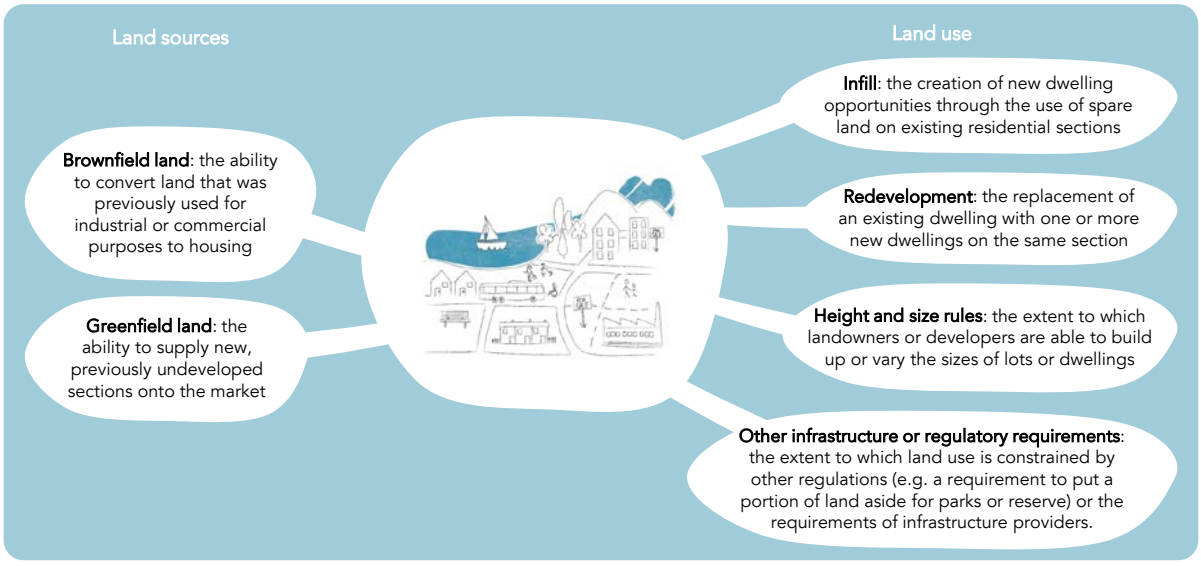
these legislative frameworks; and

- the internal processes used by local authorities to carry out their responsibilities, rules and policies.

In reviewing the planning and development systems, the Commission has been asked to see "how they deliver an adequate effective supply of development capacity for housing" (See Appendix A Terms of reference). The Commission has defined "development capacity" to mean land that is "shovel ready" for building housing, and that can be developed to meet a range of market demands. This reflects the Commission's findings in its *Housing affordability* inquiry that both greenfields and brownfields land are necessary and that greater density should be encouraged to promote affordable housing (NZPC, 2012). It also reflects the conclusions of scholars such as Bertaud (2014, p. 5), who argue that the "amount of floor space that can be built on a unit of land is…a crucial variable" for the fair and effective functioning of cities.

A number of factors affect the "supply of development capacity" (Figure 1).

Figure 1 What contributes to the supply of development capacity?



The Commission is interested in improvements that increase the efficiency of land development for any housing, but has a particular interest in any processes that enable a greater supply of affordable housing to be built.

The Commission has been asked to make recommendations to improve performance in four main areas:

- policies, strategies, outcomes and processes for urban land supply, including the provision of infrastructure;
- funding and governance of water and transport infrastructure;
- governance, transparency and accountability of the planning system; and
- involvement and engagement with the community.

The Commission will also consider:

- what implications leading practices in the supply and development of land for housing have for the range of laws governing local authority planning; and
- what lessons can be learned from recent initiatives such as the introduction of Housing Accords and Special Housing Areas (a policy that aims to expedite housing supply in specific high-growth areas), and the planning, legislative and governance frameworks associated with the rebuild of Christchurch.

What this inquiry is *not* about

A number of issues are outside the scope of this inquiry. In particular, this inquiry:

- will not review the fundamental role or purpose of the Resource Management Act 1991;
- does not include the Building Act 2004 or related processes governing the assessment and processing of building consent applications; and
- will not consider changes to the ownership of local authority infrastructure assets, but does include the funding and governance of those assets (eg, the implications of whether or not assets are held by a legally separate, but wholly owned entity).

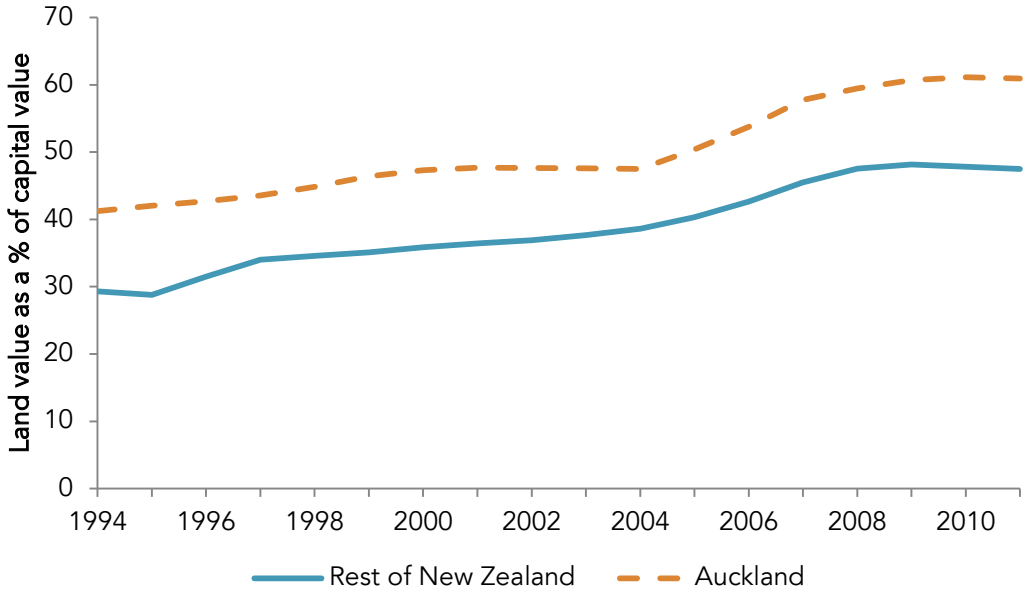
Why land supply matters

Land is a key component in the supply of housing

Housing is a house and land package. Irrespective of whether housing is a high-density inner-city apartment or a stand-alone house on the fringe of a city, land still has to be developed and serviced with infrastructure before it can be used for housing.

The land component of housing costs has grown rapidly over the past 20 years. This trend is particularly acute in Auckland, where land prices now account for more than 60% of the cost of a new dwelling (Figure 2). Across the rest of the country, land costs account for around 48% of the cost of new dwellings.

Figure 2 Land prices as a share of dwelling cost

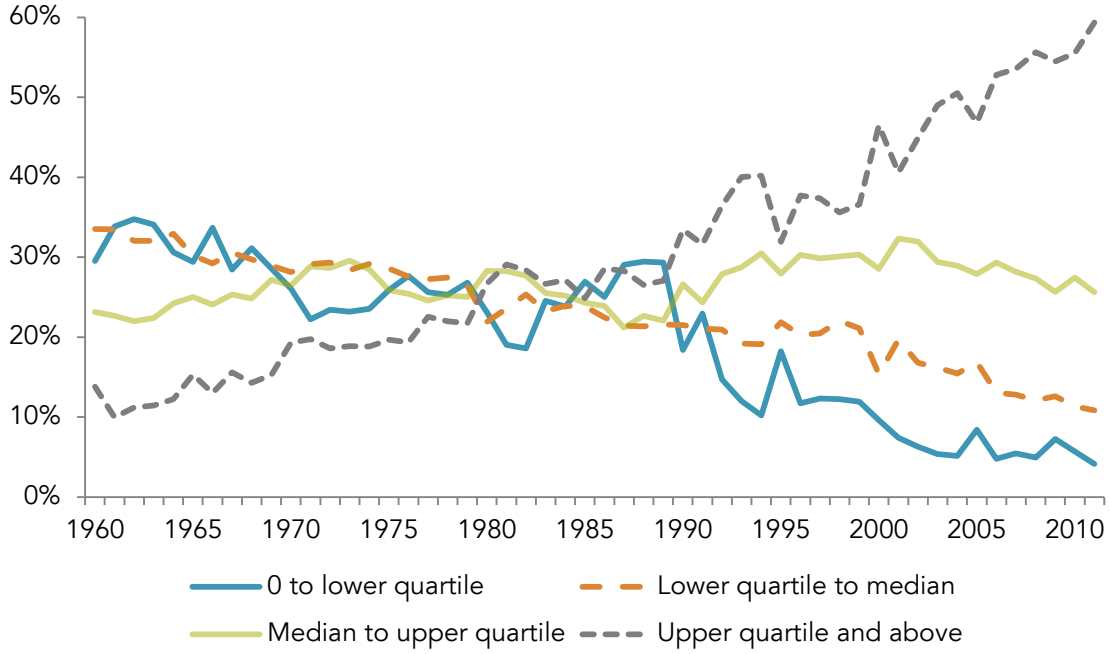


Source: Productivity Commission calculations using QV data.

Alongside the direct effect of high land prices on housing affordability, there is also some evidence that land prices are contributing to the construction of larger and more expensive dwellings. In the early 1960s, the value of most new housing was lower than the average value of existing housing. New builds in the last decade are increasingly valued in the upper quartile of all housing stock (Figure 3).

In addition, average floor sizes for new dwellings have grown from around 110m^2 in the 1970s to close to 200m^2 – among the largest in the world (James, 2009). One factor that is likely to be driving the trend toward higher-value new builds is that, with land prices constituting an increasing share of the total value of a dwelling, owners are incentivised to build more expensive houses so they do not undercapitalise the value of the land.

Figure 3 The value of new housing relative to existing housing stock



Source: Productivity Commission calculations using QV data.

Land supply needs to keep pace with demand

New Zealand's population is expected to increase to around 5.15 million by 2031 (Table 1). Because the number of people per dwelling is expected to decline, the number of households will grow at a faster rate than the population. Around half of the growth in households between 2011 and 2031 is expected to take place within Auckland.

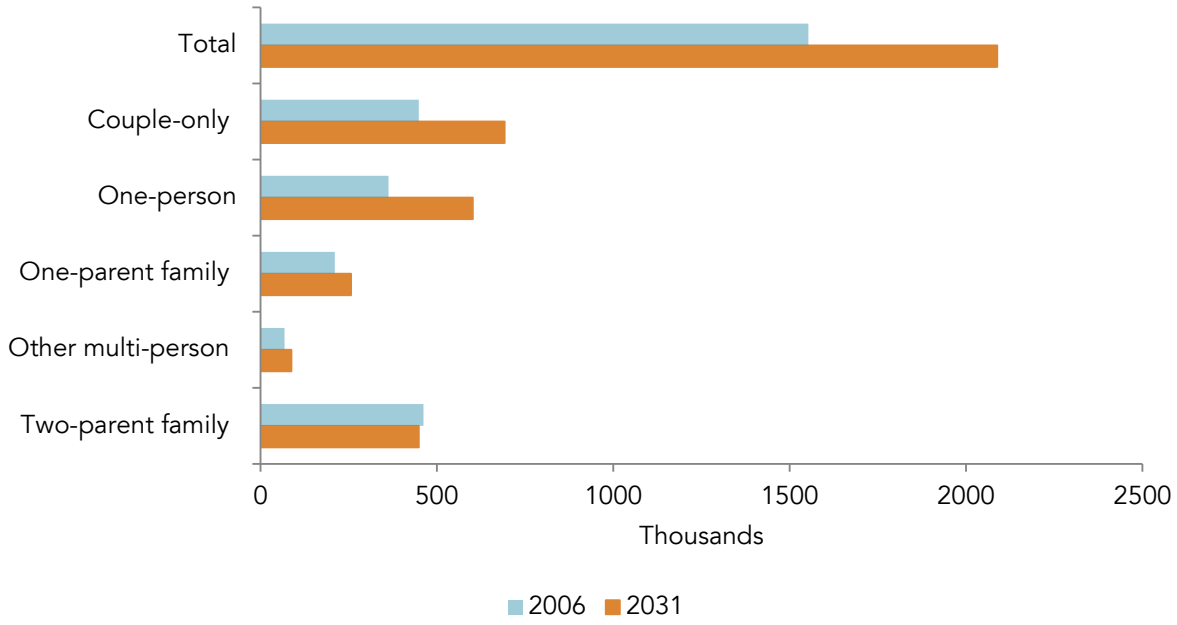
Table 1 Projected population and household growth, 2011-2031

	Population	Households	People per household
2011	4 425 000	1 672 000	2.6
2031	5 149 000	2 089 000	2.4

Source: Statistics New Zealand, 2010; 2012.

The projected reduction in the number of people per household in New Zealand is largely driven by a significant increase in the number of one-person and couple-only households (Figure 4). The aging population is one driver of this.

Figure 4 Projected change in New Zealand household types, 2006-2031



Source: Statistics New Zealand, 2010.

The overall message from New Zealand's demographic trends is that housing demand is likely to remain strong over the coming decades. In addition to the longer-term demographic trends, the housing market is also exposed to some shorter-term pressures.

- The effects of the Canterbury earthquakes were estimated by mid-2013 to have resulted in around 16 000 properties being severely damaged and over 9 000 becoming uninhabitable (Goodyear, 2014).
- New Zealand's net migration is volatile and in the past 20 years has ranged between a high of a net gain of 41 600 and a net loss of 12 600. This volatility can result in unpredictable fluctuations in housing demand.
- The house price boom in the mid-2000s and continued affordability pressures may be resulting in pent-up demand. Statistics New Zealand (2013) report that the trend toward smaller household sizes has slowed in recent years, with children choosing to remain in the family home for longer as housing has become less affordable.

The responsiveness of the housing market influences the extent to which demand for housing leads to more construction of housing or higher housing costs. The empirical evidence for New Zealand suggests that the responsiveness of housing supply to changes in demand is around average across the countries for which data is available, but almost half as effective as in a number of better-performing OECD countries (Sánchez & Johansson, 2011). Barriers that

unduly restrict the use of land for housing can impede the ability of the housing market to respond to this demand, resulting in higher housing costs.

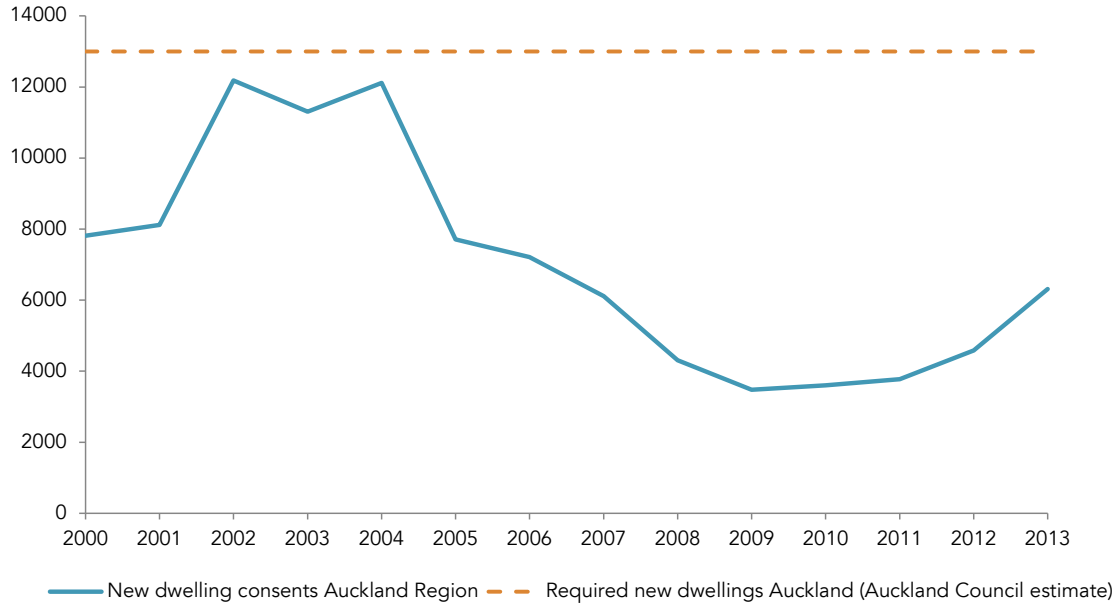
Is current land supply meeting demand?

Over the past 30 years, New Zealand has typically built between 20 000 and 25 000 new residential dwellings each year (Statistics New Zealand, 2014a). Between 2009 and 2013 there was a significant slump in new dwellings – the year to April 2011 generated the lowest number of consents on record. In the last two years the number of consents has picked up, driven partly by a large number of consents in the Canterbury region.

