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Research on Legal Interventions  
to Meaningfully Increase Housing  
Supply in New Zealand Cities  
with Housing Shortages

Submitted for the LLB(Hons) Degree

Faculty of Law

Victoria University of Wellington

2016

## *Abstract*

This paper considers legal interventions to facilitate an affordable housing market in New Zealand. In particular, it focuses on meaningfully increasing supply and facilitating intensification and options in growing cities. It analyses the measures currently proposed by Central Government, including de-regulation and reforms to the Resource Management Act 1991 and assesses whether these measures can achieve density and options. It proposes measures such as making full use of the RMA's effects-based model, releasing National Policy Statements and carefully drafting cohesive and strategic City Plans which focus on outcomes and quality. These measures should be supported by a range of incentives, disincentives, regulations and supplementary measures to ensure the implementation of transformative town plans.

## *Scope*

A plethora of interconnected issues have contributed to the current housing problem; economic issues like demand and social issues like immigration and NIMBY-ism. While this paper focuses on meaningfully increasing supply, it acknowledges that legal interventions and supply increases are not a silver bullet solution. A smorgasbord of legal reforms as well as economic and social changes must occur to truly address affordability challenges.

## *Subjects and Topics*

Resource Management Act 1991

Zoning and Town Planning law

Planning De-regulation

Exclusionary Zoning

## *I Introduction*

New Zealand's housing market is no longer affordable for many New Zealanders, especially first home-buyers. This is a major social, economic and political problem. Current housing supply and developments are not providing for New Zealanders' needs, and the housing market is failing. One necessary measure to return to affordability is meaningful increases in supply. Meaningful supply increases are achieved through intensification and options. The regulations in current city plans are outdated, unsophisticated and not conducive to density or options. Plans need to be fundamentally re-evaluated to ensure they are responsive and suited to modern and rapidly changing needs. Solutions advanced by the current Government focus on unlocking greenfill land and overhauling the Resource Management Act (RMA). De-regulation which frees up land exacerbates current market failures by incentivizing the exact development that is producing the failures. Supply shortages can better be attributed to lack of density, rather than lack of land. Therefore, changes to city plans should focus on transforming regulations to ensure density, not sprawl. This can be achieved through the proper implementation of the RMA's principle-based framework, removing rule-based and quantitative exclusionary regulations and replacing them with standards based on qualitative measures like quality building assessments. The RMA's framework is an effects-based model designed to allow Council autonomy and implement qualitative measures, therefore it does not need to be reformed to give effect to transformative and qualitative plans which facilitate density and options. Central Government can facilitate the proper implementation of the RMA through releasing National Policy Statements (NPS") which confirms the RMA's core principles of "bottom up" decision-making and qualitative measures. Facilitating private-sector buy-in to density and options should be facilitated through a range of incentives, disincentives and positive regulations. Additionally, the RMA's purpose of achieving a cohesive approach to planning should be furthered through supplementary reforms.

## *II The problem*

The Demographia International Housing Survey uses "median multiples" to calculate the affordability of housing. These are based on median house prices relative to median gross

annual household incomes in a city.<sup>1</sup>The survey defines “affordable housing” when the multiple is below 3. A multiple of above 5.1 is “severely unaffordable”.<sup>2</sup> Auckland currently has the fourth least affordable housing in the world, with a multiple of 9.7<sup>3</sup>. The housing problem is traversing the rest of New Zealand, where the multiple is “severely unaffordable” at 5.2.<sup>4</sup> This impacts New Zealanders immensely. It compromises New Zealand culture, which values home ownership. The property ladder enables ordinary New Zealanders to gradually increase their wealth and is a significant asset to provide security. Household debt has increased from 58% to 147% of household income between 1991 and 2011.<sup>5</sup> This figure will rise exponentially as households assume unsustainable debt in pursuit of home ownership, threatening New Zealand’s economy as the flow of money diminishes. It has significant long term socio-economic ramifications. Property ownership indicates an egalitarian society, whilst unaffordable housing could significantly contribute to wealth inequality (especially intergenerational inequality) and leading to the prospect of ownership becoming heritable.<sup>6</sup>

The causes of exponential house prices increases have not been definitively determined. Theories point to basic principles of supply and demand. New Zealand’s population is growing; especially in cities such as Auckland and Wellington. Housing supply in these areas can no longer support their population.<sup>7</sup>

### *A The Housing Market*

In New Zealand, house prices are determined heavily by basic market principles like supply and demand. There is strong evidence of market failures:

- (a) The current average gross annual return on investment (ROI) for Auckland landlords is 3%.<sup>8</sup> This minimal gross returns on investment makes increases in rent prices imminent. With significant constituencies of renters already spending

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<sup>1</sup> Senator Bob Day *12<sup>th</sup> Annual Demographia Housing Survey (2016)* (3<sup>rd</sup> quarter, 2015) at 1.

<sup>2</sup> At Table ES-1.

<sup>3</sup> At table 6, behind Hong Kong, Sydney and Vancouver, tied with Melbourne and San Jose.

<sup>4</sup> At table 7.

<sup>5</sup>Reserve Bank of New Zealand *Statistics: Key Graphs – Household Debt* at Fig 1 <<http://www.rbnz.govt.nz/statistics/key-graphs/key-graph-household-debt>>.

<sup>6</sup> See comments from David Seymour in Rob Stock “Home Ownership now for Privileged few” *Stuff* (New Zealand, 12 May 2015).

<sup>7</sup> Chris Parker *Housing Supply, Choice and affordability*, (Presented to North American Regional Science Council conference, November 2015) at p ii.

<sup>8</sup> R. T. Greenaway-McGrevy, P. C. B. Phillips “Hot Property in New Zealand: Empirical Evidence of Housing Bubbles in the Metropolitan Centres” (ResearchSpace@Aucland, 2015) at 11.

- well in excess of the recommended one-third of income on housing,<sup>9</sup> rent prices could rise to levels renters cannot afford. This is detrimental both to renters (who face homelessness or overcrowding) and landlords (who will be unable to find tenants).
- (b) Low ROI indicates a housing bubble,<sup>10</sup> re-enforcing the need for planned measures to facilitate controlled declines in property values rather than allowing the bubble to burst.
  - (c) New developments continue to focus primarily on single lot housing. House sizes have increased from 1991-2011 despite declines in household size and the ever-increasing unaffordability of large, single lot houses.<sup>11</sup> This indicates the market is failing by not responding to consumer needs.

With median house prices so substantially above median household income, New Zealand cannot wait for the low wage economy to catch up. The only meaningful solution is to stabilize the market by reducing property values. Market failures indicate a role for legal intervention to facilitate an affordable market.

### *III Solutions*

Section 5(1) of the Resource Management Act (RMA) provides:<sup>12</sup>

The purpose of this Act is to promote the sustainable management of natural and physical resources.

This paper seeks to give effect to the principles of the RMA by proposing legal interventions to facilitate long-term, sustainable increases in supply, pursuing the following goals:

- (a) Environmental sustainability, compliance with robust National Environmental Standards and promoting our international obligations under the UNFCCC Paris Agreement;<sup>13</sup>

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<sup>9</sup> The Auckland Council *The Auckland Plan* (The Auckland Council, 2012) at Chapter 11: Auckland's Housing, Figure 11.3

<sup>10</sup> Greenaway-Grey, above n 8, at 18.

<sup>11</sup> See The Auckland Council, above n 9, at Chapter 11 Auckland's Housing, Figures 11.1, 11.2, Liz MacPherson *National Family and Household Projections: 2013(base)-2038* (Statistics New Zealand, ISBN 978-0-908350-08-7 2015) at 1.

<sup>12</sup> Resource Management Act 1991, s 5(1).

- (b) Promoting long term market stability and keeping pace with long term growth;
- (c) Ensuring affordability and providing reasonable access to key city centres;
- (d) Compliance with quality building assessments and relevant health and safety standards.

Increasing supply per se is insufficient. Japan’s free market model has historically not resulted in affordable housing, despite extensive developments.<sup>14</sup> This is because developments focused on low density housing. Only recently when planning law was centralised to the Government who began to “force” unwanted density onto municipalities have the extensive developments translated into high density housing which could provide affordability.<sup>15</sup> Whilst development was previously booming, it was not catering to the needs of its population, therefore housing remained unaffordable. Housing supply needs to be increased meaningfully through the twin pillars of intensification and options.

### *B Intensification*

Facilitating high density housing in areas with supply problems is the natural choice in achieving sustainable supply. Re-developed, intensified housing provides scope to keep up with growth within existing city limits. This achieves positive outcomes and meets New Zealanders’ needs in various ways:

- (a) It mitigates adverse impacts of urban sprawl and facilitates efficient use of existing infrastructure.<sup>16</sup>
- (b) Inflated prices in “desirable” suburbs like Ponsonby and Parnell in Auckland could cool because the high cost of central land is shared across households.
- (c) It ensures people’s ability to effectively live and work in the city by making key city centres easily accessible from everybody’s homes. Access is vital as it aids

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<sup>13</sup> United Nations Framework Convention on Climate Change COP 21 (opened for signature 22 April 2016).

<sup>14</sup> See Steven Smith “Tokyo’s surprising lack of density” (June 28, 2012) Market Urbanism <<http://marketurbanism.com/2012/06/28/tokyos-surprising-lack-of-density/>>, Wendell Cox “The Evolving Urban Form: Tokyo” New Geography (20 June, 2012) <<http://www.newgeography.com/content/002923-the-evolving-urban-form-tokyo>>.

<sup>15</sup> Stephen Smith “Tokyo Takes New York: Astounding Housing Facts” (16 May, 2014) Next City <<https://nextcity.org/daily/entry/tokyo-housing-high-rise-cost-new-york-housing>>

<sup>16</sup> See R Fuller, Crawford "Impact of past and future residential housing development patterns on energy demand and related emissions" (2011) Journal of Housing and the Built Environment 26 (2) at 165–83.

economic growth and social equality whereby lower income households are not priced out of reasonable access to cities. This mitigates the emergence of “rich” and “poor” neighbourhoods.

