

16 February 2012



Steve Bailey
Inquiry Director
Inquiry into Housing Affordability
New Zealand Productivity Commission
PO Box 8036
The Terrace
WELLINGTON 6143

Dear Inquiry Director,

Thank you for the opportunity to comment on the Commission's draft Housing affordability report.

We have previously met with Commission staff to provide a verbal briefing on the role of Standards in the New Zealand building control framework, and how Standards intersect with housing affordability.

We think it would be useful to emphasise some of the key points we have made earlier with reference to the comments contained in the draft report.

Opportunity for greater use of Standards:

Standards New Zealand agrees that responsive land release and planning processes are critical to helping address housing affordability.

Standards like NZS 4404:2010 *Land Development and Subdivision Infrastructure* encourage good urban design and remove road blocks to liveability and economic development in communities. The Standard provides local authorities and developers with information to support better practice design and construction of subdivision infrastructure.

Using NZS 4404:2010 as an example, we suggest that other national Standards and model bylaws could be developed to help territorial authorities take a less constrained, and better practice based, approach to the responsible release and development of land.

National Standards provide a flexible instrument to support a more coherent legislative framework for urban planning and be used to support long-term rationalisation of the local planning and policy environment.

A key strength of the Standards development process is that central and local government, industry and consumer input can be brought together by an independent party (Standards New Zealand) to create consensus and, in turn, a national Standard or other guidance document.

Equally, this process could be used by the Government to develop a set of best practice guidelines covering how land development contribution and charges should be used, calculated, and recovered by councils.

Building Regulation:

We note that performance-based building systems exist in most developed countries, and member countries of the Inter-Jurisdictional Regulatory Collaboration Committee (IRCC) have described the key elements of these systems, including how Standards should underpin regulatory design.

Clearly, Standards are part of the fabric of the New Zealand building controls system; however, a lack of adequate funding prevents them being frequently reviewed, maintained, and kept up to date. In addition, clarity is needed on where and when Standards should and are being used as part of the building controls framework.

Building Code should be supported by an up-to-date suite of National Standards. The present suite of over 650 building and construction Standards referenced in the Building Code and other regulatory documents are overdue for review.

We encourage the Government to make a clear commitment to Standards New Zealand as the prime source of standards development expertise and capability. Standards New Zealand needs adequate and secure funding to ensure Standards are developed and reviewed appropriately so the integrity of the Building Code is maintained.

Along with industry, we also recommend that the Department of Building and Housing should develop a specification for 'Standards with regulatory suitability' so National Standards can be incorporated into regulations in a timely fashion.

Over time a lack of government commitment and funding has led to:

- Confusion by stakeholders about the status of Standards and other documents supporting the New Zealand Building Code (for example if a New Zealand Standard must be used, could be used, or if used would provide a means of demonstrating compliance)
- Modifications by the regulator of the requirements contained in a New Zealand Standard through referencing in New Zealand Building Code compliance documents. This requires users to review and corroborate the requirements in multiple documents to achieve compliance. Such an approach is risky and more complex than it needs to be
- Limited ability to rapidly initiate projects to amend, review, reconfirm or withdraw New Zealand Standards addressing matters of 'public good' as events occur. For example, NZS 1170.5 *Earthquake actions* was published in 2004 to incorporate changes in earthquake loading values, yet these changes into NZS 3604:2011 *Timber-framed buildings* were not incorporated until 2011
- Some documents developed for a specific purpose are used in ways not considered by the developers, for example NZS 1170.5:2004 sets the earthquake loading levels for retaining walls
- Potential barriers for stakeholders to access requirements, as some documents in the building controls framework are free, while New Zealand Standards are on a cost reimbursement basis because of the user pays funding model currently required for Standards development.

We, along with the Construction Industry Council, submit that the funding model needs to change to allow for prioritization of and funding for Standards development (e.g. assessed on maximum 'public good', access and maintenance, based on need), and to allow for website access to Standards in the same way as the Act and Code are accessed.