Auckland is both New Zealand's largest and most expensive city (in terms of housing costs relative to incomes). Auckland is also growing rapidly, and by the year 2031 is expected to be home to around 2 million people, or nearly 40% of New Zealand's population.

Auckland Council (2012) estimates that housing the city's growing population will require about 13 000 new dwellings each year. Figure 5 shows that recent construction of new dwellings in Auckland has fallen spectacularly short of that figure. Each year that this shortfall continues is likely to result in additional pent-up demand, meaning that the average number of new dwellings required to meet demand will increase.

Figure 5 Building consents and projected housing demand in Auckland



Source: Statistics New Zealand, 2014a; Auckland Council, 2012.

Although the current imbalances in the Auckland housing market are a multi-faceted problem, a sufficient supply of useable land for housing is fundamental to increasingly housing supply. Auckland Council has taken steps to improve land supply and aims to have a minimum supply of greenfield land to meet five years' worth of demand. In order to meet this target, the supply of greenfield land needs capacity to carry 23 250 dwellings (or 4 650 dwellings each year).

The Ministry of Business, Innovation and Employment's most recent assessment of available land for housing points toward a gap between land availability and the Council's targets (MBIE, 2013). Auckland's available land in 2013 had capacity for around 14 500 dwellings, meaning that greenfield planning areas that are ready for subdivision were about two years short (8 750 dwellings) of Council's minimum target (MBIE, 2013).

2 Approach to the inquiry

This section explains how the Commission has interpreted its terms of reference and intends to carry out the inquiry. In particular, it describes the Commission's analytical framework and outlines which areas and territorial authorities the Commission intends to focus on.

The impact of a shortage of development capacity for housing

This inquiry complements and builds on the Commission's 2012 report, *Housing affordability*. That inquiry examined the breadth of issues affecting housing affordability, from the role of taxation to the use of New Zealand's state housing stock. A central finding from the inquiry was that constraints on the supply of land, and the slow pace at which land for housing is zoned and released with appropriate infrastructure in the face of rapid population growth, has contributed to escalating housing prices and declining affordability, in certain areas. While the recommendations touched on a wide range of issues, the Commission urged a swifter and more responsive supply of land for housing – including both greenfields and brownfields land and involving greater densification.

> [A] more balanced approach to urban planning is required in the interests of housing affordability. Land for housing can come from the development of brownfields sites, by infill development in existing suburbs, and by making suitable greenfields sites available, ideally in a complementary manner and in a way that provides for substantial short-, medium- and long-term capacity. (NZPC, 2012, p. 125)

Since then, house prices have continued to rise in some areas, especially Auckland.

Expectations of continuing price rises

Where there is an ongoing shortfall of development capacity in areas of growing demand, house prices will continually increase. Expectations of future house price increases affect people's *current* behaviour (Shiller, 2008). Some people that would have expected to purchase a first home find that home ownership is out of reach and their capacity to save a deposit cannot keep pace with rising prices. Some of these people will forgo home ownership, some will seek to move to other regions where house prices are more affordable and some will seek alternative financing arrangements, perhaps relying on family to help out. For some, there is pressure to take the plunge into home ownership despite high prices because there is a belief that houses "won't get any cheaper". For others with fewer choices, continuing price rises can lead to them living in overcrowded conditions or non-standard dwellings. The prospect of rising rents and capital gains will make housing an attractive option for people looking for investment opportunities. Landowners in areas that are zoned for housing, or may be zoned for housing in the future can have an incentive to hold land in the expectation that their land will become ever more valuable, and there is an incentive for developers to acquire land for

possible future development, provided the expected future gains are greater than the holding costs.

A credible commitment to future land supply

The behaviours described above are all rational responses to the shortage of supply of effective land for housing, and an expectation that such shortages will continue. The Commission in its *Housing affordability* report urged both an immediate increase in land for development in Auckland, Christchurch and other high growth cities *and* that councils signal their future intentions about the release of land and the provision of required infrastructure. The Commission recognised that changing the expectations of future price rises required a credible commitment to the release of land for housing for a sustained period of time. In the case of Auckland:

> [T]he task is to identify land that could be immediately released for development. It will then be important to signal significant tracts of land with the *potential* for urban development… perhaps 50 years out, with a *commitment* to major offsite infrastructure capacity (say) 20 years out, and commitment to *build* infrastructure within a 10-year horizon. (NZPC, 2012, p. 122)

The Commission was also concerned that planning processes were not adequate to deal with the scale, scope and coordination issues faced by Auckland and recommended that Auckland Council look to other models:

> Auckland Council should look to collaborative models for the process of identifying, assembling and releasing large-scale tracts of land. (NZPC, 2012, p. 122)

With respect to council planning processes across New Zealand more generally, the Commission found that along with the slow pace at which land for housing is zoned and serviced with infrastructure, the objectives of council plans for densification were often not reflected in, and incompatible with, a myriad of rules and restrictions on the ground. There were also issues around the process for setting development contributions from developers for the provision of infrastructure (NZPC, 2012).

These issues, and the recognition that planning and development processes are a key part of the supply chain of land for housing, have thrown the spotlight on the performance of urban planning and the provision of infrastructure needed for housing, in New Zealand.

The purposes and impacts of land use regulation

Why do we have urban planning at all? Land use planning and regulation in New Zealand and many other countries comes from a tradition that acknowledges that land markets are prone to market failures (Lai, 1994), including:

- externalities – the actions of land users affect the amenity of other users – for example, industrial or commercial activities create noise or heavy traffic or generate other pollutants affecting nearby residential areas, and new residential development can increase traffic congestion, block sun or impede views, reducing the amenity of existing properties;
- a less than optimal provision of amenities such as parks, reserves, and playgrounds (which can have public good characteristics) or inadequate protection of sites whose value to the community is not fully reflected in its price, such as wāhi tapu sites or heritage areas; and
- coordination failures – for example, infrastructure needs to be in place before a development is viable, yet there is no need for the infrastructure unless the development is going to proceed.

Regulation and land use and infrastructure planning respond to these issues. Responses typically include zoning land into commercial, industrial and residential areas to separate out incompatible land uses. They can also include restrictions such as specifying the maximum height of buildings or the maximum allowable site coverage, and rules protecting or restricting the uses of heritage sites. Zoning land use can also allow land owners to take advantage of the positive externalities that can occur when similar land uses are co-located – such as the amenity value of a quiet neighbourhood close to a park for residential users, or the value to businesses of being located close to suppliers and a main arterial route. Co-location of compatible uses also allows local authorities to provide roads and open spaces more efficiently in suitable locations, reducing congestion. A planning and development system helps local authorities plan, coordinate and provide for infrastructure, which in many cases is an expensive and sunk investment.

While it is generally accepted that some form of land use regulation is desirable, there are others who argue from a "government failure" perspective. Local government is unlikely to get the allocation of land to different uses "right" and planning tools such as zoning are insignificant or irrelevant for dealing with externalities (Lai, 1994). A review of a number of studies by Gyourko and Molloy (2014) suggests that while some specific urban planning rules mitigate negative externalities, the purpose of other forms of planning regulation is difficult to define and the benefits are very difficult to quantify.

Bertaud (2014), however, argues that land use regulation and infrastructure investment are critical for the effective functioning of cities. He goes on to argue that:

> [the] main challenge for urban planners and economists is reducing cities' negative externalities without destroying the wealth created by spatial concentration. To do that, they must plan and design infrastructure and regulations while leaving intact the self-organizing created by land and labor markets (p. 2)

That is quite a challenge because in practice, land use regulation and infrastructure investment can create its own negative effects and problematic incentives.

Managing external effects

Externalities are typically easier to deal with when they affect only a few parties, as a solution can be found by negotiation or a contract between parties. The externalities associated with land use are often more difficult to resolve as they involve numerous parties. The processes that enable people to apply for a change or variation to a plan, consultation processes and dispute resolution processes – all designed to reduce the transactions costs associated with externalities that affect many parties – are of themselves costly (Lai, 1994).

Attempts to deal with externalities are made more difficult when the effects are cumulative. This is problematic for urban planning because planning decisions (and plan changes) tend to be made incrementally over a period of time and it may not become clear for a long time what the cumulative effect is likely to be.

Further, in the attempt to deal with (internalise) externalities in a local area, the effects can be experienced well beyond the borders of a particular city or region. As the Commission's inquiry report *Towards better local regulation* noted:

> Local authorities have few incentives to consider impacts on parties located outside of their constituency, and will typically not have good information on those affected parties. (NZPC, 2013, p. 120)

The Commission also found that "in many cases there will be some national interest in the most local of regulatory issues" (NZPC, 2013, p. 120).

In this case, central government is interested in councils ensuring a sufficient supply of land for housing as a lack of supply contributes to house price inflation with implications for the distribution of wealth and intergenerational equity, macro-financial stability, and for government expenditure. High housing prices make monetary policy more difficult for central bankers since it requires a focus on issues beyond overall changes in the cost of living (Cheshire, Nathan and Overman, 2014; RBNZ, 2013). Rising house prices also put upward pressure on rents, which flows through into government rent subsidies for people on low incomes, such as the Accommodation Supplement and the Income Related Rent Subsidy (NZPC, 2012).

Coordination problems and conflicting incentives

One central aim of urban planning is to coordinate land use with the supply of infrastructure. However, developers, planners and infrastructure providers may not share the same incentives. Where infrastructure is funded largely from current residents (eg through rates), infrastructure providers may prefer to maximise the use of existing assets rather than extend the reach of the network. There is a strong incentive on local government to manage the release of land to avoid investing in infrastructure that may be underutilised.

Central government is also a major provider of infrastructure. Roads are expensive to build and maintain and planning for new roads is typically over a long time horizon and takes projections

of future use into account. The New Zealand Transport Authority (NZTA) has an incentive to ensure that existing road networks are used efficiently. NZTA also want to ensure that the pattern of urban development does not unduly impede the flow and speed of traffic and coordinates with councils' plans for development. However, developers may not wish to build in areas that councils and infrastructure providers prefer, if the returns do not warrant the private investment.

If the transaction costs associated with council planning processes are too high, or the time to go through the process is too long, or the outcome is uncertain, then developers will have reduced incentives to proceed. If the costs are high and the time frame before the value of development can be realised is long, only developers with large balance sheets will be able to engage in development, reducing competition leading to higher prices.

Bertaud (2014) characterises urban land development as a linear process, similar to an industrial production chain. There are many places along the chain where coordination problems can become apparent and where holding costs, transactions costs and lost opportunities lead to wasted and misallocated resources. The issues with a production chain model of planning become more evident (and problematic) when immediate land release is required to alleviate rapidly rising prices in fast growing cities.

Political dynamics and distributional impacts

Along with externalities and coordination issues, the challenges of urban planning are compounded by political dynamics. Like other forms of regulation, urban planning creates winners and losers and the planning process can favour incumbents. Rules over the use of land tend to increase the value of existing housing and may reduce the value of raw land (Ihlanfeldt, 2007). In New Zealand's case, the former Metropolitan Urban Limit (MUL) in Auckland meant that land within the MUL (zoned for residential use) was over eight times more expensive than land outside the MUL (NZPC, 2012). The impact of Auckland's MUL was more pronounced at the lower end of the housing market (Zheng, 2013). Changes in land use rules can deliver windfall gains to current owners, for example, where the land is rezoned as residential, thereby increasing its market price.

Those who own land or houses have strong incentives to lobby for rules which protect or enhance its value. In the absence of countervailing pressures, this can undermine the supply of land for housing, increasing house prices. Local authorities are elected by existing residents who have an interest in protecting the amenity value of their properties (the "not in my back yard" or NIMBY factor) and keeping rates low. Because new development might change the character or amenity of existing neighbourhoods or require new infrastructure spending, it is sometimes seen as a threat to both of these objectives. Local councils represent the interests of local residents and they are accountable to them, however, there are issues that local authorities deal with that can have implications for potential future residents, and as noted already, wider national implications. The strongest incentive on local body politicians is to manage the concerns of voters, who are existing residents.

There are also tensions at a national level, where affordable housing is a priority but real decreases in land or property prices are likely to be politically difficult.

Evaluating the planning and development system

This inquiry investigates and seeks improvements to the effectiveness of the planning and development system in New Zealand. Given the externality, public good and coordination problems that the planning system was designed to resolve, and the challenges it faces, how well does the system meet the demand for land in its most valued use, while mitigating negative externalities, and supplying infrastructure efficiently? Can the current system be made to work better (to benefit many towns and cities throughout New Zealand) or is a different institutional framework required to deal with the major externality and coordination problems faced by our fastest growing cities?

There is a spectrum of possible approaches ranging from incremental improvements to the current system to more fundamental institutional change. And there are a number of criteria the Commission could consider in evaluating the range of options for improving the planning and development system:

- Are the objectives of land use planning clear, and are any restrictions on choice the minimum necessary to achieve those objectives?
- Is there sufficient coordination across the whole planning and development system to overcome coordination failures and ensure that infrastructure and development are aligned?
- Does the process of setting rules / restrictions reflect the broad interest of the community and the country as a whole, not just those of interested parties?
- Is there good governance of the planning and development system? Are decisions being made at the right level? Are decision review mechanisms appropriate?
- Is the process by which decisions are made transparent? Does it provide a level of certainty for all parties about future intentions?

Q1 **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?**

Q2 **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?**

Q3 **What criteria should the Commission consider in evaluating the current land planning and development system in New Zealand?**

Q4 **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?**

Comparative analysis of councils' performance

In the course of this inquiry, the Commission will: "Examine and report, *in a comparative sense*, the by-laws, processes, and practices of local planning and development systems to identify leading practices that enable the timely delivery of housing..." (Appendix A Terms of reference, emphasis added).

Comparative analysis is a useful process for identifying and understanding outstanding practices from different organisations. The Commission does not see particular value in preparing "report cards" that set out how effective the land development processes are for specific local authorities, because such processes can miss important nuances or fail to recognise the different circumstances of individual councils. Rather, the objective is to compare the processes and practices of the local authorities that are responsible for New Zealand's faster-growing urban areas, with a goal of identifying effective approaches that might be replicated more widely. In saying this, because there are distinctive local characteristics across jurisdictions, successful approaches in one jurisdiction will not always be directly applicable to other parts of the country.

The availability of robust, comparable data is an important component of comparative analysis. The Commission is interested in any data sources that would be useful for this inquiry.

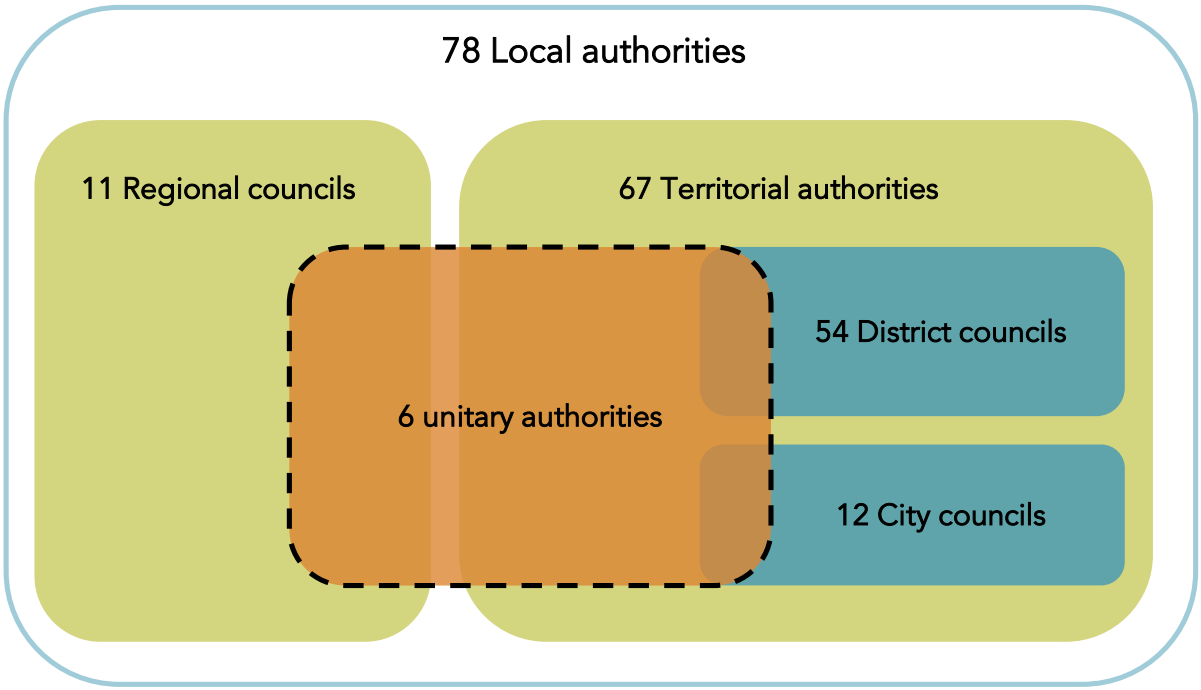
Q5 **What data sources will be most useful in identifying effective local authority planning processes for the development of land for housing?**

Local authorities

The Commission will "review practices of the larger urban planning and development systems, including but not limited to the authorities of the largest and/or fastest-growing urban areas" (Appendix A Terms of reference).