### *C Options*

Developments will continue to be unaffordable if the development of large, single lot housing continues as the preferred option. New developments need to cater to a diverse range of households; large and small families, students, single person households, retirees etc.

Commentary has stressed the importance of viewing home ownership as a “ladder”.<sup>17</sup> The gradual elimination of “starter homes” in New Zealand might be a contributing factor in unaffordability for first home buyers.<sup>18</sup> More affordable starter homes designed to put households on the property ladder should be developed. Whilst these starter homes will not be “dream homes” they are a necessary stepping stone for first home-buyers.

Auckland has issues providing options. Developers are naturally reluctant to build low end housing on extremely expensive land.<sup>19</sup> Commentary disproves the myth that no profits can be made in low income housing or “starter” markets.<sup>20</sup> The feasibility of developing varied housing is facilitated through high density developments. Basic principles of economies of scale indicate developers have opportunities to make profits by selling more houses per block of land.

#### *1 Implementation*

It may be beneficial to ensure that a range of housing exists in each development.

Economically, this provides greater opportunities for individual developers to operate successful businesses and make profits notwithstanding lower house prices. Developers can use a mix of high and low end housing to balance their profits. This is important for New Zealand’s primarily small scale building sector.<sup>21</sup>

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<sup>17</sup> Jonathan Woetzel et al *A Blueprint for Addressing the Global Affordable Housing Challenge* (2014) McKinsey Global Institute at 6-7.

<sup>18</sup> New Zealand Productivity Commission *Housing Affordability Inquiry* (Prepared for the Ministers of Finance, Environment, Housing, Building and Construction and Regulatory Reform, 2012) at Fig 0.6.

<sup>19</sup> See Phil Twyford, MP “Housing and Transport in Auckland’s South East” (Botany/Pakuranaga Public Meeting, 24 November 2015); above n 18, at 43.

<sup>20</sup> Woetzel, above n17, at box E2.

<sup>21</sup> New Zealand Productivity Commission, above n 18, at 170-183.

Socially, a range of housing within complexes allows a range of individuals to interact with one another. This bridges gaps in wealth, education and quality of life. It reduces the risk of creating “slums” or forcing starter and lower income homes out of reasonable city access. Singapore has successfully implemented inclusive policies in their Housing District Board (HDB) complexes. Different racial, ethnic and social groups are mixed within housing developments to prevent social stratification and promote social cohesion.<sup>22</sup>

#### *D Current regulations*

Intensification and options are both officially endorsed by Central Government and Councils.<sup>23</sup> However the policies each actor advances does not coincide with their official position and fails to facilitate both pillars in practice. High density developments are excluded from the framework of the Housing Accord and Special Housing Areas Act 2013 (HASHAA).<sup>24</sup> Regulations in plans often actively exclude density through exclusionary regulations and ignores the provision of options, relying on market incentives to drive development. This section seeks to explain the current regulations in the Auckland and Wellington Plans and their effect on the goals of density and options.

The Wellington Council “encourages” developers to build to maximum height and make full use of land.<sup>25</sup> However such encouragements are “soft”; no mechanisms exist to substantively incentivize or ensure intensified developments. The Wellington plan has minimal regulatory constraints within its CBD, save maximum height requirements to achieve a gradient from the CBD to the waterfront and into the suburbs.<sup>26</sup>

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<sup>22</sup>See Loo Lee Sim et al “Public Housing and Ethnic Integration in Singapore” (2003) Habitat International 27 at 293-307.

<sup>23</sup>See Auckland Council *The Auckland Plan: An overview* (Auckland Council, 2012) at 5; David Hermans *Statement of Evidence of The Ministry to Business, Innovation and Employment before the Auckland Unitary Plan Independent Hearings Panel* (Ministry of Business, Innovation and Employment, Submitter No. 6319 2016) at 1; Wellington City Council *Urban Development Strategy* (Wellington City Council, 2006) at 7.

<sup>24</sup> See Wellington City Council “Plans, Policies and By-laws: Wellington Housing Accord – Special Housing Areas” (2016) <<http://wellington.govt.nz/your-council/plans-policies-and-by-laws/urban-development/housing-accord/special-housing-areas>>.

<sup>25</sup>Correspondence with Wellington Council Employee (Michelle Tustin, 27 July 2016) Council member is unable to provide their name or be formally referenced due to their position at the Council, however the correspondence has provided insight on the practical implementation of the Council’s role in consent decisions; see also Auckland Council, above n 9, at Section D, 36-65.

<sup>26</sup> Correspondence with Wellington City Council employee, above n 25.



The Proposed Auckland Plan (PAUP) removes most regulatory barriers to intensification from the City Centre (CBD) and Terrace Housing and Apartment (THAB) zones. The THAB zone comprises only 6.5% of Auckland's profile<sup>27</sup> and residential housing remains limited to four to six storeys.<sup>28</sup> Its CBD is expected to accommodate approximately 50% of new development in Auckland,<sup>29</sup> though the CBD comprises an even smaller percentage of their housing profile (many buildings in the CBD's are commercial).

Outside the CBD's (where most housing exists), both Auckland and Wellington plans have regulations that frustrate high density developments, like minimum car parking, size and square metre requirements and maximum heights.<sup>30</sup> Re-development of inner city suburbs in Wellington like Mount Victoria and Aro Valley are stagnated by Wellington's Heritage Policies; 38 pages of lots restricted from "inappropriate subdivision or development".<sup>31</sup> The Auckland PAUP recently accepted recommendations to loosen blanket pre-1944 buildings demolition controls, which were replaced with more limited controls on "character" areas.<sup>32</sup> This means intensified developments are heavily restricted in the majority of both cities; the small percentage of land that is less restricted might be insufficient to provide the number of houses necessary.

HASHAA shifted Councils' focus to addressing supply through establishing "Special Housing Areas" (SHA), however the legislation's framework substantially blocks the prospect of intensification because residential developments must be "predominantly low-rise" (under six storeys).<sup>33</sup>

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<sup>27</sup> Todd Niall "Auckland Council Sign Off Unitary Plan" *Radio New Zealand* (New Zealand, 15 August 2016).

<sup>28</sup> Auckland Council *Residential – Terrace Housing and Apartment Buildings (THAB) Proposed Auckland Unitary Plan Fact sheet* (Auckland Council, Council's Position December 2015) at 1.

<sup>29</sup> Matt Lindenberg, Amelia Linzey *Joint Statement of Reply of Matthew Armin Lindenberg and Amelia Joan Linzey* (on behalf of Housing New Zealand Corporation, 839, FS 3338, 2016) at 6-7.

<sup>30</sup> See Eg: Wellington City Council *District Plan Volume 1: Objectives, Policies and Rules* (Wellington City Council, operative 27 July 2000) at Chapter 5: Residential Area Rules 5.2.2 (sq m), 5.6.1.3 (parking) 5.6.2.1 (site size) 5.6.2.5-7 (height), 5.3.7.5 (visual character).

<sup>31</sup> At Chapter 20: Heritage Rules; Chapter 21 Appendix: Heritage.

<sup>32</sup> Connal Townsend *Submission on the Proposed Auckland Unitary Plan* (Property Council New Zealand, 2014) at 22-24; at 27.

<sup>33</sup> Wellington City Council, above n 24.

The Auckland plan acknowledges the importance of city access, however the Ministry of Business, Innovation and Employment (MBIE) and Housing New Zealand have raised concerns regarding spatial planning in the PAUP and the disconnect between key central areas and the areas of significant planned housing development.<sup>34</sup>

The PAUP also notes challenges in providing options,<sup>35</sup> however no mechanisms exist to achieve these options. Drafters considered proper land use regulation could facilitate the market in providing the range of housing necessary.<sup>36</sup>

The prescriptive and exclusionary nature of current regulations in plans excludes the prospect of density, while consents are liberally granted for developments outside municipal areas, where land is cheaper.<sup>37</sup> The combination of these factors actively disincentivises re-development within existing areas. Instead, developers have incentives to build outside existing limits, where land is cheaper. The distance of these land lots to city centres means they are inherently categorized as “suburban”, therefore large, single-lot developments are built on these lots. This dichotomy creates market incentives for developing large, single-lot houses on cheap land outside city limits. Their size exceeds most household’s needs and restricts effective access to city centres. It frustrates efforts to encourage high density housing and urban containment and limits options by only providing one “type” of housing.

This paper submits a principal cause of the housing affordability challenges is based on the lack of strategic intent, sophistication and cohesiveness in city plans, which regulate based on quantitative measures. This approach is outdated and makes plans unable to respond to rapidly changing needs. Councils need to fundamentally re-evaluate their Plans and the processes of forming the plans to increase supply meaningfully. This paper assesses possible reforms to facilitate transformative plans which create intensification and options.

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<sup>34</sup> Hermans, above n 23, at 2.

<sup>35</sup> Auckland City Council, above n 9, see chapter 11, priority 2.

<sup>36</sup> Correspondence with Dr. Roger Blakely, Former Chief Planning Officer, Auckland Council (Michelle Tustin, 28 July 2016).

<sup>37</sup> Correspondence with Wellington Council employee, above n 25.

#### *IV De-regulation*

The lack of land supply is often criticised as “contrived” owing to oppressive zoning laws.<sup>38</sup> Houston and Japan are cited as examples of how removing regulations facilitates development; for example, the construction of 110,000 new developments commenced in Tokyo in 2012.<sup>39</sup> Removing regulations might increase short term supply, but its long term effects are adverse. As mentioned, supply increases will not translate to affordability in itself; supply must be increased meaningfully through density and options. This is evident from Tokyo’s experience before centralization. Current market trends indicate incentives remain firmly with large, single-lot housing outside existing areas. De-regulation is likely to exacerbate this trend by allowing even more development of large, single-lot housing outside existing areas. Given this trend is resulting in market failure, this result is undesirable. Sensible regulations like urban containment could facilitate goals of density and options which ensure affordability and access by shaping the market in that direction. Complete de-regulation could frustrate efforts for long-term, sustainable solutions through density and options.

