

# HOUSING AFFORDABILITY

## Government response to the Productivity Commission's recommendations

### Introduction

The Productivity Commission's final report on housing affordability contained 35 recommendations across eight themes. The themes are:

- The role of taxation
- Urban planning
- Paying for infrastructure development
- Building regulations
- The performance of the building industry
- The private rental market
- Social housing
- Māori housing

The full report can be found at: <http://www.productivity.govt.nz/inquiry-content/1509?stage=4>

### *The role of taxation*

**Recommendation: That the Government monitor the impact of the removal of the depreciation allowance on commercial properties, including rental properties, for evidence that expenditures relevant to the proper upkeep and safety of buildings are being sustained.**

The Government agrees with this recommendation. A key reason for the removal of depreciation deductions for buildings in Budget 2010 was a concern that the deduction over-compensated for the actual economic costs likely being incurred (property owners are still allowed deductions for repairs and maintenance). It is right to ensure that depreciation deductions appropriately reflect economic costs and tax officials will continue to monitor the application of the new rules. This will include liaising with the private sector to identify boundary issues, to ensure that there is no over-reach.

### *Urban planning*

**Recommendation: Increasing land supply for new housing should include moderate-density development of brownfield sites and development of greenfield sites close to existing centres, local employment, and services.**

The Government supports increasing housing supply in both new and existing urban areas, at a range of densities and housing types, for example, stand-alone family homes or medium-density terraced housing. Making suitable land accessible to the market and delivering land-use rules and infrastructure investment that increases housing supply and diversity are roles for local government under the jurisdiction of the suite of planning statutes the Resource Management Act 1991, the Local Government Act 2002 and the Local Transport Management Act 2003.

Such initiatives require a commitment from individual local authorities and, ultimately, a mandate from local communities as well as enabling changes in legislation. Central government needs to ensure that the planning framework supports local authority efforts and that the right tools and guidance are available. The ongoing resource management reforms provide an important opportunity to deliver long-term improvements to the planning system and to planning practice.

**Recommendation: Auckland Council should show in its final Auckland Plan how it has considered and reconciled affordable housing alongside its other priorities.**

The Government acknowledges that the final Auckland Plan, adopted by Auckland Council on 29 March 2012, is broadly consistent with the Commission's recommendations. The Plan estimates at least 13,000 additional dwellings per annum will be required over the next thirty years, and signals an intention to address housing affordability issues through a multi-party action plan, and identifies where the Council can make a direct impact through provision of land for development via the release of greenfield land and development opportunities within existing urban areas. It also states the intention to review land-use policy and regulatory tools (through the development of the new Unitary Plan), as well as infrastructure investment and other factors that influence housing supply and urban form.

The Government recognises the need to continue working with Auckland Council to support the implementation of the Auckland Plan. The Government's recommendations include an analysis of demand and supply in Auckland that will assist planning.

**Recommendation: Councils interested in densification need to ensure that their local planning rules do not run counter to this objective. Councils should adopt more flexible approaches to achieve a balance between neighbourhood amenity and new development in existing suburbs.**

The Government agrees that any strategy to increase the density of housing in areas of high-demand will need to be reflected in local authorities' planning rules and regulations in order to be effective. Other actions within the influence of local authorities, including infrastructure investment and pricing, development contributions and rating policies, and the location of services, also need to be consistent with strategy.

Although it is the responsibility of councils to ensure that strategies are carried to action, there is also a role for central government in ensuring the planning framework is fit-for-purpose and accompanied by appropriate central direction and guidance. The ongoing resource management and local government reforms present a valuable opportunity to ensure that the planning system, and planning practice, delivers plans that contain strong and enforceable resource management objectives (such as unlocking development capacity in the right areas).

In the short term, the Government considers that legislative change to enable speedier adoption of a Unitary Plan for Auckland will assist Auckland Council to address the pressing housing supply and affordability issues in our largest city.

**Recommendation: Councils review regulatory processes with the aim of providing simplified, speedier and less costly consenting processes and formalities.**

The Government agrees with the intent behind this recommendation and supports Auckland Council's proposed reviews of policy and regulatory tools, particularly around land use, development consents, and infrastructure and amenity pricing and allocation.

Local authorities should be doing all they can to deliver efficient and effective regulatory services. The Government is looking at ways it can support this and this is a key driver behind the Better Local Government programme and the resource management reforms.