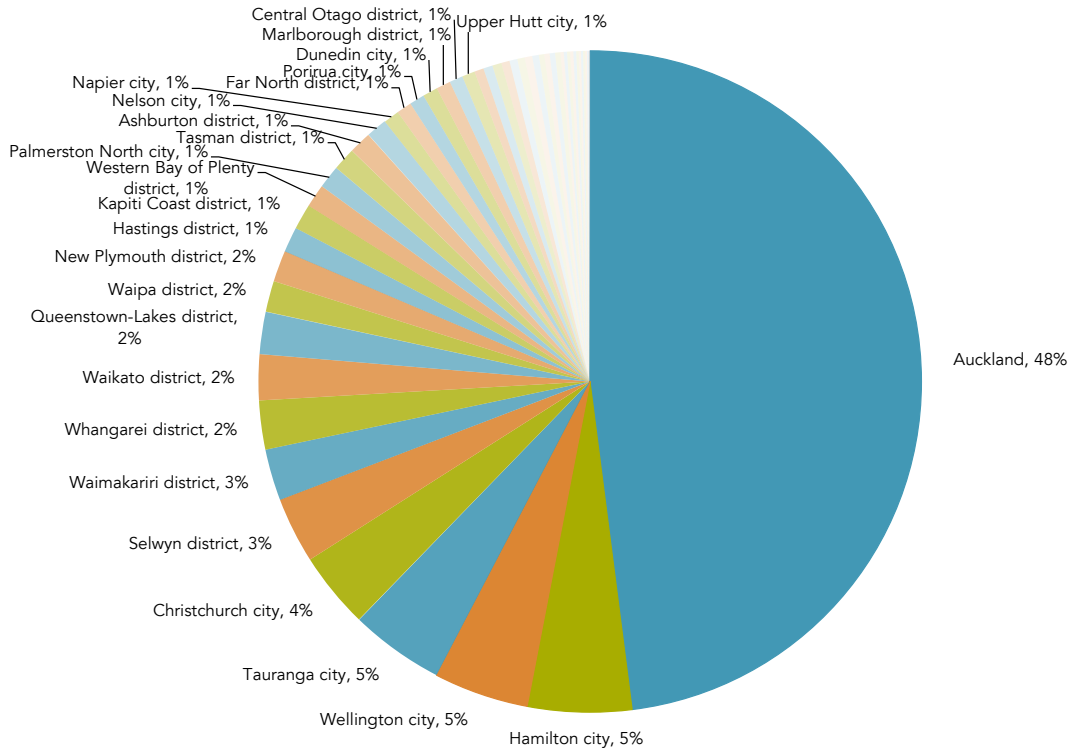
There are two types of local government structures in New Zealand: regional councils and territorial authorities (TAs). Territorial authorities are further broken down into three types: city, district and unitary authorities. A unitary authority is a city or district council which also has the functions of a regional council (Figure 6).

Figure 6 Types of local authorities



Of the TAs that experienced population growth from 2001 to 2013, almost half of that growth was in Auckland – more than the next 28 fastest-growing TAs combined (Figure 7).

Figure 7 Location of New Zealand's population growth, 2001-2013



The Commission proposes to focus on the ten TAs that had the largest population increase between 2001 and 2013, and their associated regional councils (Table 2).

Table 2 Territorial authorities that the Commission proposes to study

Territorial authority	
Auckland Council*	Tauranga City Council*
Christchurch City Council*	Waikato District Council
Hamilton City Council	Waimakariri District Council
Queenstown-Lakes District Council*	Wellington City Council*
Selwyn District Council	Whangarei District Council

Regional council	
Bay of Plenty Regional Council	Northland Regional Council
Environment Canterbury Regional Council	Otago Regional Council
Greater Wellington Regional Council	Waikato Regional Council

* indicates that the TA has been designated as an area experiencing significant housing supply or affordability issues by being listed in Schedule 1 of HASHA (see Table 5).

Together these 10 TAs accounted for about 78% of New Zealand's population growth between 2001 and 2013. A complete list of TAs and their populations can be found in Appendix B.

Although these ten TAs and six regional councils will be the focus of the Commission's efforts, we are interested in hearing about good practices from across New Zealand.

Q6 **Are there other local authorities exhibiting good policies or practices in making land available for housing that the Commission should investigate?**

International evidence

Finally, the Commission will "consider successful international experiences with urban development" and "comparable international urban areas with valuable lessons".

The Commission welcomes evidence on urban planning policies and practices from other countries, regions or cities, but is particularly interested in examples from jurisdictions that have similar legislative and policy planning frameworks to New Zealand (eg, Australia, the United Kingdom and Canada). Similar jurisdictions are more likely to have policies or practices that could be successfully adopted here.

The sorts of international policies and practices that the Commission is interested in include:

- central and state government planning frameworks that have been successful in encouraging local authorities to plan for, and make available, sufficient development capacity for projected population growth;
- cities facing significant population growth that have successfully provided sufficient dwellings to deal with demand, through greenfield development and/or intensification;
- zoning processes which effectively take account of the economic costs and benefits of planning rules, as well as the social and environmental impacts;
- consultation processes or other practices which have overcome local community opposition to development or generated community support for it;

- different approaches to the provision, funding or governance of infrastructure that have allowed sites to be developed and brought to market faster; and
- initiatives which have successfully addressed problems with aggregating sufficient land for development/redevelopment.

New Zealand is not alone in dealing with housing affordability challenges related to inadequate supply of land for the construction of additional dwellings. Box 2 summarises some approaches that have been used in other countries.

Box 2 **Selected international approaches to land supply challenges**

A range of approaches have been tried in overseas jurisdictions to better meet housing demands by resolving land supply issues.

Australia

A number of Australian jurisdictions operate government agencies, sometimes working on a commercial basis, to actively undertake land development.

- *Economic Development Queensland* is a commercial business unit within the Department of State Development, Infrastructure and Planning that undertakes residential (and other) developments across Queensland. The agency's other functions include supporting industrial developments and coordinating other urban development projects. The wider department is responsible for reform of the planning system, coordination of infrastructure policy and planning, and approving major projects (DSDIP, 2014).
- *Places Victoria* operates as a commercial land developer, with a particular focus on the redevelopment of surplus government brownfields sites. In its previous incarnation it had led the redevelopment of Melbourne Docklands. But in 2012 it had an $18 million loss and a third of its staff was made redundant. In 2013 it recorded a $192 million loss. In 2014 the Victorian Government replaced much of the agency's board (Johanson, 2013; Millar & Lucas, 2014).
- *UrbanGrowth New South Wales* was established in 2013 to carry out, manage or coordinate urban renewal and development on strategic and complex sites where there is demonstrated market and/or regulatory failure. It has a particular focus on increasing housing supply, primarily in Sydney, operating in both greenfield and urban renewal locations. In March 2011, the NSW Government set it the task of delivering 10 000 home sites in western Sydney over four years. By 30 June 2013, it had delivered a total of 4 453 home sites under the programme, ahead of its schedule by 310 sites (Urban Growth NSW, 2013).

United Kingdom

In 2012 the United Kingdom replaced its 1 300 pages of national planning policy with a 65-page document. It has a presumption in favour of "sustainable" development and growth. Councils have a duty to demonstrate an up-to-date five-year supply of deliverable sites to meet housing demand; where they cannot do so, their ability to decline development proposals is significantly constrained (DCLG, 2012).

Houston, Texas

Houston is notable for its absence of zoning restrictions. However, many properties are subject to covenants that achieve similar outcomes to zoning, and the city can enforce such covenants. Despite the lack of zoning, Houston has historically regulated minimum section sizes, minimum parking requirements, and building setback requirements. Houston is often held up by proponents as a city which has achieved economic growth and affordable housing through its relative lack of regulation, and by detractors as the exemplar of car-dependent urban sprawl associated with a range of social and environmental ills.

Smart growth

Smart growth strategies have been proposed as a reaction against urban sprawl. Smart growth advocates favour denser communities where cities "grow up rather than out". Principles typically include:

- limiting sprawl through urban growth boundaries;
- increasing residential density through more liberal land use regulation; and
- a focus on pedestrian- and cycle-friendly environments, and public transport, rather than roads.

The term "smart growth" has been appropriated to describe a range of development approaches, not all of which are consistent with these principles.

The *2040 Growth Concept* adopted by Portland, Oregon in 1995 is frequently held up as a model of smart growth, with a focus on promoting more intensive residential development in designated areas, well-serviced by public transport (Metro, 2014). At the same time, critics of smart growth argue that land use policies have distorted Portland's housing market, turning it into one of America's least affordable cities (O'Toole, 2004).

Q7 **What policies and practices from other countries offer useful lessons for improving the supply of effective land for housing in New Zealand?**

3 The planning and development system

This section elaborates on the Commission's definition of the "planning and development system". It outlines the main pieces of legislation that govern the system and describes the key planning and accountability mechanisms.

Key legislation

The planning and development system includes a range of policies, rules and processes that affect the ability to use land for housing. At the heart of this system lie three main statutes:

- the Resource Management Act 1991, which authorises, limits or prohibits the use of land to promote "sustainable management";
- the Local Government Act 2002, which establishes processes to shape the provision of infrastructure that is needed to make land viable for housing; and
- the Land Transport Management Act 2003, which establishes processes to shape the provision of transport infrastructure and services.

Other legislation can affect land use,[2] but these three statutes have the most significant impact on the ability to use or convert land for housing purposes.

Box 3 **The purposes of planning and development legislation**

The purpose of the **Resource Management Act 1991** is to "promote the sustainable management of natural and physical resources". *Sustainable management* is defined as:

> …managing the use, development, and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic, and cultural well-being and for their health and safety while—
>
> - sustaining the potential of natural and physical resources (excluding minerals) to

[2] Other statutes which may be relevant in some circumstances include the Local Government Act 1974, the Reserves Act 1977, Soil Conservation and Rivers Control Act 1941, the Conservation Act 1987 and the Heritage New Zealand Pouhere Taonga Act 2014.

meet the reasonably foreseeable needs of future generations; and

- safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and
- avoiding, remedying, or mitigating any adverse effects of activities on the environment. (s 3)

The Local Government Act 2002 aims to "provide for democratic and effective local government that recognises the diversity of New Zealand", in which local authorities "play a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions." (s 3)

The purpose of the Land Transport Management Act 2003 is to "contribute to an effective, efficient, and safe land transport system in the public interest." (s 3)

Q8 **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?**

Each Act creates its own framework of planning and accountability mechanisms. A stylised presentation of these mechanisms is provided in Figure 8 below. The following section briefly describes the key elements of these three statutes in turn.

Key planning and accountability mechanisms

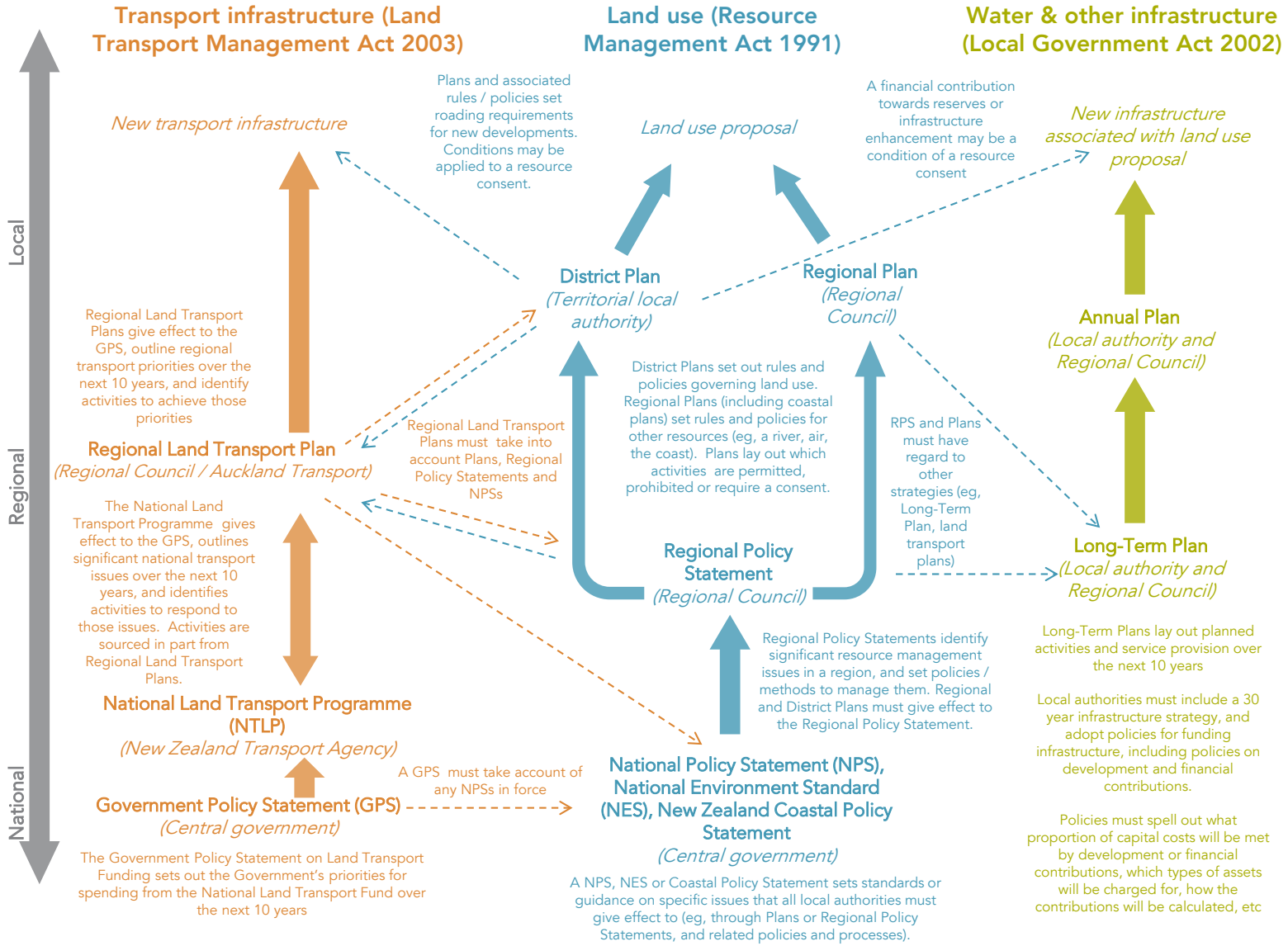
Resource Management Act processes

The Resource Management Act (RMA) controls the use of land and other resources in New Zealand. Under the RMA, consents must be sought for a range of activities: land use, subdivision, discharge (of contaminants), coastal and water activities. The majority of consents are sought for changes to land. Of resource consent applications processed in 2012/13, 66% were for land use, with a further 17% for subdivisions (Ministry for the Environment, 2014, p. 3).

Most resource consent applications are processed by local authorities. Land use and subdivision consents are generally processed by territorial authorities or unitary authorities.[3]

[3] Since 2009, applications for a resource consent or change of consent condition can also be referred directly to the Environment Court, provided the relevant local authority agrees. The Minister for the Environment may also "call in" proposals of "national significance" for consideration by the Environment Court or a board of inquiry. The Minister may call in proposals on his or her own initiative, or at the request of an applicant or local authority. Between July 2011 and June 2013, 150 matters were referred by the Minister to a board of inquiry, most of which were related to New Zealand Transport Agency roading projects (MfE, 2014).

Figure 8 Stylised presentation of the planning and development legislative frameworks



Rules and provisions governing land use are set down by territorial or unitary authorities in District Plans, and have legal force. One way in which local authorities often apply rules on land use is to establish 'zones' – that is, areas covering multiple sections of land, where particular activities are controlled in different ways, depending on their designation ('residential', 'industrial', 'mixed-use', etc).

Rules and policies for other consent types are generally laid down in other planning documents (eg, Regional Plans or Regional Coastal Plans). District Plans must give effect to plans or policies further up the hierarchy (eg, Regional Policy Statements, National Environmental Standards and National Policy Statements).

