

Productivity Commission Submission:

Using land for housing: Issues from a Parks and Open Space Specialist's Perspective.

The main points in this submission relate to the role of parks and open space (or 'reserves') as essential infrastructure in new housing areas.

General Comments:

Affordability - housing and infrastructure

- Housing affordability is impacted by a range of factors, not just land supply.
- Land supply is not the issue in relation to opening up new areas for housing.
- Housing affordability is not 'created' by signing accords or creating SHA's.
- 90% of all the proposed dwellings in all Auckland SHA's were not in the affordable range, and while they might represent potential *supply*, they represent supply to those able to purchase in the \$600,000 and above range.

Auckland examples show that the number of houses created by SHA's in an 'affordable' range of around \$450,000 are few and minimal, and usually two bedroom or less, with little or no land. In a New Zealand context these are not considered affordable.

As an example, many of the 2nd 3rd and 4th 'Tranches' of proposed SHA's for evaluation, by Auckland Council departments included many small lot subdivisions of between 10-20 lots (or less) which were too small to generate reserve land, and generated 1-2 'affordable' houses on paper.

This was based on a 10% ratio – so that most developers indicated 1-2 'cheapies' but concentrated on high end dwellings otherwise. Some proposals were subdivisions of 20-30 large lots (800-1500m²) lots clearly aimed at lifestyle development yet still were accepted as special housing areas.

The SHA's attracted proposals from developers not in a rush to produce affordable homes but to take advantage of the special deals and concessions offered by Auckland Council for developers to reduce their costs and maximise their return.

Although all Auckland Council departments were included in evaluation the focus was upon 'development and engineering. The Parks Sport and Recreation department featured last on the list of departments and their comments had little weight, meaning that the awarding of SHA status to some areas did not take into account the role of and need for open space within those areas.

This is indicative of a pervading perception within the local government and the development industry that parks are a 'nice to have', an optional luxury and are not regarded in the same way as roads or stormwater or other 'real' infrastructure.

When new housing is released to the market without parks nearby it is not noticed until demand for the non-existent parks develops. Council then have to scramble for options to provide open space and often this can't be done.

Reform

RMA reform could mean that land being made available for development gets to a developable point faster but this does not mean supply of housing will quicken.

Reduced RMA processing timeframes will not and do not speed up the process – it pressurises consenting regimes and results in rushed, poor whole environmental outcomes which compromises the ability of future generations to benefit from open space, which is ultimately, unsustainable. It also focuses on pure development and removes the focus on the built environment as a place where people should be able to derive some amenity, comfort and enjoyments.

DC reform is required. DC's are complicated, and in local government is a sub industry in itself. Whole teams and units are employed just to make sense of them.

DC's are poorly understood, poorly calculated and applied and can lead to significant shortfall in funds for essential infrastructure.

Auckland Councils 'per lot' contribution was seriously under calculated meaning that there was a negative cascade effect on all parts of the council that rely on funding through growth DC's for their projects.

Parks and open spaces were particularly affected, to the point where considerable scrutiny of any proposed acquisition was made for fear of overspending the budget, which did occur.

Consequently many acquisitions were not made and not recommended meaning that long term provision of open space for new communities was compromised. This is not a sustainable approach.

Developer opposition and waiver/reduction/remission requests are too common. Too often developers react aggressively to their DC bill and council agreement to reduce the bill is common. This is not a sustainable approach.

Infrastructure check list

The cost of all infrastructure is high and is increasing. Roads, pipe and transmission networks are crucial – but they are not the only 'infrastructure' required in a healthy urban area.

Other necessary infrastructure includes Parks and open spaces and social infrastructure – for community purposes and education such as Early Childcare Learning Services (land for which is unable to be purchased from DC's).

So a more holistic look at what infrastructure is and means, along with what a community requires, would be useful.

Having said this – the cost of land for open space is also high, and artificially high especially in high growth areas and purchase/acquisition for infrastructure whether it be road, stormwater or parks needs to be funded.

Recent amendments to the LGA to reduce the purpose of Local Government and minimise what DC's can be used for has further constrained TLA's ability to fund and provide good quality new housing areas.

Poorly provided new housing areas today, are tomorrow's dysfunctional slums.

The questions in the paper tend to focus on a presumption that supply of land is problematic but *supply* is not the issue. how the land is prepared and delivered that is the problem.