#### *E Unlocking land*

Measures to remove zones which prescribe “city limits” and unlock greenfill land for development have long been cited as a solution to inefficient town plans. The 2012 Productivity Commission Report recommended actions based on the Houston model of de-regulating zoning and divesting surplus government land to “free up land” for development.<sup>40</sup> New Zealand’s implementation of such recommendations is an illustrative example of how “freeing up land” has exacerbated current market failures and distracted from the goals of intensification and options.

## *2 HASHAA*

The Government seems responsive to “freeing up land” modelled reforms. They requested the Productivity Commission write a further report on freeing land, released in 2015.<sup>41</sup> The Productivity Commission also released a draft report on *Better Urban*

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<sup>38</sup>Guanyu Zheng *The effects of Auckland’s Metropolitan Urban Limit on Land Prices* (Productivity Commission: Research note, March 2013) at 10.

<sup>39</sup> Smith, above n 15.

<sup>40</sup>New Zealand Productivity Commission, above n 18, at 151-170.

<sup>41</sup> New Zealand Productivity Commission *Using Land for Housing* (Prepared for the Ministers of Finance, Housing, Local Government and Environment, September 2015).

*Planning* on 19th August 2016.<sup>42</sup> HASHAA re-zoned certain sites, creating SHA's in regions with "significant housing supply and affordability issues".<sup>43</sup>

HASHAA is temporary legislation designed to rapidly increase short-term supply.<sup>44</sup> It is unclear what long-term measures will replace HASHAA. If the Act is considered successful, the Government may continue implementing laws and policies based on its model.

Streamlining measures advanced under HASHAA could form part of a long term solution, for example front end collaboration processes and focus on urban design,<sup>45</sup> which will be discussed in further detail below. This paper is concerned about the type of developments HASHAA is encouraging. For example, most consents in Wellington SHA's have been for single lot developments.<sup>46</sup> This frustrates measures to achieve intensification, continuing the current "large single lot housing outside access to city centres" trend.

Freeing up land will doubtless alleviate supply strains faced by growing cities. However freeing up greenfill land as a primary mechanism is short-sighted. Land is a finite resource and the populations of New Zealand cities are projected to continue growing. Focusing on finding new land is an unsustainable exercise.

Temporary legislation is often short-sighted by nature. While quick, decisive action may have been justified in these circumstances, the nature of New Zealand's expected population growth means supply is an ongoing challenge and requires sustainable, long-term solutions. Features of HASHAA which distract from efforts to intensify developments are not conducive to robust, long-term solutions and could force supply in the wrong direction (outwards not upwards).

#### *F Exclusionary zoning and amenity values*

Measures which facilitate intensification in existing residential areas might be preferable to re-zoning greenfill land. These measures include replacing rule-based regulations with principle-based considerations and "bottom-lines", focusing on substance and quality.

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<sup>42</sup> New Zealand Productivity Commission *Better Urban Planning: Draft report* (Prepared for the Ministers of Finance, Local Government, Housing, Environment and Transport, August 2016).

<sup>43</sup> See Housing Accord and Special Housing Areas Act 2013, Sch 1.

<sup>44</sup> At s 3.

<sup>45</sup> See Elizabeth Wells "Outside the RMA Comfort Zone – Learnings from Implementing the Housing Accord and Special Housing Areas Act 2013" (15 April 2015) Planning.org <[https://www.planning.org.nz/Attachment?Action=Download&Attachment\\_id=3144](https://www.planning.org.nz/Attachment?Action=Download&Attachment_id=3144)> at 3-5.

<sup>46</sup> Correspondence with Wellington Council employee, above n 25.

Traditional zoning has been criticised as facilitating exclusionary zoning, whereby regulations intended to preserve amenity values prevent intensification.<sup>47</sup> This causes segregated communities and household exclusion to retain low density. Examples are present in many of New Zealand's city plans.<sup>48</sup>

Criticisms of exclusionary zoning are valid. New Zealand cities are capable of building intensified developments without compromising safety or quality by following international best practice guidelines.<sup>49</sup> This paper supports measures to remove unnecessary density maximums, advocating emerging models of QIMBY-ism (quality in my back yard), acknowledging that poor quality housing is not a natural consequence of intensification.<sup>50</sup>

These recommendations are not de-regulation per-se. They fundamentally re-evaluate how regulations are designed and measured. Instead of prescriptive, rule-based regulations, measures should be outcome and effects-based. Rules are both under and over-inclusive, whilst principles could look to substance and determine whether houses are fit for purpose. Instead of prescribing "one size fits all" approaches through hard rules, developers and planners should determine how best to fulfill households' needs within a framework (including minimum health and safety standards and compliance with quality building assessments). This makes plans more sophisticated and responsive. It increases the likelihood of achieving density and options by removing barriers to density and better providing for the very subjective nature of housing preferences. It would facilitate the development of "starter housing" by permitting developments which (while still subject to quality standards) are designed primarily as "stepping stones" rather than "dream homes". Qualitative plans better accord with the RMA's effects-based model.

An Independent Hearings Panel (IHP) for the PAUP recommended removing prescriptive standards which cross over with the Building Act 2004, focusing on outcomes and quality building assessments.<sup>51</sup> The Council substantively accepted these recommendations, only

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<sup>47</sup> See William Fischel "An Economic History of Zoning and a Cure for its Exclusionary Effects" (2004) *Urban Studies*, Vol 41, No. 2 at 317-340.

<sup>48</sup> See eg: Wellington City Council, above n 30.

<sup>49</sup> See eg: Luc Aldon et al *International Guidelines on Urban and Territorial Planning* (Prepared for the United Nations Human Settlements Program, 2015).

<sup>50</sup> see Auckland Design Manual "Not in My Back Yard!" (Prepared for the Auckland Council, 2016) <<http://www.aucklanddesignmanual.co.nz/resources/articles/mybackyard>> at 5.

<sup>51</sup> Auckland Unitary Plan Independent Hearings Panel *Report to Auckland Council Hearing Topics 059-063: Residential Zones* (Prepared for the Auckland Council, 2016) at 8.

retaining the minimum dwelling size standard.<sup>52</sup> This is a positive step in facilitating quality homes that meet household needs without prescribing arbitrary rules to appease existing land owners.

### 3 *Curitiba*

The city of Curitiba in Brazil is an example of excellent strategic planning. Many ideas from its 1965 plan could be evaluated and implemented in formulating sophisticated city plans in New Zealand. Curitiba's plan facilitated efficient city development, focusing on effective transport and infrastructure.<sup>53</sup> The plan involved radial and axial corridors of growth and intensified housing along key transport lines, clever uses of greenspace and public parks around waterways and intensified developments, substantial investment in efficient transport and infrastructure and a focus on pragmatic, interactive planning processes.<sup>54</sup> Efficient planning results in greater city accessibility, which aids in affordability. Radial and axial corridors of intensification could be effective in New Zealand by prescribing specific areas of high density housing. This ensures the amenity of lower density housing is unaffected by discrete and random developments, which could reduce objections. It would also ensure lower density areas are less affected by blocked light and ventilation from intensified developments, removing the need for exclusionary regulations to address those matters. Curitiba's plan is implemented at a minimal cost burden; the city's budget is approximately US\$1 billion per year, an extremely modest budget for a city of its size.<sup>55</sup> Its model is not dependent on economic or social advantage.<sup>56</sup> Curitiba's model could be furthered by providing frameworks for land-use policies to facilitate land assembly to make larger, high density complexes feasible.<sup>57</sup>

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<sup>52</sup> Auckland Council *Decisions of the Auckland Council on recommendations by the Auckland Unitary Plan Independent Hearings Panel on Submissions and Further Submissions to the Proposed Auckland Unitary Plan* (Auckland Council, 2016) at 48-52.

<sup>53</sup> Instituto de Pesquisa e Planejamento Urbano de Curitiba (IPPUC) *Plano Preliminar de Urbanismo* (Curitiba Preliminary Urban Plan) Curitiba, Brazil (1965).

<sup>54</sup> Jonas Rabinovitch "Innovate Land Use and Public Transport Policy: The Case of Curitiba, Brazil" (1996) *Land Use Policy*, Vol. 13, No. 1 at 54.

<sup>55</sup> See World Habitat Awards "Urban Management in Curitiba – Building Full Citizenship" (1997) Building and Social Housing Foundation < <https://www.bshf.org/world-habitat-awards/winners-and-finalists/urban-management-in-curitiba-building-full-citizenship/>>.

<sup>56</sup> Rabinovitch, above n 54, at 52.

<sup>57</sup> See Eg: Erik Louw "Land Assembly for Urban Transformation – the Case of 's-Hertogenbosch in the Netherlands (2008) *Land Use Policy* 25 at 69-80; Mona Qureshi and Robin King "3 Ways Land-Use Planning can Increase Urban Density" (18 August 2015) *The City Fix* <<http://thecityfix.com/blog/three-ways-land-use-planning-zoning-can-increase-urban-density-mona-qureshi-robin-king/>>.

## *G Conclusions*

Zoning has long been criticized for adding costs and extend development. The RMA's effects-based zoning and specific performance standards gives New Zealand's zoning laws greater flexibility than traditional zoning models,<sup>58</sup> whilst providing frameworks to protect the environment. Calls for de-regulation and "unlocking" land are based on similar premises outlined above; town plans unreasonably constrain supply. Claims of insufficient land supply within existing limits is difficult to reconcile with the small population densities of New Zealand cities compared to more affordable international cities.<sup>59</sup> This might indicate constrained supply is not due to lack of land, but the inability of New Zealand plans to facilitate intensified housing; a fixture of many international cities. If the PAUP is implemented effectively, it enables up to 280,000 new households within existing limits.<sup>60</sup> This and other international best practice standards illustrate effects-based performance zoning is capable of balancing the benefits of zoning in achieving specific outcomes and facilitating intensification. Re-zoning or removing city limits is unnecessary and myopic. Regulation changes should focus on giving effect to the RMA's intended framework by imposing qualitative standards to remove barriers to intensification and promote options.