The processes used to assess resource consent applications are described in more detail in Section 4. At a high level, however, the degree of scrutiny applied to an application will depend upon its scale and how the proposed activities are regulated under the relevant District or Regional Plan. Activities that are "permitted" under a Plan do not require a resource consent. Other activities do require a resource consent, and local authorities have varying degrees of discretion over whether or not to accept an application (Box 4).

Box 4 **Activity classifications under the Resource Management Act**

- **Permitted:** No resource consent required.
- **Controlled:** Resource consent required. The consent authority must grant consent if the application contains all necessary information. Conditions may be imposed only for matters over which control is reserved in a national environment standard, plan or proposed plan.
- **Restricted discretionary:** Resource consent required. The consent authority's power is restricted to clearly-specified matters (eg, in a NES, plan, proposed plan). Where a consent is granted, the activity must comply with the requirements, conditions and permissions specified in the relevant documents.
- **Discretionary:** Resource consent required. The consent authority has a broad discretion over whether to grant or refuse a consent. If granted, conditions may be included. A discretionary activity consent may or may not be granted, depending on its circumstances.
- **Non-complying:** Resource consent required, and may only be issued if the consent authority is satisfied that the adverse effects on the environment will be minor, or that the application is for an activity that will not be contrary to the objectives and policies of the relevant plan.

- **Prohibited:** No resource consent may be issued.

Source: Palmer, 2012.

Where the local authority considers the proposal could have more than minor effects on the environment, the consent application will be notified. There are two forms of notification – *limited notification* and *public notification*. Where an application is publicly notified, the local authority advertises the application and seeks submissions from the general public. For limited notification, only affected persons are advised and can make submissions.

Few resource consent applications that make it to the decision stage are declined. In 2012/13, 0.27% of applications that were processed to a decision were declined (Ministry for the Environment, 2014, p. 55). It is unclear what proportion of applications is withdrawn before the decision stage.

Local Government Act processes

The Local Government Act 2002 governs the provision and planning of services by local authorities.[4] The Act requires local authorities to prepare a Long-Term Plan (LTP) every three years, covering a period of at least ten financial years. LTPs describe the local authority's planned activities and expected performance,[5] the community outcomes it is pursuing, and forecast revenue and expenditure. Local authorities must also prepare Annual Plans spelling out activities, revenue and expenditure over the coming financial year. Unlike RMA plans, LTPs do not contain rules, although the Local Government Act empowers local authorities to make bylaws.

A number of aspects of LTPs are relevant to the supply of development capacity. As part of developing a LTP, a local authority must also prepare:

- An **infrastructure strategy**, identifying infrastructure issues over the next 30 years, the authority's plans for maintaining and improving its infrastructure assets, the estimated expenses, and key decisions that will need to be taken about capital expenditure. The strategy must also explicitly state the authority's assumptions about the lifecycle of infrastructure assets, and changes in demand and service levels.
- **Revenue and financing policies**, including policies on development and financial contributions. Development and financial contributions are charges associated with land use development and can be imposed to avoid or mitigate adverse environmental effects, or reflect the impact of a development on infrastructure use.

[4] Regional councils, unitary councils and territorial authorities.

[5] Especially water supply, drainage and sewage, stormwater drainage, flood protection, and the provision of roads and footpaths (Schedule 10, LGA).

Development and financial contributions and infrastructure strategies are discussed in more detail in Section 4.

Regulations introduced under the Local Government Act in 2014 require local authorities to report in their Annual Plans, annual reports and Long-Term Plans on their planned and actual performance against a number of financial performance benchmarks (Table 3)

Table 3 Local authority financial prudence benchmarks

Benchmark	A local authority meets the benchmark if:
Rates affordability	• Actual or planned rates income for the year equals or is less than the quantified limits on rates set by the authority in its financial strategy; and • Actual or planned rates increases for the year equal or are less than the quantified limits on rates increases set by the authority in its financial strategy.
Debt affordability	Actual or planned borrowing for the year is within the quantified limits on borrowing set by the authority in its financial strategy
Balanced budget	Revenue for the year exceeds operating expenses
Essential services	Capital expenditure on network services for the year equals or is greater than depreciation on network services
Debt servicing	• Borrowing costs for the year equal or are less than 10% of its revenue • For high-growth local authorities, borrowing costs for the year equal or are less than 15% of revenue
Debt control	Actual net debt at the end of the year is less than or equal to planned net debt in the Long-Term Plan
Operations control	Actual net cash flow from operations for the year equals or is greater than planned net cash flow from operations

Source: Local Government (Financial Reporting and Prudence) Regulations 2014

Notes:

1. 'Revenue' in the balanced budget and debt servicing benchmarks excludes development contributions, financial contributions, vested assets, gains on derivative financial instruments, and revaluations of property, plant or equipment.
2. 'Operating expenses' in the balanced budget benchmark excludes losses on derivative financial instruments and revaluations of property, plant, or equipment.

Land Transport Management Act processes

The value of land and the viability of land development projects are affected by the location of land transport options (eg, roads, public transport). The Land Transport Management Act 2003 (LTMA) governs the funding of major transport projects and services, including road policing, public transport, and maintaining and developing the state highway network and local roads.

Through its Government Policy Statement on Land Transport (GPS), central government sets the overall objectives and long-term results sought over the next ten years and the minimum and maximum expenditure ranges for each class of transport activity.[6] The New Zealand Transport Agency (NZTA) then develops a three-year National Land Transport Programme (NLTP), which gives effect to the GPS and outlines the activities that will receive funding from the National Land Transport Fund. These activities are selected from proposals prepared by regional land transport committees, which include representatives of NZTA and the relevant regional council and territorial authorities.[7] Activities proposed for funding must form part of a Regional Land Transport Plan, which outlines:

- transport priorities, spending and expenditure over the coming ten years; and
- planned local road maintenance and renewal, and public transport services over the coming six years.

A NLTP is prepared every three years, and Regional Land Transport Plans must be prepared every six years.

Once the NLTP is confirmed, local authorities can seek funding for activities carried out in their area. The National Land Transport Fund typically does not cover the full cost of these activities. Under decisions recently taken by NZTA, the National Land Transport Fund will meet 53% of the cost of local activities across the country. Local authorities contribute the rest, from sources such as rates, development contributions and passenger fares.

Requirements for developers to build new roading, or to carry out improvements to existing roads as part of a land use project, are generally introduced through District Plans.

[6] Under the 2015/16 – 2024/25 draft GPS, there are ten transport activities: state highway improvements, state highway maintenance, local road improvements, local road maintenance, public transport, walking and cycling improvements, regional improvements, road policing, road safety promotion, investment management.

[7] In Auckland, this role is played by Auckland Transport.

4 System performance

There is a broad range of processes that affect the development capacity of land for housing. The issues that are within the scope of the terms of reference for this inquiry are summarised in Figure 9. This chapter describes some of the important features of the land development system and poses questions relating to issues of particular interest.

Figure 9 Processes affecting development capacity of land for housing

Planning processes

Plans (such as District Plans under the RMA or Long-Term Plans under the Local Government Act) play a key role in determining whether and how a particular piece of land may be used, and whether its development will be viable. The clarity and quality of these Plans, and of the processes by which they are developed, matter for the effective and efficient supply of land.

Accessibility of plans

A core principle of the rule of law is that rules and regulations should be accessible and, so far as possible, intelligible, clear and predictable (Bingham, 2011). This allows people to understand their obligations, rights and responsibilities.

Some planning documents can be hard to navigate. A Ministry for the Environment review of Christchurch City Council planning and resource consent processes described the two Christchurch District Plans as:

> …large, cumbersome and difficult to navigate. The City plan is effects-based, while the Banks Peninsula plan is activities-based. There are a total of 109 different planning zones, each with varying provisions, which are a source of confusion and frustration to users of the plan and to Council staff. (2013b, p. 23)

A frank self-evaluation of the Wellington City Council District Plan found that: "Interpretation of the District Plan is complex and exacerbated by the different versions of the District Plan (operative, non-operative Plan Changes/variations)" (WCC, 2013, p. 39). The report noted that one result of this complexity was a "requirement to engage planning consultants and other technical experts to navigate the resource consent process on behalf of developers" (p. 38).

Auckland Council is currently in the process of developing its first Plan as a unitary council. The *Proposed Auckland Unitary Plan* (PAUP) will replace the existing Regional Policy Statement and 13 district and regional plans. Given the breadth of the material covered in the PAUP it is not surprising that the document is lengthy, but at 6 961 pages (at the time of writing) the PAUP is very unwieldy. Supplementary documentation acknowledges that the Plan is complex, but also suggests that users must read the full document:

> The Unitary Plan is a complex document that consists of many interlinked parts. One must not look at any provision in isolation, but read it as a whole. (Auckland Council, n.d.(a))

Q9 **How easy is it to understand the objectives and requirements of local authority plans? What improves the intelligibility of plans?**

Q10 **Is ensuring an adequate land supply for housing an objective of current District or Unitary Plans? If so, what priority is this objective given?**

Public consultation

Local authorities face specific consultation requirements when developing planning documents. In particular, local authority consultation must follow a set of principles laid down in the LGA (Box 5). These principles must also be followed when preparing Plans or Policy Statements under the RMA and Regional Land Transport Plans under the LTMA.

Box 5 Local government consultation principles

Consultation carried out by local authorities must be undertaken in accordance with the following principles (LGA, s.82):

- that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the local authority with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons:
- that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority:
- that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the

consideration of views presented:

- that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons:
- that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration:
- that persons who present views to the local authority should have access to a clear record or description of relevant decisions made by the local authority and explanatory material relating to the decisions, which may include, for example, reports relating to the matter that were considered before the decisions were made.

The RMA and LGA also specify process requirements for local authorities. Under the RMA, public consultation on a proposed Plan or Policy Statement (or a change to either) must occur at the notification stage. The public can make submissions on the intended Plan or Policy Statement once it has been notified.

Either a committee of council or a panel of independent commissioners appointed by the council:

- considers submissions;
- may summarise them and call for further submissions;
- conducts a hearing or several hearings; and
- makes recommendations to the council on whether it should adopt the plan, and any amendments that should be made to the version of the plan that was notified.

The council then makes a decision about making the plan or policy "operative". This decision can be appealed to the Environment Court.

Under the RMA, local authorities are required to consult with iwi authorities when preparing or changing Regional Policy Statements, Regional Plans and District Plans, and to engage with tangata whenua in other resource management decisions. The capability of many Māori groups to be involved in the resource consent or district and regional planning process was raised as problematic, both by Māori groups and others in the Commission's 2013 inquiry into local government regulation.

Under the LGA, local authorities are obliged to use a special consultative procedure (SCP) to adopt or amend a Long-Term Plan. Regional land transport committees may also use a SCP for the development of Regional Land Transport Plans. A SCP involves publication of

- a statement of the proposed policy;
- a description of how people can make their views heard; and
- the consultation period.

Councils must provide a reasonable opportunity for people to present their views. The LGA also places obligations on local authorities to facilitate participation by Māori in local authorities' decision-making processes (s 4).

Q11 **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?**

Q12 **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?**

Q13 **How can the Plan development process be improved to increase the supply of development capacity?**

Demand and supply forecasting

A core ingredient of effective land use planning is forecasts of housing demand and supply. Accurate forecasting can be a challenging task, as a number of factors (including growth in the number of households, changes in tastes with respect to housing, and increases in income) affect the demand for dwellings and housing space (Cheshire, Nathan & Overman, 2014, p. 98).

Assessing the current and future supply of land for housing can also be difficult. The Australian Productivity Commission (discussing the situation in Australia), as well as Auckland developers interviewed by MBIE, noted that the supply of raw land does not always equal effective land for housing:

> Not all of the land approved for subdivision can be developed for residential, commercial or industrial use. In fact, one developer responding to the Commission's questionnaire estimated that — depending on the site — up to 40 per cent of land is "lost" to natural

> constraints and planning requirements for public space, schools, community centres, and roads. (APC, 2011, p. 122)
>
> Infrastructure planning and funding has not kept pace with zoning so assumed development capacity is not always real. (MBIE, 2014b, p. 1)

Q14 **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?**

Q15 **How well do zoning decisions in District Plans and infrastructure planning in Long-Term Plans reflect demand and supply forecasts?**

Identifying options and trade-offs

The RMA and LGA both contain provisions designed to encourage sound policy analysis and good decision making by local authorities:

- Under section 32 of the RMA, a proposed Policy Statement, Plan, Plan change (including a private Plan change), regulation or standard must be accompanied by an evaluation report. Similar requirements apply for proposals that amend an existing or proposed standard, statement, Plan or regulation (MfE, 2013a).
- Section 77 of the LGA requires local authorities to "seek to identify all reasonably practicable options for the achievement of the objective of a decision" and assess them "in terms of their advantages and disadvantages." This assessment needs to be proportionate to the significance of the issue under consideration (s 79).

In its *Towards better local regulation* final report, the Commission found that local authority decision-making processes were generally adequate, but that there was considerable room for improvement in several areas – especially tailoring of regulatory objectives to local conditions, assessing a sufficient range of options, assessment against clear objectives, and implementation analysis (NZPC, 2013, p. 75).

Local Government New Zealand argued in a submission on the Resource Management Reform Bill that local authorities have to make trade-offs about where to focus their limited decision-making resources:

> …the depth and quality of analysis does increase as the plan-making process unfolds. Appeals are invariably characterised by high quality analysis and evaluations of costs and benefit, much of it quantified (by councils and other parties). That concentration of effort is

> rational because it ensures scarce public resources are expended where there is real contention and not on issues that will not be in debate. (LGNZ, 2013a, p. 9)

Q16 **How effective are local authorities in ensuring that the rules and regulations governing land use are necessary and proportionate?**

Q17 **What are the characteristics of the most effective processes for testing proposed rules, Plans or Plan changes?**

Integration between planning frameworks

The New Zealand planning and development system (as illustrated in Figure 8) appears to impede integrated decision making. A Ministry for the Environment working paper noted that

> the three planning Acts were never designed to work together as a complete urban planning system. Each Act, its plans and decision-making are all subject to different legal purposes, processes and criteria, and operate over different time frames. This results in duplication and lack of clarity, and demands considerable time and resourcing from all parties involved. (2010, pp. 9–10)

This can have implications for land and housing supply. The Ministry for the Environment highlighted a number of issues with the planning and development system, including:

- an inability of the system to "facilitate the implementation of growth strategies or enable the resolution of specific issues (such as housing affordability), in an effective and consistent manner";
- "few mechanisms to support the implementation of projects and broad objectives across the various plans under the RMA, LGA and LTMA" (2010, pp. 10–11).

The Ministry noted also that "RMA decision-making has little recognition of infrastructure investment decisions and priorities under the LGA" (2010, p. 11).

Local authorities apply a number of processes to try and overcome these challenges and connect decisions and planning. Examples include non-statutory approaches such as spatial plans and area plans.

Q18 **How effective are local authority processes for connecting decisions across the different planning frameworks? Which particular processes have been successful? What explains their success?**

The maintenance and extension of the State highway network may affect the supply of development capacity, particularly where surrounding land is zoned as non-residential to minimise disruption to traffic.

Q19 **What impact does transport planning have on the supply of development capacity?**

Consistency within planning frameworks

As discussed in Section 3, the RMA establishes a hierarchy of planning documents. Each planning document is supposed to reflect those further up the hierarchy.

However, local plans and rules may not always reflect regional objectives. The Ministry of Business, Innovation and Employment's submission to the proposed Auckland Unitary Plan highlighted a "misalignment" between the regional-level objectives of increasing housing supply, choice and quality and the district-level provisions, which included:

- proposed development controls and zoning (including future urban land) that do not provide the needed long-term development capacity to meet projected population growth…
- a deliberate down-zoning apparent between the draft Unitary Plan released in March 2013, and the proposed version, creating a misalignment between areas of high demand and the areas where growth is provided for…
- sustainable building and inclusionary zoning requirements and other less-than-flexible development controls…
- an approach to consenting medium-density … which in actuality will stifle innovation and good design through the application of arbitrary design rules, overlays and controls that will constrain development capacity and restrict supply. (MBIE, 2014a, p. 7)

Similarly, McIntosh and Gray argued in 2011 that "the current Wellington City Council rules for suburban infill development compromise sustainable development in the city, and undermine the council's policy of containment." (p.127)

Q20 **Are there examples of effective integration between regional policies and district plans, and what are the features of processes that lead to effective integration?**

Rules

Implementation and effects on land use

Under the RMA, local authorities can set land use rules and regulations in Regional or District Plans. These include:

- the definition of specific activities as "permitted", "controlled", "restricted discretionary" and "discretionary";
- requirements to provide a minimum number of parking places with each new dwelling;
- limits on the number or size of dwellings that may be placed on a site;
- requirements to have a minimum amount of front yard between a dwelling and the street;
- restrictions on the demolition of existing dwellings; and
- restrictions on the height of dwellings on a particular site.

