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Centre for Straight Thinking.
Submission on
New Zealand Productivity Commission Issues Paper
Housing Affordability
July/August 2011

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PART ONE: Overview

1.1 Introduction

This submission on the Productivity Commission's Issues Paper, *Housing Affordability* (the Issues Paper), is made by the *Centre for Straight Thinking*, a private think tank, funded by donations. The Centre's primary purpose is to contribute to the development of sound public policies relating to Resource Management, Land Development and Construction, and Local Government in general.

The director, Owen McShane, is qualified in both Architecture and Town and Country Planning from Auckland University, and in City and Regional Planning from UC Berkeley, where his thesis was in the field of urban development economics (within the Oakland Project of Aaron Wildavsky's School of Public Policy.)

The Centre welcomed the establishment of the Productivity Commission (the Commission), and supports the submission of the *Business Roundtable* that says:

The Commission can play a leading role in improving the overall welfare of all New Zealanders by undertaking independent and high quality investigations into important public policy issues and making sound recommendations. Its inquiries could raise the quality of public debate and decision-making, and thereby contribute to better economic and social outcomes.

Housing Affordability is the Commission's first inquiry. The outcome of the inquiry may have a disproportionate impact on political and public perceptions of the Commission. This reinforces the need for a rigorous investigation and robust recommendations.

1.2 The Importance of Housing Affordability to the Productivity of the Economy.

The Centre agrees, too, that affordability of housing is an important issue.

The quantity, quality and price of housing services obtained through owner-occupation, renting and other arrangements are vital for the overall welfare of all New Zealanders.¹

¹ The *Issues Paper* generally focuses on housing services, that is the shelter and related benefits provided by residential accommodation (other than accommodation for the travelling public and that provided by institutions such as hospitals and prisons). Housing services may be obtained via owner-occupied housing, rental accommodation or similar arrangements. However, all accommodation services, and especially luxury resorts, are affected by high costs of land and excessive compliance costs for consenting and construction.

Spending on housing and household utilities accounts for 25 percent of average weekly household net expenditure.²

However, there is a widespread failure to comprehend the ongoing power of residential development to generate ongoing employment. Not only employment in the construction sector directly, but also in all those industries that continue to serve the changing needs of households over their many decades of occupation, and maintenance. Owners upgrade their kitchen and bathroom services, and buy new, furnishings and build additions and extensions. A hundred year old house can be fitted with solar water heating and have a spa pool installed on a veranda.

The post-war explosion of suburban housing in countries like New Zealand and the United States used to be regarded as an offshoot of the post-war economic boom in growth and development. More recent research suggests that the development of these housing estates were actually a key driver of the boom, and provided a massive boost to the manufacture of home appliances such as refrigerators and washing machines.

These observations are being reinforced by the recent studies that demonstrate that those States and Cities of the US which have rapid growth in the construction sector are also leading performers in employment growth, and overall economic growth and development.

1.3 The Negative Impact of Over-Regulation.

While Central Government writes the legislative framework, local residents find their ability to live in the housing of their choice is far more enabled, or disabled, by the functions of local government. Indeed, Central Governments tend to be unaware of the extraordinary powers being used and abused by local bureaucracies and the consultants who advise them.

The *Business Roundtable* submission also notes that:

The cost of housing services is unduly inflated by certain policy-induced distortions. Strict controls over land that can be developed for housing, for example, push up section prices.

Genuine rural land often sells at much lower prices than comparable undeveloped land within urban boundaries or nearby land that is expected to be included within urban boundaries over the medium term.

2 Statistics New Zealand (2010), *Household Economic Survey Year Ended June 2010*, table 2.

If distortions such as these are addressed housing services would become more affordable and community welfare would be enhanced.³ We therefore endorse the Commission's statement (on page 8) that a key focus of the inquiry is distortions that adversely affect efficiency. This is consistent with those matters identified for particular attention in the terms of reference for the inquiry.

The Centre also generally opposes the use of subsidies for housing services because they tend to distort the normal preferences of individuals, require higher taxes, and compromise economic efficiency, and especially dynamic efficiency.

1.4 Measuring Affordability.

It is easy to challenge the general notion of affordability on the grounds that it is a complex notion and that affordability is unique to each purchaser.

However, when I wrote my report for the Reserve Bank in 1995, I found the absence of any international “rules of thumb” on which to base comparisons between markets, both within New Zealand and internationally, limited the scope and force of the commentary. Even so, the report attracted considerable attention overseas and a group of us over the years developed the “median multiple”⁴ ratios, now used by *Demographia* and others to compare the general performance of housing markets operating under different regimes. The median multiple is now endorsed by the Harvard University *Median Multiple Tables* and endorsed by the World Bank and United Nations, within their *Urban Indicators* Programmes.

These are necessarily “broad brush” comparisons intended to provide “indicators” of the behaviour of different markets.

3 Arthur Grimes reported that land just inside Auckland's metropolitan limit was valued at approximately 10 times land that was just outside the limit. However, this estimate understates the real impact of restrictions on land for development because land just beyond the boundary reflects the probability that such land will be brought within the boundary in the future. See Grimes, Arthur (2009), "Housing: Auckland Supply Issues", presentation to the 2025 Taskforce, 5 October, retrieved 17 July 2011 from <http://www.2025taskforce.govt.nz/pdfs/tfpr-grimes-ahsi-5oct09> and Grimes, Arthur and Liang, Yun (2007), 'Spatial Determinants of Land Prices in Auckland: Does the Metropolitan Urban Limit Have an Effect,' Motu Working Paper 07-09, retrieved 17 July 2011 from <http://www.motu.org.nz/publications/working-papers/2007>.

4 The “median-multiple” indicator of housing affordability divides the median house price in any selected market by the median household income in the same selected market to generate the “median-multiple” affordability index.

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Bankers and others prefer to use more complex formula to monitor changes in affordability over time, and within specific markets. Their needs are driven by need to properly inform their activities and decisions relating to specific markets and to specific customers.

Some of the economists who challenge the validity or utility of the “median-multiple”, and similar rules of thumb, are quite happy to use GDP, and GNP figures to rank the performance of national economies, and are quite happy to rank countries by inflation rates, levels of taxation, per capita income, all of which are problematic in their own right.

But time has shown that, for all their faults or limitations, these indicators are useful surrogates for data that is much more difficult and expensive to collect.

Over the last ten years the median-multiple indices (and the ratio of land costs to total housing costs) have proved to be useful indicators of the general performance of the housing market in a wide range of Nations, States, Cities and Neighbourhoods.⁵

1.5 An Earlier Overview.

The Executive Summary of my August 1996 *Report to the Reserve Bank*⁶ demonstrates that these influences on affordability were entrenched by 1996, and were sufficient to provide clear warning of the outcome. This 1996 Report was significant, both locally and internationally, because it was one of the first reports to focus on the impacts of restraints on supply, and the costs of compliance, generated by the emerging theories of “growth management”, “sustainable development”⁷ and, more recently, “Smart Growth”.

5 The web site [Performance Urban Planning](http://www.performanceurbanplanning.org/), hosted by Hugh Pavletich provides a definition of an Affordable Housing Market as follows: *For metropolitan areas to rate as 'affordable' and ensure that housing bubbles are not triggered, housing prices should not exceed three times gross annual household earnings. To allow this to occur, new starter housing of an acceptable quality to the purchasers, with associated commercial and industrial development, must be allowed to be provided on the urban fringes at 2.5 times the gross annual median household income of that urban market (refer Demographia Survey Schedules for guidance). The critically important Development Ratios for this new fringe starter housing, should be 17 - 23% serviced lot / section cost - the balance the actual housing construction. Ideally through a normal building cycle, the Median Multiple should move from a Floor Multiple of 2.3, through a Swing Multiple of 2.5 to a Ceiling Multiple of 2.7 - to ensure maximum stability and optimal medium and long term performance of the residential construction sector.* See Pavletich, Hugh (2011) ‘Definition of an Affordable Housing Market’, retrieved 2 August 2011 from <http://www.performanceurbanplanning.org/>.

6 “The Impact of the Resource Management Act on the ‘housing and construction’ components of the Consumer Price Index” (**the 1996 Report**) commissioned by the Reserve Bank, and authored by Owen Mcshane.

7 “Sustainable Development” is not to be confused with “Sustainable Management” as defined in section 5 of the Resource Management Act (1991).

One measure of the strength of a theory is its predictive power.

The Centre submits that the executive summary of the *1996 Report to the Reserve Bank* reached conclusions about the future, which have been borne out in practice, and are presumably the reason for the Productivity Commission releasing this *Issues Paper* in 2011.

In particular the last paragraph of the Executive Summary reads:

Unless changes are made, the shortage of residential land in Auckland seems set to continue and new housing prices will continue to escalate, with a consequent impact on the CPI and monetary policy.

1.6 Seven years of *Demographia* surveys record the inevitable outcome.

The following quotes from the [7th Annual Demographia International Housing Affordability Survey 2011](#) in particular, show that the predictions of the 1996 report have come to pass.

New Zealand (p16):

Housing in New Zealand was severely unaffordable, with a Median Multiple of 5.3, three-quarters above the historic affordability norm of 3.0. Housing [had been affordable in the early 1990s](#), with a Median Multiple of under 3.0.

Auckland, the only major market, had a Median Multiple of 6.4 and with Christchurch (6.0) and Wellington (5.5) was severely unaffordable. Tauranga-Western Bay of Plenty was again the least affordable market, with a Median Multiple of 6.5. Thus, 4 of the 8 New Zealand markets were severely unaffordable. For the first time, four New Zealand markets achieved a seriously unaffordable rating, Palmerston North (4.1), Napier-Hastings (4.7), Hamilton (5.0) and Dunedin (5.0).

New Zealand had no affordable markets and no moderately unaffordable markets.

Housing Affordability in 2010 (p2)

The most affordable major market in the USA (over 1,000,000 population) was Atlanta, with a median house price of \$129,400, and a Median Multiple of 2.3. Indianapolis (\$120,200) and Rochester (\$121,500) tied for 2nd most affordable major market, at a Median Multiple of 2.4. Cincinnati, Cleveland and Detroit tied for 4th most affordable, with a Median Multiple of 2.5, followed by Buffalo, Las Vegas and St. Louis at 2.6. Eleven other US major markets were rated affordable, including fast growing Dallas-Fort Worth (2.7), Houston (2.9), Jacksonville (2.9) and Nashville (2.9).

All major markets in Australia and New Zealand, as well as Hong Kong were severely unaffordable.

OECD Call to "Ease Supply Restraints:" (p5)

A report on international housing markets by the Organization for Economic Co-operation and Development (OECD) expressed concern about planning regulations and their role in driving up prices and increasing price volatility, [recommending that nations:](#)

Increase responsiveness of new housing supply to market demand. Countries should reassess licensing procedures that limit new housing starts and reconsider land-use regulations that unduly prevent development. More responsive supply can limit price volatility, excessive price increases and encourage labour mobility.

The OECD singled out Australia and the United Kingdom, recommending the need to ease land use restrictions because of their price inflation impacts. As this Demographia International Housing Affordability Survey indicates, the majority of metropolitan markets in Australia and the United Kingdom are severely unaffordable, while the others are seriously unaffordable.

Metropolitan Area Competitiveness (p5):

The cost of unaffordable housing extends to metropolitan area competitiveness. This is illustrated by an analysis of housing costs, using the Median Multiple, for more than 500 United States metropolitan areas. Between 2000 and 2009, the more unaffordable metropolitan areas lost 9.6 percent of their residents (4.7 million) by domestic migration to other areas, nearly 10 percent of their 2000 population. By contrast, the less expensive metropolitan areas gained 4.2 million domestic migrants (2.3 percent of their population).

Of course the migration of households between metropolitan areas is the result of a number of factors. But the unprecedented housing affordability differences that have developed in US metropolitan areas are strongly associated with domestic migration trends. All things being equal, households will be drawn to less costly metropolitan areas and away from more costly metropolitan areas, as they seek to enhance their overall standard of living.

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These extracts from the “Overview” of the 7th *Annual Demographia Survey, 2011* illustrate the general point made by this submission to the Commission; namely that the dominant factors affecting affordability in housing markets are the constraints and compliance costs imposed on the supply of land. While many other factors have an impact on the price of land and building, they are swamped by this single group of regulatory impacts, imposed on residents by governments, usually in pursuit of objectives that are never realized, but which come at massive cost.

This general point was well made in the [4th Annual Demographia International Housing Affordability Survey, 2008](#), where Dr Don Brash wrote in his introduction:

Once again, the Demographia survey leads inevitably to one clear conclusion: the affordability of housing is overwhelmingly a function of just one thing, the extent to which governments place artificial restrictions on the supply of residential land.

This is most strikingly shown by U.S. experience. In a country with considerable population mobility and common interest rates, there are cities such as Pittsburgh, Atlanta and Houston where housing is eminently affordable, with median house prices three times or less the median household income in those cities, and other cities such as New York and Los Angeles where the Median Multiple is from 7 to over 11.

And the one factor which clearly separates all of the urban areas with high Median Multiples from all those with low Median Multiples is the severity of the artificial restraints on the availability of land for residential building.

Australia is perhaps the least densely populated major country in the world, but state governments there have contrived to drive land prices in major urban areas to very high levels, with the result that in that country housing in major state capitals has become severely unaffordable, with Median Multiples of eight in Sydney and seven in Melbourne.

Despite all the evidence, governments continue to pretend that they are powerless to make housing more affordable or, worse still, implement futile interventions which make the situation worse, as the New Zealand government is proposing for this year.

We all owe Wendell Cox and Hugh Pavletich a huge debt of gratitude for making the pathway to affordable housing abundantly clear: remove Metropolitan Urban Limits (urban growth boundaries) and other artificial restraints on the availability of residential land.

Dr. Donald Brash, Governor, Reserve Bank of New Zealand (1988-2002)

1.7 The Recent Adelaide Experience further ‘Proves the point’.

ADELAIDE LAND PRICES TOP SYDNEY

by [Wendell Cox](#) 07/18/2011

The median price of serviced (improved) lots for new houses in Adelaide is reported to have risen above that of far larger Sydney by the [Housing Industry Association of South Australia](#). Housing Industry Association of South Australian Executive Director Robert Harding attributed the high price of land to government policies that have limited the supply of land available for building. Nearly all the thousands of square miles of land around Adelaide are off-limits to house building due to State Government restrictions.

Adelaide is the slowest growing major metropolitan area of Australia, yet has some of the worst housing affordability among larger metropolitan markets. The [7th Annual Demographia Housing Affordability Survey](#) found median priced Adelaide housing to be 7.1 times median household incomes, ranking the metropolitan area eighth most unaffordable out of 82 with more than 1,000,000 population.

Before the adoption of its strong Smart Growth (urban consolidation) land use restrictions, median house prices in Adelaide were one-half or less the present level. By comparison, new houses can be purchased in much of the United States for less than the median price of an empty lot in Adelaide (\$180,000), although not in areas that have adopted smart growth restrictions.

1.8 The Massive Costs of Smart Growth.

The costs of these *Smart Growth* policies have been massive, and yet they have been adopted and implemented by governments in the name of efficiency and cost reductions. Wendel Cox has recently summarized these costs in a *Newgeography* paper, [The Costs Of Smart Growth Revisited: A 40 Year Perspective](#).

The conclusion, quoting from Peter Hall of the UK, writing four decades ago, reminds us that *Smart Growth* (Dense Thinking) policies have been inequitable as well as inefficient:

Moreover, the social impacts of smart growth are by no means equitable. Peter Hall says that the “less affluent house-owner ... has paid the greatest price for (urban) containment” (Note 5). He continues: “there can be little doubt about the identity of the

group that has got the poorest bargain. It is the really depressed class in the housing market: the poorer members of the privately-rented housing sector.” Finally, Hall laments as well the impact of these policies on the “ideal of a property owning democracy.”

Hal’s four decades old concern strikes a chord on this side of the Atlantic. Just last week, a [New York Times/CBS News](#) poll found that nine out of ten respondents associated home property ownership with the “American Dream”. Planning needs to facilitate people’s preferences, not get in their way.

1.9 Responding to the Issues Paper.

The *Issues Paper* seeks responses to 87 questions regarding the issue of Housing Affordability.

Part 2 of the Submission below addresses each of these questions in turn.

The main thrust of these responses is that many of the questions raise issues which are essentially diversionary and it would be an inefficient and unproductive use of the Commission’s valuable time to spend too much time addressing them in any detail.

For example, Real Estate Agent commissions may or may not add a cost to the sale process, but they are totally irrelevant when compared to the impact of the regulatory environment on the price of land within a modern urban economy.

The recent boom and bust in the property cycles has demonstrated that the main factor in causing the boom was the constraints on land supply that has prevented the efficient operation of the whole land development and construction sector. High prices of land also have a negative impact on innovation in business and employment growth.

When this key issue has been resolved, some other issues might prove worthy of our attention. But until then all such effort is an unproductive and inefficient use of time and resources.

1.10 The Response to the Questions raised in the Issues Paper.

The following section responds to the questions raised in the Issues Paper, as grouped into topics in “A Summary of the Questions” on page 49.

However, there are 87 questions to answer and only a few weeks to answer them.

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Therefore this submission will allocate resources according to the need to cover the necessary ground. In some cases, a comprehensive coverage may require further research and contributions, and of course there remains the opportunity for a further round of submissions on release of the *Draft Report* in October, 2011.

Also, given the focus of this response, there is little time spent on solutions to the “constraint” problem, although *Appendix VII* (p97) outlines some proposal in key areas. The Centre has outlined the necessary solutions in other papers and submissions to Government Select Committees. More importantly, there is now a flood of data and reports and commentaries emerging from jurisdictions all around the world, now that the collapse of the property bubble, and consequent financial crisis, have revealed the short comings in policies that were popular in so many jurisdictions for the last four decades.⁸

Once Government has accepted that there is a genuine and serious affordability issue that must be dealt with, and has agreed on the general strategy needed to restore New Zealand’s land market so that it can operate efficiently and respond to changes in demand, and to respond to the general need for our urban and rural economies to “churn”, then it will be worth while laying out a more detailed programme of reform.

In the meantime there are too many diversions and distractions to maintain a proper focus on an operational programme of reform.

Owen McShane

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⁸ [Local Land-Use Regulation Adds 16 Percent to Cost of New Home](#)

Samuel Staley, July 29, 2011.

A study released earlier this month (July 5, 2011) by Paul Emrath at the National Association of Homebuilders estimates that local regulation adds significantly to the cost of new housing even during recessionary times. The study was based on a survey of homebuilders with land development experience.

Their conclusion? Nearly 9 out of 10 respondents said that the regulatory process resulted in higher costs, but in the pre-approval and post-approval stages of land development. On average, regulatory costs account for about 57 percent of the cost of a *finished lot* according to the NAHB based on the survey of developers. Six percent is due to the "pure" cost of delay, and 16 percent is due to changes in development standards applied to the lot.

About 12 percent of the regulatory burden on securing development approval occurs before the approval process, and 13 percent is incurred after approval but before construction begins. Only about 10 percent of the regulatory burden is attributed by developers to the cost of having dedicated but unbuilt land. [More.](#)

Part 2 – the Questions and Submissions in Reply.

2.1 The Commission's Approach

Q1 How should the Commission think about the concept of housing affordability – its meaning and measurement? Should the Commission focus its work on affordability as it impacts on lower income households or should the focus be broader and examine the market as a whole?