## *V RMA reform*

The RMA is possibly the most tampered with legislation in recent memory. Governments constantly see the RMA as inefficient and a barrier to development. Successive amendments to the Act have been advanced, pursuing differing objectives and confusing its implementation.<sup>61</sup> Two key features of the RMA mean its existing framework provides significant scope for facilitating responsive and transformative city plans and make substantive reform unnecessary:

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<sup>58</sup> Planning & Markets "The Alternative of Performance Zoning" (1999-2000) University of Southern California, Los Angeles, California, ISSN 1548-6036 at 4, Geoffrey Palmer *Resource Legislation Amendment Bill Submission to the Local Government and Environment Committee by the New Zealand Fish and Game Council* (New Zealand Fish and Game Council, March 2016) at 2.

<sup>59</sup> Margaret McClure *Auckland Region – Population* (Te Ara, Encyclopedia of New Zealand, 2015) at 5: Population

<sup>60</sup> Niall, above n 27.

<sup>61</sup> See Ministry for the Environment "List of all RMA or Amendment Acts" (2016) <<http://www.mfe.govt.nz/rma/rma-reforms-and-amendments/list-all-rma-or-amendment-acts>>.

- (a) Its principle-based model:<sup>62</sup> The RMA is designed to measure effects in a qualitative manner. Rule-based, exclusionary regulations are found in plans, not the RMA. Therefore reforming the RMA is unnecessary to implement qualitative plans with frameworks which facilitate density and options;
- (b) Its “bottom-up” approach:<sup>63</sup> The RMA delegated significant authority to Councils to formulate Regional Policy Statements (RPS’), write their own plans and make consent decisions. It provides the necessary structure of plans without dictating substantive requirements. This makes changes to the RMA unnecessary to re-write town plans to be more sophisticated and responsive.

This paper will outline key areas of the RMA “marked” for reform, assessing the ability of such reforms to achieve density, options and transformative plans.

#### *H Public Notification*

Notification and Environment Court appeals have long been scapegoated as adding costs, disincentivising and delaying developments.<sup>64</sup> Provisions which require “special regard to be given to amenity values”<sup>65</sup> are considered to unduly permit objections based on pre-conceived dislikes for intensification and over-politicise planning and consent decisions. The truth to these statements can be disputed, which will be discussed below. Removing public participation ignores the valuable contributions of the public in promoting robust decisions. Participation provides the perspective of the “end consumer” and can ensure Councils plan cities the public want to live in and developers build houses the public want to buy.

There is no data regarding whether the costs of participation lie primarily during planning or consents. Based on correspondence and discussions with Council members and planners, there is an indication that problems associated with public participation like NIMBY-ism and lobbying are most pervasive at planning stages.<sup>66</sup> For example, controversial consent decisions in Wellington are delegated to an independent

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<sup>62</sup> Palmer, above n 58, at 2, The Environment Foundation, The Law Foundation “Environment Guide: RMA - Introduction” (8 January 2015) <<http://www.environmentguide.org.nz/rma/>>, Resource Management Act, above n 12, at Part 2.

<sup>63</sup> Correspondence with Rt. Hon. Sir Geoffrey Palmer (Michelle Tustin, 19 July 2016), Environmentguide.org, above n 63.

<sup>64</sup> See eg: *Sheppard & Bendall v North Shore City Council* HC Auckland 1791-SW00, May 2001) at [57].

<sup>65</sup> Above n 12, at s 7(c).

<sup>66</sup> Correspondence with Wellington City Council member, above n 25, Correspondence with Dr. Roger Blakeley, above n 36.



Commissioner.<sup>67</sup> There is no evidence the Commissioner displays bias.<sup>68</sup> In contrast, the Auckland Council faced extensive lobbying from the Auckland 40 Group after releasing the PAUP which attempted to eliminate exclusionary, rule-based regulations in mixed-housing zones.<sup>69</sup> The lobbying threatened the full use of urban capacity and the prospect of 280,000 new houses within existing limits.<sup>70</sup>

Current Government seemingly regards notification as a major barrier to development, previously limiting its applicability through reform.<sup>71</sup> Public notification has been removed from HASHAA's framework.<sup>72</sup> In 2013, amendments to the RMA changed the focus of public involvement in Auckland.<sup>73</sup> Planners facilitated extensive front end consultation in forming the Plan in exchange for limited appeal rights. The IHP recently assessed the plan and made recommendations to the Council.<sup>74</sup> Only Council's refusal to accept the recommendations can be appealed.

#### 4 Analysis

Mixed models of elected and appointed decision-makers might balance democracy and participation with expert, robust decisions. Facilitating extensive front end participation to avoid back end appeals is an efficient and logical option. However the amendments go further because appeal rights are removed if the Council accepts the IHP's recommendations,<sup>75</sup> to which the public do not contribute. It is difficult for the Government to support claims that abolishing participation will reduce costs when there is no research on the true nature and distribution of participation related costs. Abolishing back end objections minimises incentives to meaningfully engage with the public because it removes consequences. This undermines front end participation, turning it into a mere formality. Effective front-end engagement reduces back-end appeals without needing to abolish it. Alternatively, minor reforms could provide that appeals must be granted with

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<sup>67</sup> Correspondence with Wellington City Council member, above n 25, See also the Conflict of Interest provisions of the RMA, above n 12, s 100A.

<sup>68</sup> Correspondence with Wellington City Council member, above n 25.

<sup>69</sup> Correspondence with Dr. Roger Blakeley, above n 36.

<sup>70</sup> Niall, above n 27.

<sup>71</sup> Resource Management (Simplifying and Streamlining) Amendment Act 2009 s 76.

<sup>72</sup> HASHAA, above n 43, s 53; Local Government (Auckland Transitional Provisions) Act 2010, ss155-159.

<sup>73</sup> Ministry for the Environment *Resource Management Amendments 2013 – Fact Sheet 4* (Ministry for the Environment, Wellington, 2013) at 3-4.

<sup>74</sup> Auckland Unitary Council Independent Hearings Panel *Report to Auckland Council Overview of recommendations on the Proposed Auckland Unitary Plan* (Prepared for the Auckland Council, 2016).

<sup>75</sup> Local Government Act, above n 73, at s 154.

leave, similar to the Supreme Court. This would ensure meritorious objections can be heard whilst acting as a “gate-keeper” against NIMBY complaints.

Whilst planning and consent decisions are undoubtedly frustrated by appeals based on NIMBY-ism, the notion that notification decimates developments is overstated. Approximately 3% of consents are notified nationally, while under 1% are declined.<sup>76</sup> This indicates it is unlikely New Zealand’s affordability problems are caused primarily by participation. The real effect of notification might be that the threat of it often causes developers to restructure plans or abandon developments.<sup>77</sup> Possibly so few developments are notified during consent processes because developers deliberately formulate plans to ensure notification is not engaged. This frustrates both the purpose of notification and the developer’s ability to obtain consents for intensified development on the assumption notification will occur and objections will follow.

The best outcomes may not be achieved by limiting participation. The public ultimately buy and live in developments, therefore their contributions are valuable. It does not follow that if participation mechanisms facilitate NIMBY-ism, they should be removed. Instead, the Government and Councils should consider the possibility of engaging the public and using participation to achieve the opposite outcome; facilitating public buy-in to intensified developments. This might be achieved through NPS’, which will be discussed below.

### *I Economic Considerations*

Another reform proposed by the Government was amending Part 2 of the RMA to specifically include urban planning considerations like affordability and remove directive terms like “protect” and “maintain”.<sup>78</sup>

The definition of sustainable resource management in s 5 of the RMA includes economic and social considerations.<sup>79</sup> Therefore reform to Part 2 is probably unnecessary to give legal effect to considerations regarding affordability; and economic and social matter. Its

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<sup>76</sup> See Resource Management Act: Annual Survey of Local Authorities 1999/2000 (Ministry for the Environment, Wellington, 2001), Anthea McClelland *Resource Legislation Amendment Bill – key issues and responses* (Prepared by Forest & Bird Manawatu Branch in March 2016 Newsletter) at 2.

<sup>77</sup> Correspondence with Wellington City Council employee, above n 25.

<sup>78</sup>Resource Management Act 1991 Principles Technical Advisory Group *Report of the Minister for the Environment’s Resource Management Act 1991 Principles Technical Advisory Group* (Prepared for the Minister of the Environment, 2012) at 48-51.

<sup>79</sup> Resource Management Act, above n 12, s 5(2).

inclusion teamed with softening of directive terms might have instructed decision-makers to change the weight given to economic factors over environmental matters.

Government routinely prioritizes economic considerations over environmental sustainability. This is becoming less viable as the effects of climate change become imminent and our international obligations under the Paris agreement grow. The RMA is the primary mechanism to promote sustainable resource management. Changing the weight of economic matters over environmental factors frustrates the purpose of the Act. The importance of environmental considerations should not be undermined to produce short-term supply increases. It is not a viable long-term solution given the adverse effects of an unstable environment on the economy and society. Given this paper's focus on sustainable solutions, it is critical of measures which could have negative long-term effects on the environment by undermining the RMA's purposes.

### *J Separation*

The RMA focuses on two key areas:

- (a) Sustainable management of natural resources eg: setting standards for use of water and coasts, air, soil, aquaculture etc<sup>80</sup>
- (b) Zoning law and District Plans for developing buildings and lots.<sup>81</sup>

Critics of the RMA have suggested a divorce between natural resource management and zoning.<sup>82</sup> The close relationship between natural resources and zoning and the significant impact of cities on the environment make this suggestion problematic. Looking at the subjects discretely could create problems with statute dominance and implied repeal. Decision-makers would struggle to navigate determining priority, reconciling and interpreting legislation in relation to one another. This could increase litigation, resulting in lengthier and costlier developments. Given zoning laws play a pivotal role in achieving sustainable resource management outcomes, it makes sense for the two concepts to work cohesively in one statute.

