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New Zealand Productivity Commission
Better Urban Planning Draft report

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NZCID Submission to the Productivity Commission on the Better Urban Planning draft report¹

The New Zealand Council for Infrastructure Development (NZCID) is the peak industry body for the infrastructure sector and promotes best practice in national infrastructure development through research, advocacy and public and private sector collaboration. NZCID members come from diverse sectors across New Zealand and include infrastructure service providers, investors and operators.

Key points

We commend the Productivity Commission (the Commission) on completion of another substantive piece of research on urban issues.

We support key findings and recommendations relating to the mixed performance of the planning system.

However, we do not yet consider that the Commission has realised the full potential of this inquiry.

The Commission has provided extensive and valuable insight into the planning system, but without rigorous interrogation of which institutions are best placed to carry out planning responsibilities, implement plans and with what resources, we do not yet consider the Commission has completed this Inquiry from a truly “first principles” perspective.

The Commission has, in our opinion, reviewed the planning system from within the context of the current planning-governance-funding frameworks.

We are concerned that the recommendations put forward by the Commission will not result in a substantive improvement in the functioning of the New Zealand planning system.

Delivering plans requires infrastructure funding and investment.

Infrastructure (particularly transport) funding and investment cannot be separated from governance.

A planning system, evaluated from a first principles perspective, must consider whether governance arrangements are sufficient to conduct urban planning and whether resources are available to deliver on those plans.

The Commission’s draft report, has not, in our view, seriously considered from a first principles perspective, whether New Zealand’s governance and infrastructure funding arrangements enable effective urban planning to occur and, if not, what changes might be required.

¹ This submission represents the views of NZCID as a collective whole, and may not necessarily represent the views of individual member organisations.

We encourage the Commission to take a broader approach to the combined planning-governance-funding system in its final assessment of an effective planning system for New Zealand.

NZCID's preferred model

NZCID has outlined its model for a more effective planning system in its report, previously submitted to the Commission, *Integrated Governance, Planning and Delivery*.

Rather than reiterate the contents of that report, which remains our recommendation for a revised planning system, we summarise the key high level principles we think should guide the Commission's consideration of recommendations in its final report:

- Urban land use planning cannot be separated from infrastructure.
- Infrastructure planning cannot be separated from infrastructure charging and funding.
- Infrastructure activities should be performed by the organisation and at the scale which best supports the delivery and operation of that service (in support of social, economic, environmental and cultural outcomes).
- Planning activities should be performed by the organisation and at the scale which best promotes the social, economic, environmental and cultural outcomes.
- Planning, infrastructure funding and governance must be considered as a single integrated activity and reviewed simultaneously.

We support

The Commission makes some very important observations. In particular, we agree that:

- The planning system is complex and, as most simply demonstrated by the increasing size of the RMA, becoming more complex, not less.
- The three main rationales for planning are:
 - To regulate spill over effects
 - To make fair and efficient collective decisions about the provision of local public goods
 - To plan, implement and coordinate investments with each other and land use.
- Cities (urban areas) are important drivers of economic and social opportunity and require a different planning approach than that applied to the natural environment.
- Cities are extremely complex and urban planning has encroached upon many areas of social, economic and environmental well-being that planning practitioners do not necessarily have the skills, training or capability to manage effectively.
- The differing purposes of the three planning Acts create internal tensions, duplication, complexity and costs. (F5.2)
- The RMA has failed to deliver on its goal as an enabling statute that would produce “tightly targeted controls that have minimum side effects” and has instead created excess costs, complexity and poor regulation. (F5.3)
- The “effects-based” approach to planning is sub-optimal and in need of replacement.
- Central government is not adequately engaged in planning decisions.
- New Zealand’s current planning system is weak, including that it suffers from unclear purposes, funding difficulties, variable public engagement and weak leadership.
- The current framework does not adequately recognise and value positive benefits from planning.
- Appeal rights should be limited to people and organisations directly affected by plan changes and project consenting processes.
- A permanent Independent Hearings Panel should be established.
- Current infrastructure planning and provision systems are insufficiently responsive, do not always align infrastructure supply and land use rules, and lack tools for the provision of city-shaping assets. (F9.2)
- A future planning framework should make provision for similar processes to the successful Auckland Transport Alignment Project.