Rules can be useful for limiting the negative effects of development on others and reducing transaction costs. Rules need to be well-grounded in evidence and analysis, to ensure that they are in fact needed and beneficial. However, if poorly specified or applied inappropriately, they may prevent innovative projects that provide similar or better outcomes. This point was noted in a Wellington City Council evaluation of its District Plan:

> For developers in particular, a rules-based planning regime can stifle creative and innovative development, particularly when significant costs are incurred as a result of pushing the boundaries of District Plan rules. This approach runs the risk of fostering "vanilla" developments in the city. (WCC, 2013, p. 39)

The Ministry for the Environment commented that, while the RMA was designed to be an enabling and "effects-based" statute, in practice:

> …plans have a tendency to take a rules-based approach involving a conservative and protectionist process of avoiding, remedying or mitigating adverse effects on the existing environment. This includes the urban environment. Plans generally take this approach in order to give as much certainty as possible to local government, the private sector, communities and property owners about which activities are allowed under what conditions. (2010, p. 8)

Residential developers in Auckland have argued that some rules have regressive effects:

> For example, setting the density provisions on a dwelling per lot/area basis only incentivises the construction of larger houses that maximise the site coverage rules in order to provide an adequate return on the land value. The result is that houses are only being built to service the top end of the market. (MBIE, 2014b, p. 3)

On the other hand, a 1998 Ministry for the Environment research report found that some land use restrictions were not always enforced:

> All councils surveyed had rules in their district plans limiting how close buildings can be constructed to the front boundaries of residential sections (front yard setback controls). Despite this, almost all resource consent applications … for non-compliance with these controls were approved without notification. Less than half of these consents had conditions attached to them. (1998, p. ii)

Much of the criticism of rules in District and Regional Plans has focused on the first generation of Plans (ie, the first set of Plans introduced after the RMA was passed). Many local authorities have either prepared, or are in the process of preparing, "second-generation" Plans.

Q21 **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?**

Q22 **How important is it that rules for development and land use provide certainty?**

Q23 **Are rules consistently applied in your area? Is certainty of implementation more important than flexibility?**

Q24 **Which local authorities have the best approach to implementing land use rules or Plan requirements? What makes their approaches the best?**

Q25 **Do second-generation Plans take a more flexible or enabling approach to land use control?**

Design guidelines

Some local authorities also encourage particular types of land use through design guidelines. Some design guidelines are incorporated within Plans, while others are non-statutory, and published to support council objectives. For example, the Kāpiti Coast District Council updated their rules for subdivisions by writing a design guide (*Subdivision and Development Principles and Requirements)* and adopting it into their District Plan. The Council also developed supporting non-statutory guidelines to help developers to meet the subdivision outcomes that were sought (Ministry for the Environment, 2008).

Statutory design guides should provide developers with information on critical issues before starting the design process, and ensure that the method of assessing design quality is systematic, consistent and transparent (Ministry for the Environment, 2009). In some instances, it appears that the enforcement of design guides is subject to some interpretation and discretion. For example, the Wellington City Council's design guidelines (which were incorporated into the District Plan as a rule change in 2008) include the following statement about interpretation:

> There may also be instances where a design objective can be best achieved by a means not anticipated by a relevant guideline. In this situation, departure from a relevant guideline is justifiable if it can be demonstrated that the proposed design solution better satisfies the associated design objective. (Wellington City Council, 2008, p. 26)

The Commission is interested in how design guidelines are interpreted and enforced in practice by councils.

Q26 **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?**

Consistency across jurisdictions

Concerns have been raised about the level of variability between the plans of different councils. For example, the Ministry for the Environment notes that plans prepared by "the eight largest territorial authorities showed 123 different terms were defined, with more than 450 variations of those definitions" (2010, p. 16).

A comparison of two Plans' rules around car parking demonstrates the variation. The Kāpiti Coast District Council's *Rules and Standards* states that "All buildings shall be designed so that wherever practicable sufficient manoeuvring space on site will ensure no reversing onto the road is necessary." In contrast, Nelson City Council's *Residential Zone Rules* state that "Reverse manoeuvring is encouraged on unclassified roads and is part of ensuring a low speed environment and people orientated streetscape."

While such differences may reflect the need for planning regulations that are tailored to the local environment, they can add cost and complexity for developers who work across more than one local authority.

Q27 **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?**

Approval processes

Pre-application information and guidance

One way in which local authorities can reduce transaction costs for people wishing to develop land is to provide clear and accessible guidance on the application process and the information that is needed from applicants. Most local authorities take steps to explain expectations and requirements. In 2012/13:

- 94% of local authorities defined the environmental effects that applicants must address for controlled and restricted discretionary resource consents;
- 97% of local authorities produced written guidance material on preparing assessments of environmental effects;
- 95% of local authorities reported they advise applicants when their consent application may be of interest to iwi/hapu;
- all local authorities reported they check consent applications for completeness within five working days of their arrival (Ministry for the Environment, 2014, p. 23).

The Ministry for the Environment's 2012/13 survey of local authorities also found that:

> [Councils] are increasingly taking a proactive approach to improving the quality of applications by providing some form of information or advice to applicants before a consent is lodged. In the 2012/13 financial year, the pre-application processes varied across councils, and depending on the complexity of the application. The processes ranged from informal (eg, a conversation with the duty planner who answered questions, provided advice and referred the applicant to further sources of information), to a formal structured process that followed a case management approach. (2014, p. 23)

However, Wellington City Council's monitoring report on its District Plan noted that charges for pre-application advice had risen over time (Table 4).

Table 4 Wellington City Council pre-application advice and fees

2007/08	2008/09	2009/10	2010/11	2011/12
Two free pre-app meetings	Two free pre-app meetings	Two free hours pre-app	Two free hours pre-app	No free hours
$115 per hour thereafter	$125 per hour thereafter	$130 per hour thereafter	$135 per hour thereafter	$150 per hour

Source: WCC, 2013.

Q28 **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?**

Local authority assessment processes

Local authorities need robust internal processes to ensure that resource consent applications are consistently and appropriately assessed. According to the 2012/13 Ministry for the Environment survey of local authorities:

- 83% of councils reported that staff followed set procedures to check that environmental effects were adequately identified and addressed in applications;
- internal guidance notes or checklists were available to advise staff when to notify an application in 68% of local authorities;
- 51% of local authorities provided internal guidance notes or checklists to advise staff how to identify affected parties;
- the majority of councils undertook some form of peer review of consent conditions to ensure they were defensible, lawful, certain and enforceable;
- just over half of councils reported they used standard resource consent conditions when making recommendations about whether to approve a consent; and
- 94% of local authorities reported having standard conditions in resource consents to cover the discovery of sites or items that are culturally sensitive to tangata whenua (2014, pp. 26–7).

Q29 **Which processes are most important to applicants for providing consistent and efficient assessments of resource consent applications?**

Assessment timeframes and requests for further information

The timeframes for processing resource consents are important for the development of land for housing as delays can add significantly to the costs of development.

The timeframes for consent processing were recently revised by the Resource Management Amendment Act 2013. Notified applications must now be processed in 130 working days, and limited notified applications in 100 days (Ministry for the Environment, 2013c). Timeframes for non-notified consent processing have not changed and a determination on whether to hold a hearing is required within 20 working days (Ministry for the Environment, 2006), but councils now have 10 working days to check and formally accept applications (up from 5 days).

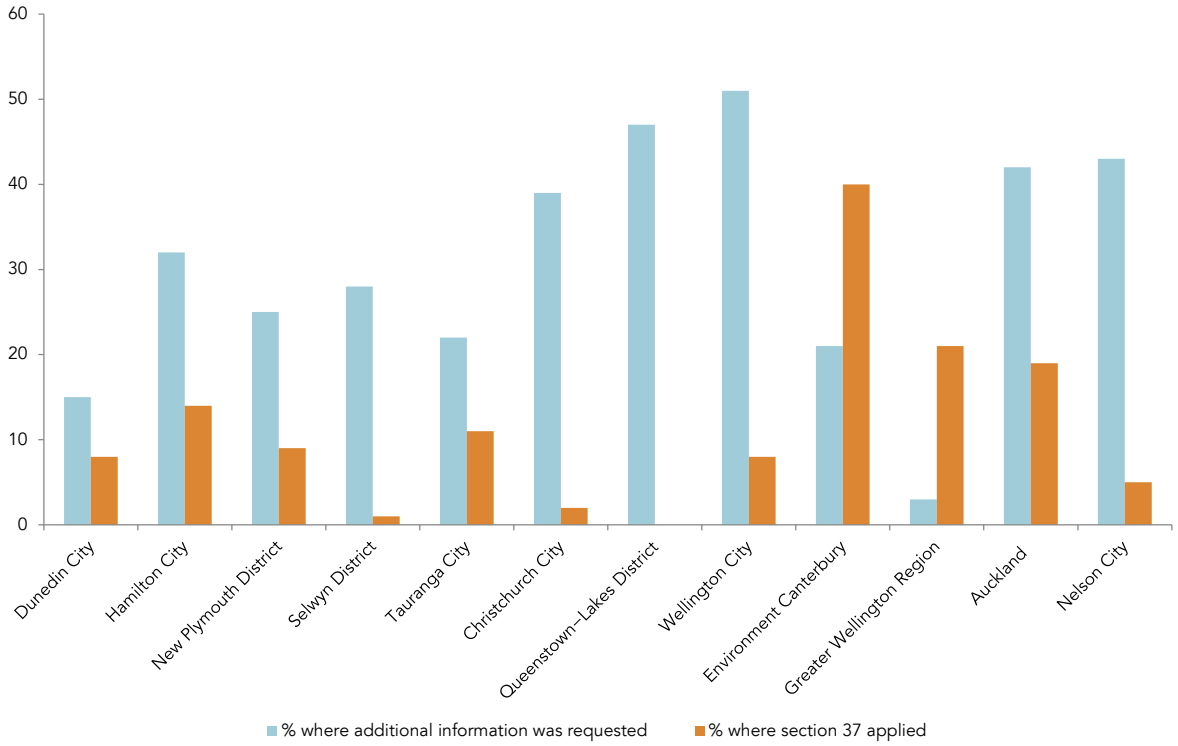
The Ministry for the Environment survey of local authorities conducted in 2012/13 (before the RMA Amendment Act came into effect) shows most consents are processed within statutory timeframes (97%).

Q30 **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?**

Consent processing authorities may request additional information from applicants under s 92 of the RMA, and may extend processing timeframes under s 37 (often referred to as "stopping the clock"). Authorities may request further information on multiple occasions, but under the changes introduced in the Resource Management Amendment Act 2013 may only use the "stop-the-clock" provision once (and only at certain points in the process).

Across all authorities, s 37 was used to extend timeframes for 17% of all applications, while requests for further information were made for 32% of applications (Ministry for the Environment, 2014). Use of these provisions varies significantly across different jurisdictions (Figure 10).

Figure 10 Requests for further information and stopping the clock (section 37 of the Resource Management Act), selected councils



Source: Ministry for the Environment, 2014.

Cross-jurisdictional variation in requests for further information and use of stop-the-clock provisions could reflect variation in the quality of applications across different jurisdictions, variation in the quality of approval processes, or a combination of the two.

Q31 **What explains the variation between jurisdictions regarding requests for additional information and use of stop-the-clock provisions when assessing resource consent applications?**

Notifications

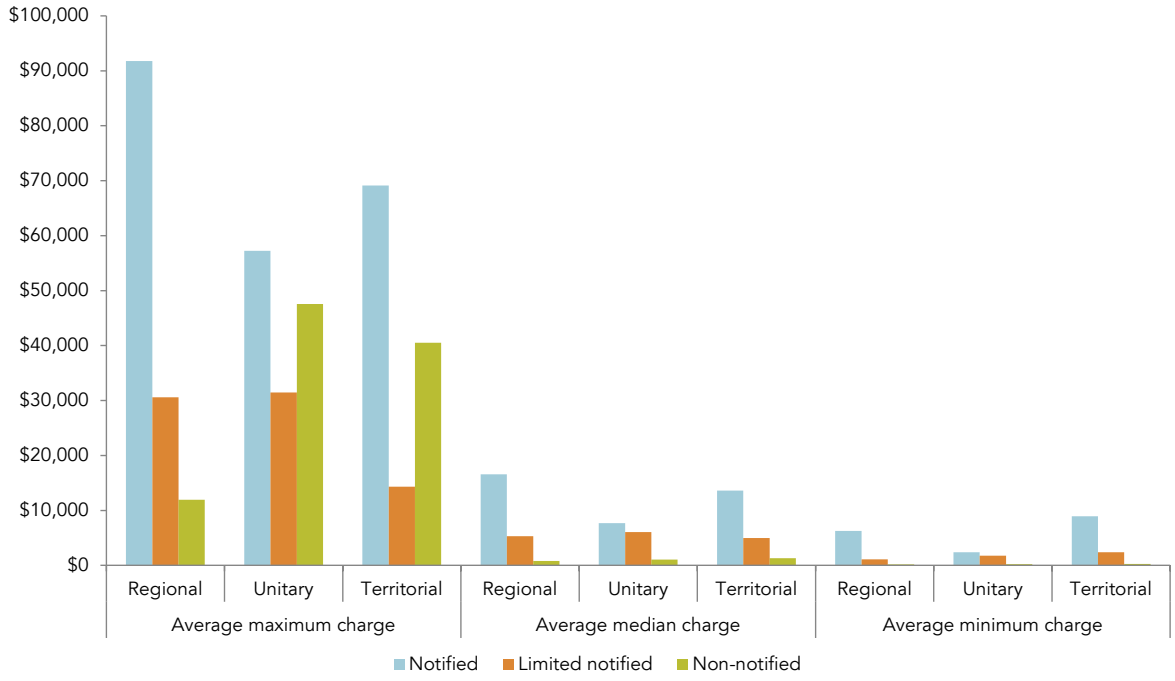
The overwhelming majority of applications (95% in 2012/13) are not notified, although the proportions vary depending on the type of consent. Coastal and water consent applications were most likely to be notified, and subdivision and land use applications were least likely.

There is also significant variation in notification rates between jurisdictions. For example, the Marlborough District Council processed 1 184 consents in 2012/13, of which 250 (21%) were

notified. During the same period, New Plymouth District Council processed 398 consents and none were notified (Ministry for the Environment, 2014).

Notification plays an important part in ensuring that people who may be affected by a development are aware of it, and able to voice any concerns. At the same time, notification processes can create significant direct costs for developers (Figure 11). These costs include not just application and processing fees, but also delays and risks associated with uncertainty. Wellington City Council noted that as a result, developers can make "every effort…to avoid notification, even at the expense of positive project results at times (such as design)" (2013, p. 39).

Figure 11 Average charges to applicants for resource consent application processing, by notification and local authority type, 2012/13



Source: Ministry for the Environment, 2014.

Q32 **What are the impacts of notification on the supply of development capacity? How could the processes surrounding notification be improved?**

Pre-hearing meetings

Pre-hearing meetings may be held before a local authority formally considers the resource consent application, to clarify or resolve any outstanding issues. A pre-hearing meeting can be requested by an applicant or submitter, or can be convened at the initiative of the local authority. Pre-hearing meetings are described by the Ministry for the Environment as a "good practice tool" (2014, p. 56).

The proportion of notified resource consents in which a pre-hearing meeting was held has fallen from a high of 25% in 2003/04 to 9% in 2012/13. However, pre-hearing meetings appear to have become more successful. The proportion of pre-hearing meetings that resolved issues so that a formal council hearing on the application was not required increased from 28% in 2010/11 to 52% in 2012/13 (Ministry for the Environment, 2014, p.56).