**Recommendation: Government consider the case for a review of planning-related legislation to reduce the costs, complexity and uncertainty associated with the interaction of planning processes under the Local Government Act, the Resource Management Act and the Land Transport Management Act.**

The Government agrees with the need to maximise alignment across the planning system in order to deliver more effective outcomes. Achieving this alignment was a major driver behind the establishment of the Auckland Council and the requirement for it to prepare the Auckland Plan. These changes have enabled a common strategy to be agreed for Auckland and paved the way for local government, central government, community and private sector partners to work together to implement it.

The resource management reforms, alongside the Better Local Government programme and improvements to the Land Transport Management Act, provide an opportunity to build on what is being achieved in Auckland and maximise planning system alignment nationally. There will be strong co-ordination between these three reviews. Government will undertake a more fundamental review of interaction between these statutes should workstreams find issues justifying this.

**Recommendation: Bring significant tracts of greenfield and brownfield land to the market in Auckland – identify and assemble land that could be quickly released and made ready for development, signal land with future potential for urban development, and make a commitment to major offsite infrastructure capacity.**

The Government agrees in principle with this recommendation and notes that the Auckland Plan signals a range of actions aimed at bringing greater housing supply to the market. The Government notes housing supply requires timely and efficient provision of land, consenting and supporting infrastructure.

The Plan identifies where the Council can make a direct impact, through the zoning of greenfield land for development and looking at mechanisms to achieve land aggregation and development opportunities within existing urban areas. The Plan also notes the Council's need to review policy and regulatory tools. The Government supports the Auckland Council's efforts and will continue to engage with them as the Plan transitions through to implementation. In particular, the Government has announced a modified process for achieving speedier delivery of the first Unitary Plan for Auckland.

**Recommendation: Auckland Council should look to collaborative models for the process of identifying, assembling and releasing large-scale tracts of land.**

The Government agrees in principle with this recommendation and notes that Auckland Council has committed in the Auckland Plan to investigate increased use of special purpose agencies, such as urban development authorities, to undertake planning and implementation of housing developments. The council-controlled organisation Auckland Council Properties Ltd is already active in this area as is central government, through its involvement in such initiatives as the Tamaki Transformation Project. These will be important pilots for wider application on this type of development model.

**Recommendation: Territorial authorities:**

- **Take a less constrained approach to the identification, consenting, release, and development of land for housing in the inner city, suburbs, and city edge.**
- **Adopt a strategy that allows for both intensification within existing urban boundaries and orderly expansion beyond them.**

- **Develop strategies that promote adequate competition between developers for the right to develop land.**
- **Ensure alignment between policy objectives, planning rules and consent processing.**

The Government agrees in principle with this recommendation (which covers actions which are the jurisdiction of local rather than central government). These proposals highlight the need for local authorities to use a range of existing and new tools to ensure housing supply is provided in the right areas at the right time, and is supported by efficient affordable and timely infrastructure investment. A focus of the resource management and local government reforms currently underway is ensuring that the national planning framework supports local government delivery of these objectives.

### ***Paying for infrastructure development***

#### **Recommendation:**

- **The Department of Internal Affairs facilitate a consultative process for updating the Best Practice Guidelines to Development Contributions and developing a set of high-level principles for development contributions, taking account of the experience of both councils and the industry.**
- **The Best Practice Guidelines include a proposal that councils consider a set of threshold questions to help them to determine whether to apply development or financial contributions to particular infrastructure assets.**
- **The Local Government Act 2002 be amended to include a statutory obligation on councils to have regard to the Best Practice Guidelines.**
- **Principles for applying developer charges be included in Schedule 13 of the Local Government Act 2002.**

**Recommendation:** The Department of Internal Affairs initiates a training programme to enable councils to enhance their skills in implementing the proposed Best Practice Guidelines for Development Contributions.

**Recommendation:** As part of the consultative process for updating the Best Practice Guidelines to Development Contributions, the Department of Internal Affairs:

- **identifies information that councils would need to provide in regular reports to demonstrates performance against the Guidelines;**
- **develops a process for assessing this performance; identifying problems and how to address them; disseminating this information to councils; and, where necessary, using lessons learnt to inform changes to the best practice guidelines.**

#### **Recommendation:**

- **The Government includes in the Local Government Act a dispute resolution process equivalent to the one in s 8AA of the Resource Management Act 1991.**
- **The Department of Building and Housing monitors the use of these appeals and within, say, three years, provide advice to the Government about whether there is a need to increase the scope for legal challenge of development contributions.**

Government acknowledges that development contributions may be impeding investment and adding to the problems of housing affordability and will consider these recommendations as part of the Better Local Government programme (being led by the Department of Internal Affairs).

