

9 March 2016

Better Urban Planning inquiry  
New Zealand Productivity Commission  
PO Box 8036  
The Terrace  
Wellington 6143

Who's  
putting local  
issues on  
the national  
agenda?

**We are.  
LGNZ.**

---

Dear Steven

### **Better Urban Planning inquiry**

LGNZ thanks you for the opportunity to contribute to the Productivity Commission's **Better Urban Planning inquiry**. The Inquiry provides a unique and important opportunity to stand outside the normal processes for developing and changing legislation and ask fundamental questions about what New Zealand should be trying to achieve in order to more effectively create urban places in which to live and work, and the efficient way of doing so.

The single "big point" we want to make is that any new framework for urban planning must be based on the principle of subsidiarity and reflect the right of citizens to make decisions about the nature and shape of their urban communities. We look forward to working with parties to see how this can be nested within a framework which clearly articulates national values and interests.

Rather than respond to each of the questions posed in the Issues paper we have focused on the following key issues:

- The balance between local decision making and central steering;
- The need for decisions on urban planning to be made in a timely manner;
- Consideration of an integrated legislative framework for planning;
- Whether there should be a single regulatory framework; and
- The appropriate level of participation in decision-making.

### **The balance between local decision-making and national steering**

The comparison of New Zealand's planning framework with frameworks employed by other jurisdictions is welcomed and is helpful when addressing the question of whether urban planning should be subject to central direction and if so under what circumstances and how. There is a menu of steering instruments that Governments can use and a consideration of what might be appropriate in the New Zealand context is a useful part of the current inquiry.

A fundamental issue all multi level governing arrangements face is finding the balance between the extent that communities are able to set goals and objectives related to their own circumstances and the degree to which it is appropriate for higher order government to steer them towards a different set of goals and objectives. A second and related issue concerns the instruments available to higher order governments for steering, which can range from ministerial direction to the provision of incentives to nudge the direction of local planning decisions. The choice of steering mechanism will have a direct effect on the performance of a planning system.

The Issues Paper describes New Zealand as having a much devolved model of decision making under the RMA and the LGA. Primarily, Government's steering mechanism is through National Policy Statements, which subordinate plans must "give effect to." Further, there is an assortment of other tools, including Government Policy Statements. One of the greatest influences, however, is arguably exerted through

funding levers – the National Land Transport Fund - and individual investment decisions, although these are often not regarded as part of our urban planning framework.

The Government already has a range of tools to provide direction and has made limited use of them. The current Bill to amend the RMA contains a number of proposals that contain new tools to provide central direction and to intervene in local processes. In our submission to the Bill, LGNZ has suggested that better use can be made of the existing tools – including actively engaging in local plan processes designed to “give effect” to national direction (NPSs). Providing guidance is a more passive tool and, along with RMA case-law that has been built up, is part of the suite of tools available.

LGZ considers that a useful focus of enquiry should be to consider in detail the different instruments available to governments to steer planning in urban areas and evaluate them in terms of their advantages and disadvantages in terms of allocative and dynamic efficiency, and democracy. A narrow focus on efficiency is simply not sufficient. Equally important we need a clearer understanding of the concept of ‘national interest’.

LGZ has a preference for steering mechanisms that respect local autonomy. These are in our view preferable to those that don’t. However, where there is an over-riding national interest there may be arguments for more direct forms of influence. To build confidence for communities and their local governments in the planning system we need to make sure that direct intervention on the basis of ‘national interest’ is used responsibly. What is the test?

### **Timely planning and decision making – a need for greater transparency**

The Discussion Paper provides examples of where and how statutory and regulatory obligations in the urban planning process conflict, with resulting project delays not in months, but in some cases several years. Further, extended consultation or legal action often negatively affects the participatory process in planning community outcomes and increases risk (and cost) of investment.

Solutions to ensure a better process may be two-fold; creating clarity and understanding for decision makers, staff and stakeholders, and ensuring redundancy and overlap in statutes and regulations is reduced. The second measure has been recognised for many years and is again under review. However, the clarity of what urban planning is, its definition, limitations, and products are often unclear to those involved. Any educational endeavour to expand greater understanding of the discipline and purpose will assist all involved to provide more and better quality input into the process. Further, with a better understanding of proposed activities, costs, schedules and outcomes, the process will be streamlined for more efficient management.

It should be noted that the current amendments to the RMA, which propose alternative planning processes do not address this matter.

### **Integrated planning legislation**

LGZ’s view is that the current planning system (comprising RMA, LGA and LTMA) is unwieldy and not well integrated. There is little alignment between strategies, funding, regulation and decision-making to integrate land use and infrastructure development, set spending priorities, and manage growth. The three planning statutes are not working together as a complete planning system, although there are some connections.