Preparation of land –TLA’s

The issues for TLA’s around land for housing are in how the readily available land is *prepared* and *made ready* for development - from the ‘enabling’ policy and planning levels through to consenting and compliance.

The most important issue for the Commission to understand is that TLA’s, in preparing land for housing face a range of complex, competing and limiting procedural statutes and requirements that which extend timeframes. In this, the TLA’s role is limited to ‘preparation’ of the available land.

It shouldn’t be that complex and neither should it take several years to develop the policy or the plans. Land should be able to come to market in a faster, more efficient and transparent way than it does now.

Delivery of housing - Developers

Delivery of developed land and the ‘opening up for housing’ of that land is largely the responsibility of landowners and developers, and this is done almost entirely at their pace and timetable for their own reasons.

Developer timeframes for delivery of housing are conditioned not just by whatever regulatory conditions they have to comply with (and title issue delays), but also by external market and price conditions – resulting in deliberately drip fed staged housing developments timed to maximise returns, rather than any philanthropic programme to supply affordable housing . This ensures that housing demand is always maintained at a level above the rate of supply.

These practices are largely outside of the control of the TLA’s. In Auckland even the well regarded principled and ‘easy to work with’ developers work in this manner. Developers are not primarily interested in quantity supply of houses, they want to restrict supply to ensure maximum return.

Other causes of delays in delivery are the un-availability and high cost of building materials largely monopolised by one or two suppliers, and a lack of skilled workers. These matters need closer examination.

TLA’s Provision of Open Space

Against this framework TLA’s prepare land for delivery of housing.

TLA’s are also solely responsible for assessing the need for, and acquiring public open space as one of several crucial infrastructural elements required of integrated, functioning, sustainable urban communities.

Unfortunately only some TLA’s have understood the role of parks and open spaces as ‘key infrastructure’ so there is wide variation and no consistency over space as to levels of provision.

The Ruakura decision by the EPA in September 2014, which includes 50 Hectares of ‘open space’ is an example.

The ‘open space’ term is a misnomer in that the land is to be provided primarily for the purpose of stormwater management.

This is not open space in its true sense, but a confusion of terminology dressed to look as if a great deal of ‘parkland’ is being provided.

This is not recreational open space that primarily serves to bring respite and recreational enjoyment to future communities, it is stormwater conveyance, swale and disposal land.

SHA's and Open Space

When special housing areas are created, or when housing supply is examined, the emphasis immediately shifts to land supply, capacity and potential lot yield.

In the battle to 'supply', the first casualty is open space. When the focus shifts from the 'whole' to a dominant individual objective (e.g. 'number of houses'), parkland, social and community infrastructure, are all poorly provided.

Historical examples are New Zealand's 1960s state housing planning, England's 'new towns' and Auckland's Special Housing Areas - all of which failed to understand the role played by, and the need for adequate provision of public open space as an essential ingredient in healthy, functioning, sustainable urban development.

Remedy

The role, values, and functions of open space are often not well understood by developers and staff and senior staff outside of 'parks' departments within TLA's.

This could be altered by education and raising the profile of open space as a key element in housing areas.

This can be achieved by the development and adoption of well considered policies or guidelines on the required level of open space provision.

The function, size, type, quantity, distribution, configuration and qualities of required open space can help educate and bring about quality open space outcomes in new housing areas which serve communities for generations. If it is not provided – it is difficult to provide later.

Allied to this, is the need for a sensible, easy to understand public open space acquisition policy or guideline that can be used by lay people -developers and councils alike.

In addition, open space provision requirements should be included in District Plans which can inform and prepare applicants of the need for reserve land as a separate and important part of development along with land required for roads, stormwater, utilities or housing lots.

Specific Questions and Themes:

Of all the questions in Issues Paper, those below are relevant to provision of public open space land as an integral part of land for the supply for housing.

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

Criteria should include legibility, ease of understanding, ease of use, and not limit considerations to just housing and land supply. Also the wider question as to what are the causes of slow supply should include an examination of developer practice.

Criteria should include scrutiny of how all infrastructural elements of good urban design for housing areas – *including public open space* - should be provided.

Perhaps there are better ways to provide these? Do DC regimes work? Are there other ways?

Accessibility of plans:

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

Local Authority 'plans' range from the *aspirational* such as The Auckland Plan through to prescriptive regulatory plans. There is a wide gap between ideal aspirational plans and actual 'instructional' plans.