Submission 1.

If the Commission focuses on affordability as it impacts on low-income households the Commission will inevitably be drawn into dealing with housing as a welfare issue rather than as a productivity issue.

In markets where housing is affordable, the cost of land is low, and the cost of the land constitutes a low percentage of the total housing price package – say 20%. This means that land prices are generally low for all activities including commerce, industry, transport and open space.

This shared impact of high land prices is one reason affordable housing is found alongside high employment growth and business innovation.

Q2 Does this stylised framework (Figure 1) capture all the important determinants of housing affordability? Are there others that are important?

Submission 2.

The price paid for housing often involves a trade-off between the costs of the housing and the costs of transport. The costs of transport will be reduced if employment is close to the residential areas and more importantly both residential land and employment centres can readily respond to changes in demand.

Therefore the framework should refer to the availability of land for all uses and activities.

Note that Broadband will become increasingly important as part of “housing related infrastructure” as more people work from home and telecommute.

The reference to availability and cost of finance could be expanded to include the “term” of the borrowing. Finance can be available at low cost but only on short term. As people live longer the term of Bank loans should respond to the demand for longer-term loans.

Q3 Is there a more appropriate framework for examining the housing market and issues of affordability?

Submission 3.

There is a case to be made for the Productivity Commission to investigate the affordability of all land in both rural and urban areas, and for all activities. However, the current focus on Housing Affordability is now established, and these wider land markets are probably best addressed by insertions into the Issues rather than starting again with a clean slate.

2.2 Recent trends in housing markets

Q4 What factors have caused recent housing price increases? Are some of them temporary?

Submission 4.

This is difficult to answer without some reference to location.

Immigration is often blamed for increases in house prices. But an increase in demand should not result in long term increases in price if markets are able to respond. There has been a dramatic increase in the demand for cell phones but prices of cell phones have not increased.

Similarly, 130,000 households relocated from New Orleans to Houston Texas in a single twelve month period after Hurricane Katrina but this major influx did not cause any significant increase in house prices. Houston has no zoning and so the market could respond to this sudden increase in demand.

Q5 What evidence is there that there was a ‘bubble’ in housing prices? Were house prices previously undervalued?

Submission 5.

The main evidence for the “bubble” was the disconnection between prices and rents. The second question is impossible to answer because there are no boundaries – where and when?

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During the first decade of the 21st Century housing bubbles were experienced in virtually all housing markets where the theory of *Smart Growth* dominated urban planning theory and practice. Conversely, where *Smart Growth* was not imposed on urban areas there were no housing bubbles.

Demographia publishes regular reports on housing affordability in different markets, jointly authored by Wendell Cox of St Louis, US, and Hugh Pavletich of Christchurch, New Zealand.

Their third report, released in January 2007, is introduced on the *Demographia* web page with the headline “Smart Growth and Urban Consolidation: incompatible with housing affordability”. This report is based on a study of 159 markets in Australia, Canada, Ireland, New Zealand, the United Kingdom and the United States, and is having a major impact on commentators, policy makers, and decision makers around the world.

These *Demographia* surveys make a powerful case. The 25 Most Unaffordable Housing Markets (with Median Multiples between 6.6 and 11.4) have ALL adopted the policies of *Smart Growth* or *Growth Management*.

On the other hand, NONE of the 39 most affordable housing markets (i.e. with a Median Multiple between 2 and 3) have adopted such policies. These affordable markets are all major cities, and include some of the fastest growing cities in the developed world. Ottawa, for example, is Canada’s fastest growing housing market with an annual growth rate of 2.6 percent.

The more recent surveys have confirmed these findings, and the 7th Annual Survey released in 2011 has expanded to cover 325 markets in Australia, Canada, Hong Kong, Ireland, New Zealand, the United Kingdom and the United States.

Q6 What effects have price rises in housing had on the affordability of home ownership?

Submission 6.

Where the increase in house prices has far outstripped rises in income then there has been a dramatic impact on housing affordability. Of course housing can become unaffordable to one population while becoming affordable and desirable to another. When the housing market in Freemans Bay was deregulated in the mid-sixties it became unaffordable to the existing residents, many of whom then cashed-up and moved to better housing in locations closer to

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their employment. Those who moved in to Freeman's Bay paid what was still a low price for them, but then invested in upgrades and this process eventually led to Freemans Bay being one of the most expensive housing markets in Auckland. But for most of this period, until the late nineties, Freeman's Bay housing remained affordable to those who were buying.

Q7 Are median price trends representative of trends within housing sub-markets?

Submission 7.

Generally they are, provided analysts do not expect too much precision for such an indicator.

The median price is a better indicator of trends than average prices because outliers on the distribution curves can distort the reality. A multi-million purchase of a single property in a coastal village can raise the average price dramatically but will have little, if any, effect on the median price.

The *Demographia* surveys use the median multiples to classify markets broadly into groups, named Severely Unaffordable, Seriously Unaffordable, Affordable etc, rather than using the original index to set line-by-line rankings. The median-multiple rankings are intended to be indicators of how well the land market is performing in a given jurisdiction, and if properly used has strong predictive power.

Many of us have been predicting that entrepreneurs would soon be migrating from Silicon Valley to Houston and Atlanta etc because they can sell their inflated properties in California and get lower cost housing and industrial space in Houston and put maybe a million US dollars in their pockets as a "relocation bonus" – often dispensing of the need to sell a shareholding to raise venture capital.

These movements are now on the record from the US 2010 Census data.

Q8 What is the best way to segment the market, and are there significant house price variations confined to specific market segments?

Submission 8.

There is no one best way to segment a housing market because market behaviour is driven by different patterns of demand and different constraints on supply. For example there is no great demand for leaky homes and so their price is lower than non-leaking homes in the same

neighbourhood. This is hardly surprising. But we have to remember too that a cheap leaky home may not be “affordable” to the uninformed buyer because of the downstream costs it will generate.

Q9 Why have different parts of New Zealand (cities and regions) experienced different trends in housing prices?

Submission 9.

Surely, it would be remarkable if they had not. Some cities and regions are experiencing little change in demand, and have plenty of surplus housing stock. Others are experiencing significant increases in demand (e.g. Tauranga and Bay of Plenty) but have implemented *Smart Growth* policies that seriously constrain the supply of land.

On the other hand, the participants in the New Zealand housing market have access to excellent information, and are mobile, so prices have risen in some “stable” markets because of the expectations raised by casual examination of the real estate promotions arriving in their mailbox every day.

Of course employment opportunities count because people will migrate to places where work is available. But again this should not cause problems if the land and housing market is able to respond to such changes in demand.

This 1996 Report to the Reserve Bank⁹ focused on the five cities of Auckland, if only to keep the scope of the project under control. However, in 2007 the Centre carried out a study for a group of landowners in the Richmond/Tasman Area, titled, *Growth Management, Adapting to Change, and Housing Costs – A report to the Richmond West Group*.

By this time, the Auckland “disease”¹⁰ had spread to the provinces, and this report on the Nelson area drew on the results of the most recent *Demographia* surveys of Housing Affordability in numerous markets round the world.

The findings of that report seriously challenge those who blame local unaffordability on rapid population growth, or even high population itself. The Tasman District population is only

9 *Op cit.*

10 In fact “Smart Growth” is more akin to an epidemic, rampant throughout the developed world.

about 46,000 and Richmond's population is about 11,000. Their growth rate is only moderate on world scales.

Yet the *Motu* group report¹¹ found the housing in Tasman District to be “severely unaffordable” when measured against the *Demographia* Index.

Tasman District is around the middle of the 23 world's most severely unaffordable housing markets. Housing in Tasman/Richmond is less affordable than in Miami, New York, Auckland, and Melbourne.

Tasman/Richmond's housing affordability certainly does not compare well with the housing affordability in any of those 39 major cities in the US and Canada where Median Multiples range from 2.0 to 3.0. These cities include Dayton, Pittsburg, Atlanta, Houston and Quebec.

Q10 How should affordability for home buyers/owners be defined and measured, both in principle and in practice (taking account of data availability)? Is it possible to assess affordability using a single measure?

Submission 10.

The “median-multiple”, when properly used, is our most useful indicator of the general performance of a land market, and of affordability in that market in particular. For example, if an analyst knows that a city has a median multiple of say 7 – 8 then it is certain to have a highly regulated “Smart Growth” land market and many first home buyers will be priced out of the housing market. Furthermore, the longer term prospects for the overall economy are poor. On the other hand, a city of similar size and growth with a median multiple of say 2.5 – 3, is almost certain to have a lightly regulated land market and the long term prospects for growth and development are good.

Similarly households in one neighbourhood of Los Angeles may have incomes of only \$40,000 a year, but the median house price may be \$280,000. This median multiple of 7.0 indicates that housing in that neighbourhood is severely unaffordable.

¹¹ Centre for Housing Research, Motu Project Team. *Affordable Housing in Nelson, Tasman and Marlborough: Taking Action*. August 2006.

Equally, the median household income in nearby Hollywood may be \$1,000,000 a year, but if the median house price is \$7,000,000 this median multiple of 7.0 suggests the housing in Hollywood is also severely unaffordable.

The median multiple is as good an indicator, or surrogate, as GDP¹², or median household income or any of the other indicators routinely used by economic and market analysts.

Doubts about its utility are usually raised by those who refuse to admit that their own policies and regulations have created severely unaffordable markets and seek to either deny there is a problem, or, if there is one, it is someone else's fault.

Q11. What has happened to affordability over time and what has caused this? Is it lower now than at times in the past? Does it reflect different influences to previous episodes of declining/increasing affordability?

Submission 11.

This question is impossible to answer without greater specificity as to time, time-span, and location. However, the Executive Summary of my *1996 Report to the Reserve Bank*¹³ demonstrates that these influences on affordability were well entrenched by 1996 and we had clear warning of the outcome. See *Appendix I* (page 75) for the full Executive Summary.

Q12 Do affordability trends differ for first home buyers with different income and household characteristics?

Submission 12.

A first home buyer on a household income of say \$50,000 per annum is likely to respond differently to affordability trends to one on say \$1,000,000 per annum. Quite simply the high income first home buyer has more choices and this includes the choice to leave the unaffordable market for a more affordable one. For example, many entrepreneurs in Silicon Valley are deciding to relocate to affordable cities such Houston, Texas, because of the gains in net income, after tax and mortgage payments.

¹² See *NewGeography* essay [Things they Don't Tell you about GDP.](#)

¹³ *Op cit.*

Similarly, a first home buyer in Auckland earning a million dollars a year is most unlikely to buy a leaky home next to a railway station.

This is a difficult question to respond to because it is hard to grasp what the question is actually getting at, other than reflecting one of the common attempts to undermine the utility of the median multiple and the *Demographia* surveys.

Q13 Do they capture adequately, the problems facing those on lower incomes or those in particular locations (such as the urban fringe or rural areas)?

Submission 13.

“Affordability trends” and “Affordability Indices” are general indicators of performance, akin to GDP, or household incomes, or inflation rates, and as such are not intended to “address problems”. They can help identify problems and provide a useful indication of the performance of an urban economy and markets within that economy, but the circumstances and choices facing a specific couple wanting to buy a house in the countryside rather than an apartment next to a railway station require more specific analysis.

Q14 How should affordability for renters be defined and measured, both in principle and in practice (taking account of data availability)? Is it possible to assess rental affordability using a single measure?

Q15 What has happened to rental affordability over time in relation to both house purchase prices and household incomes? Do rental affordability trends differ across different locations or for certain household characteristics?

Q16 What factors have influenced the price of renting relative to house purchase prices? Are the current rental affordability trends likely to persist, or are they temporary?

Submissions 14, 15, and 16.

Again, the best way to address these questions about affordable accommodation, whether rental or owned, it to deregulate our urban land markets so that all housing becomes more affordable and more employment is generated as wages rise with increased productivity.

The more Government attempts to address problems in specific markets the less likely it is to grasp the nettle and address the problem of land supply, which can be summarized as DURT

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– Delays, Uncertainty, Regulation and Taxes. (Where “Taxes” include rates, charges, levies and development contributions, and general compliance costs. See footnote 8 in Part One above.)

Q17 What has been the impact of existing government programmes to assist first home buyers?

Submission 17.

Work on such programmes in the US “Smart Growth States” demonstrates that not only do such programmes they fail to assist first home buyers, they typically further reduce supply and raise prices. This is particularly true of inclusionary zoning.

In their 2004 paper, *Housing Supply and Affordability: Do Affordable Housing Mandates Work?* Benjamin Powell and Edward Stringham of UCLA concluded that:

By restricting the supply of new homes and driving up the price of both newly constructed market-rate homes and the existing stock of homes, 'inclusionary zoning' (forcing developers to provide below market-priced homes) makes housing less affordable.

In the 2007 paper by Tom Means, Edward Stringham, and Edward Lopez *Below Market Housing Mandates as Takings: Measuring their Impact*, the three economists have updated the 2004 findings and present more rigorous and detailed statistical analysis. Once again their conclusions should kill off any thoughts of forcing developers to provide a percentage of below-market priced housing in return for development consents in New Zealand.

These three UCLA economists conclude:

Over a ten-year period, cities that impose a below-market housing mandate on average end up with 10 percent fewer homes and 20 percent higher prices. These results are highly significant. The assertion by the Court in “Home Builders Association v. Napa” that “the ordinance will necessarily increase the supply of affordable housing” is simply untrue.

Dr Don Brash, at that time Chairman of the Centre for Resource Management Studies, supported these findings, saying:

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We have been warned, and before any government forces New Zealand home builders and land developers to provide houses at below market prices someone will need to demonstrate why these findings regarding supply and price will not apply in the housing markets of New Zealand.

That will be a difficult task because both papers are based on the simplest and most firmly established economic principles linking supply, price and demand.

We should learn from the New York experience where rent-controlled apartments and lofts, intended to help struggling “artistic” people, are now home to millionaires.

Q18 What are the key drivers of the decline in home ownership rates?

Q19 To what extent are changes in home ownership levels explained by changing tenure preferences? Have changes in the New Zealand rental market been a factor in explaining declining home ownership rates?

Submissions 18 and 19.

[Professor Peter Gordon](#), of UCLA, emphasizes that cities are mini trading states, and their economies naturally “churn” in response to changes in demand, demography, prices, incomes, employment and technology. As the *Issues Paper* suggests, these changes impact on people’s preferences and actions.

For a list of Professor Gordon’s publications go here.

<http://www-bcf.usc.edu/~pgordon/index.php>

His paper [Does Density Matter](#)¹⁴ is extremely informative about the relationships between density and creativity and how the thoughtful contributions of people like Jane Jacobs have been distorted by the Central Planners who want to enforce some of her prescriptions whereas Jane Jacobs herself was trying to enable spontaneous order to provide neighbourhoods which worked for their residents.

However, comparative studies between the fifty states of the US show that home ownership remains the preferred option for most Americans (around 70% or more) and that their ability to realize this part of the “American Dream” correlates closely with affordability.

¹⁴ Peter Gordon and Sanford Ikeda, *Does Density Matter?* Undated; forthcoming in “Handbook of Creative Cities”

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In his excellent blog, [Cities Matter](#), Phil McDermott deals with this difference between needs and demands in the post [It's All About Housing – isn't it?](#)

The essay opens:

What is planned for new houses in Auckland?

The discussion of housing in “[Auckland Unleashed](#)”, which sets the Council’s thinking for a spatial plan, follows a tried and tested formula. It talks about the different sorts of houses we might use to achieve higher residential densities in the city.

On housing and neighbourhoods it says that it is important that:

“Auckland has a clear strategy concerning the way it wants development to proceed in our town centres, avenues and areas of intensification. Delivering new and appropriate house types requires a rethink in planning policy (specifically density rules and onsite parking requirements), a commitment to achieving design quality, new approaches to home ownership and land subdivision, and importantly, investment in the amenity of areas (streets and open spaces) in which they are proposed. (p143)”

This sounds well and good, but it’s planning for a particular vision of how a city might work. It falls short on how its residents might want to live. Like all such strategies, it’s about housing as a land use and houses as design elements. It’s not about households and their residents.

It was the same in the old Auckland Regional Growth Strategy; notions of diversity and affordability emphasised structures for smaller dwellings, rather than what people might need. And from what I have seen, it’s been the same in the planning documents for the Bay of Plenty, Hamilton, Christchurch, and Wellington.

[To read the whole essay follow this link](#), or read **Appendix II** below. (p81)

Recent *Straight Thinking Digests* and *NBR* columns have argued that Auckland should be promoting its “brand” by building on its obvious strengths. In particular Auckland should promote those characteristics that make the city and region attractive to people deciding where to take up their “place in the sun”.

Most of us assume that Auckland’s major appeal is its wonderful combination of blue water and green land, with these supporting a city with extensive room to move. However, there is a counter group who insist that Auckland should be transformed to be more like those very

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cities that people leave to come here. They regard our largely suburban lifestyle as a failed experiment forced on us by the automobile conspiracy.

Instead, we all have to “get used to” living in apartments located around public transport nodes so we can reduce our “dependency” on the motor car, and learn to love each other and share our noise.

Consequently, for some of us at least, a recent UN Survey has come as no surprise. The reporting on *Stuff* (28/04/2011) begins:

Young Kiwis fear apartment living

The greatest fear for young New Zealanders is the prospect of living in a city apartment, a United Nations survey has found.

Eight thousand people aged 18 to 35 in 20 countries were interviewed about their hopes and fears, but young Kiwis were the only ones to list a city apartment as a major fear.

The survey was conducted before the Canterbury earthquakes but is being heralded as a guide for rebuilding Christchurch so it is suitable for young people.

The findings surprised Canterbury University academic Bronwyn Hayward, who compiled the results from 132 young Kiwis for the study.

The New Zealanders were asked to name their worst fear, with 34 per cent of respondents fearing city apartment living, 28 per cent fearing a loss of autonomy and 16 per cent fearing financial insecurity.

Hayward said young people feared apartment living because it would cut them off from outdoor pursuits.

She said the fear could be a big challenge for planners and urban designers hoping to lure young people into inner-city apartments.

"It is striking because they could have said anything, and that is what they said. It is certainly distinct from any other country," Hayward said.

"It is a real challenge for a city planner because we know the effects of urban sprawl and have seen the traffic impact of having no city centre.

"It is a huge problem. We are in danger of our planning decisions being led by international expectations."

Read the whole story and comments here.

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<http://www.stuff.co.nz/national/4934946/Young-Kiwis-fear-apartment-living>

The main point revealed by this survey, the *Stuff* report, and the comments, is that while 36 percent of young New Zealanders fear they may have to live in an apartment, the comments that follow the story reveal that there is an equally large and highly opinionated group who are convinced that the statistics are false, that the people are misguided, and that they should learn to do as they are told. For example,

“Apartment living does not restrict our interaction with nature – it just shows respect for it and a sense of community with fellow Kiwis. Hiding behind fences and creating barriers to getting to know your neighbours is what kills a community.”

I do wonder if it is not so much the apartment these young people fear (most of us will have chosen to live in an apartment at some stage of our lives) but the fear that a gang of bossy-boots will deprive them of any choice in the matter.

There are good grounds for people to fear dictatorships of any kind, colour or persuasion.

2.3 Markets for housing

Q20 How should housing markets be defined in New Zealand? What are the key factors that distinguish housing sub-markets?