This will include an evaluation of how development contributions are operating and how to manage the costs of local government infrastructure provision. A progress report to Cabinet on these issues is due in late 2012. It is proposed that any legislative change required be included in a second local government reform bill, expected to be introduced in 2013.

The Auditor-General has advised that she will review council use of development contributions as part of the standard review of the 2012-2022 local government long term plans. The review of the use of development contributions conducted as part of the Better Local Government programme will take into account the Auditor-General's findings. In its recommendations the Government will consider development of access to low-cost legal challenge of council decisions on housing.

### ***Building regulations***

**Recommendation: Treasury Regulatory Quality Team, in consultation with the Department of Building and Housing, reviews the quality and robustness of the Department's RIS process for changes to the Building Code.**

The Government agrees with the need for robust regulatory assessment of Building Code changes, which was also identified during the review of the Building Code system in 2011.

To give effect to this, the Building and Housing Group in the Ministry of Business, Innovation and Employment will focus on ensuring that there is a high-quality Regulatory Impact Analysis process in place for changes to the Building Code and compliance documents, with support from the Regulatory Quality Team in the Treasury. The changes which will need to be made following the recommendations of the Canterbury Earthquakes Royal Commission will be reviewed as a test case for potential process improvements.

In addition, the Ministry of Business, Innovation and Employment is currently reviewing the standards system in New Zealand. This will include consideration of how the standards development process more broadly interacts with the requirements of a modern regulatory system that is underpinned by Regulatory Impact Analysis.

#### **Recommendation:**

- **The Department of Building and Housing publishes, for each Building Consent Authority (BCA), the total time taken between receiving applications and finally granting consents, and the number of occasions where each BCA has used the 'stop the clock' provision.**
- **The Department of Building and Housing audits the 'stop the clock' information from a sample of BCAs**

The Government agrees in principle with the recommendation to publish building consent times. However, it should be noted that while BCAs have systems which collect data on their performance in meeting the statutory timeframe, not all collect data on the number of times the 'clock was stopped' and why. Requiring BCAs to collect and report on the latter will likely require changes to Building Act 2004 regulations.

As a first step, the Building and Housing Group in the Ministry of Business, Innovation and Employment will audit a sample of BCAs where this information is already available, and investigate how often BCAs use the 'stop the clock' provisions in the Building Act 2004 and for what reasons.

**Recommendation: Building Consent Authorities adopt a customer-focused approach in their interaction with building practitioners. They should take practical actions that would expedite the building consent process and improve their communication with building practitioners going through the consenting process.**

The Government agrees in principle with this recommendation, although acknowledges that it is local authorities who are responsible for the delivery of their regulatory processes and the way in which customer relations are managed.

The Better Local Government programme, being led by the Department of Internal Affairs, may influence councils to focus further on the cost-effective and efficient delivery of regulatory functions, including building consent processes. Informed, incentivised building practitioners can contribute to efficient building consent processing. The Building and Housing Group in the Ministry of Business, Innovation and Employment supports this through education and information to the building sector and the design and administration of the Licensed Building Practitioners regime.

**Recommendation: The Law Commission should consider in its review of joint and several liability the interaction between liability rules and the structure of industries and industry practices, and the impact of joint and several liability on the incentives faced by regulators.**

The Law Commission has indicated that they will include the matters raised by the Productivity Commission in their review. The Government has agreed to ask the Law Commission to consider incentives faced by regulators as part of its review of application of joint and several liability.

**Recommendation: The Department of Building and Housing report on the impact of the reforms on the allocation of risks between parties to building work, five years after their introduction.**

The Government agrees with this recommendation. Changing attitudes of consumers, building practitioners and building consent authorities to reassign risks to those best placed to mitigate them is a key principle behind the Building Act reforms. The Building and Housing Group in the Ministry of Business, Innovation and Employment is measuring the allocation of risks between the parties as part of its on-going monitoring and evaluation programme for the reforms, and a specific report on this issue will be produced five years after the reforms are implemented.

**Recommendation: The Department of Building and Housing provide more support to assist designers and Building Consent Authorities to demonstrate and assess how alternative solutions comply with the Building Code.**

**Recommendation: The Department of Building and Housing investigate mechanisms or pathways by which alternative solutions can evolve into mainstream practice.**

The Government agrees with these recommendations and the Building and Housing Group in the Ministry of Business, Innovation and Employment will work with BCAs to facilitate the exchange of information between BCAs on routinely approved alternative solutions and their incorporation into the work programme for acceptable solutions. To support this, the Building and Housing Group will develop protocols for receiving requests for changes, for incorporation into programmed reviews of acceptable solutions.