We wish to emphasise

The opportunity cost of planning

The Commission's finding that agglomeration will "never" be a major driver of productivity growth (s2.2) is very significant in light of the emphasis given to agglomeration within some councils and the use of the agglomeration objective as a reason to prevent more distributed, market-led development.

If, as the Commission suggests, agglomeration efficiencies are vastly outweighed by factors relating to efficient land and labour markets (pg. 35), it is important that this evidence is rigorously tested and clearly stated.

If the Commission's findings are correct, a number of councils are reducing national competitiveness and living standards via land use regulation to an extent which warrants immediate Government intervention.

Evidence cited by the Commission which identifies poor performance overseas by authorities seeking many of the same outcomes as local authorities in New Zealand (with particular regard to activity centres – Box 7.1) is of concern.

Findings 7.2-7.6 suggest dysfunctional planning is evident across a number, if not many, council areas and poor performance is having a noticeable effect on national economic and social outcomes.

We trust that the Commission will confirm these findings and provide concrete proposals for short term Government action as well as longer term recommendations for a future planning framework.

The impact of effects based planning on infrastructure

The Commission has placed special emphasis on the plan-making process when considering the impact of effects-based planning and unproductive appeal rights (Ch.5). We support the Commission's discussion and findings, but note that just as important is the negative impact on infrastructure.

Essential major projects critical to sustaining urban communities and driving economic opportunity into even very deprived areas are frequently held up, constrained, downsized or "gold plated" to reduce the likelihood of consenting failure.

For example, the Auckland Northern Gateway cost of construction increased from an original estimate of \$82 million to \$340 million in the 9 years it took to consent (pre-establishment of the Environmental Protection Authority). Notably, the project was held up for an extended period to address an objection from a resident in Coromandel and included a \$65 million environmental enhancement to avoid an appeal from a local interest group.²

The \$320m Victoria Park tunnel was initially conceived as a \$165m viaduct, but objections from residents in St Mary's Bay led to the New Zealand Transport Agency (NZTA) opting from the more expensive underground option. This example is particularly noteworthy because there was already a viaduct in place, having been there since the 1960s, and a tunnel provided "no significant reduction in effects."³ Further, the precedent now set virtually guarantees that when the existing viaduct is replaced sometime in the next decade, it will need to be replaced by a tunnel adding many millions more to the cost. This cost will materialise as property value improvement for land owners in the area, yet no effort has been, nor likely will be made, to use this increase to offset the cost of the project. The planning system has thus facilitated a transfer of value from road users nationally to local property owners in one of the most affluent suburbs in New Zealand with no clear net benefit.

² Ministerial Rooding Advisory Group on Rooding Costs, Final Report, August 2006, p13

³ Ibid.

The \$1.4 billion Waterview Connection could have been delivered as an above surface road as provided for in Auckland planning documents for half a century at around half the cost. However, local opposition resulted not only in the much more expensive tunnel option but local amenity improvements including a cycleway, skate park, playground and waterway improvement. Together these ancillary costs increased the project by something in the order of \$50 million, on top of the half billion dollars or so extra the tunnel cost – all of which was paid for by road users across New Zealand. Not only that, despite its extreme cost, the project still delivers a benefit cost ratio of around 2.0, meaning its delay by up to a decade deferred benefits to the national economy in the order of hundreds of millions of dollars.

Resource consent for the Basin Reserve Flyover, meanwhile, despite being a project of “national significance” and receiving regional and local government support, was cancelled by the Environmental Protection Authority (EPA) in 2015 on the basis of local impacts and a lack of full consideration of options. Over a year on, NZTA is yet to identify another solution to one of the most severe bottlenecks in New Zealand and a key constraint to access to the capital city’s airport.

NZTA is currently undertaking another protracted and complicated resource consenting process for the East-West Link in Auckland. In light of, among other things, the failed consent process for the Basin Reserve Flyover, NZTA has proceeded with a cautious approach to the project. In our view, consenting issues are having a major impact on the form and scale of this project which, because it requires land reclamation, is especially prone to consent failure. Consent requirements are limiting the range of options open to NZTA, increasing the cost of the preferred option and leading to additional delay for a solution to congestion which for at least five years has badly undermined productivity in Auckland’s second largest employment zone.

These are just some of the examples that we are aware of in transport. Many more in energy and other sectors are equally well known.