Local Authority plans are notoriously difficult to comprehend and decipher. Apart from being generously populated by fluffy meaningless euphemistic buzz words they can be confusingly difficult seek certainty from.

Comprehension of any plan depends on how well the intent or requirements are articulated. Plans need to be realistic.

Inclusion of requirements for all infrastructural elements such as open space is crucial to informing needs.

Simplicity and robust unambiguous language leads to better ease of use and ultimately a better understanding.

Demand and supply forecasting:

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

Although structure plans and District Plans can discuss long term need for open space they often vague, and not always well defined.

A best practice approach would be to develop an open space network plan for the TLA based on census and research data, predicted growth and forecasts so than the planning (especially how land for public open space is acquired and funded) can be provided for.

This relies on a robust DC or funding model being implemented.

At present DC's can only be used to purchase limited elements.

District Plans can be vague or silent on level of open space provision which is confusing for developers.

Rules

Implementation and effects on land use:

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

Rules for land use and development relating to open space are important for surety of provision at an acceptable level.

If open space in Greenfield development is *not* acquired at subdivision it is almost impossible to retrospectively acquire and develop the land at a later time to meet the need of the population that establishes in that area.

Spatial provision of open space across the area of a TLA is not limited to local playgrounds and neighbourhood parks but also includes:

- esplanade reserves along lakes rivers and the coast,

- scenic and historic/heritage protection,
- sports fields, courts, sports parks, stadiums, and other active recreation land
- ecological areas such as gullies, walks and trails.
- Local purpose reserves or various types

Information in rules and plans should provide certainty to avoid confusion.

Developers seek bottom lines and want to know *at an early stage* the amount of land that might be required for 'non housing' use so that they can calculate this against projected lot yield.

Most developers are not active advocates of generous provision of open space – it is anathema to them, and perceived as land which cannot be 'developed' economically. Because it's open and not built on, it is considered a waste.

They do not consider and calculate the social and recreational amenity and value that the land provides across generations.

In terms of return, developers/landowners receive generally less money per square metre for open space than they do for a developable residential lot and this is important for them in determining the viability of their projects.

The immediate value of open space is in its existence and its openness – these are intrinsic. When developed as open space the land improves in value as it delivers recreational outcomes for users.

Design guidelines:

Q26: What effect do design guidelines have on the availability of effective land for housing? Are the processes by which land use can depart from a design guideline transparent and applied consistency?

Where design guidelines are available and *include* open space, it informs and affects the availability of effect land for housing. It does reduce yield. However it needs to be understood because open space is a basic infrastructure requirement it is a much a part of the development picture as a roads or stormwater device.

Where there are no open space provision requirements or they are vague – open space is often not provided at all.

Approval processes

Pre-application information and guidance:

Q28: Which local authority pre-application advice and information services are the most effective for communicating expectations and reducing unnecessary cost for applicants? What makes them effective?

Pre Apps have been found to be particularly useful where parks staff are invited and able to contribute at the front end of an application. Auckland Council developed organised, by invitation pre-apps for those developers with a proposal.

This gives developers a heads up as to what may be required and allows parks staff to work with them for good open space outcomes.

It must be noted however that Auckland Housing Project Office did not include open space planning in its early and subsequent SHA's resulting in poor consultation across the council

and in the end, low provision, if any. This will have repercussions in coming years when demand for open space is higher than available land to supply recreational needs.

Free pre app meetings which provide opportunity for generous consultation across all departments/units of a TLA work well in imparting information and putting all elements in front of developers. Charging should occur only after the application is lodged.

Open honest and inclusive pre apps mean that there are no surprises for council or developers later.

Assessment timeframes and requests for further information:

Q30: Have resource consent processing times resulted in unnecessary delays in the development of land for housing? If so, do you anticipate that the recent changes to processing timeframes will address delays?

Resource consent processing times are not largely an issue – reducing times will not solve any perceived problem - planners do not willingly and deliberately delay or hold up processing times without reason - but the response times and the willingness of applicants to meet, alter and discuss plans particularly where their plans are contrary to rules or policies, does push time frames out. Applicant's play the system and will continue to play the system regardless of what changes are made. This is particularly evident amongst of planning consultants whose livelihood relies on client fees.

There are some obstinate and particularly difficult and litigious developers, planning consultants and general consultancies who will deliberately engage with councils in a confronting, combative and aggressive manner, with plans that fall outside of anything council might have contemplated.