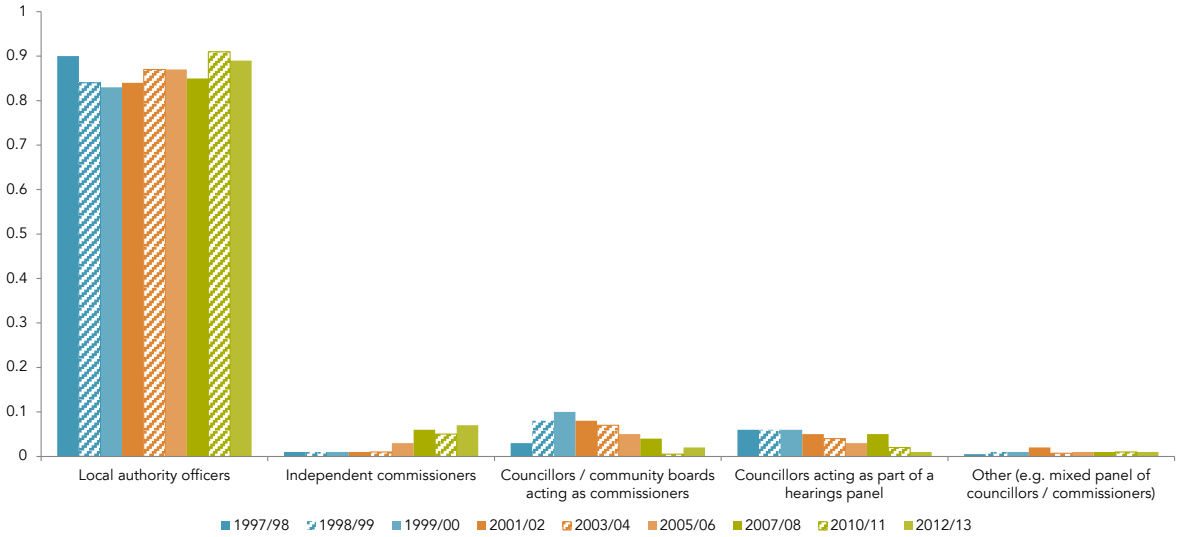
Q33 **What explains the reduction in the prevalence of pre-hearing meetings?**

Q34 **Which local authorities make the best use of pre-hearing meetings? What factors best contribute to successful pre-hearing meetings?**

Decision makers

Most resource consent decisions are taken by local authority officers, although there has been a rise in recent years in the use of independent commissioners (Figure 12). Councils can appoint anyone to be an independent commissioner, but they typically are selected for their skills and experience (for example in planning, law, surveying, engineering or science). Former councillors are sometimes are appointed for their chairing or hearing expertise.

Figure 12 Percentage of resource consent decisions made, by decision maker



Source: Ministry for the Environment, 2014.

Q35 **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?**

Q36 **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?**

Conditions

Conditions may be attached to resource consents as a way of preventing or offsetting any harmful effects from a development. Types of conditions include financial contributions, development contributions, bonds and covenants, administrative charges, esplanade reserves and strips, land vesting conditions, and cross-lease certification.

Local authorities have broad scope to add conditions, subject to some statutory and case law constraints. Some examples follow.

- Financial contributions may only be added where this is in accordance with the purposes of the District or Regional Plan, and where the level of contribution is set in line with the method specified in the Plan.[8]
- The condition should fairly and reasonably relate to the purposes and provisions of the RMA and of the relevant Regional or District Plan.
- The condition should fairly and reasonably relate to the particular development or activity.
- The condition should be one that a reasonable consent authority could have properly imposed (Palmer, 2012, p. 907).

Conditions may affect the viability of a development project, by adding costs or reducing the extent to which a portion of land can be utilised. In 2012/13, 4 216 consent holders applied to have conditions changed or cancelled (Ministry for the Environment, 2014, p.34).

Q37 **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?**

Q38 **In your experience, what impact do conditions on resource consents have on the viability of development projects?**

Coordination within council

Converting raw land into land that is ready for housing can involve interaction with various units within a local authority – for example, the planning unit to obtain a resource consent, the infrastructure unit to organise connection with the network, and reserves and community service section where a development contribution is required as a condition of a consent.

This can be a time-consuming and costly process. Auckland developers described the difficulties people wishing to use land for housing can face:

> Any development project requires trade-offs between factors such as urban design outcomes, development controls, storm water management solutions, and so on. A 100 per cent outcome for each factor is unrealistic, and an optimal solution will require certain compromises to be made. However, the Council usually works as if the 100 per cent goal is achievable for each of its many priorities. Council planners (or account managers) at the coalface are unwilling or unable to make decisions that could deliver an efficient development outcome, despite what the strategic direction may state… This places the responsibility on the development customer to reconcile and trade off Council interest

[8] RMA, s 108(10).

> against the commercial viability of the development, and sometimes to arbitrate between different parts of the Council. (MBIE, 2014b, p. 2)

One response to this issue is the Housing Project Office (HPO) established by Auckland Council in 2013, which brings together staff from the Council's resource consent, planning and storm water units, along with representatives from Auckland Transport, Watercare Services, Ministry of Business, Innovation and Employment (MBIE), and the Housing New Zealand Corporation. The aim of the HPO is to provide "an end-to-end service for applicants and has consenting, master-planning and policy capability in the one place" (Auckland Council, n.d.(b)).

Q39 **Which local authorities have been most successful in providing coordinated decisions over applications to use land for housing? What explains their success?**

Challenging and changing decisions

The RMA allows a landowner or developer who is unhappy with a consent authority's decision to object in some circumstances. An objection is a type of internal review, where the objector usually has an opportunity to present their case, and the consent authority must provide written reasons for its subsequent dismissal or upholding of the objection. Objections must be considered within 20 working days.

Applicants can also appeal to the Environment Court where an application for resource consent is declined, or against conditions that are imposed, or if they are unhappy with the outcome of an objection. Other submitters on a notified application also have a right of appeal to the Environment Court.

Both objections and appeals are time-limited: appeals to the Environment Court must be lodged within 15 working days of the council decision. The Environment Court can also hear appeals on a range of other matters, including proposed District and Regional Plans, proposed Regional Policy Statements, and heritage orders. The Environment Court has the powers of a District Court in the exercise of its civil jurisdiction. Further appeals to the High Court are available on points of law.

If a landowner or developer subsequently wants to have conditions on their resource consents changed or removed, they must apply to the local authority. Such applications are treated in the same manner as a resource consent application (eg, assessments of affected parties and decisions about notification).

Q40 **Are there issues relating to the process for challenging or changing decisions which impede the supply of effective land for housing?**

Plan changes

One way of enabling new types of land use is to change a Regional or District Plan. Changes to Plans can be sought by a local authority or a private party.[9] In 2012/13, most Plan changes (83%) were initiated by local authorities (Ministry for the Environment, 2014, p. 85). The proportion of local authorities reporting they had completed a privately initiated Plan change has fallen since 2007/8, while the completion of council-led changes was broadly constant.

The average timeframe taken to complete a Plan change in 2012/13 was 24 months. This was an increase from 2010/11, where council-initiated Plan changes took 17 months to complete and privately initiated Plan changes took 16 months (Ministry for the Environment, 2014, p. 85). Costs for plan changes can be significant. A survey conducted of Plan changes in four local authorities in 2008 found a cost range of $18 500 to $601 000, with a mean cost of $109 000 (Ministry for the Environment, 2010, p.19).

Q41 **Compared to other processes of relevance to land release and development, how important is the ability to obtain a Plan change or variation? Why?**

Q42 **How easy is it to obtain a Plan change or variation in your area? What are the major barriers?**

Q43 **Do council-led Plan changes or variations help or hinder the supply of development capacity?**

Infrastructure for housing

Construction of appropriate infrastructure is a critical step in transforming raw land into effective land for housing. Infrastructure for housing includes "the three waters" (fresh water, waste water and storm water), electricity, gas, telecommunications, public transport and roads. Housing can also require social infrastructure, such as parks, community facilities, libraries and sports fields.

The Commission is interested in how the provision of infrastructure supports the supply of development capacity for housing, and how effectively the infrastructure supply system works.

[9] Alterations to an existing (or operative) Plan are known as "Plan changes", and alterations to proposed Plans are known as "Plan variations".

The views and experiences of developers and practitioners who work to supply infrastructure for housing will be particularly useful.

Q44 **What is your experience working with the infrastructure component of the land supply system?**

Q45 **Are there particular aspects of the system, or particular types of infrastructure, that are problematic?**

Q46 **What are the opportunities to improve this part of the land supply system?**

Housing-related infrastructure is provided by a number of different organisations.

- *Local authorities* are responsible for building and maintaining much of the infrastructure required to support housing. Planning and delivery of infrastructure is by far councils' biggest role, and councils are the second largest owner of infrastructure assets in New Zealand, after central government (Local Government Infrastructure Advisory Group, 2013).
- *Developers* usually construct at least some of the local infrastructure required to support new housing. They are also usually required to pay for some of the infrastructure costs incurred by local authorities (development contributions).
- *Council Controlled Organisations (CCOs)* are companies owned or controlled by one or more local authorities. Some local authorities use CCOs to provide and maintain infrastructure.
- *Central government* is responsible for providing national infrastructure such as the state highway network.
- *Private companies* provide some of the infrastructure necessary for housing – for example, gas and electricity.

The incentives that influence the actions of these organisations differ. For example, councils have incentives to work within certain debt levels and to keep rates low, which may create an incentive to maximise the use of existing assets rather than extend the reach of the network. Developers may not wish to build in areas that councils and infrastructure providers prefer, if better returns or faster approvals can be gained elsewhere.

Q47 **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?**

Changes to the ownership of local authority infrastructure are outside the scope of this inquiry. The Commission is, however, interested in understanding whether there are differences in the approaches taken between private and council controlled infrastructure organisations and lessons that could be learned, including over such matters as:

- the costs charged and pricing methods employed;
- the willingness to provide infrastructure; and
- the speed with which infrastructure is provided.

Q48 **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?**

One of the Commission's tasks in this inquiry is to provide information on absolute and relative performance with respect to funding and governance of water and transport infrastructure. The challenges in funding and providing infrastructure for housing vary significantly across jurisdictions. Because this inquiry focuses on high-growth urban areas, the infrastructure challenges faced by smaller provincial councils with a stable or declining rating-base are out of scope.

Q49 **What comparative information about the provision of infrastructure to support housing should the Commission be aware of?**

Local authorities and infrastructure for housing

Local authorities are responsible for building and maintaining much of the infrastructure required to support new and existing housing. The costs associated with this role are significant – New Zealand councils own $76 billion of infrastructure assets (Statistics New Zealand, 2014b).

Rates are by far the largest source of council income, generating a total of $4.6 billion across New Zealand in 2013 (Statistics New Zealand, 2014b). One challenge facing local authorities with growing demand for housing is that new infrastructure to support growth needs to be paid for and built before it starts to generate income for local authorities through rates.

After rates, the next most significant source of funds available to local authorities is debt (OAG, 2012). Debt is commonly used to fund infrastructure. Although there are no firm rules that

specify appropriate debt levels (they will vary depending on the specific circumstances of each local authority), councils are required to set a prudent debt limit (LGNZ, 2013b). Under the Local Government Act in 2014, local authorities are also required to report on their planned and actual performance relative to debt affordability, debt servicing and debt control benchmarks. Local authorities in high-growth areas may come under pressure to ensure that there is appropriate infrastructure in place to accommodate growth, without incurring unpalatable levels of debt.

Q50 **Is there evidence that territorial authority debt levels are acting a barrier to the provision of infrastructure for housing in rapidly growing areas?**

Infrastructure charges

Charging developers is another approach that local authorities use to meet some of the upfront costs of providing infrastructure for housing. Compared with debt and rates, infrastructure charges are a relatively small source of income for local authorities, generating $189 million in 2012/13 (Statistics New Zealand, 2014b).

There are two forms of infrastructure charges: development contributions under the LGA, and financial contributions under the RMA (Box 6).

Box 6 Development contributions and financial contributions

Development contributions

Development contributions were introduced in 2002 to allow councils to recover capital expenditure associated with facilities such as reserves, network and community infrastructure required to support growth. Development contributions can only be charged to fund the portion of new infrastructure that is related to growth. They cannot be used to fund:

- non growth-related level of service or infrastructure quality upgrades;
- maintenance;
- renewal of infrastructure; or
- infrastructure operating and operational costs such as salaries and overheads (DIA, 2013).

Councils are required to set out a development contributions policy that explains how contributions are calculated, and their underlying assumptions.

Financial contributions

The financial contributions regime was introduced when the RMA was enacted in 1991, to provide local authorities with a further method to avoid, remedy and mitigate adverse environmental effects. Financial contributions can take the form of money or land and must promote the sustainable management of natural and physical resources. They may be applied to fund capital expenditure on similar assets to development contributions, but cannot be used to fund the same expenditure for the same purpose, or to fund operating spending.

Variability in charges

The use of infrastructure charges varies quite significantly across different councils:

> Development contributions are currently being used by 45 territorial authorities… Eighteen territorial authorities do not charge development contributions (but most of these use RMA financial contributions). Regional authorities cannot charge development contributions but can charge financial contributions under the RMA. (DIA, 2013, p.18)

The size of these charges also varies considerably across different councils, ranging from $6 000 to $31 000 (NZPC, 2012).

Q51 **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?**

Q52 **Are there particular examples of good practice regarding infrastructure charges?**

Development contributions and urban form

When infrastructure charges are properly structured and administered, they can act as a signal to developers about the costs of building infrastructure in different locations, encouraging them to factor these costs into decisions about when and where to build housing (NZPC, 2012). In this respect, infrastructure charges may be designed to restrict development of land to those areas where it is most efficient to do so from the point of view of infrastructure.

Q53 **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?**

Q54 **Do development contribution policies incentivise efficient decisions about land use, or do they unduly restrict the supply of land for housing?**

Although development contributions under the LGA were not intended to be used to shape urban form, the DIA notes that contributions could be used in this manner:

> In theory, development contributions can also be used to encourage redevelopment, more efficient or more intense use of brownfields and inner city land. The amount charged can either act as an incentive to build on brownfields or inner city land (such as when the amount charged is less than for greenfield areas), or encourage more intensive use of that land by encouraging developers to spread potentially high infrastructure retrofitting costs over more units of development (to lower the cost per unit). (DIA, 2013)

Q55 **Are development contributions used exclusively to drive efficient decisions about land use, or are they used to promote broader goals?**

Recent legislative changes

The Commission's *Housing affordability* inquiry identified concerns about the transparency and efficiency of infrastructure charges and about whether they should be levied up-front or over the life of the infrastructure. The inquiry found that while infrastructure charges do affect affordability, they typically account for a relatively small share of the cost of new dwellings and hence are unlikely to have been a fundamental driver of the house price boom in the 2000s. The Commission identified scope to improve the processes around how councils set and administer infrastructure charges, with the goal to reduce the cost of new residential developments and improve the quality of decision making around infrastructure funding.

Following the *Housing affordability* inquiry, the DIA was requested to conduct a review of development contributions as part of the Government's "Better Local Government" initiative (DIA, 2013). The review informed the changes to development contributions that were included in the Local Government Act 2002 Amendment Act 2014. Some of the objectives that the changes sought to achieve include:

- greater direction about what councils can use development contributions for and how they should be applied;

- focusing development contributions toward infrastructure required by development, and avoiding charges for infrastructure that is not directly needed to service the development;
- introducing a process that allows developers who believe they are being charged incorrectly to challenge the charge through an independent commissioner;
- greater transparency about how development contributions are being used; and
- recognising and encouraging development agreements (agreements between councils and developers that allow the developer to provide infrastructure themselves in return for lower development contribution charges).

Although the changes introduced in the Local Government Amendment Act are very recent, the Commission is interested in any early reflections about how they have affected the land development process.

Q56 **How effective have the recent changes to development contributions been that were introduced in the Local Government Act 2002 Amendment Act 2014?**

Infrastructure strategies

As noted earlier, local authorities will be required to prepare a 30-year infrastructure strategy as part of their 2015 Long-Term Plans. A central function of infrastructure strategies is to provide thinking and planning in terms of:

- the level of infrastructure investment needed to provide for community growth;
- managing the timing of investment for growth, to avoid constraints on growth from limited infrastructure capacity while minimising the costs of underutilised capacity;
- the level of investment needed to replace, renew or upgrade existing assets (upgrades are often necessary when increased capacity is required due to more intense housing);
- how to balance service-level expectations with affordability in the context of anticipated demographic changes such as depopulation and ageing; and
- what level of investment, if any, is needed to improve the level of service provided by those assets (DIA, 2014).

Q57 **What is the likely effect of long-term infrastructure strategies on the availability of land for housing?**

Alternative approaches to funding infrastructure

Local Government New Zealand notes that the approaches available to fund infrastructure in higher-growth areas are limited and that alternatives are required:

> …councils are required to fund large-scale infrastructure investments in order to meet the needs of future generations and sustain economic growth. Such councils have limited funding tools at their disposal and required growth in funding requirements will place severe pressure on a pure property tax model. (LGNZ, 2013b)

The Commission is interested in the extent to which current approaches to funding infrastructure are a barrier to the development of land for housing and potential alternative approaches.