We submit that these measures will contribute to improved knowledge in the sector, industry productivity, and ultimately improved housing affordability.

Cost vs Risk

The Building Act and Building Code are very much premised on 'life safety' whereas there are growing stakeholder discussions (for example, in the wake of the Canterbury earthquakes) on whether buildings need to be more damage resistant and easily repairable after an earthquake event.

How and where the balance between is struck between the level of risk acceptable by the community, and the costs associated with raising mandatory building Standards materially impact on the issue of housing affordability.

We suggest that this policy issue needs to be more explicitly addressed in the Commission's report.

Regulatory Impact Statements (RIS):

Standards New Zealand agrees:

'...that the RIS process plays a particularly important role in ensuring that building regulation is set at the right level.' (page 133)

Identifying the costs of regulation and the potential benefits is a critical element of stakeholder consultation that can be achieved during the Standards development process – both through discussions by the expert Standards Committee made up of industry, Government and other representatives, and the public comment process mandated under the Standards Act.

In our experience, there is a high degree of variability in terms of quality and robustness of RIS work completed for building regulation.

Standards development process provides an excellent, but sadly underused, mechanism for the regulator to directly engage with industry to determine issues such as innovation and allocation of risk.

Where the Standards development process has been used for this purpose, RIS development has been much better informed and industry input into regulatory costs and benefits has provided much needed 'reality testing' for the regulator.

While quantifying the regulatory impacts can be challenging, we believe it should be incumbent on the regulator to demonstrate that benefits of regulation actually outweigh costs, and exactly why regulatory intervention is warranted.

Comments on specific Productivity Commission recommendations:

R9.4 The Department of Building and Housing should provide more specific guidance for Building Consent Authorities about what is required for an alternative solution to comply with the Building Code. (page 138)

Standards New Zealand strongly agrees with R9.4. The wider building and construction sector would benefit from concise and accessible information about the regulator's 'intervention logic' for the New Zealand building control framework.

That is, a clear articulation of exactly where and how innovative practice:

- in building design, materials and construction methods is being actively encouraged by the Government
- will be monitored and assessed in terms of risk and benefits
- should be supported by voluntary Standards, industry guidance documents, or both
- can evolve into mainstream practice (i.e. the criteria and process for recognition as an 'acceptable solution' and incorporation into either mandatory Standards or in Department compliance documents)

In addition, information should be available specifying when, how and why the regulator would use a particular approach, and at what level of the building control framework: for example, to define those circumstances where a compliance document written by the department should be used as opposed to a consensus based national Standard or industry developed Code of Practice/guideline.

Similarly, creating greater transparency in decision making for partial citation of Standards or modification of clauses within those Standards (for regulatory purposes) would help to remove uncertainty about status of information contained in those documents, and the evidence base for that information.

R9.6 Statistics New Zealand consider collecting more information about the quality of New Zealand's housing stock and consumer satisfaction with the residential construction industry. (page 141)

Standards New Zealand agrees with R9.6. However, we would also note that the Department of Building and Housing has a primary responsibility for measuring the effectiveness and outcomes of regulatory interventions under the Building Act 2004.

Diffusion of knowledge about what does and doesn't work (in term of building innovation), timing and pathways to translate emerging research into 'acceptable' or 'alternative' solutions, and robust industry feedback mechanisms which enable any deficiencies the building control framework to be identified, are all very much part of the 'intervention logic' we have referred to above.

We note that the Department has a statutory function under s.169 of the Building Act to monitor current and emerging trends in building design, building technologies, and other factors that may affect the building code and compliance documents.

In our view the objectives of the Building Act, as a performance-based regulatory regime, cannot be sustainably achieved without a greater emphasis placed on information collection and knowledge sharing within the building and construction industry.

Standards New Zealand is happy to answer any further questions the Productivity Commissions may have regarding this submission, and provide further information as appropriate.

Yours sincerely



Rob Warner
General Manager, Strategic Development and Governance