Submission 20.

There are many ways of defining housing markets in New Zealand, and in indeed in any country where people live in houses.

The definition will depend on the focus of the study, and may focus on people’s preferences, housing types, functions, demography, location, jurisdictions and other specialist slices such as ownership, age, construction or whatever seems important to a researcher at the time.

For example, in terms of government legislation such as the Local Government Act, the Resource Management Act and the Building Act, New Zealand housing can be treated as a single market, just as many researchers regard each State of the United States as a single legislative market. This is particularly true in terms of taxation policy, interest rates and other influences set by the State Governments. The United States is not a single market even to the extent that New Zealand is – which is limited – and statistics that refer to the United States as a single market are hardly informative and are normally quite misleading.

On the other hand, in New Zealand, the way Central Government legislation such as the RMA is implemented at the Regional and District Level means that those involved in land development and construction, will necessarily focus on the relevant and local Regional and District Plans and Building Codes.

However, market researchers will see a different group of markets driven by people's preferences for housing type, location, style and design. During the mid-seventies *Elrick and Lavidge*, a major US market research firm in Chicago had broken up the US into over 200 groupings¹⁵ and their job was to advise construction companies expanding from one "territory" to another, to be aware of, and beware of, the changes in preference that could emerge from what seemed to be minor shifts in location or socio-economic grouping.

In other words, a popular house in New Mexico will be different to a popular house in New England, regardless of the legislative jurisdiction – which states the obvious.

But a visit to the Web Site for *Sienna Plantation*, a new town development on the fringes of Houston, reveals the way the style of housing varies from neighbourhood to neighbourhood and from community to community, subtly responding to [the range of prices within each village](#) – and the house prices start at \$160,000 and peak at "\$1.0 million plus".

Q21 Do housing price trends for the various sub-markets differ? Are such differentials sustained or temporary?

Submission 21.

Of course they do, and they do so for different reasons. If a district or region has a stagnant or falling population then prices will tend to be stable or to fall over time – in real dollars.

On the other hand, if that region or district suddenly becomes more accessible because of new road access or whatever, then prices will begin to rise in response to the increased demand.

However, this rise should be temporary, and prices should stabilize – albeit at a higher level – if the land market is able to respond to the demand by providing more lots to be created and more housing to be built.

¹⁵ Personal conversations when *Elrick and Lavidge* were advising *Industrialised Building Systems Ltd* on its plans to license its modular housing technology into the US in the mid-seventies.

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Unfortunately, a common response is for the early new settlers to organize themselves to prevent further growth by implementing plan changes or simply by filing objections to all new proposals for development. A few enthusiasts for *Smart Growth* can dramatically change the price structure of housing – and its affordability – within a district or region in quite a short time, by building these statist's preferences into the Regional and District Plans.

The more attractive the scenery the more appealing Smart Growth is for the residents, which is one reason why the Scenic States of the US tend to be Smart Growth States.

Of course a natural disaster such as an earthquake, tsunami or volcanic eruption can change price trends of a sub-market. Other markets in the region can be affected by changes in migration or flows of investment in response to the original disaster, and need to be able to respond to these indirect flow-on effects.

The key point made by Professor Gordon's team at UCLA is that urban economies must "churn" to remain competitive and this churning must be enabled rather than inhibited.

Sadly, many District and Regional Plans seem determined to freeze the "character" or the territory and consequently freeze the economy as well. Karl Marx was one of the first to point out the transfer from an economy driven by water wheels to one driven by steam engines dramatically changed the form and character of the whole economy and the people who worked within it.

Professor Gordon's group found in their studies of changing urban economies within California that the "churning" was never halted by planning interventions, but that the interventions simply delayed the responses and made the changes much more expensive to implement.

The current Planners' ideology favours urban intensification and concentration in spite of the fact that contemporary cities are decentralising and dispersing. Even Chicago is transforming itself into a low-density city.

See **The Evolving Urban Form: Chicago** at [Newgeography](#):

The essay's introduction reads:

Looks can be deceiving. No downtown area in the western world outside Manhattan is more visually impressive than Chicago. Both the historic Loop and the newer development north of the Chicago River, especially along North Michigan Avenue have

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some of the most iconic structures outside of emerging Asia. Yet these vertical monuments mask a less celebrated reality: that of dispersing, low density urban area.

Read the whole essay here: <http://www.newgeography.com/content/002346-the-evolving-urban-form-chicago>

Q22 *What are the characteristics of investors in housing? How much of the recent activity in housing is coming from small, first-time investors? Has offshore investment been a feature in the New Zealand housing market? What market segments have seen the most investment activity?*

Q23 *What are the major factors that have influenced recent investor activity in housing markets? Is the perceived risk associated with property investment different to that of other types of investments?*

Q24 *What effect has investor activity in housing markets had on housing prices and affordability? Has investor activity influenced prices and affordability in all housing sub-markets, or has the effect been concentrated in particular areas such as apartments and medium-density housing in the cities or particular locations?*

Q25 *Why is there little institutional investment in the private rental market in New Zealand?*

Submissions 22 through 25.

Investment in built housing is not my field of expertise and I am sure others can deal with this better than me.

Q26 **What practices of real estate agents impact on housing prices and affordability? Has the effect been significant? Has the recently introduced Real Estate Act 2008 and stronger regulation of agents made a difference to the influence of real estate agents?**

Submission 26.

In the greater scheme of things, Real Estate commissions probably have only a minor effect on housing prices and affordability. This is a competitive market and home-owners can always sell their dwelling privately and avoid the commission.

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Also there is now competition for online sales through such sites as *TradeMe*. The internet has almost certainly had more impact than the changes in the Agents' regulatory environment. Furthermore, this impact is likely to increase with increased access to high speed Broadband; commissions will reduce and market reach will expand.

Q27 Is there scope to improve the practices of the real estate sector? If so, how? What would be the effects on housing prices and affordability?

Submission 27.

The United States has generally always had stronger anti-competition law than New Zealand and in particular has legislated against monopoly through vertical integration and similar monopolizing structures.

Hence, in the US markets I am aware of, the buyer and seller each have their own agent. Naturally, the seller's agent is attempting to get the highest price while the purchasers' agent attempts to get the lowest price. Many New Zealand vendors often wonder whether their agent is properly representing their interest or is really more than willing to drop the sale price to secure the commission.

One might think this would work against the development of a housing bubble, or at least make housing markets less volatile. But the evidence does not support this premise. As is so often the case, any impact of such an arrangement seems lost within the far greater impact of the local regulatory environment's effect on the supply and cost of land.

2.4 Urban planning, design and land use policies.

Q28 What are the relative costs and benefits of intensification and expansion (greenfields development) to urban planning? What research literature and overseas developments are most relevant to New Zealand?

Submission 28

It is impossible to plan the economies of large chaotic systems such as urban areas because their behaviour is unpredictable. A part of this problem is that no one can count or measure all

the costs and benefits because each individual has their own values and preferences. See Randal O'Toole "*The Best Laid Plans ...*"¹⁶

Consequently, the RMA, which is not a planning document, does not make any reference to planning as a verb but defines the purpose of the Act as "enabling people and communities" to make their own decisions about their economic, social and cultural wellbeing and their health and safety.

General planning theory presently over-emphasizes claimed benefits of intensification and under-emphasizes the costs, while overemphasizing the claimed costs of Greenfield development and underemphasizing the benefits of Greenfields development. It is worth remembering that it is not long ago that the same planning profession promoted the reverse view and was a strong advocate of regional development and attempted to halt the urban migration.

(For a discussion of [alternatives to Smart Growth](#) see my paper here.)

Many claims about the benefits and costs of different urban forms or transport modes are not based on evidence but are simply assertions of belief. Once subject to analysis they are shown to be without foundation.

For example Central Planners – especially when advocating additional funding of public transport – claim, without quoting any supporting evidence, that cars are heavily subsidized (because motorists do not meet the full costs of their "addiction") while rail and buses pay more than their fair share of costs and deserve further subsidy. This claim is made so frequently that it is seldom challenged.

However, a 2004 study from the Netherlands¹⁷ demonstrates that the calculations of the social costs of different transport modes is a difficult and complex exercise. Their conclusion is surprising and certainly challenges the assumptions of our Central Planners.

The key conclusion, on page 125 reads:

11.1 Conclusions Regarding total social costs and charges – General

¹⁶ Randal O'Toole, *The Best Laid Plans – How Government Planning Harms your Quality of Life, Our Pocketbook, and your Future*, Cato Institute, Washington D.C, 2007.

¹⁷ Joost et al, *The Price of Transport – overview of the social costs of transport*, December 2004. Published by CE Solutions for environment, economy and technology, Oude Delft, The Netherlands.

1. *In 2002 the total social costs of domestic transportation in the Netherlands, excluding aviation, sea shipping, recreational shipping, high-speed rail, cycling and walking, amounted to approx. € 22.5 billion. Over half this figure (about 55%) is due to road passenger transport, followed by HGV (i.e. road freight) and LGV (both approx. 15%), rail passenger transport (approx. 9%), inland shipping (5%) and rail freight (approx. 1%). Note that these figures do not cover all social costs, in particular those associated with habitat fragmentation, barrier effects and visual intrusion due to transport infrastructure (see also the Recommendations below).*

2 *There is not a single category of transport, road, rail or shipping, that is fully charged for all the social costs to which it gives rise. The only potential exception are petrol-driven passenger cars, for which we calculate that the estimated social costs are approximately covered by the user charges paid.*

Note again, however, that not all social costs were included in the quantitative analysis (see conclusion 1). Note also that the share of petrol-driven vehicles in the passenger car fleet has been declining in recent years and that of diesel vehicles increasing (see conclusion 1).

3 *For all the transport modes considered, fixed social costs exceed fixed user charges, with the possible exception of petrol and diesel passenger cars. This does not necessarily mean the fixed charges for these vehicle categories are presently too high, as the social costs of fragmentation, barrier effects and visual intrusion have not yet been factored in. Only after realistic figures have been worked out for these items can it be calculated whether or not current fixed charges are too high and should be reduced for considerations of welfare optimisation.*

Central Planners will no doubt respond by arguing that conditions in the Netherlands are different from those in New Zealand. However, they would need to repeat the exercise here for this argument to be used to challenge the Dutch findings. This is especially true, given that the report finds the “best” or lowest cost environment is found in rural areas while the “worst” or highest cost environment is found in urban areas. Given that New Zealand is less urbanized than the Netherlands our social costs are likely to be lower.

Also, the study makes no attempt to estimate the compensatory benefits of these different transport modes.

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The study has had to leave out some social costs because they are too difficult to calculate, but equally how does one price the benefits of increased autonomy from owning and operating a private vehicle – especially in rural or less dense areas?

The overseas literature (and especially the recent surveys of US cities by the *Newgeography* team), find that cities that are lightly regulated and allow people to express their preferences as to where they live work and play, are the most liveable, and have the most rapid growth and development, the highest rate of job creation, the most affordable housing, and the highest rates of innovation. See a summary essay here:

<http://www.newgeography.com/content/002343-are-millennials-solution-nation's-housing-crisis>

Q29 How do these different approaches to urban planning support competitiveness and economic growth?

Submission 29.

We should have learned by now that Central Planning does not work and hence we should not be giving local government executives the power to promote either approach to the management of our cities. [Promoting either approach is likely to reduce the merits of both.](#)

The international evidence supports the enabling principles of the RMA which unfortunately are anathema to [the Central Planners who want to control our lives.](#)

See [Newgeography](#) for a host of recent essays on the performance of US cities. For example:

<http://www.newgeography.com/content/002297-growing-a-productive-urban-economy>

Q30 To what extent do these different approaches to urban planning support environmental objectives?

Submission 30.

The advocates of centralization and concentration argue that their preferred approach promotes their environmental objectives. Many of the more extreme “greens” advocate population decline and reduced economic growth and reduced consumption. There is considerable evidence that concentration and intensification does promote these “environmental” objectives.

In other words one's response to these environmental planning visions depends on whether one's world view is anthropocentric or ecocentric. The anthropocentric view holds that we regulate adverse effects on the environment because there is little point in being rich if you cannot breathe the air or swim in the sea. The ecocentric view holds that we all remain servants of "the state" but the state is now the "state of nature" and the interests of nature take priority over human welfare.¹⁸

The reality is that low density dispersed urban areas are more likely to promote environmental objectives as they are understood by the majority of the population. For example numerous surveys have found that the suburban gardens provide the richest examples of biodiversity – and furthermore such gardens help feed the bees which are under threat.

Also, the 2007 Report, *Consuming Australia* found that the households with the lowest carbon footprints were those living in peri-urban areas while those living at high densities in central areas had the highest carbon footprints. This information was not well received.

Cars accounted for less than 10% of the typical households' fossil fuel use. Food accounted for more than 30%. (see page 5)

Many of today's planning theories are simply the latest expression of the old belief in "Architectural Determinism" – the notion that the quality of buildings would shape our behavior. This belief has fallen out of fashion but has been replaced by Spatial Determinism – the belief that where we live will determine our behaviour. In reality, our behaviour and our preferences determine where we live, not the other way round. See:

<http://www.rmastudies.org.nz/library/52-planning-mythology/229-challenging-the-planning-theories-of-our-time->

All the following claims in support of intensification are demonstrably false, or are true only under limited circumstances:

- *More efficient utilisation of land in urban areas through the creation of higher-density land-use patterns that encourage a mix of uses (including residential, business and retail).*

¹⁸ For a more detailed discussion of this "dichotomy" see section 5 – *The Two Faces of Environmental Law* – within Part A of the CRMS paper on mangroves in the Kaipara Harbour – *Mangroves and Estuarine Ecologies* – at <http://www.rmastudies.org.nz/documents/pMangrPtA.pdf>

Comment: It is just as easy to achieve these mixes in low-density dispersed patterns of development. Go to any small town centre.

- *Using less land per dwelling, through a greater use of terraced and apartment-style dwellings along with in-fill subdivisions, which can reduce housing costs.*

Comment: If the higher density is driven by urban limits the land price will be driven up and the end result is that apartments are more expensive than houses on low cost land in a light-handed planning environment. Indeed, the high compliance costs in Auckland mean that it is more difficult to get a return from an apartment development than from single family homes because apartments do not fetch as high a price.

- *The clustering of people and economic activity in larger, denser urban settlements, with good access to amenities and transport thereby achieving greater business productivity and increased economic growth.*

Comment: This claim is not supported by the evidence. Increased congestion, increased costs and higher costs drive the business people to low cost lightly regulated urban areas. Silicon Valley began life as a farm. Also see the *Forbes* listing of America's most innovative urban areas and they are mid-sized low-density cities.

- *More efficient movement of goods and services, along with reduced car dependence, with subsequent savings in overall energy demand and carbon emissions.*

Comment: Increased density increases surface street congestion. This is especially true in a city like Auckland which already has a denser urban area than any city in the US, except for Los Angeles.

- *Revitalisation and reinvestment in existing developed area.*

Comment: No connection. Look at the history of the revitalization of Freeman's Bay. Densification policies had prevented revitalization (called "urban renewal" in those days – the mid-sixties). The relaxation of regulation led to massive revitalization over a very short time and without any increase in density.

On the other hand, these Arguments for urban expansion are generally true:

- *Mitigating the effects of increasing land prices and thereby improving housing affordability.*

Comment: Reverting to a policy of light-handed regulation and getting rid of urban limits can allow the land market to function properly which means that land prices do

not rise faster than inflation and improvements in property values arise primarily from improvements to the dwelling (sweat equity).

- *Allowing consumer choice and market response to preferences, with a suburban location seen as the preferred lifestyle choice of the majority of people.*

Comment: I do not understand the caveat – a suburban location IS the preferred lifestyle choice for the majority of people in New Zealand.

- *Reducing traffic congestion in low-density suburban development and, as a result, increasing traffic speeds and lowering pollution emissions.*

Comment: True. Traffic congestion is not just a peak hour commuter problem. The streets of Central Auckland are already over-loaded and further intensification will only make this worse and hence make Central Auckland less attractive for residents and business alike. No investment in public transport has been able to reduce congestion caused by over-development.

A Report from Finland¹⁹ Confirms the Value of Roads in Reducing Pollution.

The project “Environmental Consequences of Better Roads” was based on two hypotheses.

- *Better roads lead to less emission from car traffic and are regarded as a positive contribution to a sustainable environment.*
- *Restraining the capacity in the road network is an environmentally unsound measure to promote lower emission from road traffic.*

Conclusions.

The conclusions based on the micro-simulation study and the analysis based on use of transport models are every much according to the basic hypotheses for the study:

Better road in terms of better alignment, sufficient width and capacity which give the traffic the possibility to flow steadily lead to less emission from car traffic and are regarded as a positive contribution to a sustainable environment.

¹⁹ Go to: [A07034_Miljøkonsekvenser-sluttrapport-ver6.pdf](#)

Only the Executive Summary is in English – the literal translation of the title is “Environmental Consequences of Better Highways”.

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Restraining the capacity in the road network is an environmentally unsound measure to promote lower emission from road traffic.

Even on congested roads the measures should be directed towards improving the flow of traffic either by increasing the capacity or by use of some sort of demand management; for example parking regulations in the most relevant destination areas, access control to major roads and/or road pricing.

Once again, research and analysis destroys another “assumed truth.”

Q31 In New Zealand, do home-owners prefer living in dense urban settlements or less dense suburban developments? What are the reasons for this preference?

Submission 31.

Surveys of preferences (as opposed to Central Planners’ assessment of “needs”) show that most home-owners (and even renters) prefer living in less dense suburban or peri-urban developments, than in dense urban settlements, and this is especially true for families with children. Most households believe that children have as much claim to free ranging as do chickens.

However, preferences change with circumstances and the “time-of-life”. In 1968, when I went to UC Berkeley, I rented a town-house. When I returned to New Zealand in 1970 I rented a City Council town house in Freemans Bay. Then I bought a Villa in Freemans Bay. Then my first marriage ended and I gave the Freeman’s Bay Villa to my ex-wife and kept the bach at Karekare Beach. For a time my second wife and I rented an apartment in *Courtville* and then bought an apartment in next door’s *Westminster Court*.

Then we lived in peri-urban houses in Piha, and for the last fifteen years at Kaiwaka. Like many New Zealanders we are keen gardeners and I enjoy designing and building houses. We might end up with a central small apartment somewhere and a motor-home parked on a farm site near a beach. We don’t have children but have a two bedroom cottage and a sleep-out that contains three offices as well – and of course we have three quite large dogs. The planners would say our house is bigger than we “need”.

But how would they know?

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The point is that we should enable people to express their preferences as they develop at different stages of their life rather than force them to buy dwellings based on a Central Planners' perception of "need."

See Phil McDermott's recent essay published on the *NewGeography* web site, [Sustaining the Suburbs](#). The paper documents the growth and growth rates in the inner suburbs, outer suburbs and peripheral areas of Auckland Christchurch and Wellington. The peripheral suburbs on the city fringes have led growth rates, while the outer suburbs have led absolute growth.

Q32 Has there been a reduction in the rate of land release, either at the urban fringe or in in-fill areas? If so, why?

Submission 32.

Virtually as soon as the RMA was passed into law in 1991 the rate of land release (i.e. the creation of new titles) was reduced because the act of subdivision was brought into the more complex procedures of the RMA. In particular, the consenting process was opened up to objections from anyone who claimed to be affected, and of course potential objectors were free to speculate on all manner of down-stream effects.