One alternative approach to funding infrastructure that has received some publicity in New Zealand is Municipal Utility Districts (MUDs). MUDs are used widely in Texas and some other US states, and provide water and other infrastructure services in areas where municipal services are not available. Finance to pay for infrastructure is raised through the public sale of bonds. The MUD has the power to levy and collect taxes on properties in the MUD, which are used to pay the principal and interest on the bonds (Allen & Oliver, n.d.). The New Zealand Initiative has proposed that a variant of MUDs (which they refer to as "community development districts") should be introduced in New Zealand (New Zealand Initiative, 2013).

One other infrastructure funding option is the use of betterment taxes. Coleman and Grimes (2010, p. 54) define a betterment tax "as one that taxes land value on an ongoing basis in order to capture the uplift in land values that may occur following a public infrastructure investment." The appreciation of land values following rezoning could also be captured through a betterment tax. Under the 1926 Town Planning Act, local authorities in New Zealand were able to impose a 50% betterment tax, but this was repealed in 1953 (Harris, 2005).

There are many examples where betterment taxes have been used overseas. For example both Hong Kong and Singapore use betterment taxes as the principal sources of funding for transport infrastructure including their respective metro systems (Medda, 2011).

A major review of Australia's taxation system noted that although betterment taxes are attractive in principle, their implementation can be difficult:

> …in practice, betterment taxes can increase the uncertainty associated with land development. To operate effectively, betterment taxes need to isolate the increase in value attributable to the zoning decision or the building of infrastructure from general land price increases at the local level. This is often difficult since the value of land will move in anticipation of a change in re-zoning. Sometimes this can occur many years before the re-zoning. Betterment taxes may be applied on an ad hoc basis and the rate of the betterment tax is sometimes left to discussions between developers and government as part of the planning approval processes, rather than being set in a transparent manner… Additionally, having a betterment tax in place may encourage governments to create

> economic rent through additional zoning restrictions or delays in land release, in order to raise more revenue. (Henry et al, 2010, p. 424)

Q58 **Do councils in high-growth areas require a greater range of approaches for funding infrastructure?**

Q59 **What alternative approaches for funding infrastructure should be considered in New Zealand's high-growth areas?**

Council Controlled Organisations

Alongside councils, developers and national government, infrastructure can also be provided and operated by Council Controlled Organisations (CCOs).

CCOs are allowed for under the LGA, and can be registered as a company with 50% or greater council ownership, or as another legal entity where a council or councils control more than 50% of voting rights (Local Government Infrastructure Advisory Group, 2013). Most councils operate between one and five CCOs (DIA, 2009), and in total there are more than 200 CCOs (Local Government Infrastructure Advisory Group, 2013).

Three commonly identified advantages of delivering infrastructure through CCOs are: greater operating efficiency; use of board appointments to introduce commercial disciplines and specialist expertise; and a focus on achieving a constrained set of business objectives (OAG, 2012). But placing responsibility for specific types of infrastructure within CCOs may increase the challenge of ensuring that infrastructure is delivered and maintained in a coordinated and integrated manner.

Q60 **What are the main advantages and disadvantages of having infrastructure vested in Council Controlled Organisations?**

Q61 **Does the use of Council Controlled Organisations create challenges with respect to integrated provision of infrastructure to support housing?**

National infrastructure

Local government infrastructure often links with, or complements, infrastructure owned and operated by central government, such as the state highway network (Local Government Infrastructure Advisory Group, 2013). The Government's 20-year National Infrastructure Plan

aims to facilitate coordination of infrastructure by creating a clear outline of the nature, scale and timing of significant national infrastructure investment over the life of the plan (Ministry for the Environment, 2010).

Q62 **Has the National Infrastructure Plan helped promote coordination of infrastructure investment? Is there sufficient integration between central and local government infrastructure planning?**

Other factors influencing the supply of development capacity

Heritage protection

Under the RMA, local authorities must recognise and provide for "the protection of historic heritage from inappropriate subdivision, use, and development."[10]

Most authorities give effect to this requirement through District Plan policies and heritage listings, which limit the ability of landowners to alter a protected building, object or area without a resource consent.

Recognised heritage protection authorities can apply to a local authority to have a site or object protected through a heritage order. [11] Applications for heritage orders are treated in a similar manner to resource consent applications. Landowners affected by a heritage order may apply for a Plan change to have it changed or removed. They may also appeal to the Environment Court if their application for a resource consent to alter the protected item is refused, or if conditions are attached to a consent that the landowner considers objectionable.

Archaeological sites are protected under the Heritage New Zealand Pouhere Taonga Act 2014. Heritage New Zealand Pouhere Taonga (formerly the Historic Places Trust) may declare an area as an archaeological site, provided it meets certain criteria. Once declared, a site may not be modified or destroyed without the authority of Heritage New Zealand Pouhere Taonga. Affected landowners may appeal to the Environment Court against a declaration.

Heritage New Zealand Pouhere Taonga also maintains a list of New Zealand's significant and valued historical and cultural heritage places, known as the New Zealand Heritage List.

Q63 **What impact does heritage protection have on the supply and development of land for housing?**

[10] s 6 (f), RMA.

[11] These include every Minister of the Crown, local authority, Heritage New Zealand Pouhere Taonga, and any other body corporate recognised by the Minister for the Environment (through Order in Council).

Māori land

The Commission's *Housing affordability* report noted that there is potential for Māori land[12] near to growth centres to increase the supply of affordable housing for Māori and reduce the pressure on the price of housing on general land (NZPC, 2012). A 2011 report by the Office of the Auditor-General (OAG) identified that about 30% of Māori land is in or near provincial centres. The report also noted that in the Northland, Bay of Plenty, Auckland and Canterbury regions, "there was significant demand from Māori individuals and organisations to use their land for housing, given appropriate support and regulation" (OAG, 2011, p. 23).

Māori land in some areas is seen by its owners as a resource that could be used to increase the supply of housing for Māori whānau. However, the challenges of building homes on Māori land are well documented. Difficulties using land as security for finance, zoning restrictions, getting agreement from shareholders in land blocks, and poorly coordinated or communicated government responses all feature prominently.

This inquiry is particularly interested in the challenges in interacting with local government processes. Because of its location, much Māori land is zoned rural, or in other ways that restricts the number of houses that can be built on it (OAG, 2011). This means that in many instances, any significant housing developments on Māori land will require resource consent, or potentially a District Plan change.[13]

The OAG recommended that "local authorities identify and work with landowners who have particularly suitable land blocks and who want to build housing on Māori land" (OAG, 2011, p. 16). The OAG singled out both the Western Bay of Plenty District Council and Whangarei District Council as good examples where the councils are working closely with whānau to progress their housing aspirations proactively (OAG, 2011).

Q64 **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?**

Q65 **To what extent are Plan change requirements, consultation requirements, or the need for infrastructure, barriers to Māori aspirations for building housing for whānau on Māori land?**

[12] Te Ture Whenua Māori Act defines Maori land as Māori customary land or Māori freehold land; that is, not General land (whether or not it is owned by Māori) or Crown land (whether or not it is reserved for Māori).

[13] Applications to build houses on Māori land may also require permission from the Māori Land Court. Te Ture Whenua Māori Act 1993 was under review at the time of writing, and is outside the scope of this inquiry.

Land aggregation

The Commission set out in *Housing affordability* that significant scale economies can be achieved in land development and building. In order to achieve these scale economies, developers often need to aggregate smaller parcels of land. MBIE has also identified fragmented land ownership as a constraint on residential housing supply. Such fragmentation limits opportunities for large-scale development opportunities (MBIE, 2014c).

Q66 **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?**

In a number of other countries, local or regional governments have established agencies (sometimes known as urban development agencies or UDAs) to aggregate sections of land into larger, viable packages for development (see, for example, Box 2). UDAs also often plan and organise the provision of infrastructure in the aggregated packages to facilitate development. Such approaches can help promote greater competition, by de-risking development and allowing smaller firms to participate.

Some overseas UDAs have compulsory acquisition powers (like New Zealand's Public Works Act), allowing them to prevent land aggregration from being impeded by "holdouts". Where individual landowners decline to sell, the UDA can acquire the land, paying market-based compensation to the owner. The use of compulsory acquisition powers also means that, where newly-aggregated land is rezoned to enable development, the public – rather than the original landowner – capture the gains from the resulting increase in land values.

Q67 **Is there a need for public agencies that can aggregrate land in New Zealand cities? If so, who should establish these agencies? What powers and functions should they have?**

Incentives on developers and landowners

The supply of land for housing requires willing sellers of sites capable of being developed or redeveloped. The Commission is interested in understanding what drives owners' decisions about selling land for the purposes of development, and whether there are significant barriers to them doing so which are constraining supply.

As discussed in section 2, where the supply of land is constrained, landowners can be encouraged to hold onto sections in anticipation of future price rises. An "option value" is effectively created on land, particularly where land values rise faster than the cost of capital (ie the holding cost).

National taxation policies, local authority rating policies (for example whether rating valuations are based solely on land or also include improvements), the availability of financing and broader economic conditions will influence decisions about holding or developing land. The Local Government (Rating) Act 2002 provides local authorities with the choice of three systems upon which to base rates – land value, capital value or annual value. [14] Across New Zealand, local authorities tend to rate either on the basis of land value or on the basis of capital value.

The 2010 report of the Victoria University of Wellington Tax Working Group commented favourably on the idea of a low-rate land tax (as a way to broaden the tax base) primarily because of its efficiency advantages. It notes that a land tax would be expected to cause an initial fall in the value of land by up to the net present value of the expected future land tax liabilities. Coleman and Grimes (2009) citing Oates and Schwab (2009) note that a land tax is likely to result in more intensive urban development, compared to a property (capital value) tax. They note distributional concerns however: owners of existing wealth will face a loss of wealth, with retired people having to pay a land tax without reaping significant benefit from any offsetting reduction in income taxes.

A switch from local authority rates being based on property value to land value could be expected to encourage land improvement (including the construction of housing) and discourage the holding of unimproved land. The Commission is interested in the extent to which council rating approaches influence "land banking" and the supply of land for housing.

Q68 **To what extent do central or local government policies and practices prevent or discourage landowners from selling or developing land for housing?**

Q69 **How much land in New Zealand is being held in anticipation of future price rises? What evidence is there?**

Q70 **Does the setting of rates on the basis of land value or capital value (that is, including the value of improvements) influence the supply of land for housing? What evidence can you supply?**

Private covenants

Covenants place restrictions on land use and building types (Mead & Ryan, 2012). Their use in New Zealand is widespread (Easton, Austin & Hattam, 2012). Covenants are often used to

[14] Under section 38 of the Local Government (Auckland Transition Provisions) Act 2010, Auckland Council was required to set its general rates based on capital values for the 2012/13 financial year

stipulate minimum house sizes, specific building materials, and height limits (Mead & Ryan, 2012).

A subdivision advertised near Nelson includes a range of covenants that limit how the land can be used. Some of the prohibitions include:

- dwellings with a building footprint area of less than 140m^2 (excluding garaging);
- dwellings with a footprint greater than 50% of the area of the lot;
- constructing more than one dwelling house on a lot; and
- any building greater than 6 metres in height above the natural ground level.

The same subdivision also includes covenants that prohibit the use of off-site construction, the use of bright colours on buildings, fencing that is constructed of corrugated iron or uncoated flat plywood, and the erection of a solar panel that is visible from any part of the road adjoining the property. Owners are also prohibited from keeping certain pets (Katania Heights, 2012).

Covenants can enhance the welfare of both the developer and the purchaser. By restricting the types of future developments that may take place on or around the section, the developer provides some assurance of continued value to purchasers and can therefore charge a higher price. Current and future owners benefit from covenants, by purchasing an asset with security over its ongoing amenity. However, covenants may have negative impacts on those outside of the contract. For example, where supply is limited, the prevalence of covenants may unduly restrict the types of housing that are available. For example, Hattam (2011) argues that the use of covenants in the Selwyn District has the potential to hinder the earthquake recovery in Canterbury:

> Insurance payouts from much of the 'red zone' (which includes many older, cheaper suburbs with small houses) will not be sufficient to build larger houses. Even if residents are given enough money for the purchase of a section and for the building of a house to replace the one they live in, they will still not be able to build because there are no unencumbered sites available to build that house. This would be a significant market failure. (p. 33)

Mead and Ryan (2012) note that covenants may prevent the more intensive use of land and that, as a result, legislation in some Australian states "contains mechanisms for public planning instruments to override restrictive covenants". New Zealand law does not include similar provisions, but landowners or developers may apply to the District Court under the Property Law Act 2007 to modify or extinguish a covenant. The Commission is interested in the frequency with which covenants are applied to new housing developments, and whether covenants are a significant factor in restricting the supply of development capacity.

Q71 **How common is the use of covenants in new housing developments? To what extent are private covenants restricting the supply of development capacity?**

Recent initiatives

Housing Accords and Special Housing Areas

The Housing Accords and Special Housing Areas Act 2013 (HASHA) came into force on 16 September 2013. The purpose of the Act is to facilitate an increase in land and housing supply in regions or districts with housing supply or affordability issues.

Regions or districts may be added to Schedule 1 of HASHA by Order in Council on the recommendation of the Minister of Housing, where the Minister is satisfied the region or district is experiencing significant housing supply or affordability issues. There are specific tests the Minister must consider:

- whether the weekly mortgage payment on a median-priced house is more than half the median weekly take-home pay for an individual, based on a 20% deposit;
- whether the median house price is more than 5.1 times the gross annual median household income; and
- whether land available for development is likely to meet housing demand, based on predicted population growth.

The Minister may not recommend the removal of a region or district from Schedule 1 unless satisfied it is no longer experiencing housing supply and affordability issues, having regard to the same criteria.

HASHA allows the Minister to negotiate with a territorial authority listed on Schedule 1 to establish a Housing Accord. A Housing Accord is an agreement for central and local government to work together to make housing more affordable in the district by increasing land or housing supply. A Housing Accord must include targets for residential development.

HASHA also allows areas with the potential to deliver increased land and housing supply, that are within a region or district listed in Schedule 1, to be designated as Special Housing Areas. Where there is a Housing Accord in place between the government and a local authority, a Special Housing Area can only be established on the recommendation of the local authority. Local authorities therefore have an incentive to agree a Housing Accord with government, so that government does not designate a Special Housing Area without their consent. An area can only be designated as a Special Housing Area where the Minister considers that adequate infrastructure to serve developments exists or is likely to be built.

Certain residential developments within a Special Housing Area will be subject to faster and more permissive resource consent processes, as an alternative to the RMA consenting process. Developments must be less than six storeys high and with capacity for a minimum number of additional dwellings. Where a Plan change is required as well as a resource consent, a developer can pursue both simultaneously, and appeal rights are limited.

At time of printing, five Housing Accords had been signed. The accords vary significantly in terms of their form, including the way targets are expressed. The Government has not yet designated any Special Housing Areas outside of a Housing Accord (see Table 5).

Table 5 Areas covered by Schedule 1 of the Housing Accords and Special Housing Areas Act 2013

District or region	Housing Accord signed	Target	Number of Special Housing Areas
Auckland	September 2013	39 000 sections/dwellings to be consented over 3 years	80
Christchurch City Council	April 2014	Aspirational targets of – A 10% reduction in the number of households at the 40th percentile of household income paying more than 30% of household income on housing – An increase in the proportion of new build consents with a value of less than $250 000 (value of consent only) – 700 (net) additional social housing units added to the total social housing stock in Christchurch from the date of signing of the Accord to the end of 2016	0 (The accord notes that "it is unlikely that any Special Housing Areas will be required")
Hutt City Council	-	-	0
Kāpiti Coast District Council	-	-	0
Porirua City Council	-	-	0
Queenstown–Lakes District Council		A draft accord sets a target for 1 350 sections and dwellings consented over 3 years	0

District or region	Housing Accord signed	Target	Number of Special Housing Areas
Tauranga City Council	August 2014	Sections with capacity for 1 000 dwellings released over 2 years in Special Housing Areas, with sections to be on average no greater than 500m² and dwellings on average 10% smaller than those constructed between 2009 and 2014	0
Upper Hutt City Council	-	-	0
Wellington City Council	June 2014	7 000 sections/dwellings to be consented over 5 years	8
Western Bay of Plenty District Council	August 2014	Over 3 years: – Council to investigate 3 Special Housing Areas – 500 building consents outside of any Special Housing Areas – 175 titles issued in Special Housing Areas	0

Source: Housing Accords and Special Housing Areas Act 2013, Schedule 1; various Housing Accords.

The terms of reference for this inquiry request that the Commission to report on early lessons from HASHA. The Commission is interested in different perspectives on HASHA, including from councils and developers.

