

SUBMISSION ON THE DRAFT REPORT ON 'USING LAND FOR HOUSING'

Name: Evan Keating BA, MSc, MNZPI

Email address: evankeating@hotmail.com

Telephone 021 145 4892

Thank you for the opportunity to provide feedback on this issue. Due to the complexity of the task and the inputs of others, I will confine my comments to one issue; namely private covenants.

1. Private covenants

The issue of restrictive land covenants was mentioned in the commission's report on housing affordability (page 117) and I was pleased to see that my submission was quoted on this matter. However, while the brief discussion on the topic was well informed, the recommendation which followed it only focussed on the role of Councils in setting policies and the broader issue of private covenants was not investigated.

The commission's revisiting of this issue is strongly supported and I would recommend that it is subject to in depth analysis and recommendations in the final report. I would refer the commission to my submission noted above but in short, such covenants can render planning policies for higher density, efficient and flexible use of land academic. I note that in the introduction to the issues paper, mention is made of 'the speed and efficiency with which land is made available for housing, including through more intensive use of land within existing city boundaries' and from the previous report 'greater density should be encouraged to promote affordable housing'. However, these sorts of aims can be undermined by the use of such covenants and currently there is nothing that local councils can do to alter them.

2. Question 71

Turning to the Commission's question, I am unaware of any research aside from those mentioned in the issues paper which has looked at this issue. Due to the private nature of such agreements, I do not believe it is possible to quantify their use across New Zealand or any particular Council area. I believe it may be helpful to split the issue into two parts. One is the small scale use of covenants to

protect the amenity of the parent lot in a subdivision and the other is the use of covenants in large scale subdivisions (or master planned developments) which prevent further development and mandate minimum dwelling sizes. The former type of covenant is unlikely to be an issue due to its small scale use and maybe required in order to provide certainty of amenity for a person who is subdividing and intends to remain on the residual lot. Without the ability to place such restrictions on land, some infill potential may be lost. An example of this type of covenant is at 44 St Georges Bay Road, Parnell where the three new lots at the front of the original section have a covenant requiring approval of external materials. Another is 19A Judges Bay Road, also in Parnell, where the site has a restrictive height condition, presumably to retain the light/views for the rear lot at number 19. Details of both of these covenants can be obtained from Land Information New Zealand.

Of more relevance for the commission's study are developer imposed covenants in large scale developments as these can affect entire new suburbs and it is highly unlikely that all owners could agree to remove them in future if unanimous agreement was required. The use of such covenants appears to be becoming standard practice in Auckland, examples of such are Stonefields, Addison (Takanini), Karaka Lakes, Karaka Harbourside, Karaka Inlet (all three are in Hingaia/Karaka), Matua (Huapai), Inishfree Park (Papakura) and Long Bay.

I believe that the use of such covenants is restricting the supply of development capacity and recommend that the commission investigate this issue. If such capacity is being restricted (and ideally quantified by the commission) I believe that the commission such make recommendations for legislative change to address this issue.