### *K Streamlining*

The RMA is criticised as focusing on process over strategic intent.<sup>83</sup> Current Government focuses on “streamlining” the Act to make processes more efficient.<sup>84</sup> Streamlining is a

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<sup>80</sup> At Parts 3, 6A, 7, 7A, 9,

<sup>81</sup> At Parts 4, 5, 6, 10, 11.

<sup>82</sup> New Zealand Productivity Commission, above n 41, at 339-340.

<sup>83</sup> Wells, above n 45, at 2.

<sup>84</sup> See eg: Ministry of the Environment, above n 63.

process of continuous improvement. It is valuable and obtains cross party support, however streamlining only goes so far before it becomes “fast-tracking”, compromising vital environmental standards and robust decision-making.

The RMA’s structure creates a hierarchy with over-arching principles in s 5 and specific considerations in ss 6, 7 and 8. These should be implemented through National Policy Statements, RPS’ and District Plans.<sup>85</sup> This hierarchal framework means all decisions and regulations are decided against s 5 principles, providing scope for strategic planning by adopting principle-based approaches. The nature of over-arching principles mean streamlining can be achieved without compromising environmental standards. The RMA does not need substantive reform to remove bureaucracy and facilitate responsive plans.

### *5 Front-end collaboration*

An example of effective streamlining is pre-application meetings between developers and Councils to discuss planning developments in a manner that maximises the likelihood of obtaining consents.<sup>86</sup> With front end consultation, developers are less likely to give Councils substandard information which extends processes.<sup>87</sup> Consents can be achieved with minimal bureaucracy when processes provide certainty and mechanisms which provide front-end communication and information sharing.<sup>88</sup> Front-end consultation processes were expanded under HASHAA, for example, the Wellington Council provides free pre-application meetings and advice for SHA’s.<sup>89</sup> The Council has formulated clear expectations for SHA’s and communicate and collaborate with developers at the front-end. This adds value by ensuring efficient planning and development. It has streamlined processes without compromising environmental standards. These processes should continue to be made accessible.

Analysis of the proposed reforms suggest the RMA can and should be a comprehensive code regarding resource management and planning. The RMA does not require substantive reform. It has the mechanisms to facilitate efficient and strategic town plans within the framework of environmental standards, provided it is used correctly. The core

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<sup>85</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38, [2014] 1 NZLR 593 at [11].

<sup>86</sup> Correspondence with Wellington City Council employee, above n 25.

<sup>87</sup> Geoff Hardy “Streamlining the Resource Management Act” (11 February 2009) Madison Hardy <<http://madisonhardy.com/publications/ArtMID/417/ArticleID/176/Streamlining-The-Resource-Management-Act>>.

<sup>88</sup> Correspondence with Wellington City Council employee, above n 25.

<sup>89</sup> Correspondence with Wellington City Council employee, above n 25.

legislation does not need to be weakened to achieve affordability. This paper considers the heart of the issue is not with the RMA's form, but rather its implementation.

### *L Implementation*

Drafters of the RMA acknowledge it has become difficult to administer.<sup>90</sup> The intention was for Central Government to involve itself in implementation through NPS'.<sup>91</sup> Central Government have abdicated this role and Councils have received minimal direction on implementing entirely novel legislation. This created inefficiency and inconsistency between Councils, making development costly. Many Councils did not change their policies or practices following the RMA's passage, inadvertently continuing to implement the Town and Country Planning Act.<sup>92</sup> Examples of this are:<sup>93</sup>

- (a) Blanket heritage protections: An impractical regulation to apply to basic housing. Old housing is often run-down, inefficient and unsuited to modern needs. Heritage protections should be constrained to public sites of significance. Japan's experience with developments since centralization have outlined the merits of demolishing old buildings and re-developing existing areas.<sup>94</sup>
- (b) Treatment of amenity values: instead of being a relevant consideration within the decision-making matrix and assessed against the other matters in s 7, amenity takes priority because of its political significance and historical weight placed on amenity over sustainability.
- (c) Density restrictions: The Town and Country Planning Act is based on old English legislation when density was neither necessary nor practical.<sup>95</sup> These have permeated through the current implementation of zoning regulations when modern technology and international best practice guidelines now provides frameworks to develop safe, high quality intensified housing and render restrictive approaches unnecessary.<sup>96</sup> Such restrictions are now unsuitable for the modern housing environment.

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<sup>90</sup> Correspondence with Rt Hon Sir Geoffrey Palmer QC, above n 63.

<sup>91</sup> Correspondence with Rt Hon Sir Geoffrey Palmer QC, above n 63.

<sup>92</sup> Town and Country Planning Act 1977 (repealed).

<sup>93</sup> See New Zealand Productivity Commission *Research note: A History of Town Planning* (prepared for *Using land for Housing Inquiry*, June 2015) at 7.

<sup>94</sup> See Smith, above n 15; Stephen Smith "Japan Shows the Way to Affordable Megacities" (22 January 2014) Next City <<https://nextcity.org/daily/entry/japan-shows-the-way-to-affordable-megacities>>.

<sup>95</sup> New Zealand Productivity Commission, above n 93, at 2-6.

<sup>96</sup> See Aldon, above n 49.

Implementation problems were exacerbated through constant reforms of the RMA, leaving questions regarding new policies and implementation strategies. Much uncertainty and inconsistency was remedied with *Environmental Defence Society Inc. v The New Zealand King Salmon Co Ltd.*<sup>97</sup> This provided detailed guidance about the RMA's structure, implementation and comments about Part 2. This certainty is threatened when Governments continually reform the RMA. This paper recommends Governments work within the existing RMA framework instead of continually making changes.

## *VI National Policy Statements*

Correct implementation of the RMA includes working within its hierarchal structure. With the exception of one Coastal Policy Statement,<sup>98</sup> there is no requirement in the Act for the Government to release NPS'. The lack of NPS' has broken a vital link in the RMA hierarchy. Without guidance, Councils were left to form strategies and policies which are not cohesive or efficient and retain the status quo. The financial constraints of Councils limit their ability to properly draft and implement transformative plans without direction. Central government should release NPS' which focus on several areas:

- (a) Implementing and enhancing the RMA's purposes of Local Government autonomy and its effects-based framework. This includes training, education and information sharing for Councils on QIMBY ideals and implementing the RMA's model effectively through qualitative measures like quality building assessments;
- (b) Providing mechanisms to facilitate responsive, strategic and transformational Plans that promote density and options. Government could give advice to Councils on achieving this, for example through recommendations which draw on Curitiba's model;
- (c) Re-writing the approaches and processes of public participation;
- (d) Information sharing on International Best Practice Guidelines, the feasibility of affordable housing in high density complexes and other relevant factors for Councils to impart on developers.

Government should collaborate with Councils in forming NPS'. NPS-FM is an excellent example of Central and Local Government collaboration to form robust policy statements which balance guidance and central Government involvement whilst working locally,

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<sup>97</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd*, above n 85.

<sup>98</sup> Resource Management Act, above n 12, s 57(1).

providing for community needs in the context of freshwater management.<sup>99</sup> Policy statements regarding city plans should be equally collaborative. Local Government would give effect to the NPS' through RPS', which are used to draft District Plans. They would be expected to implement robust plans and participation processes with Central Government guidance.

### *M Public Involvement*

Instead of abolishing participation, NPS' could re-write the perception and approach of Councils, developers and the public in participation procedures. This provides meaningful engagement which is useful to Councils and developers and injects democracy into decision-making processes.

It is unhelpful for developers to deliberately formulate plans to avoid notification. The public can make valuable contributions to plans and developments. Participation should be a mutually beneficial tool for public consultation and educating developers on public needs to make their developments more "sellable". Developers need to understand and embrace the increasingly communicative role of planning.<sup>100</sup> Conversely, the public need to understand involvement was never intended to give them "veto powers" in decision-making or facilitate NIMBY-ism.

Policies could draw on current principles in employment law like good faith, absence of predetermination and intention to reach compromise.<sup>101</sup> It could clarify that Councils, developers and the public are expected to enter communications without pre-determined ideas (such as NIMBY-ism) and engage with processes and each other in good faith, with the intention of reaching a mutually desirable outcome within a framework of "bottom lines". It could provide education on the mutual benefits of good faith participation and encourage meaningful front end engagement. It could clarify to the public the purpose of consultation is to facilitate public engagement, not public coercion of Councils. Effective front end participation could educate the public on the imperative of density and options and increase buy-in to developments.

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<sup>99</sup>See comments of Leigh Auton in Niko Kloeten "Planners Call for National Urban Land Strategy" *Stuff* (New Zealand, 8 February 2015)..

<sup>100</sup> See R. Fischler "Communicative Planning Theory: a Foucauldian assessment" (2000) *Journal of Planning Education and Research*, 19, at 358-368, J E Innes "Planning Theory's Emerging Paradigm: Communicative Action and Interactive Practice" (1995) *Journal of Planning Education and Research* 14, at 183-189.

<sup>101</sup> See Eg: Employment Relations Act 2000, s 4.

If the “gate-keeping” mechanism is established, NPS’ should identify relevant circumstances and bases for acceptance of appeals to the Environment Court. Factors could include circumstances surrounding front end participation like whether good faith was adhered to and the extent to which proposed developments further the strategic intent of plans and the RMA.

#### *N Current Action*

The Government has recently acknowledged the imperative of using NPS provisions.<sup>102</sup> It is currently working on a policy statement on urban development capacity, focusing on responsive planning. The draft NPS-UDC has two overarching principles:<sup>103</sup>

- (a) Actively enabling growth and development;
- (b) Understanding property markets and enabling markets to provide for community needs.

Facilitating responsive planning and enabling growth and development are appropriate principles to base policies. NPS-UDC also has provisions to necessitate integrated approaches between planning, transport and infrastructure, promoting cohesiveness and enabling growth and access.<sup>104</sup> However NPS-UDC is heavily influenced by the two Productivity Commission report findings.<sup>105</sup> Policies are premised on conclusions that land supply is artificially constrained and broad de-regulation enables the market to achieve social outcomes. The limitations of these assumptions and their ability to achieve density and options have been identified above. This paper recommends Government reconsider the direction of NPS-UDC and ensure their growth and development strategies focus on freeing up land “upwards” through intensification, not “outwards” through sprawl and develop policies to increase options.