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

Canterbury Recovery Strategy and Plans

The Canterbury Earthquake Recovery Act 2011 (CER) passed on 18 April 2011 is designed to assist Christchurch's "focused, timely, and expedited" recovery from the 2010 and 2011 earthquakes. The CER requires the preparation of a Recovery Strategy and a Recovery Plan for the central business district (Box 7).

Box 7 **Canterbury Recovery Strategy and Plan**

The *recovery strategy* is an "overarching, long-term strategy for the reconstruction, rebuilding, and recovery of greater Christchurch, and may (without limitation) include provisions to address—

- the areas where rebuilding or other redevelopment may or may not occur, and the possible sequencing of rebuilding or other redevelopment:
- the location of existing and future infrastructure and the possible sequencing of repairs, rebuilding, and reconstruction:
- the nature of the Recovery Plans that may need to be developed and the relationship between the plans:
- any additional matters to be addressed in particular Recovery Plans, including who should lead the development of the plans."

Recovery plans may cover a range of areas or topics. Section 16 of the Act states that the Minister for Earthquake Recovery may direct a responsible entity to prepare a Recovery Plan. The Ministerial direction must specify "the matters to be dealt with by the Recovery Plan, which matters may include provision, on a site-specific or wider geographic basis within greater Christchurch, for—

- any social, economic, cultural, or environmental matter:
- any particular infrastructure, work, or activity."

A Recovery Plan must be consistent with the Recovery Strategy, and wherever there are inconsistencies between a Recovery Plan and other statutory planning documents (including those made under the RMA, LGA and LTMA), the Recovery Plan prevails.

A Greater Christchurch Recovery Strategy was approved by the Governor-General in May 2012; the Christchurch Central Recovery Plan (CCRP) was released in July 2012; and a Land Use Recovery Plan (LURP) was approved in December 2013.

Christchurch Central Recovery Plan

The Christchurch Central Recovery Plan directed changes to the Christchurch City District Plan to support the development of a "greener, more accessible city with a compact core" (CERA, 2012, p. 5). Christchurch City Council has recently proposed changes to the CCRP, focusing on the residential policies for the central city and aiming to stimulate demand for inner-city living. Proposed changes include:

- deleting most special amenity areas in the central city (developments within these areas previously had to be designed to fit within the distinctive character of the neighbourhood);

- removing the urban design standard; and
- debates on development contributions for residential developments within the central city (with the total rebate fund capped at $10m and expiring on 30 June 2016).

A decision by the Minister for Earthquake Recovery on these proposed changes was still pending at the time of publication.

Land Use Recovery Plan

The LURP directs Environment Canterbury, Christchurch City Council, and the Selwyn and Waimakariri District Councils to amend the Regional Policy Statement and District Plans with the objectives of:

- opening up new land for housing and business;
- revitalising town and suburban centres;
- promoting opportunities to re-use vacant brownfield sites; and
- providing opportunities for more housing within existing communities.

Changes made by the LURP include:

- the introduction of targets for the number of new households to be provided through infill and intensification up to 2028 (with supporting changes to District Plans);
- amendments to the Christchurch City Plan, enabling existing homeowners to provide rental accommodation by converting individual dwellings into two units, or by using an existing family flat as a rental unit (CERA, 2013).

Unlike Plan changes made under the RMA, these cannot be objected to or appealed.

The CER also gave the Minister for Earthquake Recovery and Governor-General a range of powers to revoke, amend or override other statutory processes or requirements. These powers were used in July 2014 to enable Christchurch City Council to accelerate a review of its two District Plans.

Q73 **Are there wider lessons for New Zealand from the planning and development processes that have been used in greater Christchurch?**

Q74 **What evidence is there that the Land Use Recovery Plan changes are resulting in more land being made available for housing, or allow land to be developed faster?**

Summary of questions

Q1	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?
Q2	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?
Q3	What criteria should the Commission consider in evaluating the current land planning and development system in New Zealand?
Q4	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?
Q5	What data sources will be most useful in identifying effective local authority planning processes for the development of land for housing?
Q6	Are there other local authorities exhibiting good policies or practices in making land available for housing that the Commission should investigate?
Q7	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?
Q8	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?
Q9	How easy is it to understand the objectives and requirements of local authority plans? What improves the intelligibility of plans?

Q10	Is ensuring an adequate land supply for housing an objective of current District or Unitary Plans? If so, what priority is this objective given?
Q11	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?
Q12	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?
Q13	How can the Plan development process be improved to increase the supply of development capacity?
Q14	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?
Q15	How well do zoning decisions in District Plans and infrastructure planning in Long-Term Plans reflect demand and supply forecasts?
Q16	How effective are local authorities in ensuring that the rules and regulations governing land use are necessary and proportionate?
Q17	What are the characteristics of the most effective processes for testing proposed rules, Plans or Plan changes?
Q18	How effective are local authority processes for connecting decisions across the different planning frameworks? Which particular processes have been successful? What explains their success?
Q19	What impact does transport planning have on the supply of development capacity?

Q20	Are there examples of effective integration between regional policies and district plans, and what are the features of processes that lead to effective integration?
Q21	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?
Q22	How important is it that rules for development and land use provide certainty?
Q23	Are rules consistently applied in your area? Is certainty of implementation more important than flexibility?
Q24	Which local authorities have the best approach to implementing land use rules or Plan requirements? What makes their approaches the best?
Q25	Do second-generation Plans take a more flexible or enabling approach to land use control?
Q26	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?
Q27	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?
Q28	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?
Q29	Which processes are most important to applicants for providing consistent and efficient assessments of resource consent applications?

Q30	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?
Q31	What explains the variation between jurisdictions regarding requests for additional information and use of stop-the-clock provisions when assessing resource consent applications?
Q32	What are the impacts of notification on the supply of development capacity? How could the processes surrounding notification be improved?
Q33	What explains the reduction in the prevalence of pre-hearing meetings?
Q34	Which local authorities make the best use of pre-hearing meetings? What factors best contribute to successful pre-hearing meetings?
Q35	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?
Q36	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?
Q37	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?
Q38	In your experience, what impact do conditions on resource consents have on the viability of development projects?
Q39	Which local authorities have been most successful in providing coordinated decisions over applications to use land for housing? What explains their success?
Q40	Are there issues relating to the process for challenging or changing decisions which impede the supply of effective land for housing?

Q41	Compared to other processes of relevance to land release and development, how important is the ability to obtain a Plan change or variation? Why?
Q42	How easy is it to obtain a Plan change or variation in your area? What are the major barriers?
Q43	Do council-led Plan changes or variations help or hinder the supply of development capacity?
Q44	What is your experience working with the infrastructure component of the land supply system?
Q45	Are there particular aspects of the system, or particular types of infrastructure, that are problematic?
Q46	What are the opportunities to improve this part of the land supply system?
Q47	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?
Q48	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?
Q49	What comparative information about the provision of infrastructure to support housing should the Commission be aware of?
Q50	Is there evidence that territorial authority debt levels are acting a barrier to the provision of infrastructure for housing in rapidly growing areas?
Q51	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?

Q52	Are there particular examples of good practice regarding infrastructure charges?
Q53	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?
Q54	Do development contribution policies incentivise efficient decisions about land use, or do they unduly restrict the supply of land for housing?
Q55	Are development contributions used exclusively to drive efficient decisions about land use, or are they used to promote broader goals?
Q56	How effective have the recent changes to development contributions been that were introduced in the Local Government Act 2002 Amendment Act 2014?
Q57	What is the likely effect of long-term infrastructure strategies on the availability of land for housing?
Q58	Do councils in high-growth areas require a greater range of approaches for funding infrastructure?
Q59	What alternative approaches for funding infrastructure should be considered in New Zealand's high-growth areas?
Q60	What are the main advantages and disadvantages of having infrastructure vested in Council Controlled Organisations?
Q61	Does the use of Council Controlled Organisations create challenges with respect to integrated provision of infrastructure to support housing?
Q62	Has the National Infrastructure Plan helped promote coordination of infrastructure investment? Is there sufficient integration between central and local government infrastructure planning?

Q63 What impact does heritage protection have on the supply and development of land for housing?

Q64 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?

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

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Appendix A Terms of reference

Productivity Commission inquiry into the supply and development capacity of land for housing in New Zealand cities

Issued by the Minister of Finance, the Minister of Housing, the Minister of Local Government, and the Minister for the Environment (the "referring Ministers").

Pursuant to sections 9 and 11 of the New Zealand Productivity Commission Act 2010, we hereby request that the Productivity Commission [the Commission] undertake an inquiry to assess and identify improvements in local and regional authorities' land use regulation, planning, and development systems. These systems should be reviewed with respect to how they deliver an adequate supply of development capacity for housing.

Context

Ensuring that rapidly growing cities can efficiently supply and use land to house people in an affordable manner has the potential to make a significant difference to New Zealand households' living standards and support national productivity and macroeconomic stability.

The Productivity Commission's 2012 report – *Housing affordability*, identified planning, land use regulation and the systems for supply of infrastructure as playing a critical role in managing the growth in cities. The Commission's 2012 report, and its 2013 *Local government* report, highlighted variability in regulatory practices across local and regional authorities. This inquiry seeks to explore and understand the practices of local and regional authorities in more detail, with the aim of improving overall performance, given that, over the next several decades, the population in several major cities will grow significantly.

Local and regional authority planning systems aim to balance the competing social, environmental and economic impacts of development. Planning systems and land regulations include the regulatory requirements imposed by central, local, and regional government and the actions of regulators. Development systems include the institutions, plans, policies, processes and appeal rights on the use of land, including changes to its use.

Planning and development systems affect the potential uses of land with the intention of delivering social benefits to the local community. Delivering these social benefits will have a significant influence on the cost, availability and development capacity of land for new housing.

The past decade has seen a large increase in New Zealand house prices. The reasons for this increase are multi-faceted. One important factor has been the approach to land use planning and regulation.

Over time the range of objectives of local authority planning systems has increased and the environment in which they operate has become increasingly complex. The framework within which local authorities reach decisions has been subject to ongoing reform, but there remains

significant autonomy for local authorities to set their own rules and make decisions on development within their area. This is consistent with the promotion of local democracy and the concept of subsidiarity. There are increased requirements to extend the planning horizon in dealing with environmental and infrastructure issues.

Decisions about the use of land are important to the community. They involve costs to some, and benefits to others. Community consultation can and should influence the outcome, but the ways and means of consulting with the community need to be carefully considered to ensure that the needs of the entire community, including the needs of future generations, are being met. Identifying leading practices and innovation in consultative processes is an important way to improve processes, performance, and outcomes across New Zealand.

Scope and aims

The Commission is requested to undertake an inquiry to examine and report, in a comparative sense, the by-laws, processes, and practices of local planning and development systems to identify leading practices that enable the timely delivery of housing of the type, location, and quality demanded by purchasers. The Commission should particularly focus on urban growth areas, including any early lessons from the Housing Accords and Special Housing Areas Act 2013, and consider successful international experiences with urban development.

Planning and development systems should be reviewed with respect to how they deliver an adequate effective supply of development capacity for housing. The inquiry should review practices of the larger urban planning and development systems, including but not limited to the authorities of the largest and/or fastest-growing urban areas, and any comparable international urban areas with valuable lessons.

The Commission would be expected to provide information on absolute and relative performance, identify leading practices, and make recommendations to improve performance with respect to: (i) policies, strategies, outcomes and processes for urban land supply, including the provision of infrastructure; (ii) funding and governance of water and transport infrastructure; (iii) governance, transparency and accountability of the planning system; (iv) the implication of leading practice for the range of laws governing local authority planning; (v) involvement and engagement with the community.

Exclusions

This inquiry is not a fundamental review of the Resource Management Act, and does not include the processing of building consents. It does not include consideration of changes to the ownership of infrastructure assets, but does include the funding and governance (including legal structure of ownership) of those assets.

Consultation

To ensure that the inquiry's findings provide practical and tangible ways to improve the performance of development and planning systems, the Commission should work closely with

Local Government New Zealand, Society of Local Government Managers and the wider local government sector.

Timeframes

The Commission must publish a draft report and/or discussion document, for public comment, followed by a final report that must be presented to referring Ministers by 30 September 2015.

HON BILL ENGLISH, MINISTER OF FINANCE

HON DR NICK SMITH, MINISTER OF HOUSING

HON PAULA BENNETT, MINISTER OF LOCAL GOVERNMENT

HON AMY ADAMS, MINISTER FOR THE ENVIRONMENT

Appendix B Territorial authorities

Table 6 lists territorial authorities (TAs) ranked according to their population growth between the 2001 and 2013. It also notes their 2013 population and whether they are listed on Schedule 1 of the Housing Accords and Special Housing Areas Act 2013 (HASHA) as areas of significant housing supply or affordability issues.

The Commission proposes to compare the performance of 10 TAs in order to meet the Terms of reference for this inquiry. They are the 10 TAs that had the largest population increase (in absolute terms) between 2001 and 2013.

The areas proposed for closer study in this inquiry are indicated in bold.

Table 6 Territorial authorities

TA	2013 Population	Population growth2001–2013, %	Population change 2001–2013	HASHA designated?
Queenstown-Lakes district	**29 700**	**66**	**11 850**	**Yes**
Selwyn district	**46 700**	**65**	**18 400**	
Waimakariri district	**52 300**	**38**	**14 400**	
Tauranga city	**119 800**	**28**	**26 300**	**Yes**
Central Otago district	18 500	25	3 750	
Ashburton district	32 300	24	6 300	
Hamilton city	**150 200**	**24**	**29 000**	
Waikato district	**66 500**	**24**	**12 800**	
Auckland	**1 493 200**	**23**	**274 800**	**Yes**
Waipa district	48 700	22	8 700	
Carterton district	8 490	21	1 490	
Whangarei district	**83 700**	**20**	**13 700**	
Hurunui district	12 000	18	1 850	
Western Bay of Plenty district	45 500	17	6 500	Yes
Kāpiti Coast district	50 700	16	7 100	Yes
Wellington city	**197 500**	**15**	26 400	**Yes**

TA	2013 Population	Population growth2001–2013, %	Population change 2001–2013	HASHA designated?
Tasman district	48 800	15	6 400	
Kaipara district	20 500	14	2 550	
Nelson city	48 700	14	5 800	
Mackenzie district	4 300	13	510	
New Plymouth district	77 100	13	8 700	
Hastings district	76 700	10	7 100	
Marlborough district	44 700	10	4 000	
South Wairarapa district	9 800	10	860	
Upper Hutt city	41 300	10	3 600	Yes
Matamata-Piako district	32 900	9	2 600	
Porirua city	53 700	8	4 200	Yes
Manawatu district	28 500	8	2 200	
Palmerston North city	83 500	8	6 400	
Waimate district	7 810	8	590	
Buller district	10 650	8	790	
Napier city	59 600	8	4 400	
Far North district	60 600	7	4 200	
Westland district	8 570	7	580	
Taupo district	34 800	7	2 300	
Christchurch city	**356 700**	**6**	**21 400**	**Yes**
Timaru district	45 400	6	2 600	
Thames-Coromandel district	27 300	6	1 500	
Waitaki district	21 400	4	900	
Invercargill city	53 200	4	2 100	
Hauraki district	18 600	4	700	
Masterton district	24 100	4	900	
Grey district	13 700	4	500	
Dunedin city	123 500	4	4 200	

TA	2013 Population	Population growth2001–2013, %	Population change 2001–2013	HASHA designated?
Gisborne district	47 000	3	1 500	
Southland district	30 300	3	900	
Rotorua district	68 400	2	1 500	
Lower Hutt city	101 200	2	2 100	Yes
Horowhenua district	31 200	2	600	
Kaikoura district	3 640	2	60	
Stratford district	9 210	1	100	
Central Hawke's Bay district	13 250	0	50	
Whakatane district	34 200	0	100	
Otorohanga district	9 590	0	0	
Clutha district	17 250	-2	-300	
Wanganui district	43 500	-2	-900	
Gore district	12 400	-3	-350	
South Taranaki district	27 500	-3	-900	
South Waikato district	23 200	-4	-1 000	
Waitomo district	9 340	-5	-440	
Tararua district	17 450	-5	-900	
Rangitikei district	14 550	-6	-950	
Opotiki district	8 780	-7	-710	
Kawerau district	6 650	-9	-640	
Wairoa district	8 300	-10	-960	
Ruapehu district	12 450	-17	-2 550	
Chatham Islands territory	600	-20	-150	
Area outside territorial authority	50	-67	-100	
Total New Zealand	*4 442 100*	*14.47*	*561 980*	

Source: Statistics New Zealand estimated resident population; sub-national population at 30 June 1996, 2001, 2006, and 2013.


NEW ZEALAND
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Te Kōmihana Whai Hua o Aotearoa