We think there would be value in the Commission contacting key infrastructure agencies, including NZTA, Transpower, the gentailers and Chorus, and seeking information on the impact of consenting requirements on major project delivery.

We think it would be helpful to understand to what extent project options are discounted on various types of environmental concern and whether the decision to discount options passes through overall impact assessments. Our concern is that comparatively minor consenting considerations are adding comparatively large long term costs, or reducing long term net benefits, without adequate analysis of whether project restrictions provide a net benefit to society.

Each of the above projects, with the exception of the Basin Reserve Flyover, did receive resource consent. Together they comprise some of the 99.8 per cent of applications which do, ultimately, receive resource consent (the flyover being perhaps this country’s most notable exception).

However, the real impact of New Zealand’s dysfunctional resource consenting and appeals system is less often to stop critical projects from going ahead than to crowd out other infrastructure investment, leading to the deferral of less important projects.

Adding up these projects alone, a figure close to \$1 billion has been added to transport costs to avoid project opposition resulting from RMA effects-based statute. It is not unrealistic to suppose that this billion-dollar windfall could have been channelled into projects with an average benefit-cost ratio of 2.0, effectively doubling the already high presumed cost of consenting.

A different way of looking at this issue is to observe the benefit-cost ratios of major projects. A comparatively large number of transport projects planned and underway appear to deliver a benefit-cost ratio of “around 1.0”. Given the generally robust prescriptions around calculating benefits and costs, but the vague and unmeasured analysis of the cost of regulation and consenting, it appears that authorities are willing to spend as much as possible on project additions to reduce the risk of planning failure.

Environmental mitigation such as sound barriers and visual improvements, walking and cycling infrastructure and public transport services are all often included within a single project to reduce opposition and achieve resource consent, regardless of whether these services pass their own benefit-cost analyses.

New Zealand's flawed project consenting processes largely explain why New Zealand transport spending is comparatively high (s. 6.8), even while outcomes like congestion performance disappoint.

Major infrastructure projects should be evaluated against what it costs to deliver an acceptable solution and additions should be evaluated independently to understand whether they can be more efficiently delivered as a package or separately.

The environmental performance of the planning framework

We are pleased to see the Commission take an empirical approach to environmental performance (Ch.6).

We have held for some time a concern that understanding of the actual outcomes resulting from the current planning framework has been lacking.

Consequently, in late 2015, NZCID together with the Employers and Manufacturers Association (Northern) and Property Council of New Zealand commissioned the Environmental Defence Society to investigate environmental outcomes under the RMA.

The final report, attached to this submission, shares many of the findings of the Commission, and concludes that the performance of the RMA as environmental protection statute has not lived up to expectation, largely as a result of poor implementation.

Land use and transport are part of a single system

We note the Commission's finding that councils overuse land use rules because they lack either the ability or willingness to employ other mechanisms. (F7.10)

While we share the Commission's concerns that land use regulations through the RMA are being employed to achieve a range of outcomes which can be better targeted elsewhere, we wish to make clear that, with specific regard to transport, we do not support the separation or "dis-integration" of urban planning and investment.

The relationship between land use and transport is not divisible. Land use is what gives rise to travel needs and transport services are what enable different land uses. Transport accessibility is reflected in property prices and transport costs are heavily influenced by surrounding land uses.

Given that land use and transport are inseparable in practice, planning must also be integrated.

One of, if not the, critical challenge of urban planning is anticipating and responding to land use and travel needs as each evolve in response to the other while minimising constraints on natural market forces.

We therefore strongly endorse the Commission's recommendation that:

Future urban planning legislation should clearly prioritise responding to growth pressures, providing land use flexibility, and supporting the ability of residents to easily move through their city. (R7.1)

However, in practice, providing land use flexibility while supporting the ability for residents to move about their city is complex.

We think that the Commission may in its final report need to differentiate between greenfield (or restrictions on expansion) and brownfield development (restrictions on density).

We are aware that councils employ growth boundaries, at least in part, to reduce the cost of new road provision, as well as the frequency of driving, and we share the Commission's concerns that urban boundaries risk constraining market forces to a degree which results in a net cost to society

In this regard, we agree with what we understand to be the principal concern of the Commission, which is that urban boundaries are a "second best" option used because road pricing is not available.

We agree that road pricing is an excellent tool for sending price signals to drivers and, if implemented, would remove the core of the need for growth boundaries.