Furthermore, the subdivision of land moved from being a surveying and engineering "skill-based" process to being a political process enabling all manner of parties, with no or limited expertise, to participate and enforce their views by the threat of delays, uncertainties, costs and litigation.

Also, contrary to the intentions of the legislators, the Planners (especially in Regional Councils) were able to persuade the Courts that it was not possible to control adverse effects of activities if one did not retain the right to "direct and control" the use of land.

MULs were imposed soon after.

Q33 Are local authorities' land release policies enabling or constraining the supply of land for development?

Submission 33.

This issue was specifically addressed within the Executive Summary of the 1996 Report to the Reserve Bank as follows:

The High Cost of "Providing for Growth by Containment"

The ARC policies of containing growth

- *The major cause of ongoing increases in housing costs is the ARC's policy that Auckland's growth should be managed by a policy of containment which restrains growth outside the present urban limits, (which are currently under review) while concentrating development within the present urban limits. These policies rest on the unfounded assumption that the present city form is unsustainable. These arguments are without foundation both in fact and probably in terms of the Act. Opinion surveys and Census Data, indicate that the Regional Policy Statement seeks outcomes which the majority of Aucklanders do not want, and are likely to resist, and are contrary to present practice. Such a massive re-direction of preferences must introduce high costs with downstream effects on the whole economy.*

Auckland City Council - relevant issues

Auckland City has endorsed the ARC containment policy in order to:

- *Keep Auckland City as a high density core;*
- *Promote public transport and especially the proposed light rail;*
- *Promote maximum use of existing infrastructure.*

Hence Council has promoted policies of infill and mixed use residential development which have been highly successful in improving choice and diversity for the residents and in revitalising the city centre. But these policies can no longer be depended upon to provide for the additional housing units required by the ARC containment policy.

Censorship of architectural design in many parts of the city has led to increases in costs and charges which are sometimes massive, especially in some of the poorer neighbourhoods. Controls of tree management, tree planting, and vegetation clearance are imposing costs, which are sometimes massive for both applicants and ratepayers - and, all too frequently, without achieving any significant environmental benefit.

For the complete Executive Summary go to *Appendix I*, p75.

Q34 What is the likely minimum lead time for release and development of new land and housing?

Submission 34.

How long is a piece of string? In October 2009 I filed an application to subdivide my rural property into two lots. This was theoretically a simple application and was non-notified. The CT was finally issued in March of 2011. This is probably a typical time period for the simplest applications to subdivide.

The time span increases with the number of lots and the number of parties who can claim to be affected. Large residential developments typically take years (eight to ten years is not unusual) and all too frequently conclude with the Environment Court declining the application. Every application that is declined or abandoned writes off the personal or corporate “savings” of the applicant and any investors in the project, including the landowners whose sale to the developer is typically conditional on gaining resource consent. If we have a poor savings record as a country it is probably largely due to these write offs which are routine events that are often celebrated in the Press as victories for the “community”. Thousands of employment opportunities are lost too in these Pyrrhic victories.

Q35 Is land release delayed unnecessarily either by inadequate supply of infrastructure services or a lack of responsiveness on the part of infrastructure service providers? If so, to what extent is this affecting development costs?

Submission 35.

Developers normally accept that they have to finance the infrastructure needed to support the development. Developers consequently build in the costs of their own roads, services and parks to the cost of the lots and expect to recover those costs from sales.

The normal arguments are about the demands for the financing of downstream improvement through Financial Charges under the RMA – such as the upgrading of intersections or the sealing of the road that connects the development to the larger road network.

Few developments are delayed by inadequate supply of infrastructure by the Council or the power or telephone service providers. Waste water treatment and drinking water supply can always be provided by on-site plants if necessary.

There are often occasions where the demands for upgrading of existing infrastructure cause developments to be abandoned because of excessive cost burdens on the development, which in turn must be added to the sale price and hence passed on to the buyer. As the French Revolutionaries discovered, if the price of bread is fixed below the cost of baking the loaf do not be surprised if the bakers stop baking bread.

Q36 Are the planning policies that are designed to encourage higher density housing consistent with, and flexible enough to accommodate, changing community preferences?

Submission 36.

Councils have no business encouraging higher density housing for its own sake – on the spurious grounds that density equates to virtue or efficiency. Council’s job is to enable different densities and housing forms in order to satisfy market driven choices and preferences.

Certainly, Council Plans should not mandate a certain ratio of small lots as a condition of consent to provide larger lots. That is up to the market.

Auckland’s urban area is already too dense for its infrastructure and its “environmental brand”.

The planning team in Auckland City Council in the sixties enabled medium density and high density housing in order to promote housing choice and living preferences. For some three decades, town houses and courtyard houses flourished across the city and caused few if any problems. However, once the *Smart Growth* policies were imposed there was a backlash against infill housing and against high-density housing that was unsympathetic to the amenities of surrounding neighbourhoods.

As land prices rose there was less money to spend on construction and so builders had to cut costs and leaky homes were one result.

Smart Growth theory is largely based on the premise that Urban Sprawl is a highly costly and inefficient means of providing for urban growth. However the current method of maintaining

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rural amenity and productivity is by requiring large lots in rural areas. There are no grounds for this and indeed the policy wastes land because these lots are typically much larger than the residents of rural areas require – even those who are producing olive oil, or other specialist crops, and using hydroponics. For a fuller discussion see *Appendix III, The Problem of Large Lot Zoning in Rural Areas*, (p85.)

Q37 Is there evidence of ‘land banking’ by some developers? Is this a problem?

Submission 37.

Land banking makes sense only if the value of the land is rising faster than the cost of capital.

So land banking is a logical response to any housing bubble driven by rising land costs which in turn is normally driven by policies and rules that constrain the supply of land.

There is no point in land banking if the value of the land is rising no faster than inflation, and hence interest payments exceed the capital gain. Also, land-banking is a risky business if “open zoning” policies mean another nearby owner can move to the market ahead of you.

Land banking is a problem caused by bad land management rules and policies.

In some jurisdictions, for example Nevada in the US, and the States of Victoria and New South Wales in Australia, the major “land banker” is the State government itself.

2.5 The Urban Planning System.

Q38 Is the current planning regulatory system more complex and fragmented than it needs to be? Does the planning system include elements that detract from quality urban development and impose unnecessary costs and uncertainty on developers?

Submission 38.

By definition the current “planning regulatory system” is more complex than it needs to be because the system is meant to be about sustainable management rather than land use planning.

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Past governments have been persuaded that the failures in “planning” (which are built into the concept) are because the planning regime has inadequate controls and is too easily “subverted”. The RMA was intended to manage adverse environmental effects and allow “spontaneous order” to self-guide growth and development.

Even Stalin only aspired to five year plans. Our Councils are encouraged to write 10, 20 and even fifty year plans – and then to lock them in place by having each plan locked in to some other such as a Regional Plan, a Long Term Community Plan, and now a Spatial Plan.

The current planning system penalizes innovation because the slightest departure from the rules opens the application up to extensive delays, uncertainties, conditions and costs.

Q39 How could urban planning and development be improved to better integrate strategies for land use, economic development, transport and infrastructure?

Submission 39.

The further integration of land use, economic development, transport and infrastructure requires a repeat of the failed experiments of the Soviet Bloc, Maoist China and North Korea. Such integration should not be attempted if only because no one knows how to do it. More importantly the more these diverse activities are “integrated” into interlocking plans the more our economy is rigidified and rendered unable to “churn” in response to the ever-changing market environment.

Q40 Do local authority planning schemes and approval processes create unnecessary costs? If so, how could they be improved?

Submission 40.

The following is a further extract from my *1996 Report to the Reserve Bank*²⁰ describing the different costs movements in the four major cities and districts of the Auckland region. These comments are largely self-explanatory. There is no evidence that mega amalgamations improve the situation – indeed the increased “integration” or central planning tends to increase costs.

²⁰ *Op cit.*

The Costs of Regulation and Planning

The costs of consultation, planning and regulation in all four cities have increased dramatically since 1991.

The table below gives the cost increases after allowing for inflation and increased building activity during the five year period. The charges to applicants are passed on to purchasers and affect the CPI as increases in housing costs. The costs to the City are passed on to ratepayers and affect the CPI as government charges.

Approximate Percentage Increases in Real Costs of Regulation

<i>City</i>	<i>Charges to Applicants</i>	<i>Costs to Ratepayers</i>
<i>Auckland</i>	<i>400%</i>	<i>70%</i>
<i>Waitakere</i>	<i>30%</i>	<i>50%</i>
<i>North Shore</i>	<i>90%</i>	<i>20%</i>
<i>Papakura</i>	<i>20%</i>	<i>20%</i>

The most pessimistic view is that Auckland City is two years further down the RMA track and that the other cities' costs are lower because they have yet to "catch up".

When dealing with RMA consents, Waitakere City is comparatively light on monetary costs when compared to Auckland City, but extremely costly in time. Building permits (under the Building Act) were dealt with rapidly and efficiently.

Papakura has managed to keep its costs most under control, recording the lowest increase in charges of the cities surveyed.

These are rough estimates and it is unwise to read too much into the numbers.

However, Papakura is the only city of those surveyed whose actual rates have fallen relative to CPI growth since 1991. This indicates that the comparative ranking in this table is probably a genuine reflection of the Council's overall approach to financial management.

The hoped-for increased efficiency from the flexibility and light-handed approach of the Resource Management Act has not been realised in practice in the local authorities studied in the Auckland Region. The increase in costs to both applicants and to ratepayers has far outstripped the increase in the CPI. Papakura demonstrates that the implementation of the RMA need not necessarily lead to massive increases in charges to

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applicants or to ratepayers and that it is possible to run a local authority without rates increasing faster than the CPI.

The case study stories on which these findings are based are now common parlance in the industry and builders and landowners are becoming increasingly conscious of the high costs of development, especially if new subdivision is involved. These extra costs, often referred to as 'the hassle factor', are now being built in to the prices set for existing housing, and are likely to prove a significant deterrent to those who might otherwise be prepared to build a new dwelling, or to create a new subdivision.

Unless changes are made, the shortage of residential land in Auckland seems set to continue and new housing prices will continue to escalate, with a consequent impact on the CPI and monetary policy.

Again, this warning was sounded in 1995. Some reforms needed to reverse these trends are outlined in *Appendix VII*. (p 97)

Q41 Do external or third-party appeal mechanisms unnecessarily delay planning approvals?

Submission 41.

Yes, by legal definition, because once an application is notified and someone files an objection then that single objection opens up the process to Appeals. The risks and costs and delays necessarily delay the process and increase the costs, and hugely increase the uncertainty of outcome. In many cases the applicant withdraws and abandons the project.

The recent amendments have improved the situation for major public projects but have had little impact on the private sector processes.

Economists generally recognized that something that carries no costs is “over-consumed”.

The strange thing about our RMA consenting process is that the applicants bear all the costs associated with exercising their property rights while those who seek to restrain those rights (presumably to their own benefit) are burdened with no costs at all unless they proceed to the environment court and use witnesses and legal advice. Even then they can apply for aid from the *Environmental Legal Defense Fund* and routinely get it.

Probably the easiest way to bring some discipline into the process would be to introduce charges for those who file objection and who demand a hearing. And if their action required Council to get expert or legal advice then they should pay for that too – or at least say 50%.

There is also a strong case for Council carrying all the costs if it declines an application – provided it has been accepted as a valid and complete application and has properly entered the system.

2.6 Infrastructure charges.

Q42 What infrastructure costs should be recovered through infrastructure charges? Should the costs of providing services such as schools, parks and libraries be recovered via infrastructure charges?

Submission 42.

Infrastructure charges or development levies have proven to be a disaster as was easily predicted. They fed off the property bubble and appeared to be a practical source of finance for Councils because developers were prepared to pay these “fines” or taxes in order to get their titles issued once consent was granted. And the banks were prepared to lend them the money because everyone assumed the loans could be repaid out of sale.

Then the bubble burst and the fundamental flaws were revealed.

The companies could no longer repay their loan finance because they could not sell their inflated properties. So the finance companies called in their loans and the property companies went broke on that project. But then as other projects failed the finance companies were dragged down into the mire. So the collapse of the bubble decimated both the developers and their financiers.

Furthermore, the Councils had built the cash flows from these development “contributions” (actually development fines or taxes) into their budgets, and now find they are collecting only say 10% of the budgeted amounts. (Far North District Council for example.)

So councils either have to cancel projects, or raise rates or both. The problem is that many of them have spent the money and are now having to borrow to cover their deficits.

Financial charges under the RMA are more legitimate because there must be a nexus between the development and the charge. But development levies used to finance parks and libraries

and other normal services provided for the benefit of the community and not directly related to the new development should not be subject to these development taxes. The additional rating streams should finance these “costs of growth”.

If we want to reduce the number of smokers we raise the taxes on cigarettes. Raising the taxes on development has the same effect, especially when the tax is levied prior to the project generating revenue. Reducing smoking is a public good because it reduces to costs of treatment etc. But reducing the supply of housing to the point where housing becomes unaffordable to many households is surely a public “bad”.

Q43 Are current infrastructure charges justified by the efficient cost of providing services? Is there evidence of over-recovery of infrastructure costs?

Submission 43.

Infrastructure charges are assumed to be required to cover the costs of growth. Given that no one knows how to calculate “the costs of growth” there is no way to assess how efficient they are. This is apparent from the Judge’s ruling in the North Shore Case brought by Neil Housing. (see *Appendices IV* and *VI* below.)

Q44 Is the basis for calculating infrastructure charges transparent? Is it subject to undue discretion by local authorities?

Submission 44.

See comment above. It is essentially a lolly scramble.

Q45 Are there different regional or local features that justify different approaches to when and how to apply infrastructure charges?

Submission 45.

No. Just get rid of them.

Q46 Are infrastructure charges an equitable and efficient way of funding infrastructure services?

Submission 46.

No. Just get rid of them.

Q47 Do infrastructure charges become fully capitalised into the value of the land?

Submission 47.

Only if the land is sold.

Q48 What alternative methods of funding could deliver fairer and/or more efficient outcomes?

Submission 48.

The Local Government Act 2002 (LGA 2002) empowered territorial and regional councils to collect Development Contributions as a condition of a resource consent issued under the Resource Management Act 1991 (RMA 1991), or as a condition of issuing a building permit.

Development Contributions may be used to fund network infrastructure and community infrastructure where there is a claimed, but not necessarily causal, link between the need for such capital expenditure and development. Unlike the Financial Contributions of the RMA, there is no need to establish a clear nexus between the development being consented and the funds demanded by council.

Such expenditure is often said to be “caused by growth”. Indeed, Whangarei District Council calls its own Development Contributions “Development Impact Levies” which clearly implies that these so-called contributions (actually demands) are intended to compensate for the negative impact of development. Development Contributions are often part of *Growth Management* or *Smart Growth* strategies, and are included as one of the means of managing growth, or the effects of growth.

Development Contributions are often used to fund proposed capital expenditure required for basic infrastructure such as water supply, sewage, storm-water, and transport. They are also used to fund capital expenditure on recreation and parking facilities, libraries, community halls, cemeteries, refuse and recycling facilities, public conveniences and urban design.

By 2008, forty four of the seventy three territorial local authorities had an operative Development Contributions policy while seventy had a Financial Contributions policy.

Development Contributions were expected to yield \$3.9 billion or 5.3 percent of the total cumulative revenue of \$73.3 billion that the 73 territorial authorities are projecting to raise during 2006 -16. The Global Financial crisis means that these expectations have not been realized.

However, Development Contributions are up to 20 percent of the forecast total revenue of some local authorities, including those experiencing high population growth such as Queenstown Lakes District Council and Tauranga City Council.

In reality, many councils are finding that their development contributions in this 2010 – 11 year are running at only 10% of the budgeted forecast.

This is creating a cash flow crisis. Unfortunately, councils' typical response has been to increase the front-end loading of development costs, which further reduces economic activity and makes the cash-flow crisis even worse.

For the complete argument against Development Contributions and in favour of an alternative source of funding for Local Government go to *Appendix VI* below. (p 91)

2.7 Building controls.

Q49 What effect have the 2004 changes to the Building Act had on housing prices and affordability?

Q50 What evidence exists of unnecessary or inappropriate regulation of building? Is there evidence that such regulation is adding unnecessarily to building costs and that the cost of building regulation exceed the benefits?

Submissions 49 and 50.

My *1996 Report to the Reserve Bank*, found that, while the costs of compliance and land costs had risen dramatically since the implementation of the RMA, the costs of construction of both houses and the physical infrastructure of subdivision had fallen, even though environmental standards had risen. This increase in productivity was the result of deregulation and general restructuring of the economy.

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I saw no reason why this should change, although I feared that the implications of the Privy Council decision of 1995, (*Invercargill City Council v Hamlin*, AC 624) in which the Law Lords reluctantly sheeted ongoing liability for any failures in construction back home to councils, might eventually “leak through”. And of course, they have.

The “Last Man Standing” Problem

The Privy Council decision *Invercargill City Council v Hamlin*, AC 624 normally attracts attention because it established that New Zealand had the right “to take its own course” and need not slavishly follow the common law as developed by the rest of the Commonwealth.

However, to someone who has followed the ever-rising tide of housing costs and prices this decision carries quite a different message. The Privy Council seems to me to have been warning that while we had the right to follow our “chosen course” regarding Council liability, we would be extremely foolish to do so.

Most other jurisdictions set a time limit for the liability of Councils for their consented buildings and structures. For example the liability may expire after five years, or on the first sale, whichever comes first. In *Invercargill v Hamlin* it was finally settled that Council remained responsible for a failure in a foundation some 17 years after issuing the consent. This established the construction equivalent of “cradle to the grave” welfare policy.

A range of common law in New Zealand has also established that Council remains the typical “last man standing” in any disputes over liability for construction failure. This encourages councils to protect themselves by Gold-Plating the building permit standards (with the support of Central Government) and to attempt to prevent any future failure by drawn out and expensive consenting process backed up by a multitude of inspections.

Smart Growth has delivered the leaky home syndrome²¹ and has consequently led to expensive reforms of the building industry aimed at guaranteeing long term “perfection” through regulation and legislation.

The end result is more expensive construction standards, more expensive labour through a planned “builder licensing” regime, and more expensive consenting and inspection.

²¹ When land prices are excessive builders desperately seek ways and means of reducing the costs of construction itself. The “Smart Growth” cities of the US have also introduced new “cheap” construction methods or techniques which have been withdrawn because of subsequent failures and litigation.

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Some say it will soon be necessary to build two houses on every site. The second house will be needed to house the building inspector.

The Way Most Nations Work.

The restraint on the liability of Councils that applies in most overseas jurisdictions means that the management of failure, negligence and liability, moves from government agencies and regulatory regimes to a combination of insurance, inspection and survey, and guarantee.

In other words, once the five years are past, or the building changes hands, subsequent purchasers of buildings adopt the normal precautions implied by the principle of *caveat emptor*, and which even New Zealanders routinely apply when buying their car or their boat. Overseas house buyers employ surveyors to inspect the building before purchase, and commission a report as comprehensive as the situation requires and the customer can afford to pay for. In most countries this has developed because of the large number of extremely old existing buildings for which no drawings are available, let alone consent forms.

Those who employ builders will ensure that their builders are able to offer a suitable guarantee and that their finances are backed up by appropriate guarantees, bonds or insurances.