This is not necessarily 'wrong' but it does not aid efficient delivery of housing land to the market. It puts strain on a system that is not designed for it. The RMA is designed around a presumption that applications will be generally complying.

Acquisition non-alignment

While resource consenting might take account of a range of issues it does not always account for how public open space is acquired. Often there will be conditions that 'XX land will vest in council' without any agreements to acquire to support the conditions.

Acquisition processes for public open space often sit outside of consenting or run parallel with it. It is not the role of consent planners to agree to acquire open space land so there needs to be a unified system as to how acquisition occurs.

Auckland Councils public open space acquisition system is an example where the intent is transparent but the reality is confusion and delay fro staff and developers.

There are examples where subdivisions have been granted well in advance of any reserve acquisition decisions being made, without any certainty for the developer as to whether the TLA will or will not acquire land shown on the plans for open space.

Delays can be extensive, up to a year or more to get an approval from the committee of the council after the acquisition report has been through a range of departments and managers. In this regard the internal council system perhaps could benefit from some simplification.

Because the manner in which Auckland Council acquires public open space land (and its budget) is completely separate from any consenting matters, applicants are advised to engage early and separately with parks specialists, but unfortunately this leads to frustration and dissatisfaction for staff and developers if the subdivision consent – (adhering to statutory timeframes) is granted, particularly where their goals are similar but even more so if they are not.

As a stop gap it is not uncommon for resource consents to include an ‘either/or’ condition that awaits implementation depending on whether the council subsequently agrees to purchase the land or not. Given tight acquisition budgets, developers cannot be guaranteed that the council will even purchase any land for open space.

Even if the consenting regime was improved, delays could still occur in delivering ‘shovel ready’ land for housing supply.

If non aligned consenting and land for infrastructure acquisition systems continue, so will these delays.

A remedy for this is to develop a robust and workable acquisition process across all TLA’s which can work with or within consenting time frames or give some certainty to developers - without undue delays.

It is not unthinkable to have a national system rather than many different systems – where developers working across different authorities have to meet a range of different standards. The way we buy land should be more or less the same across the whole country.

Infrastructure for Housing:

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

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

See Q30 above – co-ordination of how land is purchased by TLA’s for open space is important – the issue is not about lack of supply of land but how TLA’s require and acquire land for various non housing purposes.

The Reserves Act 1977 is completely silent on acquisition of open space for reserves in relation to development. This is obsolete because most land for open space that is acquired is managed under the Act.

If the Reserves Act was reviewed and repealed/ replaced with a new national reserves regime *including* how it is acquired by TLA’s, there is scope and opportunity for it to connect and relate to RMA and LGA and TLA requirements for reserve provision rather than focus on just the types and protections of reserve land.

The 1977 conservation ethos behind the Act while not archaic, has meant that the Act now is aged and out of step with current conditions and in many cases is the root cause for some delays.

Because most public open space is vested in a TLA for a purpose under the Reserves Act it makes sense to align type of reserve (purpose), with acquisition and provision legislation to speed the funding, delivery and development of it.

Alternatively, recognition of reserve land and its acquisition as a key element of basic urban infrastructure should be considered.

Local authorities and infrastructure for housing:

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

Yes – especially in land for open space provision – lack of funding of the open space acquisition budget in Auckland Council (resulting from low DC's collected), has meant that threshold restrictions have been placed on when acquisitions are made, how much is acquired and what its spent.

An exclusionary prioritisation process more about money than outcomes was introduced meaning that although the land might be a high priority for open space acquisition having low or no funds for purchase meant that in many cases staff had to recommend that it not be acquired.

Further and more recent LTP proposals to minimise expenditure will severely impact on how the council acquires land to provide for the demand generated by the SHA's. This is not sustainable.

SHA's in particular have been consented with little, inadequate and in some case no public open space being acquired, despite the council's adopted plans and guidelines for provision of open space.

The Housing Project Office has a focus on liaising with developers to provide numbers of houses.

This compromises open space because the HPO does not perceive or recognise it as key infrastructure, resulting in poor outcomes or the dominance of storm water areas over recreational open space.

In some cases storm water land and even the fields of future primary schools have been regarded by the HPO as suitable recreational public open space.

In other cases reserve land has been removed in order to supply storm water requirements and maximise housing lot yield.

This is a reflection of the Auckland Council focused approach where housing and numbers of houses as an outcome is regarded as sufficient to justify the relegation or non provision of other infrastructure.