However, for development within existing urban environments, the efficiency benefits of road pricing are more variable, particularly where land use is misaligned with transport capacity and investment.

Road pricing, once implemented, will send a clear signal to a developer or potential new homeowner in a greenfield or brownfield zone about the cost of locational decisions, but for existing residents who find themselves with reduced accessibility and mobility via congestion, or facing increasing costs via road pricing, it is much less clear what the efficiency gain is.

Moreover, declining transport accessibility tends to materialise less as declining land values than as increased political pressure to address problems.

A particular problem is that the cost of improving or enhancing transport services in response to growing demand is not equal. In some locations with designated corridors or land availability, transport solutions may be as simple as a road corridor expansion. In others, entirely new and extremely expensive solutions, like light rail or property purchase for motorway expansion, may be required.

Indeed, the much more efficient and cost-effective option available to authorities is to manage land uses at the level at which transport systems can cope and to focus land use change in those areas benefitting from new investment. (R7.8)

For example, Auckland has recently undergone (and continues to undergo) a very large investment in rail. Given the affordability challenge of operating this investment, a prudent land use plan for Auckland would have targeted near-term density around rail stations to support the high fixed costs, high capacity characteristics of rail. Density has (instead and in addition) been provided for in, among other places, Royal Oak, Three Kings and Mt Roskill – suburbs with no rail access. The provision for density in these locations, and across the southern half of the isthmus, has thus necessitated an entirely new transport solution – light rail. Presumed to cost at least \$2 billion more (plus operating costs), light rail has received political commitment from the leading mayoral candidate even while capacity remains untapped in the heavy rail network throughout all forecast periods. An optimised Unitary Plan would have allowed density around rail stations in the first decade, and released further areas for density in later decades as and when high capacity services became clear. This would have reduced financial pressures on society and led to better all-round public outcomes.

It is unclear from the Commission's discussion across Chapter 7, whether such use of land use provisions should be encouraged or discouraged.

In our view, restricting urban development in areas which do not have, and are not planned to receive, adequate transport services, while focusing development capacity in areas with this capacity, represents optimal land use-transport planning and investment.

We recommend the Commission differentiates between greenfield and brownfield development when considering land use restrictions to advance transport objectives and clarify what rules and regulations are appropriate or not.

Spatial plans

We strongly support the Commission's findings and recommendations regarding spatial planning. (Ch.9)

However, we note some differences across New Zealand in terms of understanding of the true nature and purpose of spatial plans.

There may be some value in the Commission clarifying the exact objectives of spatial planning.

In our view, the true benefit of spatial planning ultimately rests on good infrastructure asset management and the provision of asset information to land use planners.

Spatial plans are not simply a tool to state where growth will go, they are a tool to align growth with infrastructure capacity and prevent growth in areas where services are not provided.

Infrastructure always impacts "spatially", both in the spillover effects generated by the presence of large assets, and in the distribution of benefits that flow from major public works.

Spatial plans are tools to sequence growth so that asset operators can keep pace with demand and target growth around assets with available capacity.

Often, the necessary information on the capacity of assets, including when assets will need to be renewed or new capacity provided, is not available or is not passed through to land use planners.

In other cases, land use planners may lack the "culture and capability" (Ch.12) to focus growth in areas meeting infrastructure service needs, preferring instead to prioritise areas which satisfy other planning outcomes.

Spatial planning provides the forum to integrate and align these needs, as well as bring together the full range of infrastructure services provided by separate agencies.

Critically, these agencies include both central and local government actors, as well as the private sector.

The fact that around half of infrastructure investment over the next decade will be committed by central government makes spatial planning a critical tool to align the two largest infrastructure providers.

The importance of central government to infrastructure investment, as well as to the setting national standards, oversight of the economy and controller of population flows, suggests the Government should have significant influence over the development of spatial plans.

We consider that spatial plans should be signed off by Government, thereby committing the Government and its resources to local spatial plans.

Government participation will also provide national context to the development of spatial plans, reducing duplication and ensuring sufficient capacity in services and land nationally.

As it is not feasible for the Government to engage with 67 local councils in the development of dozens of small spatial plans, and because infrastructure impacts flow freely across local boundaries, we consider spatial plans should be regional.