Because of their faith in Government protection, New Zealand home-buyers have become extremely casual in their approach to inspection and purchase, because they assume that the Government is looking after them, and that Government will finally pay for any structural failures.

Of course life is not really that simple, as the owners of “leaky buildings” are discovering to their cost.

When people ask me “What about the leaky home syndrome?” I usually reply by asking “What about the leaky boat syndrome?”

They reply, “What leaky boat syndrome?”

To which I reply, “Precisely”.

We are currently heading down a path which will continue to deliver more and more expensive buildings, and prove ever less able to deliver rapid and fair settlements for genuine

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negligence. The Privy Council warned us of these outcomes back in 1995 and we took little notice.

Since then, the Minister of Building and Construction is moving towards a skill-based system with limitations to the term of liability of Council but so far these changes have been insufficient to change the culture of rule based consenting, and to develop a guarantee and insurance based system which means that owners can hold a single party to account for failures in construction.

We need to re-examine our whole approach to negligence in the building and construction sector and aim instead for a total reform based on the successful models available overseas. In particular we should re-orient our industry towards a survey-insurance-guarantee model that operates within a competitive market place rather than an over-regulated “last man standing” regime.

Councils would welcome such reforms because the burden of responsibility hangs heavily round their necks. (Those employed in consenting may be less enthusiastic about the potential loss of employment.)

The fact is that we cannot regulate for perfection and the costs of attempting to do so are massive, and are increasing by the day.

The *Mesopotamian Code of Hammurabi*, written around 1790 BC, contains a few laws that appear to constitute a performance-based building code. They may be an excellent example of Epstein’s “simple rules for a complex world.” These are definitely “skill based” codes.

Law 229 says:

If a builder build a house for some one, and does not construct it properly, and the house which he built fall in and kill its owner, then that builder shall be put to death.

Which probably eliminates the need for building codes, structural design codes and building inspectors.

Law 230 goes on to say:

If it kill the son of the owner the son of that builder shall be put to death.

Which may be going a tad too far.

However, law 232 says:

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If it ruin goods, he shall make compensation for all that has been ruined, and inasmuch as he did not construct properly this house which he built and it fell, he shall re-erect the house from his own means.

And law 233 says:

If a builder build a house for some one, even though he has not yet completed it; if then the walls seem toppling, the builder must make the walls solid from his own means.

Imagine if those people with leaky homes had to argue their case with reference only to these few laws, and without all the diversions about councils, codes and building inspectors. It seems highly probable that everything would have been sorted out ages ago, or more likely, the buildings would never have leaked in the first place.

Some deep truths are embedded in these simple laws from over 4,000 years ago.

And now we have “Green-Plating”.

The recent announcements promoting increased thermal efficiency of buildings point out several inconsistencies and contradiction in Government policy.

- These new rules are largely based on research which finds warmer buildings are good for our health. But if warmer inside temperatures are so good for us, why does Government assume that warmer outside temperatures (as a result of a warmer globe) are so bad for us?
- Government accepts that these new rules will increase the costs of home construction by some \$5,000 on average. Councils have been quick to point out that inspection costs will increase also. Government cannot be unaware that housing in the major markets of New Zealand is already ranked as severely unaffordable by the *Demographia* surveys of the last three years. Surely, before imposing new rules which further increase the cost of construction, Government should take steps to reduce the cost of land so that overall costs are reduced. Other products, such as cars, computers, television and telephony, offer improved performance every year and yet costs continue to fall. Government should be asking why increased housing performance always raises the price.
- Government appears to assume that the increased energy efficiency will impact on power consumption and hence generation requirements. Research shows that when houses are better insulated people tend to enjoy the superior comfort rather than

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reduce their energy consumption. Also, we have about 2,000,000 dwellings in New Zealand and our build rate is only about 25,000 homes a year. It will take decades before these rules have any significant impact on anything, except individual comfort.

- If Government wants designers to take advantage of solar heat for heating rooms and water, then lower density allows developers to locate sections in the appropriate locations. Houses crammed together in gullies, or on southern slopes, don't get the sun.
- Government is promoting recycling but these new rules will render huge amounts of second hand joinery frames obsolete and of no value. They will be sent to the tip.
- The glass in double-glazing is currently twice as expensive as a single sheet per square metre. But double-glazing also requires a 55 mm timber profile rather than the current 40 mm profile. This puts the price of the timber frames up about 20%. So aluminium joinery becomes comparatively cheaper. But timber joinery is the better insulator, and releases less greenhouse gasses during manufacture.

Finally, it is worth remembering that the use of untreated timber in the construction of dwellings was largely promoted by “green *chemophobes*” (especially in the Eco Waitakere City) who were convinced that the treatment chemicals were a hazard.

The end result was rotting timber which released fungal spores which are genuinely toxic, and the timber I now buy for the houses I build is more heavily treated than ever before – and unnecessarily so because my buildings do not leak.

Summary

Government has to consider the total impact on prices and expectations of Councils' ongoing liabilities for permitted buildings, the imposition of “Development Levies, and then “Green Plating” on top of that. Consider the effects of recent rules and announcements:

- Leaky buildings, concentrated in a few locations, have forced high costs of construction on all builders, in all markets.
- Registering builders will increase the costs of labour.
- Discouraging DIY will increase costs and will reduce the rate of improvement of the housing stock.

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- Up-front development levies add to the costs of both land and building in many Districts.
- The “green plating” announcements will generate another round of pre-emptive building consents and prices will rise again.

The Governor of the Reserve Bank must wonder why the Government wants to make his life so difficult – and his tasks so thankless.

We can only hope that the new rules will set overall performance targets so that designers have maximum choice. In some walls a timber single glazed window may be more efficient than double-glazing. There are a multitude of trade-offs to be made and designers should be allowed to make them.

Q51 Compared with overseas, are there specific New Zealand conditions or peculiarities that necessarily require additional or more costly building controls and standards? For example, New Zealand’s geography, topography, seismic activity, wind conditions, water quality, etc.

Submission 51.

Most of us recognize that New Zealand is subject to a high risk of damage to our buildings as a result of natural hazards such as earthquake, high winds, volcanic events, tsunamis, flooding, and so on.

However, territorial local authorities appear to have remarkably different assessments of the relative risk associated with these natural hazards. For example ECan's Regional Policy Statement (RPS), should set out the Canterbury region’s policies regarding natural hazards, and earthquakes in particular. Chapter 16 begins with some promise:

Chapter 16 – Natural Hazards.

Natural hazards in Canterbury can be ranked by the potential damage that could result, for example, taken on an annual basis. Limited information suggests that the most severe regionally significant natural hazards in the region are, in order of importance:

- (1) Large magnitude earthquake affecting Christchurch.*
- (2) Extreme drought.*
- (3) Waimakariri River flooding of Christchurch and Kaiapoi.*

(4) Major tsunami affecting southern Pegasus Bay and Banks Peninsula, or Timaru coastline.

Other natural occurrences of importance include flooding, fire, wind, snowfall, landslip, erosion and sedimentation (including dune build-up), but the relative impact of these, and what degree of management, if any, is warranted, has yet to be determined.

Remarkably, or unremarkably, the Christchurch City Council's translation of the Regional Council's policies into their District Plan turns the ECan's risk rankings on their head.

The Plan's section on Natural Hazards reads:

CCCDP 3.4 Natural hazards

Within Christchurch there is risk from a number of natural hazards including:

- possible sea level rises;*
- erosion of the coastline and rivers;*
- erosion of the Port Hills;*
- flooding from the rivers and the coast;*
- damage caused by high winds;*
- earthquakes; and*
- fires in rural areas....*

... The Regional Council has considerable knowledge about river and coastal processes that give rise to the major natural hazards.

The Plan tends to dismiss earthquakes on the grounds that they "hardly ever happen", while floods are frequent. Furthermore, a recent Plan Change deleted the section requiring a 50 metre setback from the Heathcote river to "minimize the risk to buildings and infrastructure from liquefaction." Smart Growth requires that any "open space" must be used to increase the density.

Surely, any normal risk assessment must recognize that earthquakes are potentially catastrophic and come without warning. Rising sea levels on the other hand are not a problem and indeed the tectonic plate movements are more likely to determine sea levels in one hundred years time than sea level rising from supposed Anthropogenic Global Warming.

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So why do our Councils quite consistently rank rising sea levels as such a high risk natural hazard, given the much more serious and more likely immediate hazards we face from our location on the “Pacific Ring of Fire”?

Q52 To what extent does the building code encourage or accommodate medium to high density housing?

Submission 52

One would like to think that a building code is neutral towards density and should be focused on safety and durability. It is a fact of life that as we raise our standards for earthquake, fire resistance, wind loading and acoustic insulation the costs of building up will rise faster than the costs of building in one or two stories.

Two storey construction can be very cost effective as long as there is only one household occupying the two stories. But as soon as there is another household living immediately above another the costs of acoustic and fire insulation rise dramatically for the same standard of living amenity.

I wonder how many of the “leaky buildings” are single storey.

Q53 Is there evidence of unnecessary delays in approving building consents? If so, what factors are causing any delays and how could the approval processes be streamlined?

Submission 53.

I have anecdotal evidence of delays for building consents apparently reflecting the views of the Council as to what kind of building should be permitted. In other words landowners are experiencing difficulties in getting consents for single family homes in an area where Council wants intensification.

2.8 Performance of the building and construction industry.

Q54 Are construction costs higher than they need to be? If so, why?

Submission 54.

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The slow and piecemeal release of land has meant the construction industry can no longer operate at a level sufficient to develop economies of scale. The mass builders of the Post War decades have necessarily become cottage builders – one house at a time. This has been answered more fully as part of the earlier submissions.

Q55 Have rising construction costs contributed to rising housing prices and affordability in New Zealand? Have construction costs increased because the level of building activity has risen more rapidly than supply capability? What other factors are relevant?

Submission 55.

They need not have. Any rise in construction costs is more likely to be the result of an unexpected outcome of rises in land costs, and the inability of builders to develop economies of scale from packaging up large residential developments as demonstrated by the Levitts in the US, and our own Group Housing Builders during the post war years in New Zealand.

The supply problem lies with the deliberate regulatory curtailment of supply and the uncertain outcomes of applications for discretionary or non-complying activity and the fact that the likelihood of a decline increases rapidly with the scale of the proposed development.

Q56 To what extent is the market structure and lack of economies of scale in the New Zealand market a factor in driving the costs of building materials? What are the barriers to achieving greater economies of scale in New Zealand?

Submission 56

However, in my 1996 report to the Reserve Bank I had failed to realize the implementation of the RMA would spell the end of our mass producers of low-cost homes and turn all our builders into “cottage builders”. (See submission 55 above)

Up until 1991, once land was zoned residential, creating a residential subdivision was a certain and routine engineering procedure, under the Local Government Act. Processing took only a matter of weeks.

Hence a major Group Builder could simply roll out the sections to meet their ongoing demand. They could depend on the ongoing supply of large numbers of sections and could work with suppliers and tradesmen to generate appropriate economies of scale. In those

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jurisdictions around the world where these simple processes still apply, both the sections and the houses built on them continue to be affordable.

My subsequent report to Simon Upton in 1997 (*Land Use Controls under the Resource Management Act – ‘A Think Piece’*) recommended that subdivision be removed from the RMA and revert to the Local Government Act. This proposal was rejected.

The end result, in 2007, is that even those companies which used to supply large numbers of homes to the mass market are now “cottage builders” because they cannot depend on having access to more than a few sections at a time. Most depend on sections brought to them by their future “home-owner clients”.

Imagine if a car-maker had to get a “car construction permit” from the local council to build a motor-car for you, and then had to get a resource consent to use it.

A family car today would cost \$250,000, would weigh twenty tonnes, would do 2 kilometres to the gallon, and would be limited to a maximum speed of 10 miles an hour.

What is more, it would leak.

Q57 Are there any concerns with the level of competition in the building materials market or any other part of the building and construction supply chain?

Submission 57.

Not that I am aware of, but it is not my particular area of concern or expertise.

Q58 Why is there not more standardisation in New Zealand’s building and construction sector? Is this driven by consumer preferences or industry approach?

Submission 58.

Earlier submissions have explained that including the process of subdivision within the RMA changed the creation of lots with title from being a skilled-based operation into a political process with considerable, and growing, discretion in the hands of the Council executive. Prior to this change, once land was zoned for a use, then gaining consent for a subdivision was a quick and low-cost process subject to a minimum of outside interference. Gaining a

consent took weeks rather than years, and was not particularly dependent on the number of lots.

Those earlier skill-based processes meant that the well known post war Group Housing companies were able to buy large areas of land and then “roll out” the subdivision of those large areas rather like rolling out a carpet, comfortable in the knowledge they could respond quickly to any rapid increase or decrease in demand.

Now, the vast majority of residential construction companies are “cottage builders” who build for owners of individual lots and hence are unable to achieve significant economies of scale.

This is why the comparative studies of States and cities in the United States reveal that low land prices go hand in hand with low construction prices, and *vice versa*.

Q59 Have skill shortages in the housing and construction industry contributed to rising housing prices and reduced affordability? Are such shortages temporary or are there long-term issues? Have the costs of skills shortages been more significant in particular regions? What impact will the Christchurch rebuild have on skill shortages in the housing and construction industry nationally?

Submission 59.

Skill shortages have not been a major contributor to rising house prices and reduced affordability in the past. Land supply and DURT issues have been the dominant factor.

However, the low level of house construction in many parts of New Zealand, and in Auckland in particular means that many skilled tradesmen are retiring early, few are entering the industry, and many are moving to Australia and elsewhere, seeking work where they can get it.

Whether this skill shortage is long term or short term will depend on whether the existing regulatory framework prevails or major reforms mean the constraints caused by Delays, Uncertainties, Regulations and Taxes are removed so that the construction sector can respond to demand.

The Christchurch rebuild will impact further on these skill shortages only to the extent that the rebuild actually takes place. At present it seems just as likely that the housing shortage in Christchurch will be mitigated by people migrating overseas, or to other parts of New

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Zealand. However, there is no guarantee that the Australian housing market will remain healthy and this option may be closed off over time.

However, the proliferation of Rule based District and Regional Plans had led to a skill shortage in those tasks generated by the consenting and monitoring processes now required by local councils. The planning officer who determines how best to manage dairy effluent is likely to be a retired school teacher with little if any knowledge or experience in the field and “on the ground”. When people have no skill in the field they are required to administer, they become slaves to the rule-book, and when exercising discretion naturally tend towards conservative and fail-safe interpretations.

Q60 Are there differences in productivity between residential and commercial construction sectors? If so, what is driving these differences?

Submission 60.

I am not aware of any significant difference because commercial construction is similarly constrained by lack of land, and high prices for the land that is available. However, anecdotal evidence suggests consenting difficulties seem to be more severe and protracted in the commercial sector. Development contributions required for hotels and the like are a serious disincentive to investment by international chains who are not used to being “fined” for providing much needed tourism accommodation, and local employment during both construction and operation of these facilities.

Q61 Why does there appear to be a high level of rework in the building sector? To what extent is poor quality due to poor design, low skill levels or poor supervision?

Submission 61.

To the extent that this appearance is real it probably is a further manifestation of the fact that the more money had to be spent on the land the less money is available for the construction. The quality of the construction reflects the “cost cutting” needed to stay within budget.

2.9 Population and demographic change.

Q62 To what extent has immigration influenced overall housing demand? Has it been a significant factor in the recent surge in housing prices? Has the influence of immigration on housing prices been uniformly distributed?

Submission 62.

Naturally increased net immigration has increased overall housing demand – and has presumably increased demand for wine, coffee, iPods, iPads and furniture and home appliances and clothes.

The price of most of these other goods and services has not increased and in many cases has decreased.

But the suppliers of these other products have responded to increased demand by increasing supply.

Similarly, in the USA, the States and Cities with the most affordable housing have attracted large numbers of immigrants, from other cities, other States and other Countries. But the fact that the housing was affordable reflects an underlying capability of the market to respond to increased demand by increasing supply.

The best example of this rapid response to demand was the response of Houston to the 130,000 households (240,000 people) that immigrated to Houston from New Orleans following Hurricane Katrina, and caused the population to increase by 3% virtually overnight. This influx had no significant increase in the price or affordability of housing in the Houston market.

Q63 Where has population growth contributed most to rising housing prices?

Submission 63.

Population growth will contribute most to rising housing prices in any urban area where the supply of land is severely constrained by planning policies that create significant DURT. (Delays, Uncertainties, Regulations and Taxes).

Q64 Has population growth been concentrated in the major regional cities? If so, why? Is this changing?

Submission 64.

Population growth has been largely concentrated in the largest Cities such as Auckland, Christchurch and Wellington, but the “sunbelt” cities such as Tauranga and Whakatane and some small coastal towns such as Mangawhai have also experienced considerable growth as a percentage of their base population.

The major debate has been whether this growth has been taking place in the Central areas of those cities or in the outer suburbs (such as Albany) or dispersed settlements (such as Orewa).

The Smart Growth planners promote the belief that there is a widespread move to higher density central areas, both from other towns and regions, and from the outer suburbs.

Unfortunately, the Christchurch earthquakes caused our own census to be postponed.

However, the census data now streaming in from the US, Canada and Australia demonstrates that the central urban cores are losing population and employment. People are migrating to the outer suburbs or even to peripheral dispersed cities.

For recent census information on Australian cities and their growth and development see *Australian Trends from the 2010 Census, Appendix V* below. (p89)

There is nothing to suggest that our cities are entering a new phase of centralization. Indeed all the major trends in demography, technology, transport and disaster resilience favour decentralization and dispersion.

Q65 What are the major demographic and social changes that have influenced housing demand? Have these impacted on affordability for first home buyers or affordability more generally?

Submission 65.

There is no reason why changes in demography or social structures that influence demand should impact on affordability for first home buyers or anyone else if the housing market is able to respond by increasing supply without any unnecessary delays, uncertainties, regulations or taxes. Smart Growth policies make this impossible and hence create the affordability problem.

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In a remarkably short time iPads have been bought by 16% of households in New Zealand. This is major increase in demand but supply has met the demand and the iPads have not increased in price.

Q66 To what extent have changes in household composition affected the demand for housing?

Submission 66.

The changes in household composition (common to all Developed Nations) have not greatly affected the demand for the size of houses being built. These changes in household size (increased numbers of families with only one or two children, or no children at all) because such changes in numerical “demand” do not greatly affect housing preferences.

Retired couples now live long lives of active retirement and hence still require three bedrooms – one for themselves, a second for visitors, and a third for the home office or craft studio.

The home office may be combined with a sleep-out in a “minor household unit” on the same site.

The Urban Central Planners insist that these smaller households do not need these extra rooms or space and therefore should not be able to make the choice.

Again, cities need to be able to “churn” and we cannot predict what changing preferences will require. Hence, we should enable flexibility and change rather than attempt to predict the future and force people into it.

Q67 How have household preferences for housing changed? What future demographic trends will be important in influencing housing demand?

Submission 67.

We must not be tempted into confusing housing need as calculated from census data, with housing demand, which will reflect people’s personal preferences.

The advent of high speed broadband will hasten the growth in the numbers of people working from home, and the number of people who telecommute. Both require increased space in the home either within the main dwelling or in a minor household unit.

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Many families will want to look after their aging parent or parents at home and they too will prefer a minor household unit which provides privacy and propinquity.