**Recommendation: The Department of Building and Housing should review the MultiProof building consent process with a focus on identifying barriers to its application and uptake, and suggest ways to overcome these barriers.**

The Government agrees with this recommendation. The Building and Housing Group is working to identify barriers to MultiProof building consents being used. A recent survey identified particular barriers relating to the difficulty in accommodating minor changes to standard designs and the time involved in preparing the information required to support applications. Strategies to address these concerns will be included in the ongoing development and promotion of the MultiProof service.

**Recommendation: The Department of Building and Housing report on the ways in which the building control system can improve the diffusion of knowledge and information in the building sector, including rapid dissemination of information about defects in materials, designs or building methods.**

The Government agrees that systems should encourage identification of defects in potential building materials or methods and the rapid dissemination of information where it is available. The Building and Housing Group will commission an analysis of the current situation, including the important roles played by industry bodies, professional associations such as IPENZ or by BRANZ (which is funded through the Building Research Levy for research into improved techniques and material for use in the building industry) and report its findings by June 2013.

**Recommendation: Urgency be given to the Department of Building and Housing's programme to lift the performance of BCAs and promote greater consistency and efficiency in the building regulatory system.**

The Government agrees with this recommendation. As part of the Building Act reform programme, proposals are being developed to improve the efficiency and national consistency of the administration of the building regulatory system, which include consideration of whether there should be greater consolidation of consenting between local authorities, and/or centralisation of some elements of the building consent function. A national on-line consenting system, also proposed for development, is expected to produce significant savings, and to greatly improve the ability to monitor BCA performance.

#### ***The performance of the building industry***

**Recommendation: Given that the Productivity Partnership has a number of relevant workstreams in progress, and has an established membership of relevant representatives, the Commission considers that it is the appropriate organisation to develop practical initiatives to improve industry productivity. In particular, the Partnership should develop, in consultation with the sector, practical responses to the supply chain issues outlined in section 10.4.**

The Government agrees with this recommendation and this has been referred to the Productivity Partnership Secretariat for implementation. The Secretariat will ensure that the Partnership Governance Group and the relevant parts of government, in particular the Building and Housing Group, work together on this issue. To make certain that this is the best vehicle, with the most effective tools, resources and mandate to drive change, Building and Housing Group will lead an evaluation of progress by the end of 2012.

### *The private rental market*

**Recommendation:** The Department of Building and Housing review the legislation and regulations relevant to rental accommodation quality for their effectiveness, and consider options for improvement, including their implementation and enforcement, in the medium term. This review should be aligned with initiatives led by Department of Building and Housing and the Social Housing Unit to support the growth of the community sector to create suitable alternatives for those in the worst housing situations.

The Government's priority is to grow supply of housing from the third sector. Appropriate management and maintenance of housing is a condition of receiving government funding support at the moment and consideration of how to ensure appropriate quality standards in future (as the non-government sector grows) is part of the social housing reform work programme.

The Residential Tenancies Act 1986 requires that rental properties be provided in a reasonable state of cleanliness, be maintained in a reasonable state of repair and comply with all relevant building health and safety requirements (including provisions in the Health Act 1956, Housing Improvement Regulations 1947, Building Act 2004 and the New Zealand Building Code). There is no work currently underway or planned to consider applying a different quality standard to rental housing. The Government notes that quality standards can work against housing affordability objectives by increasing the cost of housing.

**Recommendation:** Government agencies responsible for the development and implementation of home ownership assistance programmes review existing (and future) programmes against criteria based around clarity of objectives, effectively targeting recipients, flexibility and cost effectiveness.

The Government agrees with this recommendation. The Building and Housing Group has a review programme underway and expects to report to Ministers later this year.

### *Social housing*

**Recommendation:** Once this funding round is completed, a comprehensive review of the Social Housing Unit funding process should be undertaken to reduce the cost involved in applying.

The Government agrees with this recommendation. At the conclusion of the 2011-12 Social Housing Fund process, a review of the operation and outcomes of the funding process was undertaken. The findings of the review will result in changes in approach to future Social Housing Fund programmes and the Social Housing Unit's implementation of the mechanisms and levers available to it.

Phase two of the Government's social housing reform programme will focus on increasing social and housing mobility for tenants; deliver social housing in a way that stimulates the supply of affordable housing more generally; allowing for local market conditions rather than national targets to drive the quantity of social housing; and ensuring the development of a diverse market which provides a level playing field for new and existing providers. Proposals such as microfinance or changes to the Income Related Rent Subsidy and Accommodation Supplement will be considered in this review.