Policy 4 of the proposed NPS-UDC describes the “national significance” of urban development and draws heavily on the language of s 5. This could influence the

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<sup>102</sup> The only NPS’ released before 2008 was the mandatory Coastal Policy Statement. The remaining three were released from 2008-2014, with work currently ongoing for two more. See Ministry for the Environment *RMA legislative tools: National Policy Statements* (Ministry for the Environment, Wellington, 2015).

<sup>103</sup> Ministry for the Environment and Ministry of Business, Innovation and Employment *Proposed National Policy Statement on Urban Development Capacity: Consultation Document* (Prepared by the Ministry for the Environment and Ministry of Business, Innovation and Employment, Wellington, 2016) at 28-29.

<sup>104</sup> At 33.

<sup>105</sup> At 5.



implementation of Part 2 of the RMA because NPS' are presumed to be tools to give effect to it.<sup>106</sup> NPS-UDC could colour the language of Part 2 and change the relative weight given to “the contribution urban areas make to the social, economic and cultural wellbeing of people and communities”.<sup>107</sup> This could be seen as “legislating through the back door”; giving effect to the previously proposed changes to Part 2 through executive action because there was no support for making the changes legislatively.<sup>108</sup>

### *6 National Planning templates*

NPS' will be supplemented by National Planning templates to provide common, user-friendly planning formats, practices and structures.<sup>109</sup>

Templates alleviate long term costs for Councils in preparing plans by reducing complexity and promoting cohesiveness. It also increases certainty and reduces costs in decision-making with less interpretation variations.<sup>110</sup> However the proposed templates will be mandatory.<sup>111</sup> This removes Councils autonomy and may discourage local innovation in practice, frustrating the RMA's “bottom up” approach which considers local Government best placed to make decisions affecting their areas.<sup>112</sup> Government should strive to achieve standardization without assuming too much control over plans. The RMA's model of local decision-making prescribes the Government's role as “involvement” not “intervention”.

### *VII Achieving Density and Options*

Once town plans sufficiently allow for intensification and options, lawmakers should implement measures to more strongly encourage developments which provide density and options in furtherance of the plan's strategy. Lawmakers should consider the best interventions to achieve the intensified range of housing required. This involves an economic analysis of determining which interventions effectively influence developer's behaviors. Such an analysis is beyond the scope of this paper.

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<sup>106</sup> *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd*, above n 85, at [85]-[90]

<sup>107</sup> Ministry for the Environment and Ministry of Business, Innovation and Employment, above n 104, at 10.

<sup>108</sup> Palmer, above n 58, at 4.

<sup>109</sup> Ministry for the Environment *Resource Management Summary of Reform Proposals* (Ministry for the Environment, Wellington, 2013) at 6.

<sup>110</sup> At 6.

<sup>111</sup> New Zealand Planning Institute “Mandatory National Planning Template” (2014). NZPI <[https://www.planning.org.nz/Category?Action=View&Category\\_id=1224](https://www.planning.org.nz/Category?Action=View&Category_id=1224)> at 7.

<sup>112</sup> Correspondence with Rt. Hon. Sir Geoffrey Palmer, above n 63.

### *O Incentives*

Instead of mere “encouragement”, incentives should give tangible reasons for developers to comply with Council’s strategic plan. Density bonuses like those in California “loosen” density regulations (such as the ones described above) if developer’s plan affordable housing.<sup>113</sup> This is a persuasive incentive, but given this paper recommends the outright removal of the very regulations that density bonuses waive, such bonuses are largely unworkable.

Another persuasive incentive could be grants for financing infrastructure for developments which show strategic potential. These should be provided through central Government funds as current financial models of local Government are insufficient. Central Government could provide grants by assessing a development against its compliance with NPS’, the strategic intent of the relevant plan in consultation with the Council and the goals of density and options. Even the most neo-liberal commentators concede New Zealand Government should play a more active role in financing infrastructure,<sup>114</sup> as there is an existing question regarding whether our current infrastructure is capable of sustaining intensified developments.<sup>115</sup> As a major cost for developers, infrastructure grants could provide strong incentives to facilitate intensified and varied developments.

### *P Disincentives*

Disincentives are a natural corollary to incentives. It is most desirable for incentives and disincentives to work together to form a range of “carrots and sticks” to best achieve desired outcomes.

### *7 Tax*

Whilst tax is known to be a strong disincentive, the Productivity Commission did not consider tax a major factor in New Zealand’s affordability challenges, against its own hypothesis.<sup>116</sup> It did acknowledge the role of tax in affecting the attractiveness of land as an investment, but did not make recommendations on this point because the actual effect

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<sup>113</sup> See eg: California Government Code Sections 65915 – 65918; Jon E Goetz & Tom Sakai *Maximising Density Through Affordability: A Developer’s Guide to the California Density Bonus Laws* (Kronick Reference Guide, 2015).

<sup>114</sup> See eg Interview with Hugh Pavletich, Co-author of International Demographia Housing Survey (Heather Du Plessis-Allan, 29 May 2016) at 5:58-8:10.

<sup>115</sup> Correspondence with Wellington City Council employee, above n 25.

<sup>116</sup> New Zealand Productivity Commission, above n 18, at 88-101.

is difficult to quantify.<sup>117</sup> Some reports dispute the Productivity Commission’s finding that tax is not a significant factor in inflating the price of land.<sup>118</sup> New Zealand does not comprehensively charge any kind of tax on land. Applying taxes to land is controversial in New Zealand’s home ownership culture. Land serves dual purposes: it provides a home, but is also a significant asset which confers financial benefits. Failure to tax land ignores this reality and provides windfalls to land-owners. It might also have perverse and nuanced implications if the value of land is severely inflated on the basis that investing in land as an asset will not attract tax, while other investments do.

### 8 *The Bright-line Rule*

The 2015 budget implemented a “capital gains” tax of sorts which applies to houses purchased and sold within two years, with certain exceptions.<sup>119</sup> Non-resident buyers must adhere to strong disclosure requirements like obtaining a New Zealand bank account, IRD number and providing Inland Revenue with the tax identification number of their home country and other identification like passport numbers.<sup>120</sup>

These changes give “bite” to existing capital gains tax laws. Inland Revenue historically struggled to enforce capital gains tax due to difficulties in proving intent,<sup>121</sup> which is removed by the rule. Whilst two years has been criticised as arbitrary, its appropriateness is supported by data which indicates increases in land speculation of under two years to about 15% in Auckland, and 10% throughout the rest of New Zealand.<sup>122</sup>

### 9 *Going further*

The need to go further in addressing issues with foreign ownership has attracted attention. Substantive discussion on this is beyond the scope of this paper as it relates to demand, not supply. Broadly, the bright-line rule monitors and disincentivises foreign investment by targeting speculation in general (non-resident purchasers are inherently speculators) without concerning itself with the speculator’s nationality. This coincides with New

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<sup>117</sup>At 83.

<sup>118</sup> For a full discussion on the economic implications of no land taxes, see Dr Gareth Morgan *New Zealand Income Tax: Unfair ad Favours the Rich* The Morgan Foundation, June 2016) at 5.

<sup>119</sup> Taxation (Bright-Line Test for Residential Land) Act 2015, s CB6A.

<sup>120</sup> Todd McClay “Budget 2015: Extra Property Tax Measures (press release, 17 May 2015).

<sup>121</sup> Policy and Strategy Division, Inland Revenue *Bright-line Test for Residential Land: A Special Report* (Inland Revenue, Wellington, 2015) at 1.

<sup>122</sup> Nick Goodall “A Look into the Length of Time Properties are Held Before Selling” (Core Logic: News and Research, 25 May 2015).

Zealand's obligations under international trade law and various agreements.<sup>123</sup> It also accords with the reality that the effect of foreign investment on house prices is widely disputed.<sup>124</sup>

These changes are desirable and welcome, but incremental and potentially misplaced. Capital gains tax the transfer of property; value to owners does not arise from transferring assets, it arises from by owning assets. Therefore the ownership of property should be taxed, not the transfer. Given land ownership is a vehicle for increasing wealth, Government should fundamentally re-evaluate their approach to taxing land as an asset. More comprehensive taxes could also finance potential grants for infrastructure.

### *Q Regulations*

Regulations which ensure intensification and options would be imposed by Councils through Plans. The Singapore model of inclusionary zoning whereby a range of housing options is required within a development could be implemented. Certain corridors along key transport lines marked for intensified developments could impose *minimum* density and land-use requirements to ensure the most efficient land-use along these areas. If positive regulations are imposed in specific areas marked for high density (regulations which *require* specific use instead of prohibiting it) Density bonuses could be implemented to incentivize private sector buy-in.

Given the evidence of market failure described above and the entirely market driven nature of development incentives, regulation seems necessary to facilitate a controlled shift in the market away from current trends of large, single lot developments.

### *VIII Supplementary Reforms*

The RMA amalgamated 69 Acts to become a “one stop shop” for sustainable resource management.<sup>125</sup> Government should advance supplementary reforms in other areas to continue promoting a cohesive code of practice amongst all the interconnected elements

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<sup>123</sup> See Most favoured Nation laws eg General Agreement on Tariffs and Trade 1947 61 Stat. A-11, 55 UNTS 194 (October 30, 1947) at Art 1; See also “TPP: In Brief” (October 2015) Beehive <<https://www.beehive.govt.nz/sites/all/files/TPP-Q&A-Oct-2015.pdf>> at 5.

<sup>124</sup> See Land Information New Zealand *Property transfers and Tax Residency: 1 April-30 June 2016* (Prepared by LINZ, Wellington, August 2016) at Figure 2; and Property Desk “LINZ Data on Foreign Property Buyers a Shambles” (11 May 2016) Property Click <<http://propertyclick.nz/2016/05/11/linz-data-on-foreign-property-buyers-a-shambles/>>.