Households will make their own choices based on their own preferences, and should be enabled to realize their personal choices.

Furthermore, more and more families and households want to grow their own fruit and vegetables at home and many retirees want to raise a few birds and animals as well – in addition to their cats and dogs. They want more space around the house. A significant vegetable garden does not require much more room than a small urban lot. Olive groves, vineyards, and alpaca require more space, as do free ranging chickens – and children.

In other words, contrary to much Central Planning mythology changes in preferences will increase the demand for living space both within and around the home.

These trends are already evident.

For recent data from the Australian Census see *Appendix V* below. (p89)

Q68 Does the apparent mismatch between the increasing average size of dwellings being added to New Zealand's housing stock and the projected shift to smaller households raise any market or policy issues?

Submission 68.

See submission 67 above.

There is no mismatch. Larger homes demand a higher price, not just because they cost more to build but because there is a greater demand for homes with three or four “bedrooms”.

These houses command a premium because they accommodate the preferences of the population. Of course there is a demand for small apartments for students, and for those who spend weekdays in the city and weekends in their country house or on the boat.

Back in the sixties the planners at Auckland City re-wrote the rulebooks to enable people to build townhouses, largely in response to the evident “need” for dwellings suitable for smaller households. However, our own analysis at the time concluded that the main aim of the housing “rules” should be to enable choice and for changes in preference and choice to be accommodated as the needs arose. Sadly, since the nineties, the aim of maximizing choice has been replaced by a perverse aim of maximizing density.

2.10 The Role of Taxation.

Q69 How have taxes affected price and affordability outcomes in the New Zealand housing market, especially for first home buyers?

Q70 To what extent, and in what way, is the tax treatment of investment housing concessional relative to other income earning assets? If so, has this contributed to inflated demand and prices?

Submissions 69 and 70.

I make no claim to be an expert on taxation but the international studies all indicate that tax regimes are a minor, and even insignificant issue in determining price and affordability, given the total dominance of the issues of supply, delays, uncertainties, and compliance costs.

Income tax matters to the extent that jurisdictions that have both high income tax rates and unaffordable housing suffer from low net incomes regardless of the level of gross income.

One reason for the exodus of technocrats from Silicon Valley to Houston is that while their California gross income may be higher, their after tax and after mortgage net income is much higher in Houston.

As regards the effect of capital gains tax, Sir Roger Douglas makes the important point:

Goff Wrong: Capital Gains Taxes Do Not Drive House Prices Up or Down

Phil Goff's claims that a Capital Gains Tax (CGT) would prevent property speculation and fix housing affordability are wrong, ACT New Zealand Housing Spokesman Sir Roger Douglas said today. "If a CGT were a serious driver of housing affordability, then Australia – which has had a CGT since 1985 – would not have the most unaffordable housing in the English speaking world," Sir Roger said.

"If we look further afield, the United States and Canada also have nation-wide capital gains taxes, yet both countries have experienced housing bubbles in which house prices soared. Clearly, a Capital Gains Tax is not a significant factor in the demand - and therefore price - of housing.

"If we're serious about housing affordability we must address the real issue behind the rise in prices: red tape. It is regulations such as the Resource Management Act, the Auckland Metropolitan Urban Limit and the availability of land for residential

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development that have conspired to make the construction of new housing far too difficult. These regulations drive up costs and slow down development, creating shortages which push prices up.

“If we really want to help low-income New Zealanders into the housing market the last thing we need is yet another tax. We need to get out of the way of construction and let builders and developers get on with the job. Ridding ourselves of red tape is the most cost-effective solution,” Sir Roger said.

Q71 Does the New Zealand tax system influence tenure decisions towards or away from home ownership?

Submission 71.

See submissions 69 and 70 above. There is little point in anguishing about these kinds of peripheral issues while the impact of the constrained supply of land, uncertainty, regulation, and compliance costs have not been addressed.

Only when the overall land and housing markets has been deregulated sufficiently for them to operate effectively and efficiently can the impact of these peripheral issues be properly assessed.

Otherwise it is like fine-tuning the engine of a motor car while all the tyres are flat.

Q72 What is the impact of local property taxes (rates) on housing demand? How does the overall burden of taxation on housing in New Zealand compare with other countries?

Submission 72.

Again, the direct impact of rates on housing demand is not highly significant in the scheme of things. However, those jurisdictions that have adopted Smart Growth tend to have steadily increasing rates, especially where the Smart Growth package involves major investments in urban rail and other public transport projects.

The following interactive illustrations of property taxes and employment growth are informative.

Property taxes in the US pay for the School System and the Police, and so have traditionally been much higher per rated property than rates in New Zealand.

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However, the infographic below shows the median property tax paid per home in Louisiana is \$243 (0.45% of median income), in New Mexico is \$880, (1.69% of median income) in Texas is \$2,275, (3.65% of median income) in California is \$2,839 (3.59% of income) and in New Jersey is \$6,579. (7.5% of median income.)

In 2009, New Jersey citizens paid an average of 27 times more in property taxes than the citizens of Louisiana. See:

<http://www.newgeography.com/content/002329-infographic-state-property-tax-data>

The infographic below shows the growth of industry by sector for each State, while simply clicking on the State shows the growth for all industry groups.

In 2009 in Louisiana, the all industry growth rate was 2,520,742 jobs (or 1.18%) in New Mexico, was 1,091,128 jobs (or 0.26%), in Texas was 14,141,556 jobs (or 2.1%), and in New Jersey was 5,061,859 jobs or a decline of - 0.31%, compared to the previous year.

California's increase in job numbers of 20,687,541 was still a decline of - 0.58% compared to the previous year (2008).

<http://www.newgeography.com/content/002311-infographic-which-industries-are-growing-your-state>

California is a Smart Growth State, Texas is not. There may be a stronger relationship between Property tax and employment growth than between property tax and affordability because these taxes may reflect a generally competitive economy.

To say much more than this would require much more analysis.

See the latest *Demographia Survey* here: <http://www.demographia.com/dhi.pdf>

Read especially the numerous commentaries on the importance of affordability in maintaining strong growth in a strong economy. (p18) When affordability is associated with overall population and economic decline in a region there is little to learn.

2.11 Macroeconomic influences.

Q73 Has growth in household incomes been a major factor affecting housing demand, prices and affordability?

Submission 73.

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Naturally, growth in household incomes will affect housing demand and in particular will affect the demand for space, quality of construction and quality of services and landscaping.

Some have attempted to debunk the *Demographia* median multiple by arguing that houses are now more expensive because they are bigger and better equipped. But the cost of the house is one factor in the median multiple ratio. People's incomes have risen and in many of those markets that remain affordable by the *Demographia* index, houses have become more affordable even though they are larger and more expensive.

At the risk of repeating myself *ad nauseum*, an increase in demand does NOT lead to increased prices unless the land and construction sector is prevented from responding by increasing supply.

Q74 To what extent have changes in real and nominal interest rates over the last decade stimulated demand and increased housing prices?

Submission 74.

As interest rates rise and fall, demand can rise and fall or more importantly, the purchasing power of the household will rise and fall. Some households will either enter or withdraw from the market. Others will increase or reduce their expectations while remaining in the market.

Provided the market is offering a wide range of housing types, in size, age, quality and location a change in interest rates is unlikely to have a major impact on demand – on its own.

Such a market should be able to respond by extending the range of choice.

Q75 To what extent have housing prices been affected by labour market developments including relatively low unemployment rates during the housing boom period and increases in casual employment?

Submission 75.

Again, low unemployment rates should be good news in that more households can afford to risk making the commitment to own their own home. This increase in demand should not affect prices provided the market is able to respond by increasing supply and increasing the range of choice.

Q76 What other macroeconomic factors have influenced housing prices and affordability?

Submission 76.

Macroeconomic factors can increase or reduce demand but positive factors should not reduce affordability provided the market can respond to increased demand by increasing supply.

The so called long period of economic growth was not the result of increased productivity or innovation in the productive sector, but was driven by increased borrowing by those who found themselves occupying dwellings that were rapidly increasing in value, and which were eligible for lending supplied by banks borrowing offshore funds at low interest rates.

This consumer driven growth ceased when the asset bubble burst. Fortunately, this collapse coincided with the long awaited good years for agriculture and for dairy farmers in particular.

New Zealand needs to get its construction house in order so that it can enjoy true economic growth based on increased productivity, market development and new technology and innovation.

Q77 To what extent have housing prices been affected by the recent performance of equity markets?

Submission 77.

Many New Zealanders were burned by the collapse in equities of the late eighties. Hence, when houses began to gain in value, because of the housing bubble, assets looked very attractive and the fact that banks were prepared to lend up to 90% of value encouraged this belief.

Again, the best way to get rid of this behaviour and encourage New Zealanders to spread their portfolios and stop “over investing” in housing is to reduce the price of houses by removing the constraints on supply, and the burden of compliance costs on the production of sections with clean title.

We know how to do this. But we seem determined to keep our eyes off the ball.

Q78 How have returns on investment in housing moved over time and relative to other assets?

Submission 78.

Someone claimed to have asked God what the stock markets were going to do in the future. He said “They will go up and they will go down.”

The same applies to land. Whether housing looks more or less attractive than other assets depends on the perceived volatility of the assets in the market. The present regulatory environment for the construction and land development sector would appear to be designed to maximize rather than minimize volatility.

Let’s fix the underlying problem so we do not have to waste time peering into very cloudy crystal balls.

2.12 Availability of Finance.

Q79 How has financial product innovation in home lending, and changes in lending practices, contributed to increasing demand for owner-occupied and investor housing, and house prices? Have the levels of financial product innovation and lending practices changed since the economic downturn?

Submission 79.

These innovations have made home ownership accessible and available to most New Zealanders and especially to young families trying to get onto the property ladder and gain all the benefits of owning their own home. These innovations are now in place and should remain as available options through the growth and development of the market.

Again these innovations need not cause any problems, and especially need not lead to excess borrowings by either home owners or lenders, provided the market is able to respond to the demand by increasing the supply.

This is why markets in Texas and other lightly regulated States did not suffer the boom and bust cycle of the last decade. Their banks were more tightly regulated than some in other States but our own Banking sector is probably sufficiently regulated to cope well within a construction sector that does not have to deal with over priced inflating land.

Q80 Are capital markets meeting the needs of home buyers, in particular first home buyers?

Submission 80.

We know that modern capital markets can meet the needs of home buyers, and can do so without fuelling asset bubbles, or over volatile prices, provided the home buyer's market is able to meet changes in demand by increasing supply and providing a wide range of housing types and varied patterns of land development.

The present land market is over-rigid and under-supplied.

Q81 To what extent is the financial sector overly exposed to property markets? Should this be a problem? Has the cooling in the housing markets since the economic downturn made a difference to exposure levels?

Submission 81.

The over exposure is due to excessive prices for land – land of all types, agricultural, residential, commercial and industrial land. The best way to solve this problem is not by further regulating the financial sector but by deregulating the land supply.

Q82 Are household debt levels in New Zealand a concern? Given household debt levels, what vulnerabilities present the greatest risk to capital markets?

Submission 82.

See above.

2.13 Relative costs of renting versus owning.

Q83 What are the benefits of owning rather than renting a home, and visa versa? Given the choice, is the preference for renting over home ownership becoming more common in New Zealand?

Submission 83.

There is copious research documenting the benefits of households being able to own their own home at the stage in their life when this becomes their preference. Furthermore many home owners use the equity in their homes to finance their children through college, or into

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homes of their own, or to start up new businesses, or to finance their retirement. See Phil McDermott's commentary in *Submission 19* above and on his blog site [Cities Matter](#).

While renting may be becoming more common in New Zealand, we have no evidence that this reflects a "preference" as opposed to being the outcome of restricted choice. A properly functioning housing market provides affordable rental accommodation for those who want it and affordable homes to own for those who want them.

Ironically, given the Smart Growth planners' preference for high density rental accommodation over single family owned homes is being stymied by the outcomes of their Smart Growth policies.

In the present market the high compliance costs for any development, combined with the additional costs of construction of rental accommodation, means that the market premium fetched by single family homes on their own lot means that higher density rental accommodation is now less viable than ever, because the return on investment does not cover the costs, risks and uncertainties associated with higher density development.

Until the price of land and of titled lots is reduced this situation is likely to prevail.

Q84 How responsive is the demand for owner-occupied housing to changes in rental costs? Do other factors such as borrowing and wealth constraints have a greater influence on home buyer decisions?

Submission 84.

No doubt others will be able to model some of these trade-offs. It is not my field.

However, the Submission by the Tauranga City Council includes some excellent research findings on the effect of high land and construction costs on the economic viability of rental accommodation. The discussion begins on page 6 of the submission and concludes on page 10.

The submission concludes:

As is evident, there is a large gap between what rents currently are and what they would need to be for property investment to be a viable proposition in Wairakei.

This situation appears to prevail through much of the country and means that a shortage of rental accommodation looms. Consequently, those who cannot afford to buy a first home, will

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not enjoy the choice of renting because of an absence of rental units or rents which are more expensive than the mortgage.

Preferences for rental or owner occupation are often determined by “time of life” and permanency of location or occupation. The [Millenium generation](#) appears to be moving from central city areas to the outer suburbs and beyond as they decide to have children.

Again, a properly functioning market which supplies affordable land, and is not overburdened with the costs of compliance and development contributions and the risks and uncertainties associated with any kind of innovation, should be able to respond to any such changes in personal preference. Present cost and rigidities do not allow our urban economies to churn.

Q85 Have changes in the costs of renting and ownership caused changes in the level of first home ownership?

Submission 85.

One would expect changes in the relative and absolute costs to affect levels of first home ownership both directly and indirectly.

As the median multiple rises, households will take longer to save the deposit required to make a down payment on a home of their own, simply because the deposit will have increased.

But also, if the cost of rental accommodation has also increased because of increased land costs then their incomes after taxes and mortgage payments will have decreased and their ability to save has been reduced.

Numerous studies show that as the cost of land rises then home ownership diminishes and *vice versa*.

The social engineers who have their own agendas often see this as a virtue and argue that the market is responding to preferences – which however, turn out to be based on their assessment of need. Surveys reveal that home ownership is still the preferred ideal for some 70 to 80% of households in the Anglo American world. Unfortunately, many are no longer able to express this preference because of the social engineering, and especially the spatial determinism, promoted by the Smart Growth Central Planners.

Q86 Has investor activity influenced the relative cost of renting and home ownership?

Submission 86.

Investors are withdrawing from the housing market because they cannot afford to deal with the risks, uncertainties, delays and compliance costs which are now so high that the land must be free, or even less than free, to generate a return on investment. Few landowners will pay developers to take land off their hands.

This means that there is a rising shortfall in the supply of homes (for rental or home ownership) in the Smart Growth markets such as Auckland – where the issue of building permits per annum is now 26% lower than during the three years of the boom.

This shortage of supply means that prices of existing stock are now rising which some interpret as a “recovery in the market”. They do not say this of petrol prices, or Japanese cars.

The rise in prices and increased sales at the upper-middle end of the market is because a high percentage of these sales are driven by people trading down so as to reduce debt. This is not a sign of economic recovery.

Q87 To what extent does the design and administration of the Accommodation Supplement influence housing consumption, tenure choices or affordability?

Submission 87.

I am not sufficiently aware of the details to comment. This would probably require a PhD thesis to provide some answers.

But would like to think that if we had a market providing affordable housing, where houses were built on lots costing about \$30,000 to \$40,000 the need for Accommodation Supplements, would dramatically diminish.

2.14 Concluding Comment.

Regulation should be Light-Handed

There has never, in any society on record, been a completely free market in land. Even during the most *laissez-faire* period of 19th century England, brothels were not permitted to be built opposite a church. New Zealand is not about to abandon all controls over the subdivision and use of land. Well-established economic theory

demonstrates, however, that excessive regulation of land imposes significant costs on the economy as a whole, and fails to serve both efficiency and equity goals. Even in the absence of statistical, or even anecdotal evidence, there are sound economic reasons to avoid unnecessary or ill-founded restraints on the supply of land. On the contrary, both evidence and theory strongly indicate that regulation should be as light-handed as possible. Those who administer such regulations must be made keenly aware of the costs of such regulation and of how and where they fall.

Owen McShane.

Appendix I: – the Executive Summary of the 1996 Report to the Reserve Bank.²²

The Principle Findings of this Report Are:

General Principles

- * General economic theory, and international experience, strongly indicate that the regulation of the supply of land should be light-handed, for reasons of both equity and efficiency.
- * Policy makers must recognize, and must explain to their constituencies, that heavy-handed regulation of the supply of residential land carries a burden of significant economic and social costs. Such over-regulation affects prices, construction output and finally employment.
- * In New Zealand those same price rises make a significant contribution to the CPI, which, in turn, forces a response from the Reserve Bank, which means that these distortions impact on the competitive performance of New Zealand's trading sector.
- * Many of these costs fall most heavily on those least able to deal with them. Those already comfortably settled, benefit from the increased capital value of their properties.

²² *The impact of the Resource Management Act on the "housing and construction" components of the Consumer Price Index. August 1996.*

Those struggling to become established, find themselves paying higher prices for housing, or are priced out of the market altogether. A large percentage of the population who have a mortgage on their home or who have borrowed to finance their business or other activities are paying higher interest rates than necessary.

* Some increased costs associated with protection or enhancement of the environment are to be expected. As populations become wealthier, they demand higher environmental standards.

Local Government and the Supply, Demand and Regulation of Land

* Local government has a responsibility to ensure that an adequate land-bank is available to meet rapid and unforeseen increases in demand.

* Unless sufficient sections are available and ready for occupancy, an increase in demand can lead to a vicious cycle, whereby, at the end of the cycle, the land-bank is no better supplied than at the beginning.

* Pressure on rural fringe land will increase rather than decrease over the next decade. Contrary to much planning mythology, economic efficiency and the need to make the best use of rural land, demand that the 'lifestylers' should be allowed to have their way. There is no shortage of agricultural land.

The Impact of the Resource Management Act

* The major change in the economic environment surrounding the residential property market in recent years has been the passing of the Resource Management Act in 1991.

* The Act was genuinely intended to be light handed and to increase the individual choice in land use and resource allocation, provided there was no adverse impact on the natural and physical environment.

* Most local bodies have been determined to add the control of environmental effects to their long standing right to control land-use, and to allocate resources. They have shown considerable ingenuity in using the new Act to make the allocation of resources a necessary means of controlling effects.

* The "omnibus" nature of the Act has improved the project planning environment for major players. On the other hand, the costs of the Act fall more heavily on the

smaller players, if only because they have fewer resources, both monetary and political, with which to deal with them, while they are not receiving the same benefits.

* Local Authority officers claim that the necessary policy statements and standards are taking a long time to appear and those that have been published (such as guidelines for water and air standards) are of little use to those operating in urban areas, and residential sectors in particular.

* A general lack of direction from Central Government means that local authorities have either failed to provide guidelines to applicants, or have been quite inventive in developing their own.

* The RMA, as it has been, and is being implemented, has imposed massive extra costs on the residential housing market in the Auckland Region, in terms of both time and money. These costs could be greatly reduced without diluting the environmental objectives of the Act.

Specific Centres of Increased Costs

* Subdivision is now subject to a more complex process, and is more frequently subject to notification, with associated increases in costs, delays and risks.

* Applicants are required to pay both for the work of their own consultants and then again for checks carried out by the Councils' own consultants.