Statutory linkages between these core statutes is weak and means that decisions made under one statute have little or no weight under another. For example, if a spatial/strategic plan is developed under the Local Government Act, it carries little weight under the RMA even though implementation is through the RMA. These results in duplication, fragmentation and lack of clarity, and demands considerable time and resourcing from all parties involved.

LGNZ has recently commissioned some work to review and compare the LGA, RMA and LTMA from a local government perspective. The review will examine the alignment of the three Acts as a background to assessing the coherence of the statutory framework for local government.

### Spatial planning

A number of regions in New Zealand have now developed regional spatial plans. Spatial plans have the benefit of providing strategic direction across a region, encompassing the relevant local authorities and other parties. A spatial plan can set out the location, sequence, timing and funding requirements for infrastructure relating to transport, housing, water supply, wastewater and stormwater, services managed by network utility operators, and services relating to social, community and cultural infrastructure. Commitment by central government to being part of developing a spatial plan is clearly critical with respect to the investment decisions; the scale provided by a regional spatial plan seems to provide greater impetus for central government to be involved as a party to a spatial plan (rather than through individual, district plans). This is clearly a benefit.

LGNZ considers the current legislation needs to be changed to facilitate and enable spatial planning and strategic partnerships – to better integrate the relevant pieces of legislation. This needs to be addressed as a priority.

### **Should there be a single regulatory framework for environmental and land use regulation?**

LGNZ does not (yet) have a position on whether a single statute is serving both the urban environment well and effectively managing natural resources. LGNZ suggests this is one of the more fundamental parts of the current Inquiry.

We want to, however, make these points:

- While the RMA may be an “effects based” statute, district plans are often prescriptive (providing the certainty that many parties want). While many first generation plans under the RMA were more “effects based” and less prescriptive, they have mostly now adopted a more standard, prescriptive zoning model.
- Regional plans take a different approach and the RMA is now being used to navigate both managing natural resources and planning urban areas.
- The importance of achieving integrated management across natural resources and the urban environment must be at the centre of any future reform
- The RMA could be strengthened with guidance on how planning can promote good urban systems and outcomes. This is more than just land supply, it is about promoting good urban outcomes.
- The proposed National Policy Statement on Urban Development is viewed as a positive initiative, and one we have supported provided its focus is wider than just land supply/development capacity
- Given the disintegration that has been identified between the RMA/LGA and LTMA, it is difficult to see how a new, separate statute splitting off the management of natural resources from the urban environment could help this mix.

### **Participation in planning processes**

Successful public engagement should be clear and prescriptive for value added outcomes. However, it cannot be understated that success is largely determined by how thoroughly and thoughtfully it is planned. Successful participation is determined by the degree to which participants effectively commit to

and prepare for engagement, especially creating and providing the information needed by all stakeholders. Importantly, timing is critical as is the leadership for productive engagement and discussion to ensure inclusion with all community members.

Our premise is that local communities should have early, frequent and open opportunity to shape plans and guidelines that impact their neighbourhood and cities. This form of engagement ensures a transparent and democratic process and allows project stakeholders to engage, prioritise and arbitrate on issues most critical for acceptable outcomes for everyone involved.

However, we note that early engagement is difficult for numerous reasons that vary by community. These reasons should be targeted and addressed, and may include the kind of communication delivered, the medium by which communication is conveyed, proximity to project impacts, general complexity of the urban planning process and timing of meetings. But, it is critical to obtain feedback and information about a plan early to determine if issues are resolvable. Too often, information is provided at the end rather than the beginning of a planning process.

The current Bill to amend the RMA proposes significant changes to the ability to participate in RMA processes. The Bill appears to be premised on the assumption that people **should be** and **are** involved in setting the framework and therefore participation in consent processes is less necessary and can be restricted.

LGNZ welcomes the opportunity to explore what is the “right” balance in participation to provide for the community’s voice in place shaping while ensuring processes are timely and efficient.

## Conclusion

In closing, LGNZ recognises the complexity of the existing system and understands there are efforts in related areas to improve outcomes that will affect the urban planning process. It wants to emphasise that regardless of the issues noted above, urban planning sits at the crossroads of issues and activities that affect the social, economic, cultural and environmental values of every community. As such, it is and will always be fraught with a level of adversarial engagement. How the process is managed and led has considerable impact on outcomes, and variable factors that include community culture and history, council capability and stakeholder engagement, and project and community leadership have as much to do with outcomes as that of a regulatory and statutory frameworks which planning practices follow.

We look forward to ongoing engagement with the commission as this inquiry progresses and will submit in detail on the forthcoming draft report.

Yours sincerely



Malcolm Alexander  
Chief Executive  
Local Government New Zealand