If, as would be the case under current governance arrangements, spatial plans were produced by regional councils while resources remained largely with city and district councils, implementation challenges such as those seen in Auckland following the development of the Regional Growth Strategy, should be expected.

We do not consider spatial planning to be possible under existing governance arrangements.

Local governance reform must be investigated by the Commission in light of spatial planning recommendations.

Urban form and congestion

We note the Commission's discussion of and finding in relation to urban form and private vehicle use. (Ch.8)

We acknowledge the research undertaken by the Commission on this issue and wish to highlight additional research.

The *Paradox of Intensification*⁴ offers a short literature review of urban experiences with intensification.

Its main thesis is that:

Ceteris paribus, urban intensification which increases population density will reduce per capita car use, with benefits to the global environment, but will also increase concentrations of motor traffic, worsening the local environment in those locations where it occurs.

We find the Commission's discussion to be consistent with the "Paradox" and hope that it helps further develop the Commission's understanding of the relationship between density and urban outcomes.

Urban form and carbon emissions

We note the Commission's finding in relation to density and sustainability. (F8.10)

We agree that urban planning is in some cases used to promote, and that planning decisions are sometimes justified via aspirations to, lower carbon emissions.

We agree that urban planning is not the most appropriate mechanism to advance carbon objectives.

The core reason for this is that carbon emissions are one of a number of factors to be taken into consideration when developing transport policy.

The Commission identifies a list of "other factors" (including local demographics, income levels, land use mix and layout of streets) which impact carbon emissions, but the most significant – and not one which land use planners are necessarily in a strong position to understand – is transport technology.

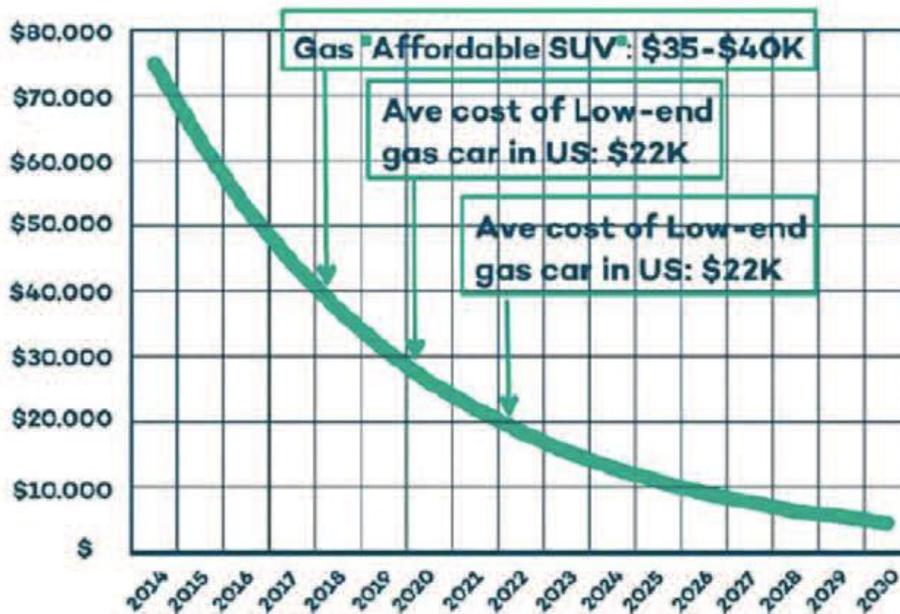
All available evidence today strongly indicates that electric vehicle prices are reducing, and will continue to reduce, as technology becomes cheaper.

Figure 1, for example, provides a forecast of the price of electric vehicles into the future. It shows that, from 2018, an average electric vehicle will be cheaper to buy than an average SUV (in the United States market). Around 2022, the forecast price of an average electric vehicle will fall below that of least expensive conventional engine vehicles. Through all periods, electric vehicles will be cheaper to operate and maintain.

Figure 1: Electric cars will soon become cheaper than conventional engines to buy⁵

⁴ Melia, Parkhurst and Barton, *The Paradox of Intensification*, Transport Policy 18, 2011.

⁵ Tony Seba.



Given the lower costs of running and, eventually, purchasing an electric vehicle, in combination with superior performance in aspects such as acceleration, it is unlikely that conventional vehicles will continue to comprise the majority of new vehicles beyond the 2020s.