* Unexpected and broad definitions of terms such as "environment" and "heritage" have led to an explosion of controls and costs which impact on areas such as building design, colour, clearance of vegetation, choice of planting, and even the right to occupy land at all, without first gaining a Resource Management consent. Many owners have lost any clearly defined "right to use", and yet are not eligible for compensation. Such properties are increasingly difficult to value.

Performance of the Private Sector

- The land development/subdivision industry has been able to deliver the increased environmental standards demanded by the Act without increasing its own costs of construction. The industry has been aided by increased productivity, and the benefits of deregulated capital and labour markets.

The High Cost of "Providing for Growth by Containment"

The ARC policies of containing growth

- The major cause of ongoing increases in housing costs is the ARC's policy that Auckland's growth should be managed by a policy of containment which restrains growth outside the present urban limits, (which are currently under review) while concentrating development within the present urban limits. These policies rest on the unfounded assumption that the present city form is unsustainable. These arguments are without foundation both in fact and probably in terms of the Act. Opinion surveys and Census Data, indicate that the Regional Policy Statement seeks outcomes which the majority of Aucklanders do not want, and are likely to resist, and are contrary to present practice. Such a massive re-direction of preferences must introduce high costs with downstream effects on the whole economy.

Auckland City Council - relevant issues

Auckland City has endorsed the ARC containment policy in order to:

- Keep Auckland City as a high density core;
- Promote public transport and especially the proposed light rail;
- Promote maximum use of existing infrastructure.

Hence Council has promoted policies of infill and mixed use residential development which have been highly successful in improving choice and diversity for the residents and in revitalising the city centre. But these policies can no longer be depended upon to provide for the additional housing units required by the ARC containment policy.

Censorship of architectural design in many parts of the city has led to increases in costs and charges which are sometimes massive, especially in some of the poorer neighbourhoods. Controls of tree management, tree planting, and vegetation clearance are imposing costs, which are sometimes massive for both applicants and ratepayers - and, all too frequently, without achieving any significant environmental benefit.

Waitakere City Council - relevant issues

Waitakere City has endorsed the ARC's containment policy because it believes there is a need to *"minimise the coverage of the City's soil by intensive urban settlement"*. Such arguments have no foundation.²³

As with most cities, the complexity of the new District Plan means that ordinary citizens find it very difficult, if not impossible, to determine what they may or may not do with their land.

The RMA's requirement to consult with iwi has generated a new set of uncertainties for applicants in Waitakere and (presumably) other cities. Applicants have to consider the *"extent to which subdivision adversely affects ... the mauri (the life force, which is found in all things) of water, native vegetation, fauna habitat and land"*. Through its reference to "intrinsic values" and "spiritual" values the RMA has permitted religious beliefs to be imposed on others with the force of the law.

Waitakere City, like Auckland, has used the Heritage section of the Act to introduce a wide range of aesthetic, clearance and planting controls on residential sites. The control procedures, which are necessarily arbitrary and unpredictable in their impact, mean that in some parts of the City it can now take up to two years to gain consent to build a house

North Shore City

North Shore City has decided not to accept the policy of containment wholeheartedly and has instead suggested that: "A balanced approach, combining urban expansion with urban consolidation will be required". One outcome of this 'balanced approach' is that North Shore City is supporting the submissions to permit Okura to be developed as a new residential development, outside the Metropolitan Urban Limits, while the ARC is opposing the proposal.

Papakura District

The Papakura District Plan stands out on account of its relatively friendly attitude towards its people and the market-place. It has also challenged many of the assumptions of the Regional Policy Statements. Section one, part five, of the District Plan reads:

23 See Appendix III.

- *Papakura is first and foremost a place where people live. A fundamental outcome sought through the planning process is the realization of the basic needs of people and the freedom to allow a wide variety of lifestyles.*

In response to these findings the Papakura District Plan has used the standard range of residential zones and controls to provide for a suitable range of dwelling types and life-style choices in the urban area. So far the ARC has given notice of its intention to appeal against some 20 applications to subdivide under this approach.

Papakura is committed to dealing with the problems of the here-and-now and providing quality service at a minimum price. The District Plan makes no reference to Agenda 21 and the District Council has no plans to save the world.

The Costs of Regulation and Planning

The costs of consultation, planning and regulation in all four cities have increased dramatically since 1991. The table below gives the cost increases after allowing for inflation and increased building activity during the five year period. The charges to applicants are passed on to purchasers and affect the CPI as increases in housing costs. The costs to the City are passed on to ratepayers and affect the CPI as government charges.

Approximate Percentage Increases in Real Costs of Regulation

City	Charges to Applicants	Costs to Ratepayers
Auckland	400%	70%
Waitakere	30%	50%
North Shore	90%	20%
Papakura	20%	20%

The pessimistic view is that Auckland City is two years further down the RMA track and that the other cities' costs are lower because they have yet to "catch up".

When dealing with RMA consents, Waitakere City is comparatively light on monetary costs when compared to Auckland City, but extremely costly in time. Building permits (under the Building Act) were dealt with rapidly and efficiently.

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Papakura has managed to keep its costs most under control, recording the lowest increase in charges of the cities surveyed.

These are rough estimates and it is unwise to read too much into the numbers. However, Papakura is the only city of those surveyed whose actual rates have fallen relative to CPI growth since 1991. This indicates that the comparative ranking in this table is probably a genuine reflection of the Council's overall approach to financial management.

The hoped-for increased efficiency from the flexibility and light-handed approach of the Resource Management Act has not been realised in practice in the local authorities studied in the Auckland Region. The increase in costs to both applicants and to ratepayers has far outstripped the increase in the CPI. Papakura demonstrates that the implementation of the RMA need not necessarily lead to massive increases in charges to applicants or to ratepayers and that it is possible to run a local authority without rates increasing faster than the CPI.

The case study stories on which these findings are based are now common parlance in the industry and builders and landowners are becoming increasingly conscious of the high costs of development, especially if new subdivision is involved. These extra costs, often referred to as 'the hassle factor', are now being built in to the prices set for existing housing, and are likely to prove a significant deterrent to those who might otherwise be prepared to build a new dwelling, or to create a new subdivision.

Unless changes are made, the shortage of residential land in Auckland seems set to continue and new housing prices will continue to escalate, with a consequent impact on the CPI and monetary policy.

(Note: These findings were written in 1996. Since then these problems of constraint, uncertainties, and compliance costs have become significantly worse as Smart Growth policies have been embedded throughout the Auckland Region.)

Appendix II: It's all about Housing – isn't it?

What is planned for new houses in Auckland?

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The discussion of housing in [Auckland Unleashed](#), which sets the Council's thinking for a spatial plan, follows a tried and tested formula. It talks about the different sorts of houses we might use to achieve higher residential densities in the city.

On housing and neighbourhoods it says that it is important that:

Auckland has a clear strategy concerning the way it wants development to proceed in our town centres, avenues and areas of intensification. Delivering new and appropriate house types requires a rethink in planning policy (specifically density rules and onsite parking requirements), a commitment to achieving design quality, new approaches to home ownership and land subdivision, and importantly, investment in the amenity of areas (streets and open spaces) in which they are proposed. (p143)

This sounds well and good, but it's planning for a particular vision of how a city might work. It falls short on how its residents might want to live. Like all such strategies, it's about housing as a land use and houses as design elements. It's not about households and their residents.

It was the same in the old Auckland Regional Growth Strategy; notions of diversity and affordability emphasised structures for smaller dwellings, rather than what people might need. And from what I have seen, it's been the same in the planning documents for the Bay of Plenty, Hamilton, Christchurch, and Wellington.

So what about the people who will live in them?

I looked elsewhere in "Auckland Unleashed" to see what it might say about people rather than buildings. There were some expectations outlined under the heading of Housing (page 42). But they were hardly convincing. Here are some responses to what I found there:

"Auckland Unleashed" says: Households with children will decline to one third of households by 2040.

Really? That's not very helpful. A quick look at Statistics NZ's latest medium projection for the region (to 2031) does show a likely slow-down in the rate of growth. But it also projects 71,000 more families with children in 2031 compared with 2006. Sure, their share of the total will contract (from 52% of the total to 44% in this projection) but let's not obscure the need to house many more families over the next two

or three decades. If migration is a key driver of growth, the figure will probably be higher. How and where will we be housing our families?

“Auckland Unleashed” says: There will be more divergent family structures –single person, multi-generational, and extended families.

Good. So hopefully plans will encourage more big houses, especially given the significance of *international immigration* as a driver of Auckland’s growth. That’s a big group of people, many of whom will want bigger houses - three, four, five or more bedrooms. That’s part of Auckland’s appeal to some of them. For others it’s simply a reasonable response to cultural expectations.

Look at the census data. While there are limits in its accuracy, a pretty clear picture emerges. The number of one and two bedroom dwellings hardly increased from 1996 to 2006 (what growth did occur happened between 2001 and 2006). Some 30% of the growth was in three bedroom dwellings, and high 59% in houses with four bedrooms or more.

Interestingly, the number of small households grew much faster over the period than the number of small dwellings, measured in these terms. Even smaller households, it seems, like larger houses.

If we want Auckland to continue to grow and not just age, there may have to be plenty of larger houses on the planning menu.

“Auckland Unleashed” says: Home ownership rates are in decline and possibly 40% of households will be in rental accommodation by 2050, not always by choice.

Now this is a worry. New Zealand has a long-standing tradition of home ownership. Much as over-investment has been implicated in the housing bubble, owning a home still plays a significant role in our society and economy.

So we shouldn’t treat the emergence of the *intermediate housing market* as inevitable, or in the least bit desirable. This comprises young households with significant income but not enough to become owner-occupiers, or to step off the bottom rung of the housing ladder. The rapid growth of this segment is the reason for the jump in the rental market.

This has big implications for family formation and fertility, educational attainment, employment stability, and a sense of community and belonging. Home ownership is still

important to developing a personal asset base that can encourage entrepreneurship and investment in an economy where over-consumption may have been a barrier to long-term growth.

I cannot see anything in “Auckland Unleashed” that might counter this decline in home ownership, and if the spatial plan it will inform persists in promoting land rationing through the way it applies the Metropolitan Urban Limit and by pushing inappropriate apartments as a solution to affordability, it will only make the problem worse.

In fact, “Auckland Unleashed” says to expect in excess of 300,000 households in rental units by 2050.

This is not something that people necessarily want, and not something we should simply accept. Between 1996 and 2006 an increase of 42,000 rental households brought the city’s total rentals to 145,000, 34% of all private dwellings. This is one of the faces of our housing affordability crisis.

“Auckland Unleashed” talks about another 330,000 dwellings in total by 2040, and implies 155,000 rentals by 2050 (I’m not sure why two different end dates are used).

Those that can may just go

But, then again, it may not happen. The inability to buy a home may simply push more young, skilled, and talented people offshore, and discourage the skilled and talented people we hope to attract from overseas to replace them. If we don’t address the affordability or the suitability of housing for young families then we may as well scale back population projections. But I don’t see such a slow growth strategy discussed in “Auckland Unleashed”, even though it is a likely outcome of an inappropriate housing policy.

And many of those that can't will live in bigger households

There are other responses: one is to pack more people into existing structures. This is already happening with more sub-letting of spare rooms and attics; more inter-generational multi-family households.

There’s (indirect) evidence that this has been happening for some time. According to the Census, there was an average of 2.95 residents per (private) dwelling in Auckland in 2001. The average size of additional households over the next five years was 3.22 (the equivalent figure in Manukau City was 4.03). Consequently, any long-term fall in

dwelling occupancy that might have been factored into housing projections can now be reversed. That raises interesting questions over the housing mix we might be imposing through our plans.

With the slowdown in the housing market since 2006 the chances are that in many parts of Auckland household size is continuing to increase. Unfortunately, that's associated with increasing social inequity. And I couldn't find anything in "Auckland Unleashed" that addressed how to plan for increasing household sizes while promoting smaller dwellings, or for the possible impact on social disparities.

Time to introduce people to plans?

We are heading on to shaky ground with housing plans and policies that focus on structure and form rather than on the needs, preferences, and behaviour of households and residents. Delivering a sustainable city may not be the same as delivering a sustainable community.

Hopefully, the spatial plan when it is prepared will leave plenty of room for the middle ground to emerge, for housing to reflect what people want, rather than just planners' and designers' models of what they should be allowed.

Appendix III: – The Problem of Large Lot Zoning in Rural Areas.

The Effects of land 'wastage' through 'large section only' subdivisions.

A standard response to calls to "free up" the supply of land is that this will lead to "urban sprawl" which will lead to the loss of rural land and impact on our rural production. Many in the planning profession continue to extol the virtues of the 4ha lot as a means of "protecting" rural productivity and rural character, even though people who work in these areas tend to agree that this is probably the least efficient lot size of all – being neither fish nor fowl.

Defenders of "urban containment" claim there is some shortage of rural land. In reality, the reverse is true – rural land is being taken out of production and an emerging problem is what to do with this degraded and underused rural land.

The Centre's report on housing affordability in the Tasman/Nelson district concluded with an Appendix which demonstrated that there are no grounds to "protect" rural land at the expense of supplying peri-urban land for residential development near to the main centres, the smaller regional centres and country and coastal towns.

This discussion on the availability of rural land concluded:

New Zealand holds a substantial reservoir of high production soils, compared to the population base, and the present use of, or demand for, those soils. There is no issue of scarcity or inefficient use of the soils when the vast majority is either unused or allocated for pastoral activities which could rely on soils of lesser quality such as Class III and Class IV land.

The statistics are particularly helpful in answering claims that changing settlement patterns, urban expansion and small lot rural subdivision, is leading to a significant loss of the "high quality soil resource".

The statistics do not support this contention at a district, regional or national level. Similarly, when the comparison is brought down to the individual case of a proposed subdivision, the same conclusion is reached. The soil resource is not being lost in any significant manner, nor is it being affected in any adverse way. The physical resource remains available for present and future foreseeable uses.

Rural economists wonder, with some bemusement, what all the fuss is about.²⁴

In a paper to the Surveyor's Institute²⁵, Mr Philip Journeaux of MAF summarised those parts of a recent and extensive survey of the effects of subdivision which relate to "productivity" as follows:

In the past, a lot of emphasis has been placed on potential changes in agricultural production, and many councils used a minimum lot size criteria, based on "economic viability". A particular concern of councils, which continues currently, is to maintain the production capacity of the land.

*The general view being that small lots result in a loss of agricultural production or productivity. This is principally a matter of economic efficiency – a matter not covered by the RMA.²⁶ Each person brings their own set of skills and resources to an issue which, on the grounds of economic efficiency, **is why the decision on land use is best***

²⁴ Personal conversations with officers of MaF who have made numerous studies of the relationship between lot size and productivity and supply of rural land for rural activities.

²⁵ Phillip Journeaux, Regional Policy Manager, Northern Region, MAF. Paper to the 1998 conference of the Surveyors' Institute "Effects of Rural Subdivision."

²⁶ The RMA refers to efficiency, but in this context Mr Journeaux is making the point that councils are not to be involved in "promoting" or otherwise "planning" economic efficiency on behalf of people and communities.

*left to the individual – provided they avoid, mitigate or remedy adverse environmental effects.*²⁷

Finally it seems to most economists that if we are worried about excessive inroads into rural areas then reducing the minimum lot size to something like 4000 sq metres (one acre) would reduce these inroads. One hundred families living in the countryside would then use only 100 acres of rural land rather than the 1,000 acres they are currently forced to occupy.

Where is the sense in forcing people to occupy more land than they need?²⁸

Appendix IV: The Impact of Charges and Levies.

Charges and levies imposed at all stages of the housing supply chain;

While the 1996 Report to the Reserve Bank documents the rapid increase in charges and levies since the passing of the RMA in 1991, these increases are now exploding out of control.

During the mid-nineties when the 1996 Report was written, the charges and levies related only to land, but since then these charges and levies are increasing at every stage of the process from moving raw land to a residential lot with a dwelling. See the discussion on construction costs in Section 2.5 below.

However, the demand for “roading contributions” and other “pay-before-you-use” contributions to infrastructure is adding another set of costs to the supply chain.

To their credit the Kaipara District Council holds regular meetings at which Councilors and Staff can present their current ideas and achievements to local practitioners and other interested parties for comment and feedback.

At one of these meetings in June, Council handed out its new policy document on “Roading Development Contributions”.

Under powers granted by the new Local Government Act, Councils can now charge “developers” with substantial levies (fines), for providing new lots and dwellings in their Districts.

²⁷ My emphasis.

²⁸ The 10 acre (4ha) block is simply a hangover from the days of the Drainage Boards when any property over 10 acres had to pay the drainage board levy. Naturally the Counties set the minimum rural lot size at 10 acres to maximize their revenue. This “standard” has never been subject to any genuine section 32 analysis, or any other sensible analysis, since the passing of the RMA.

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Under the RMA, “financial impact levies” must be directly the result of the development proposal. (The nexus test) But under this new regime the levies can be used to fund roading and other infrastructure, such as libraries, sports-grounds, or busways, anywhere in the District.

These levies were first introduced in the US after the passing of the Civil Rights Legislation prohibited the use of planning rules to zone Blacks and Hispanics out of white neighbourhoods. California’s original “Anti-Growth Levies” were a means of “pricing them out” instead. The US Supreme Court struck these levies down on the grounds they were contrary to the constitutional right to freedom of movement – so we now provide a home for them in New Zealand, in a different guise.

For the last several months, following the findings of the *Demographia* surveys, the affordability of housing has been a major issue, and topic of debate, throughout the country. The Governor of the Reserve Bank is having to punish the whole economy because of rising house prices.

Development levies are sold to the public on the grounds that “Greedy developers will now have to pay for the costs of their development”. But, of course developers don’t pay these levies. Developers, who are just as often regular families, divorced women or widows, and pensioners, pass the cost on to the customers, or, if they find their developments have become unprofitable, simply don't proceed with their projects and deny customers access to houses they might otherwise have been able to afford.

The end result is that Kaipara District Council has added about \$13,000 (about \$10,000 plus profit and loss) to the cost of every new dwelling in much of the District, starting from July 1st.

Of course, any addition to the costs of new housing in any area raises the price of the total available housing stock as a consequence.

This is happening all round the country. Indeed one justification for Kaipara's action is that “everyone else is doing it”.

So we can look forward to another round of interest rate hikes and our exporters can look forward to a climbing exchange rate until eventually the economy turns belly-up under the impact of this ever-increasing cycle of increased costs.

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In the meantime Councils who impose such levies are effectively saying to potential newcomers, “If you try to come and live in our District we will treat you as a burden, and fine you for deciding to live here.”

Don't be surprised if they go somewhere else.

These levies also apply to any new commercial or industrial development. A proposal for a Museum in Mangawhai now attracts a “roading contribution” of some \$80,000. This must be paid before a building consent will be issued – which is a very high levy on a new development financed by donations.

These levies are a massive impost on innovation.

Actually new citizens, and new business enterprises are not a burden. They bring new investment, new skills, and they pay their local body rates. That is how the great cities of the world were built.

We seem determined to drive all our young and innovative people out of New Zealand and to other jurisdictions where they will be made more welcome.

It's all very well for the comfortably-retired to fine newcomers, in an attempt to keep down their own rates, but who do they think will pay the taxes to fund their pensions and health care in the future?