Whilst this has the short term effect of meeting targets, in the long term, as population increases it means a shortfall of available open space for people to recreate particularly where their properties are too small to provide a viable back yard. In effect, the poor provision of infrastructure sets up the housing areas to fail later.

Q54: Do development contribution policies incentive(ise?) efficient decisions about land use, or do they unduly restrict the supply of land for housing?

Development Contribution polices are a main determinant of whether or not open space is acquired.

Poor polices mean that insufficient funds are collected or made available to keep pace with demand for acquisition, resulting in a shortfall of open space in areas of high density development.

This means that occupants have little to no open space for recreation.
PDA's can provide some certainty.

Transparency of DC's collected and spent is required with a thoroughly separate DC's calculation and sale and purchase agreement for open space land.

The practice of developers offering land for open space and asking that its value be used to 'offset' DC requirements is not transparent.
It does not always provide TLA's with the opportunity to negotiate the best possible open space locations and outcomes and often results in developers offering off-cuts and scraps for open space.

A clear DC calculation for the development should be made and paid, and from that sum a clear expenditure made on open space land.
In this environment TLA's are in a position to negotiate the acquisition of the land for open space that can be developed to the best provide for the community.

Heritage protection:

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

Heritage areas only affect land for housing where developers attempt to build houses near or over heritage land, and the TLA's resists.

TLA's have a duty in Law to protect and preserve heritage areas. In areas with heritage value, developers will not always recognise the purpose or the need for the land to be preserved even where it is of national significance.

Particularly where an area is noted in a District Plan, is listed, has an NZAA site reference etc, but is not yet *owned* by the council, developers will push the envelope to get the maximum number of lots and minimise the area for protection.

A best practice approach for TLA's is to define with certainty the area of significance of heritage areas prior to subdivision with a sufficient buffer around the significant site to prevent against encroachment of housing to the sites, and detraction of the values of the site.

This can lead to challenges for TLA's when attempting to secure ownership of the heritage land within a proposed development where the developer does not recognise the values associated with the land.

This can lead to expense and delays and in some cases poor outcomes. Once a piece of heritage land is built over, its significance and heritage value is lost forever.

As an example if a redoubt site from the New Zealand Wars is regarded as a site of national importance but is held in the developers ownership, the council may struggle to 1) acquire it, and 2) acquire enough of it to protect its values. The developer may use it as a bargaining chip and even then the council may not have the money to buy it.

So whilst it might be argued that Heritage land can impact on the supply and development of land for housing, it only really means anything if a developer intends to develop housing over that land.

A responsible TLA would prevent this and ensure that New Zealand's heritage is prioritised before housing regardless of the supposed demand for it.

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

This is patently evident. Particularly in high growth and demand areas.

In South Auckland large tracts of land were purchased by overseas buyers progressively in the early to mid 2000's as it became more evident that the Takanini Structure Plan would provide for high density housing on what had traditionally been equestrian, horticulture and grazing land.

Most land was tenanted during this time and its general quality and amenity decreased. Equestrian services and landholders relocated or closed down.

Most investors were recent immigrants or non resident investors.

In Takanini up to 90% of the developable rural land destined for urban development is already land banked.

Owners then await the best possible sale price or engage their own developers, which raises the price of any land required for roads or parks, and overall raises the cost of housing making it less affordable.

Land banking is one of the scourges of land supply for housing and there is nothing remotely philanthropic about it.

In this environment where the potential cost of an adequate park to council is in the region of 800,000 to 1M dollars it can place a huge demand on the councils acquisition budget which is already poorly funded.

Overall message –

- Housing areas should be designed to be sustainable and liveable into the future.
- It is planning negligence to reduce, minimise or not provide public recreational open space as key, basic urban infrastructure in housing development.
- If adequate open space is not provided at the time of development it fails the community and creates long term and largely unrecoverable problems.
- Current systems are not adequate to ensure the efficient and sustainable funding and acquisition of infrastructure including public open space.
- Developer practice and behaviour and market conditions are significant determinants of poor provision of affordable housing. Land supply is not the main problem.
- A significant shake up of DC's, the Reserves Act, and TLA process in preparing land for supply is required, to the extent where some processes can be 'national' and applied consistently over space.

- Developers use SHA's for their own purposes and SHA's have not provided affordable housing. They provide more high end housing .