With the decline of conventional engines, the basis for urban planning to manage down private vehicle use is greatly reduced, yet we have seen very little evidence that shifting energy trends are reflected in planning provisions.

Consistent with Commission findings that planning is slow to respond to prices, we would add that it is also slow to respond to technological and behavioural change.

We therefore support R8.2, but consider its recommendation could be more generic, underlying the challenge planners face when making provision for certain outcomes in non-planning sectors, like transport and energy.

Planning should, in our view, be progressing transport (or other sector) objectives like carbon reduction, decongestion and safety only in partnership with transport policy makers and experts.

Public private partnerships

NZCID has long advocated for the consideration of public private partnerships (PPPs) to deliver major capital projects.

PPPs overseas and now here in New Zealand have demonstrated that, through engaging a long term private partner to deliver a whole-of-life infrastructure service, public authorities can improve the performance of that service while reducing the public's exposure to project issues.

However, PPPs are extremely complex and require an advanced degree of expertise to manage effectively, on both the public and private sides of the contract.

We do not consider that local government has or can be expected to maintain the required degree of expertise to oversee PPPs.

Without this expertise, the risk to councils of project failure increases and in our view exceeds the likely benefit of employing the model.

The failure of the Kaipara District Council to successfully oversee the Mangawhai wastewater scheme PPP in the early 2000s provides a standing case study of the risks and costs associated with small, under-resourced public agencies procuring infrastructure services via a PPP.⁶

In our view, only the PPP Unit inside Treasury is capable of managing procurement of PPPs in New Zealand and it is only this unit (or a variation of it) which we consider to be in a position to determine whether a PPP is the optimum procurement model for any given project.

Under existing arrangements, we support council PPPs only with approval from the PPP Unit and an agreement with the client council which establishes a guidance and oversight role for the PPP Unit.

Given the comparatively small number of projects undertaken by council each year which potentially suit the PPP model, we consider that project selection can and should in the first instance be initiated by the PPP Unit.

New commissioning authority

An alternative to the existing arrangement which sees councils responsible for their own procurement processes is the establishment of a centralised procurement agency which could assist councils (and other government agencies) in the planning, procurement, delivery, monitoring and oversight of major or complex projects. (s.10.8)

We set out the broad parameters of such a model in our report developed following a delegation to Canada, cited by the Commission.

We note the Commission's concerns that an independent procurement agency risks crowding out private activity and, because some functions are already performed within existing public departments, may be unnecessary.

The Commission suggests joint procurement may provide a better option.

We see joint procurement and shared services as separate issues to that of a specialised procurement agency.

Sharing procurement expertise across a number of councils is unlikely to produce the skills necessary for advanced procurement.

Part of the problem is that councils, even comparatively large ones, do not regularly procure projects large enough for the benefits of sophisticated bespoke procurement options to exceed the costs of maintaining the skills required.

Even combining the resources and needs of various councils will in most instances result in an intermittent project pipeline and insufficient activity to sustain a high degree of procurement expertise.

For the overwhelming majority of councils, basic 'traditional' procurement is the only procurement model ever likely to deliver value for money. Sharing services will provide benefits in terms of strategic asset management capability and project prioritisation, but not procurement expertise.

A further, equally important, driver of a specialised procurement agency is to assist central government agencies in project procurement.

⁶ For an overview of the project and assessment of issues, see, Controller and Auditor General, *Inquiry into the Mangawhai community wastewater scheme*, November 2013.

A number of government departments are as challenged as local authorities to understand and effect quality major project procurement.

The value proposition of a single centralised procurement agency providing guidance to all public procurement bodies (except those which demonstrate a sufficient level of investment management expertise) is that learnings can be pooled from across the public sector.

Full time procurement experts which understand risk, statutory requirements and project finance can apply their skills across the public sector as a whole to help drive efficiency and value improvements.

As a centre of excellence, procurement expertise would be fostered and developed so that improved models could evolve drawing on experience from across New Zealand and the world.

Independent from any one department, the specialised procurement agency we envisage would be insulated from political influence, allowing experts to select the right model for the project.

We consider these advantages to be so significant that they outweigh the additional costs of a new, independent entity (albeit one which would be largely drawn from existing skills inside Treasury, MBIE and other government agencies).

We encourage the Commission to investigate a 'Major Projects New Zealand' type entity as part of a new planning framework.