One day they will surely ask “Where have all the young ones gone?”

Appendix V – Australian Trends from the 2010 Census

A useful Reminder from the Australian Census Data.

AUSTRALIA'S 2011 CENSUS: CHOCK FULL OF SUPRISES

by [Michael Matusik](#) 07/20/2011

There is nothing better than a good old count to check out what's really happening. And a lot has happened across Australia over the last five years. But what actually has happened to the country's demographic fabric might surprise many. There are ten trends which I think will emerge out of our next national count on Tuesday 9th August.

1. Acceleration towards suburbia. Despite what we are fed by the intelligentsia most Australian's want to live in a suburban setting. The amount of new development on the fringe and the proportion of the population living out there will have increased

over the last five years. This trend is also likely accelerate in coming decades as will a shift to “opportunity” regions, many of which being regional towns. And there is the real surprise, many of those that moved to suburbia are young – the 25 to 34 age group.

2. Increase in household size. Household sizes are no longer shrinking. 2006’s 2.6 people per household average will be closer to 2.8 this census and may rise even higher in the future. Why? The baby bonus, change in overseas migrant mix, low housing affordability and poor government decisions like, ironically, the first home owners grant and the more recent increase in owner-resident transfer duties in Queensland.

3. More family households. Despite forecasts of more lone person and couple households, we are likely to see an increase in the proportion of family households this census. In fact the proportion of lone households is likely to fall, as many are forced to live in shared arrangements or move back home with family.

4. Increase in net wealth. Despite the GFC, rising household costs and now declining house prices our net household wealth will have risen sharply between census periods; as too will our household incomes. Equity in our homes (and investment properties) will have also risen, with more people owning their home outright than ever before. The August 2011 poll will also find that Australia’s net household wealth is also at a record high.

5. Working longer. The number of hours reported as worked each week will be up, but when they were clocked will be increasingly outside of the core 9 to 5. Yet, and whilst not a census measurement, our productivity and ability to innovate will be down. In broader terms our economic measurements are wrong – we have suffocating, quarterly consciousness and proprietary trading rather than a focus on nurturing talent and innovation. The county is far less dynamic as a result.

6. Change in demographic mix. A shift in overseas migrants from China, India, Africa and the Middle-East and less arriving here from more traditional sources such as the United Kingdom, Europe and New Zealand. This means bigger household groups, a younger age profile and rising demand for detached housing (and burqas too).

7. Larger homes. Whilst there has been shrinkage in apartment sizes of late and only really to make them easier to sell, most other housing types across Australia over the last five years have gotten bigger. High and rising land costs, relatively cheap

building costs and increasing household sizes are the main reasons why. Our aging demographic will also want big new homes – assuming that baby boomers move – but how cheap new housing will be to build in the future is uncertain at present. Home owners are also moving less often and the distance, when they do move, is becoming less. “Fewer moves, local focus” should be the catch-cry for the next decade.

8. Fewer marriages. And those that are taking the plunge are getting married later. The average age of mothers having their first child should exceed 30 years.

9. Dissolution of relationships. Not only are fewer Australians getting married, but we are breaking off relationships at an increasing rate. Family and relationship disbanding reflects our declining resiliency and mounting acceptance of the nanny state. We don’t seem to overcome hardships these days, just “cut and run”. From a housing perspective if our households are fracturing so easily, then why are our prescriptions for housing increasingly rigid?

To paraphrase international urban authority Joel Kotkin “Whatever your politics or economic interests, the 2011 census will show that the country is changing and in a dramatic way – if not always in the ways often predicted by pundits, planners or the media. It usually makes more sense to study the actual numbers than largely wishful thinking of mostly urban-centric, big-city based and often quite biased analysts.”

As we wrote after the last census, it maybe time for the planning industry to take a breather and set a different course with regard to our urban land use. Hopefully this time around the planning intelligentsia will take some notice.

Appendix VI: The Argument against Development Contributions.

Development Contributions Generate Negative Attitudes to Growth and Development.

These up-front Development Contributions have several negative outcomes and in the long term almost certainly reduce council revenues by stifling growth and development.

First, Development Contributions are presented to the communities of the District as being necessary to cover “the costs of growth”.

This creates the widely held belief that growth and development imposes long term costs on the community, with no commensurate benefits.

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Hence these costs must be recouped from the ‘greedy developer’. Developers are consistently portrayed as exploiters and profiteers, rather than as people who provide a service, by creating titled sections on which people can build their homes, or factories and retail centres that provide employment.

Furthermore, the Development Contributions are always described as a charge on developers whereas in fact the developer expects to pass them on, so they become a cost to the purchaser of the lot, or the renter of the factory or shop.

But their main damage is that they create a culture of hostility to development because the community soon learns to accept the ‘official’ position that development imposes costs rather than benefits, and hence should be stopped or restrained as much as possible.

Development Contributions are Paid Up-Front.

Development Contributions also have a major negative impact on the basic economics of investments in land and property development.

Development Contributions, which are often as high as \$50,000 per section or household, are charged up-front, and, being a condition of consent, must often be financed before title is issued or construction begins. This means that banks will not lend the development contributions because they may not be adequately secured. Hence, developers have turned to finance companies in the past, but now that the property bubble has collapsed, the developers and finance companies have all too often found themselves caught up in a circle of mutual destruction.

Furthermore, these Development Contributions add nothing to the value of the asset and so are a total burden on the developer. Most taxes are paid out of revenue or reflect genuine value added. Development Contributions are paid long before any revenue flows and add nothing to value. They are totally unproductive expenditure.

One of the first lessons learned by anyone involved in venture capital or other investment in risky ventures, is that up-front costs must be kept to a minimum and revenue streams must be brought forward as quickly as possible, if only because future revenue dollars are discounted for every year they are delayed.

In recent years we have seen a “double whammy” effect on investors in property development. Their up-front charges have been steadily increasing while the consenting process has become increasingly long – the sheer holding costs mean that many projects

become unviable. Furthermore, charges keep being imposed during the wait for consent, and it can be years before significant revenues begin to flow. The longer one has to wait the less the future revenue streams are worth.

This is a formula for zero growth and development in the property sector.

Development Contributions Cause House Prices to Rise because of Constrained Supply.

House prices are rising again because of a shortage of supply and there are no reasons why anyone should take the investment risks required to increase supply. Even where demand is low these financial constraints mean that the market will not be able to respond to increases in demand when they finally arrive. The tap has been turned off permanently.

The development contributions only worked at all because they were brought into play, both in New Zealand and overseas, during the property bubble that was expanding so rapidly from 2002 to 2008.

Once the bubble burst, the genuinely dead-weight effect of Development Contributions was multiplied several times, and, as projects died, Councils have found their budgeted cash flows from contributions are disappearing like the morning dew.

No One Knows how to Calculate the Size and Distribution of these Contributions.

Finally, no one actually knows how to do the calculations as to how to distribute these “costs of future infrastructure” because no one can predict the future.

The *Neil* case made this plain.

The Court described the need to assess the distribution of benefits and consider all available options, as follows:

The distribution of benefits between the community as a whole and any identifiable part of the community, and individuals, is a factor the Council must consider in relation to each activity...

The Council] should have regard to the views of all of its communities, and in its decision-making take account of the interests of future as well as current communities... the Council must seek to identify all reasonably practicable options for achieving the objectives and to assess those options by considering the costs and benefits of each option in terms of the four well-beings and the extent to which community outcomes would be integrated or achieved in an integrated and efficient manner.

(Author's emphasis)

How could anyone believe that any person or group of people (other than a truly Omnipotent Being) could carry out these tasks?

If anyone knew how to do these sorts of projections and calculations the great Soviet experiment would have been a raging success. In similar legal cases, economists who have made these points, and acknowledged their ignorance, had their evidence dismissed as “unhelpful.”

This fact of “chaotic life” meant that the Environment Court was faced with endless battles between competing expert witnesses and found few guidelines as to how to decide in favour of one party or the other.

Ritual Process Replaces Rational Analysis.

The Government finally resolved this dilemma by passing legislation that established that, provided the council had followed the proper process, the outcomes could not be challenged in the courts.

So following correct procedures and observing the proper rituals of consultation established the veracity of the contribution regime.

All such rituals must appear to have some substance, if only to legitimize otherwise fruitless activity. Consequently the Act required the Development Contributions to be generated by the lengthy and expensive process of generating a ten year *Long Term Council Community Plan*, (LTCCP). Naturally this process had to be based on extensive consultations in which the blind spent many hours leading the blind. This was ambitious planning. Even Stalin, who really believed in long term central planning, limited his horizons to the “Five Year Plan”.

And any change in contributions or revenue-flows requires a change in the LTCCP.

The costs in time and effort are massive, and further perpetuate a culture of foolishness.

Further evidence of the complexity of these distribution models, and the LTCCPs that generate them, is provided by this sample of a council officer's response to a request for some explanatory information.

To date we have provided you with full access to the DCP model and have no problem with continuing to discuss any issues you may have with that model. Having said that I

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note that the feedback that we have received to date is that XXX are largely happy with that model.

I don't see why you need access to the full LTCCP model. It is a massive model of integrated spreadsheets with all of our financial budgeting worksheets in it. It is also not an easy model to understand and we would need to invest significant time in helping you understand how it works and the logic behind it etc. We have, for example, had to do this with Deloitte to get them to the stage that they can do the work that we have needed them to do.

The LTCCP model is subject to extensive review by Audit NZ as part of their providing audit sign-off on the LTCCP. Hence, you can have assurance that it is robust and well checked - particularly given that it costs us approx \$120k in audit fees!!

It also needs to be remembered that what we are talking about here is a discretionary policy decision. As I understand it there is no question that a double dip and reverse double dip adjustments are legislative requirements.

Note the cost of the LTCCP audit fees to a small District Council. This is another example of an unfunded mandate from Central Government.

It was only a short time before the Global Financial Crisis and the subsequent recession made nonsense of these “best laid plans”.

Summary: Development Contributions must Go.

Quite simply Development Contributions generate many costs and fail to deliver their claimed benefits. The costs range from unaffordable housing to a shortage of urban open space.

The UK Policy Exchange study (see below) reached this conclusion after studying the comparative performance of housing markets in Switzerland, Germany, the UK, Ireland and Australia.

Similarly, the Centre's US colleagues have studied the performance of the different States of the US and find that those which have been dependent on Development Contributions (such as California and Florida) have experienced the biggest bubbles during the boom, and the biggest losses when the bubble burst. On the other hand, those states which depended on long term financing models experience the most stability and suffered from neither the boom nor the bust.

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Although Houston is one of the most rapidly growing urban economies in the U.S., serviced lots for new fringe starter housing can be purchased for around \$US30,000. Completed 235 square metre starter homes on 500 to 700 square metre lots are available for \$US140,000.

Texas cities are the most rapidly growing urban economies in the United States and they fill seven of the top ten spots for employment growth according to the *New Geography* survey of the *Best Cities for Employment Growth*.

Like many States, Texas circulates a percentage of its sales tax to supplement rating revenues, as do the cities of Switzerland and Germany.

This means of financing local government works. We know that our present model of front-end loading of costs acts as you would expect.

If we fine those people who want to generate wealth and create jobs, don't be surprised if they don't. If we reward them, then don't be surprised if they do.

We do not need to reassess development contributions, or attempt to learn how to calculate the impossible.

We need to remove them and introduce proven alternatives.

Professor Peter Saunders, a British sociologist and director at the Centre for Independent Studies in Sydney, has carried out extensive research on housing issues both in Britain and in Australia. He says:

“There can be no doubt that these developer levies have had an impact on house prices. Of course, one might argue that in the long run the infrastructure would have to be paid for anyway. But see it this way: With these levies you are capitalising these costs into a single, one-off, upfront payment that has to be paid by the person who first buys the house. The effect is especially severe for those people on lower incomes as it is getting increasingly difficult for them to get a mortgage to make this crucial first step on the property ladder.”

When Professor Saunders is asked whether government policies have actually made it more difficult for people to buy their first home he replies:

“Absolutely. And it's not just the levies: If you are building your house now, there are more and more building regulations to comply with, all of which add costs to your new home. And then there is the big problem of land supply. If the supply of land goes down

while the demand for land stays the same or even increases, then the price of land will go up. And with it, the prices of houses will also rise. It is as simple as that.”

And indeed it is. New Zealand should surely follow these examples of success.

Appendix VII: – Some specific areas where Reform is Required

The Resource Management Act.

It is easy to blame the Resource Management Act for all these ills, but if the Act was solely to blame, then New Zealand would be the only country with severely unaffordable housing.

Of course, this is not true. There are severely unaffordable housing markets in Australia, the United States, Canada, the UK, and Ireland, as measured by the *Demographia* surveys. The studies by the McKinsey Global Institute of the early nineties, such as *Employment Performance, 1994*, also found high house prices throughout much of Europe.

However, the RMA should be reformed to make it more difficult for central planners to seriously restrict land supplies and to introduce incentives to promote efficiency and effectiveness. At present there are no incentives for Councils to be efficient in their administration and implementation of the RMA.

For example if councils themselves were required to pay half the price of all processing, and if they then had to pay “half of that remaining half” for late consents, there would be an immediate reduction in the costs and delays associated with resource consents.

This is not the place to outline all the possible reforms to the Act (such as strengthening the requirements for cost and benefit analysis) but the Centre is currently developing such a package and is willing to work closely with any agencies or departments to promote affordability.

Metropolitan Urban Limits should be simply outlawed – no ifs and no buts. They have already cost this country billions of dollars and have delivered no benefits whatever, except the increased incomes of lawyers and consultants.

Regulatory Review.

A necessary reform.

In its report, *The RMA Regulations Review Tribunal – the Most Important Reform of All*, the Centre strongly recommends that all proposed District or Regional planning documents

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should be submitted to a subcommittee of Parliament's Regulatory Review Committee to test them against a rigorous set of standards of intelligibility, legality and net public benefit. Too many planning documents are published without any serious auditing or checking and immediately impose massive costs and uncertainties on the people and communities of the District or Region.

The proposal

Parliament should establish an RMA Regulatory Review Committee (the RRRC) with access to specialist advice in law drafting, public law, economic analysis, and risk analysis, as well as scientific and statistical advice where necessary as part of section 32 considerations.

All proposed RMA planning documents would be referred to the RRRC prior to publication, and could not be published without having been finally approved by the Regulation Review Committee as the parent organization. This would bring the equivalent of an "Upper House" to bear on the preparation of planning documents. Local Bodies are prone to capture by planning consultants promoting their own views of the world and to local "enthusiasms" and "fads".

The RRRC would not challenge those land use and other resource management decisions, properly made by District and Regional Councils, which are best made at the local level.

Its function would be to test proposed plans firstly against the following criteria:

- (i) their intelligibility (i.e. well drafted).
- (ii) their legality (*vires* the RMA)
- (iii) the quality of their section 32 analysis. (net public benefit)

The RRRC would also, in conjunction with the Regulations Review Committee, test any proposed RMA document against the general criteria of the Regulations Review Committee, having particular regard to whether the document:

- (i) is in accordance with the general objects and intentions of the statute under which it is made:
- (ii) trespasses unduly on personal rights and liberties:
- (iii) appears to make some unusual or unexpected use of the powers conferred by the statute under which it is made.

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The RRRC would distribute its decisions and findings to councils so that those preparing planning documents would benefit from the inputs of both Committees.

A sound “template” or “templates” would emerge quite quickly and would be the result of evolution rather than so-called “intelligent design”.

This progress towards some measure of uniformity would address another major complaint from users of the RMA.

Limiting References to the Environment Court.

The next step in this proposed reform would be to limit references to the Environment Court solely to matters relating to applications and use.

In other words, any appeals against a Proposed Plan would be lodged with the RRRC not with the Court.

This would have several advantages in that the RRRC could look at a connected group of “appeals” relating to a single planning document as one case requiring a single decision. This would help maintain the integrity of planning documents.

At present the court has to deal with each reference as presented. The court tries to deal with connected matters by handing down “interim decisions” but this only delays the process and means that the uncertainty of the standing of planning documents is prolonged.

The Education of Resource Management Analysts.

The old Town and Country Planning Act made no reference to cost and benefit analysis, but when I studied for my Post Graduate Diploma in Town and Country Planning I received a solid grounding in cost and benefit analysis from Professor Ward of Waikato University.

As far as I can tell, none of the planning schools in our universities provide such courses, even though Cost and Benefit analysis is fundamental to the preparation of planning documents under the Resource Management Act.

An analysis of the courses offered throughout the country shows that most planning schools are still wedded to central planning and are actually hostile to the Resource Management Act, which does not mention planning or zoning at all.

The proposal to require planning documents to be submitted to a Review Committee may encourage our tertiary institutions to properly train their graduates in Resource Management.

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The Centre recognizes that it is difficult for Parliament to regulate the content of courses in Universities and Technical Institutes, but surely MfE guidelines and funding of courses can encourage tertiary institutions to provide professionals willing to implement our Resource Management legislation rather than central planners who are determined to undermine it.

Certainly, no one should be able to graduate from such courses without some grounding in economics and cost-benefit analysis as they relate to Resource Management. (There are many overseas models for such courses.)

The Local Government Act.

The recent reforms to the Local Government Act now mean that Councils are required to prepare long term community plans which are intended to promote “Sustainable Development” and which are clearly prescriptive and presume that Councils know how to provide for the economic, social and cultural development of their people and communities.

These totally overturn the principles of sustainable management as defined in section 5 of the RMA.

New Zealand attempted to establish and implement National Development Plans back in the seventies but these fell by the wayside for the same reason as such central planning has been abandoned all round the world.

The Long Term Community Plans cannot be appealed to the Environment Court and are now presumed to be “superior” to the planning documents produced under the RMA.

These LGA reforms also enable Councils to impose a wide range of Development Contributions, and again these are not subject to appeal to the Environment Court.

The end result is that an Environment Court may make a decision on land use and other matters under the RMA but the applicant then finds this finding is “trumped” by planning documents produced under the Local Government Act.

These uncertainties and conflicts are growing as more Councils complete their long term community plans, and other planning documents.

Just to add to the complexity, Transit New Zealand has now declared it is a major “planning” agency in New Zealand, and is adding further uncertainty and complexity.

This is a dreadful environment in which to plan for investments – because outcomes are now totally unpredictable.

Infrastructure Funding.

None of the affordable housing markets require that developers pay for roading and other infrastructure by way of development contributions. Such contributions are not based on the principle of “the user pays”. They actually require people to “pay-before-others-use.”

It is simply not possible to achieve the target Median Multiple of 3.0 or less if Councils impose reserve contributions, impact levies, and development contributions on top of all the other costs required to “manufacture” another residential lot. Indeed, in the “severely unaffordable” markets, the sum total of such levies and compliance costs far exceeds the total cost of a section in the “affordable” markets.

The “affordable markets” fund their infrastructure through public private partnerships with access to long term (100 year) loans to do so.

“Development contributions” are yet another example of intergenerational theft where the baby-boomers are stealing from the young.

The Move from a “Regulation and Inspection” Regime to a “Survey and Insurance Environment” for Construction.

This proposal has been promoted in some detail in section 2.5 above and need not be repeated here. This reform requires an extensive package of changes to many pieces of legislation and to our whole cultural attitude to liability, risk, and selling and purchasing real estate, and must proceed with caution. Fortunately, there are many precedents overseas. We are the outliers in this matter. We simply need to move towards best international practice.