<sup>125</sup> Resource Management Act, above n 12, at Sch 6.

of resource management and planning, including local Government, transport and infrastructure.

### *R Local Government Act (LGA)*

Reforms to the LGA in 2010 united all the factions of Auckland into one Auckland Unitary Council.<sup>126</sup> This was instrumental in facilitating a cohesive and consistent town plan which drafted a strategic plan for Auckland as a whole. This increased consistency and efficiency and removed the extensive litigation that historically occurred between the Auckland Councils. Throughout New Zealand, there are many examples of Councils which could be amalgamated to achieve the same consistency and cohesiveness.<sup>127</sup>

### *S Social Housing*

A major contributing factor in New Zealand's history of high property ownership was the mass social housing initiative of the first Labour Government.<sup>128</sup> Since the 1990's, Government has divested in state housing and limited eligibility to social housing from the middle class to those eligible through the welfare system.<sup>129</sup> The trend of limiting state's role in housing has continued since. New Zealand's historical experiences and overseas jurisdictions indicate the merits in a stronger Government stake in housing markets in facilitating affordability and stability.

## *10 Singapore*

A strong example of this is Singapore. After WWII, Singapore suffered major housing shortages and was described by the 1947 British Colonial Government Housing Committee Report as having "one of the world's worst slums".<sup>130</sup> In 1960, the Housing and Development Act was passed, establishing the Housing Development Board (HDB).<sup>131</sup> The HDB implemented "the Master Plan" and began mass construction of social housing.<sup>132</sup> It is now estimated around 88% of Singaporeans live in HDB housing.

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<sup>126</sup> Local Government (Auckland Transitional Provisions) Act 2010, above n 72.

<sup>127</sup> For example, the Palmsertson North City Council is independent from the Manawatu District Council.

<sup>128</sup> See Ben Schrader *We Call It Home – A History of State housing in New Zealand* (New Zealand History, 2005) at 3.

<sup>129</sup> At 3.

<sup>130</sup> Belinda Yuen "Squatters No More: Singapore Social Housing" (November 2007) *Global Urban Development Magazine*, Volume 3, Issue 1, at 3.

<sup>131</sup> Housing and Development Act 1960 (Singapore), s 3.

<sup>132</sup> See "Master Plan: Written Statement" (1958) Colony of Singapore <[https://www.ura.gov.sg/dc/mp58/mp58map\\_index.htm](https://www.ura.gov.sg/dc/mp58/mp58map_index.htm)>.

Singapore is cited as having the highest “home ownership” of any nation in the Demographia survey.<sup>133</sup>

The limitations of the Singapore model should be noted. Commentary describes Singaporeans as having 88% “home ownership”.<sup>134</sup> Houses are bought and sold in the market as if the vendor is transferring a freehold estate. However, HDB houses are leased for 99 years. The Minister for National Development confirmed in 2014 the value of HDB housing at the end of the 99 years is zero as the freehold estate belongs to the government.<sup>135</sup> The Minister has not provided information on the Government’s plan to deal with the situation at the leases’ end. This could create major uncertainty and instability in future markets as people attempt to sell their lease towards the end of the 99 years.

Given the uncertainty of 99 year leases, an exact copy of the Singaporean model is not proposed. However the current state of Singapore’s housing is a clear example of how mass social housing initiatives facilitate stable and affordable housing markets. New Zealand government might consider increasing their stake and role in the housing sector, rather than divesting it.

Government stake could facilitate competition by introducing “intensified, affordable housing” into the market, shaping the application of market forces towards density, options and affordability and pushing the market away from its current failures. It could also mitigate the current effects of market failures on many families in the short term, as Government are in a position to achieve social outcomes like ensuring low income, rental and starter housing is of sufficient quality.

The financial viability of transformative plans has already been outlined.<sup>136</sup> Further, Government needs to seriously consider its role in aiding affordability in light of the opportunity cost of all the money currently locked in property. If the Government can aid in affordable housing, New Zealanders can reduce debt and spend their money on other goods which circulate money, facilitating a robust economy.

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<sup>133</sup>Day, above n 1, at 20.

<sup>134</sup> See eg: Yuen, above n 130, Day, above n 1.

<sup>135</sup> Gerald Gim “Value of HDB Flats at End of 99-year Lease” (7 February 2014) <<http://geraldgiam.sg/2014/02/value-of-hdb-flats-at-end-of-99-year-lease/>>.

<sup>136</sup>World Habitat Awards, above n 55.

## *T Empirical Research*

One of the primary limitations of this paper is its reliance on Government and Council documents and anecdotal evidence because of the lack of empirical research into the RMA's efficacy. The Act's framework is entirely novel, therefore empirical research is necessary to measure its effectiveness and limitations. The Government have blamed affordability challenges on problems regarding zoning and resource management laws.<sup>137</sup> Claiming the RMA is the substantive barrier to development is difficult to make without empirical research to support it.

## *IX Conclusion*

This paper considers that the way District Plans are drafted and implemented needs to be fundamentally re-evaluated and overhauled to achieve intensification and options. This will not be achieved with de-regulation which facilitates unlocking greenfill land and exacerbates current market failures. Exclusionary zoning laws which constrain intensification could be removed and replaced with outcomes based approaches; for example assessing development in light of quality building assessment under QIMBY principles. It considers the outcomes focused RMA framework valuable and capable of facilitating density, options and affordability whilst balancing environmental bottom lines without substantive reform. Instead, the existing model can be implemented more effectively by changes which give effect to its intention of being a principle-based framework focused on qualitative measures and outcomes. Additionally, NPS' should be released to provide mechanisms on achieving cohesive and strategic plans and re-writes the approach to public participation. This paper also supports the implementation of a range of incentives, disincentives and regulations to shift the direction of the market away from its current failures and towards density, options and affordability and supplementary measures to promote cohesiveness between all factions of good planning.

**Word Count** (excluding cover page, abstract, footnotes and bibliography): 7,969.

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<sup>137</sup> See Hon Dr Nick Smith, Minister for Housing and the Environment "Overhauling the Resource Management Act" 20<sup>th</sup> Annual Speech to Nelson Rotary, 21 January 2015.

## *X References*

### *U Legislation*

#### *11 New Zealand*

Employment Relations Act 2000.

Housing Accord and Special Housing Areas Act 2013.

Local Government (Auckland Transitional Provisions) Act 2010.

Resource Management Act 1991.

Resource Management (Simplifying and Streamlining) Amendment Act 2009.

Taxation (Bright-Line Test for Residential Land) Act 2015.

Town and Country Planning Act 1977 (repealed).

#### *12 England*

Town and Country Planning Act (England) 1947.

#### *13 Singapore*

Housing and Development Act (Singapore) 1960.

#### *14 United States*

California Government Code Sections 65915 – 65918.

### *V Cases*

#### *15 New Zealand*

*Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014]  
NZSC 38, [2014] 1 NZLR 593.

*Sheppard & Bendall v North Shore City Council* HC Auckland 1791-SW00, May 2001.



*W Government Materials*

*16 New Zealand*

Geoffrey Palmer *Resource Legislation Amendment Bill Submission to the Local Government and Environment Committee by the New Zealand Fish and Game Council* (New Zealand Fish and Game Council, March 2016).

David Hermans *Statement of Evidence of the Ministry to Business, Innovation and Employment before the Auckland Unitary Plan Independent Hearings Panel* (Ministry of Business, Innovation and Employment, Submitter No. 6319 2016) at 1; Wellington City Council *Urban Development Strategy* (Wellington City Council, 2006).

Land Information New Zealand *Property transfers and Tax Residency: 1 April-30 June 2016* (Prepared by LINZ, Wellington, August 2016).

Ministry for the Environment “List of all RMA or Amendment Acts” (2016) <  
<http://www.mfe.govt.nz/rma/rma-reforms-and-amendments/list-all-rma-or-amendment-acts>>.

Liz MacPherson *National Family and Household Projections: 2013(base)-2038* (Statistics New Zealand, ISBN 978-0-908350-08-7 2015).

Ministry for the Environment *Resource Management Amendments 2013 – Fact Sheet 4* (Ministry for the Environment, Wellington, 2013).

Ministry for the Environment *RMA legislative tools: National Policy Statements* (Ministry for the Environment, Wellington, 2015).

Ministry for the Environment *Resource Management Summary of Reform Proposals* (Ministry for the Environment, Wellington, 2013).

Ministry for the Environment and Ministry of Business, Innovation and Employment *Proposed National Policy Statement on Urban Development Capacity: Consultation Document* (Prepared by the Ministry for the Environment and Ministry of Business, Innovation and Employment, Wellington, 2016).

New Zealand Productivity Commission *Better Urban Planning: Draft report* (Prepared for the Ministers of Finance, Local Government, Housing, Environment and Transport, August 2016).

New Zealand Productivity Commission *Housing Affordability Inquiry* (Prepared for the Ministers of Finance, Environment, Housing, Building and Construction and Regulatory Reform, 2012).

New Zealand Productivity Commission *Research note: A History of Town Planning* (prepared for *Using Land for Housing Inquiry*, June 2015).

New Zealand Productivity Commission *Using Land for Housing* (Prepared for the Ministers of Finance, Housing, Local Government and Environment, September 2015).

Policy and Strategy Division, Inland Revenue *Bright-line Test for Residential Land: A Special Report* (Inland Revenue, Wellington, 2015).

Reserve Bank of New Zealand *Statistics: Key Graphs – Household Debt* at Fig 1 <<http://www.rbnz.govt.nz/statistics/key-graphs/key-graph-household-debt>>.

Ministry for the Environment *Resource Management Act: Annual Survey of Local Authorities 1999/2000* (Ministry for the Environment, Wellington, 2001).

Resource Management Act 1991 Principles Technical Advisory Group *Report of the Minister for the Environment's Resource Management Act 1991 Principles Technical Advisory Group* (Prepared for the Minister of the Environment, 2012).

“TPP: In Brief” (October 2015) Beehive <<https://www.beehive.govt.nz/sites/all/files/TPP-Q&A-Oct-2015.pdf>>.