Realising the full potential of this Inquiry

While we generally support the findings and recommendations laid out in the draft Report, we do not consider that they go far enough either to substantively address systemic problems within the planning system or meet the Inquiry's Terms of Reference.

An overview of the draft report

Summarising the key points we draw from the draft Report:

- Cities are important, but also complex, systems providing employment and housing. (Ch2)
- Planning is necessary in cities to manage competing interests, but the inherent constraints planning places on city development conflicts with the dynamism of city growth. (Ch3)
- New Zealand cities are growing differently and not always in ways intended by local policy. (Ch4)
- New Zealand's planning framework is complex and the roles and involvement of central and local government in performing planning functions has been variable. (Ch5)
- The planning framework has delivered mixed results environmentally and socially. (Ch6)
- The planning system and the implementation of planning in urban areas has been wanting. (Ch7)
- The urban natural environment has not been well-served by the planning system. (Ch8)
- Infrastructure provision under the current planning system has not been responsive. (Ch9)
- Efficient funding of infrastructure is impeded in New Zealand. (Ch10)
- Maori interests have often, but not always, been incorporated into urban planning. (Ch11)
- Planners have an unclear role in New Zealand and consequently it is not clear if planning is being performed effectively. (Ch12)

In response to these findings, the Commission recommends a number of qualities, features and components a future planning framework should comprise, including:

- A clear understanding of priorities, responsiveness to price and focused consenting. (Ch7)
- A permanent Independent Hearings Panel to consider new plans and plan changes. (Ch7)
- Greater central government understanding of, and involvement and leadership in, planning, including a GPS on environmental sustainability. (Ch7,8,12)
- Mandatory use of spatial plans. (Ch9)
- A national centre of excellence to assist in real-options analysis. (Ch9)
- Formal processes to assist Government and councils to work together on major programmes. (Ch9)
- Wider use of direct infrastructure funding mechanisms. (Ch10)
- Greater rigour in planning decisions. (Ch12)

In addition, the Commission has indicated it is still developing its thinking on a number of issues. Most of these regard relatively technical aspects of the planning system, such as consultation and procedural processes, but two substantive questions are posed:

- Should planning and natural environment law be separated under statute or retained under a single resource management law?
- Should some or all environmental protection responsibilities be transferred from local government to central government (the EPA)?

The draft Report in practice

NZCID has spent some time considering the implications of the findings which emerge from the draft Report contrasted against the recommendations.

The Commission has, paraphrasing particularly the middle chapters of the report, found that the current planning system has not delivered consistently for the environment or socially. Nor has it delivered well for urban areas themselves, including for infrastructure or development.

Noting these weaknesses, which we would describe as systemic and wide ranging, the Commission proposes increased central government participation in planning, via a number of pathways, spatial plans and wider use of existing infrastructure funding tools.

We remain unconvinced that this response will be sufficient to address the scale of the challenges highlighted in the report.

The reason we remain unconvinced is because, while we agree with Commission findings, the Commission has not demonstrated how or why its proposals will solve the problems highlighted.

For example, the Commission, correctly in our view, highlights a lack of central government involvement in planning as an issue. But it is not clear to us whether a GPS is a sufficient tool to address this issue or whether some other mechanism may be required or even preferable.

The Commission also, again correctly in our view, identifies an issue with infrastructure funding and so proposes road pricing and water metering. There is no doubt these are economically efficient responses to a supply/demand challenge, but it is not clear they will overcome the issue now facing rates, which sees the general public object to increases in spite of observed need.

Nor is it clear who will have the power to levy these charges, under what statute and how the new funding mechanisms will be aligned with planning priorities. The major growth problem today is that funding for infrastructure is overwhelmingly dictated by the LGA and LTMA, while planning is guided by the RMA. Transport investment, in particular, is driven by the need to realise government priorities for efficiency, safety and other non-land use transport objectives. How will these objectives be promoted under the Commission's model without compromising the efficiency of New Zealand's National Land Transport funding system?

Spatial planning is recommended, which we support, but we are not clear who should develop a spatial plan or how that plan should be funded. Are spatial plans regional? If so, how are they funded, by whom and how are varying interests aligned? Auckland developed a spatial plan in 1998 (Auckland Regional Growth Strategy), but fragmented governance meant it could never be implemented. How will New Zealand's 67 local councils negotiate spatial priorities with their partners? How will any council get central government to sign up to long term investment plans when so many government departments operate on 12-36 month planning horizons?