**Recommendation: Provide market rent levels of Accommodation Supplement where community housing organisations provide reduced rents to their clients.**

The Government agrees that community housing organisations need to be appropriately funded and will be considering the funding structure through phase two of the Government's social housing reform programme. The proposed objectives of reform in this area are that providers have sufficient revenue to cover their operating costs and are able to generate surpluses to fund growth and improve housing quality, that net rents are affordable for tenants, and that fiscal costs of subsidies are sustainable for the Crown.

### ***Māori housing***

**Recommendation: The Pūtea Taiwhenua (Rural Fund) be used to provide seed funding to organisations for using a microfinance lending approach to address the quality of the rural housing stock.**

At the conclusion of the 2011-12 Social Housing Fund process, a review of the operation and outcomes of the funding process was undertaken. The findings of the review have informed the Government's Allocation Plan for the 2012-15 Social Housing Fund of \$104.1million. This Plan outlines priority locations, including those rural and regional locations, where growth in the supply of social and affordable housing is focused. The opportunity was also taken to enhance the Putea Maori (\$13.8 million) to focus on the completion of social rental housing principally (but not necessarily exclusively) on multiple-owned Māori land including in rural locations. The different nature of the land tenure, the organisations involved and additional support for the organisations involved requires different eligibility criteria and processes. Proposal development funding is also now available, when necessary, as seed funding to assist providers, including Putea Maori providers, with pre-development costs.

The Government's Social Housing Fund and, in particular Putea Maori, is complemented by the Government's recently announced changes to the Kāinga Whenua mortgage insurance scheme. This now allow loans to be used for improving or repairing existing homes in rural locations (consistent with this recommendation). The changes to the Kāinga Whenua scheme should help to improve the quality of housing on Māori land. The suite of changes is aimed at broadening the scope of the Kāinga Whenua scheme, within the context of needing to reduce the barriers associated with building on Maori land and promoting development.

**Recommendation: Where the government lends for homes on Māori land, it should manage defaults through a more cost-effective means than repossessioning the houses.**

The Government currently underwrites the Kāinga Whenua loans made by Kiwibank. The Crown guarantees to underwrite loans in case of default because Māori land cannot be used as loan security. Recently announced changes to Kāinga Whenua will improve access to finance for those wishing to build on Māori land and provide more guidance and support to borrowers.

**Recommendation: A team of Māori housing expert advisors, housed in a national agency like Te Puni Kōkiri or the proposed Whānau Ora commissioning agency, be made available to Māori land owners with aspirations to build housing on their whenua.**

The Government agrees support to Māori land owners who have aspirations to build housing on their whenua should be expanded, although further work to consider the feasibility of this recommendation should be undertaken. Support to be considered should include matters such as increased access to finance to build, clarification of the outcomes being sought, and clarification of the functions and accountabilities of Government agencies with regards to Māori housing. Centralising the advice and operational expertise required to build on Māori land could contribute to a more streamlined and cost effective process for land owners and avoid duplication across Government. Exploring regional based approaches to link and build up local expertise could also be beneficial. The Building and Housing Group will lead this work in consultation with Te Puni Kōkiri.

**Recommendation: Whānau Ora facilitators be trained to educate whānau about the options for management structures for their Māori land, and to play a role in developing plans for the use of Māori land for housing (where this is what the whānau wants).**

The Government agrees with this recommendation in principle. Whānau Ora practitioners or 'navigators' already help whānau to access appropriate support to meet their housing needs and aspirations where this is required, including for building housing on their land. Increasing navigators' access to resources such as the Papakāinga Toolkit, and building relationships with local Māori Land Court advisory officers and local and regional councils will enable navigators to better assist whānau. There may also be opportunities for provider collectives to facilitate papakāinga workshops for groups of whānau. Work will be undertaken to consider how Whānau Ora navigators can assist whānau with their aspirations for building on their land and whether the Whānau Ora approach is the best vehicle through which to offer this support.

**Recommendation: Te Puni Kōkiri, working with the Māori Land Court and private finance institutions, develop options to adapt existing lending policies and precedents for private finance institutions to lend for building homes on Māori land.**

Soon to be announced changes to the Kāinga Whenua lending product and qualifying criteria will address a number of the issues identified with lending for building on Māori land. The Government considers that the Building and Housing Group (now within the Ministry of Business, Innovation and Employment) is best placed to lead the development of options for lending on Māori land with private finance institutions, as an extension of its current engagement with Kiwibank on Kāinga Whenua loans.