Guanyu Zheng *The effects of Auckland's Metropolitan Urban Limit on Land Prices* (Productivity Commission: Research note, March 2013).

## 17 Singapore

“Master Plan: Written Statement” (1958) Colony of Singapore <[https://www.ura.gov.sg/dc/mp58/mp58map\\_index.htm](https://www.ura.gov.sg/dc/mp58/mp58map_index.htm)>.

*X Local Government / Council Materials*

*18 Auckland, New Zealand*

Auckland Council *Decisions of the Auckland Council on recommendations by the Auckland Unitary Plan Independent Hearings Panel on Submissions and Further Submissions to the Proposed Auckland Unitary Plan* (Auckland Council, 2016).

Auckland Council *Residential – Terrace Housing and Apartment Buildings (THAB) Proposed Auckland Unitary Plan Fact sheet* (Auckland Council, Council's Position December 2015).

The Auckland Council *The Auckland Plan* (The Auckland Council, 2012).

Auckland Council *The Auckland Plan: An overview* (The Auckland Council, 2012)

Auckland Unitary Council Independent Hearings Panel *Report to Auckland Council Overview of recommendations on the Proposed Auckland Unitary Plan* (Prepared for the Auckland Council, 2016).

Auckland Unitary Plan Independent Hearings Panel *Report to Auckland Council Hearing Topics 059-063: Residential Zones* (Prepared for the Auckland Council, 2016).

Auckland Design Manual “Not in My Back Yard!” (Prepared for the Auckland Council, 2016) < <http://www.aucklanddesignmanual.co.nz/resources/articles/mybackyard>>.

Matt Lindenberg, Amelia Linzey *Joint Statement of Reply of Matthew Armin Lindenberg and Amelia Joan Linzey* (on behalf of Housing New Zealand Corporation, 839, FS 3338, 2016).

Connal Townsend *Submission on the Proposed Auckland Unitary Plan* (Property Council New Zealand, 2014).

*19 Wellington, New Zealand*

Wellington City Council *District Plan Volume 1: Objectives, Policies and Rules* (Wellington City Council, operative 27 July 2000).

Wellington City Council “Plans Policies and By-laws: Wellington Housing Accord – Special Housing Areas” (2016) <<http://wellington.govt.nz/your-council/plans-policies-and-by-laws/urban-development/housing-accord/special-housing-areas>>.

#### *20 Curitiba, Brazil*

Instituto de Pesquisa e Planejamento Urbano de Curitiba (IPPUC) Plano Preliminar de Urbanismo (Curitiba Preliminary Urban Plan) (Curitiba, Brazil 1965).

#### *Y International Materials*

Luc Aldon et al *International Guidelines on Urban and Territorial Planning* (Prepared for the United Nations Human Settlements Program, 2015).

General Agreement on Tariffs and Trade 1947 61 Stat. A-11, 55 UNTS 194 (October 30, 1947).

OECD *OECD Economic Surveys: New Zealand 2013* (OECD Publishing, 2013).

#### *Z International Agreements*

United Nations Framework Convention on Climate Change COP 21 (opened for signature 22 April 2016).

#### *AA Texts*

Senator Bob Day *12<sup>th</sup> Annual Demographia Housing Survey (2016)* (3<sup>rd</sup> quarter, 2015).

Jon E Goetz & Tom Sakai *Maximising Density Through Affordability: A Developer's Guide to the California Density Bonus Laws* (Kronick Reference Guide, 2015).

Margaret McClure *Auckland Region – Population* (Te Ara, Encyclopedia of New Zealand, 2015).

Dr Gareth Morgan *New Zealand Income Tax: Unfair ad Favours the Rich* The Morgan Foundation, June 2016).

Chris Parker *Housing Supply, Choice and affordability*, (Presented to North American Regional Science Council conference, November 2015).

Ben Schrader *We Call It Home – A History of State housing in New Zealand* (New Zealand History, 2005).

Jonathan Woetzel et al *A Blueprint for Addressing the Global Affordable Housing Challenge* (2014) McKinsey Global Institute.

*BB Journal Articles*

H Campbell, M Tait, & C Watkins “Is there space for better planning in a neoliberal world? Implications for planning practice and theory” (2014) *Journal of Planning Education and Research*, 34(1).

William Fischel “AN Economic History of Zoning and a Cure for its Exclusionary Effects” (2004) *Urban Studies*, Vol 41, No. 2.

R. Fischler “Communicative Planning Theory: a Foucauldian assessment” (2000) *Journal of Planning Education and Research*, 19.

R Fuller, Crawford "Impact of past and future residential housing development patterns on energy demand and related emissions" (2011) *Journal of Housing and the Built Environment* 26 (2).

R. T. Greenaway-McGrevy, P. C. B. Phillips “Hot Property in New Zealand: Empirical Evidence of Housing Bubbles in the Metropolitan Centres” (ResearchSpace@Auckland, 2015).

J E Innes “Planning Theory's Emerging Paradigm: Communicative Action and Interactive Practice” (1995) *Journal of Planning Education and Research* 14.

Erik Louw “Land Assembly for Urban Transformation – the Case of ‘s-Hertogenbosch in the Netherlands” (2008) *Land Use Policy* 25.

Planning & Markets “The Alternative of Performance Zoning” (1999-2000) University of Southern California, Los Angeles, California, ISSN 1548-6036.

Jonas Rabinovitch “Innovate Land Use and Public Transport Policy: The Case of Curitiba, Brazil” (1996) *Land Use Policy*, Vol. 13, No. 1.

Loo Lee Sim et al “Public Housing and Ethnic Integration in Singapore” (2003) *Habitat International* 27.

Belinda Yuen “Squatters No More: Singapore Social Housing” (November 2007) Global Urban Development Magazine, Volume 3, Issue 1.

*CC Internet Materials*

Wendell Cox “The Evolving Urban Form: Tokyo” New Geography (20 June, 2012) <<http://www.newgeography.com/content/002923-the-evolving-urban-form-tokyo>>.

The Environment Foundation, The Law Foundation “Environment Guide: RMA - Introduction” (8 January 2015) <<http://www.environmentguide.org.nz/rma/>>.

Geoff Hardy “Streamlining the Resource Management Act” (11 February 2009) Madison Hardy < <http://madisonhardy.com/publications/ArtMID/417/ArticleID/176/Streamlining-The-Resource-Management-Act>>.

New Zealand Planning Institute “Mandatory National Planning Template” (2014). NZPI <[https://www.planning.org.nz/Category?Action=View&Category\\_id=1224](https://www.planning.org.nz/Category?Action=View&Category_id=1224)>.

Property Desk “LINZ Data on Foreign Property Buyers a Shambles” (11 May 2016) Property Click < <http://propertyclick.nz/2016/05/11/linz-data-on-foreign-property-buyers-a-shambles/>>.

Mona Qureshi and Robin King “3 Ways Land-Use Planning can Increase Urban Density” (18 August 2015) The City Fix <<http://thecityfix.com/blog/three-ways-land-use-planning-zoning-can-increase-urban-density-mona-qureshi-robin-king/>>.

Joanna Ross “The Legitimacy of Urban Containment & Planned Residential Intensification in the Market State” (2015) Planning.org < [https://www.planning.org.nz/Attachment?Action=Download&Attachment\\_id=3184](https://www.planning.org.nz/Attachment?Action=Download&Attachment_id=3184)>.

Stephen Smith “Japan Shows the Way to Affordable Megacities” (22 January 2014) Next City <<https://nextcity.org/daily/entry/japan-shows-the-way-to-affordable-megacities>>.

Steven Smith “Tokyo’s surprising lack of density” (June 28, 2012) Market Urbanism <<http://marketurbanism.com/2012/06/28/tokyos-surprising-lack-of-density/>>.

Stephen Smith “Tokyo Takes New York: Astounding Housing Facts” (16 May, 2014) Next City <<https://nextcity.org/daily/entry/tokyo-housing-high-rise-cost-new-york-housing>>.

Elizabeth Wells “Outside the RMA Comfort Zone – Learnings from Implementing the Housing Accord and Special Housing Areas Act 2013” (15 April 2015) Planning.org <[https://www.planning.org.nz/Attachment?Action=Download&Attachment\\_id=3144](https://www.planning.org.nz/Attachment?Action=Download&Attachment_id=3144)>.

World Habitat Awards “Urban Management in Curitiba – Building Full Citizenship” (1997) Building and Social Housing Foundation < <https://www.bshf.org/world-habitat-awards/winners-and-finalists/urban-management-in-curitiba-building-full-citizenship/>>.

#### *DD Interviews / Correspondence*

Correspondence with Dr Roger Blakeley, Chief Planning Officer, Auckland Council (Michelle Tustin, 28 July 2016).

Correspondence with Rt Hon Sir Geoffrey Palmer QC (Michelle Tustin, 19 July 2016).

Interview with Hugh Pavletich, Co-author of International Demographia Housing Survey (Heather Du Plessis-Allan, 29 May 2016).

Correspondence with Wellington Council employee (Michelle Tustin, 27 July 2016) Council member is unable to provide name or be formally referenced due to their position within the Wellington Council.

#### *EE Media Statements / Press Releases*

##### *21 New Zealand*

Anthea McClelland *Resource Legislation Amendment Bill – key issues and responses* (Referenced in Forest & Bird Manawatu Branch for March 2016 Newsletter).

Todd McClay “Budget 2015: Extra Property Tax Measures (press release, 17 May 2015).

Hon Dr Nick Smith, Minister for Housing and the Environment “Overhauling the Resource Management Act” 20<sup>th</sup> Annual Speech to Nelson Rotary, 21 January 2015.

Phil Twyford, MP “Housing and Transport in Auckland’s South East” (Botany/Pakuranaga Public Meeting, 24 November 2015).

22 *Singapore*

Gerald Gim “Value of HDB Flats at End of 99-year Lease” (7 February 2014) <  
<http://geraldgiam.sg/2014/02/value-of-hdb-flats-at-end-of-99-year-lease/>>.