But perhaps most significantly, we do not see how the Commission's recommendations address the issue of incentives, highlighted in *Using Land for Housing Inquiry*. It is not unreasonable to believe that a functioning governance system would have overcome planning (a governance activity) issues by now. The fact that New Zealand house prices are now approaching twice the level which precipitated the Commission's first inquiry into housing affordability strongly suggests the motivations of different actors – councils and the Government – are not configured effectively. Why have councils and/or the Government

not ensured housing supply has increased to meet demand? What about this deficiency will be different under the Commission's proposals in the Report?

The draft Report must take a first principles approach

We think the Commission is yet to fully realise the potential of this investigation. We believe an opportunity still exists for the Commission to embrace a truly "first principles" approach to the question of urban planning and avoid similar incremental changes to the existing framework which Commission research has found to be a significant factor in the unworkability of current arrangements.

Our hope is that the Commission will reset, not continue, the long process of "tinkering" with planning statute.

To avoid repeating past mistakes, and consistent with the Terms of Reference, what we aspire to see in the final report from the Commission is a much more fundamental rethink of what planning is, what it is for and how best good planning can be effected.

We do acknowledge that the Commission does discuss each of these three key questions in Chapter 3, but it does so only conceptually. The main body of the report (Chapters 5 to 12) focuses on the current system and recommends changes to it.

Changes are proposed in light of fundamental learnings drawn from Chapter 3, but a first principles planning system is not actually applied to New Zealand.

What we would like to see in the final report, and what we think the Terms of Reference are asking the Commission for, is a planning system proposal much less hindered by existing system arrangements.

We wish to see a "blank sheet" proposal, designed from a first principles perspective, to deliver successful urban environments "to support desirable social, economic, environmental and cultural outcomes."

That proposal needs to, if it is to meet the Terms of Reference, outline what planning is and what it is for (as per Chapter 3), and then apply that framework to New Zealand from a first principles perspective.

Specifically, if the rationale for urban planning is to:

1. regulate negative spillovers when people build structures, work and live near each other;
2. make decisions about the provision and funding of local public goods to best meet the needs of residents; and
3. invest in and run local and regional infrastructure to provide essential services for local residents and businesses; and to coordinate different infrastructure investments with land development.

Then we would like to see a framework which identifies who "should" regulate spillover effects, provide various local public goods and deliver various infrastructure. Is it central, is it local, is it private? If it is local, is it regional, is it district or is it at an even more "local" level such as a community or local board?

We would like to understand with what resources those entities "should" provide each service in order to effect good planning. What services are best provided by rates and who should collect rates? What services are best provided via more general taxation, or what new funding tools "should" be used if planning is to be most effective in delivering social, economic, environmental and community outcomes?

We would like to have an understanding of how the various planning activities of different authorities are aligned to the national vision and with other activities. How is local government aligned with central and how is the tension between following national direction and providing for local decision making addressed? How is land use regulated to support transport investment and vice-versa? Is there a national spatial plan

and must regional spatial plans “give effect to” it or “not be inconsistent with” it, or is the national plan in fact solely the sum total of the regions?

From the draft Report, we do not get a picture of, from a first principles perspective, how planning could or should be performed in New Zealand if released from the constraints of the existing – failing – system.

We strongly urge the Commission to undertake this work and consider that more time may be required to complete it rigorously.

We would support the Commission making a formal request to responsible Ministers for more time to complete the final report, if required.

NZCID’s preferred model

NZCID has outlined its model for a more effective planning system in its report, previously submitted to the Commission, *Integrated Governance, Planning and Delivery*.

Rather than reiterate the contents of that report, which remains our recommendation for a revised planning system, we summarise the key high level principles we think should guide the Commission’s consideration of recommendations in its final report:

- Urban land use planning cannot be separated from infrastructure.
- Infrastructure planning cannot be separated from infrastructure charging and funding.
- Infrastructure activities should be performed by the organisation and at the scale which best supports the delivery and operation of that service (in support of social, economic, environmental and cultural outcomes).
- Planning activities should be performed by the organisation and at the scale which best promotes the social, economic, environmental and cultural outcomes.
- Planning, infrastructure funding and governance must be considered as a single integrated activity and reviewed simultaneously.