

Memo

To The Ministry for Cities, Environment, Regions and Transport (MCERT)

From Chris Parker, Director of Principal Economics Ltd

Date 16 October 2026

Subject Submission on the illustrative National Policy Direction

Executive summary

Principal Economics welcomes the stronger emphasis on private property rights, abundant developable land, competitive urban land markets, providing certainty for investment, reducing unnecessary costs, and simpler national rules. These reforms can improve housing affordability, investment certainty and productivity. The illustrative NPD nevertheless needs sharper economic principles, a credible framework for enforcing competition in urban land markets and firmer boundaries between planning instruments. We recommend changes before statutory consultation.

Principal Economics is an independent economics and policy consultancy established in July 2020. Headquartered in Auckland, we operate with a New Zealand-wide team and service clients in New Zealand and internationally. Our work is driven by client decision needs, informed by evidence, developed in collaboration with stakeholders, and grounded in economic principles. This submission is provided independently.

1 Make competitive urban land markets enforceable (HD-1.1–1.5)

We support the definition of competitive urban land markets proposed. It defines it in terms of an abundant supply sufficient to avoid sustained and material price premiums in land. It is appropriate that abundance is defined by a price outcome rather than a centrally planned quantity. The HD-Directive 1.5 on urban expansion should also prohibit sequencing requirements that artificially ration land, in addition to forbidding urban growth boundaries or contiguity requirements. (Any concerns about a need to sequence planning capacity with infrastructure is addressed through our proposed policy direction for zoning.)

HD-1.1(c) needs strengthening. “Taking into account” a negative determination by the urban land market statutory officer does not ensure a council remedies a competition failure. NPD should include a competitive urban land market compliance framework, distinct from the officer’s own methodology for making determinations. It should: define the goal and councils’ duty not to cause non-competitive outcomes; specify the outcomes and deadlines following a determination under Schedule 11, clause 3; direct its treatment in plan-making, including regional spatial plans; and require public monitoring, reporting and review. Responses should be graduated to the severity, persistence and cause of non-competitiveness, without requiring any particular zoning provision. We anticipate a compliance framework would integrate directly with our proposed policy direction to zoning, discussed further below.

For credibility, the NPD should require the Minister to consult the independent officer on the sufficiency of the compliance framework, publish reasons for departing from the officer’s advice, and review or amend NPD if an officer determination exposes inadequacy in national direction. We recommend adoption within 12 months of

commencement of the relevant statutory-officer provisions, with published timeframes for council responses. The annexed draft compliance framework supplies fuller proposed wording.

The proposed compliance framework is consistent with the Minister's explanation of the planning system's hierarchy during the Committee of the Whole House on 26 August 2026. In response to Hon Phil Twyford's proposed amendments, Hon Chris Bishop recognised the importance of a competitive urban land market compliance framework and indicated an intention to develop one within 12 months. He also emphasised maintaining the funnel structure and distinguishing the responsibilities of councils, the independent statutory officer and the Minister. Our proposal respects those distinctions: the NPD establishes outcomes and obligations, the officer independently assesses market competitiveness, and councils determine how to achieve the required outcomes.

Our proposed policy direction in the NPD to zoning (discussed below) and to the compliance framework are probably better ways to support the competitive urban land market goal than the contents of HD-Directive 1.1(b). HD-Directive 1.1(b) should support, rather than substitute for, the proposed compliance framework and outcome-based direction on zoning.

2 Clarify nuisance, public-law annoyance and reverse sensitivity (CC-1, CC-3–4)

The NPD should distinguish private-law rights from public-law authorisations. Private nuisance concerns unreasonable interference with the use and enjoyment of neighbouring land; public nuisance concerns interference with public rights. Under the common law, “moving to the nuisance” is not, of itself, a defence. The planning concept of “reverse sensitivity” is the public law analogue of the private law’s ‘moving to the nuisance’: it describes “the pressure” on an existing operator preventing the quiet enjoyment of neighbouring land when new sensitive development arrives nearby and raises concerns about its effects.¹ Public law planning permission does not necessarily confer a private-law entitlement to impose an unreasonable nuisance, and prior establishment alone should not determine who bears the costs.

Private law’s emphasis on property rights tends to default to allocating rights to neighbours and costs to the first mover (depending on reasonableness and whether latecomers obtain a reciprocal benefit), whereas NZ public law treatment of ‘reverse sensitivity’ defaults to allocating entitlements to the first mover and costs to neighbours. The first policy directive CC-Directive 1 is to prioritise property rights, and this is the first point of emphasis in the Ministerial foreword; however, the stance taken in the illustrative NPD regarding reverse sensitivity (CC-Directive 3 and its stated policy intent) stands in direct contrast.² There is scope for public law to deviate from prioritising property rights when it is in the public interest — it is why public law exists. But there should be a burden on it to make the case it is in the public interest and that doing so is by exception rather than the norm.

We suggest testing a clearer public-law vocabulary and a mindset reset. The terms “annoyance”, “moving to the annoyance”, “private annoyance”, and “public annoyance” could be regarded as analogues to the private-law concepts of nuisance (with corresponding levels of materiality and scope), to supplement the Planning Act’s term ‘adverse effect’, without renaming or displacing the torts. NPD should reaffirm explicitly that common-law nuisance remedies should remain unless Parliament expressly modifies them. Their preservation safeguards property rights and reduces what is at stake in public zoning decisions. Consistent with CC-Directive 1 the NPD should state that “their

2 We appreciate the layperson’s view, which perhaps underpins politics, is that if one moves to a nuisance knowing it was a nuisance then they shouldn’t complain. But this approach contrasts with one based on property rights, and secure property rights are central to long-run economic prosperity (Acemoglu and Robinson, 2013, *Why Nations Fail*).

moving to the annoyance is not a defence to be an annoyance” (or similar). Sections 18 and 164 of the Planning Act 2026 require considering how an activity’s “adverse effects are to be avoided, mitigated, or remedied” or “compensated for, where appropriate”. Section 55(3) authorizes NPD to direct how effects management approaches must be used. However, the Act does not direct whether the balance of costs and obligations sit with the party causing the annoyance or the parties suffering the annoyance. It is the role of NPD to make such substantive policy decisions that affect distribution of benefits and costs and long-run investment — it is not the role of National Standards or the precedent of individual planning decisions to make such substantive public policy decisions.

We recommend further below policy direction in NPD on designing and implementing standardized zoning, which principally manages annoyances. Where an operator needs sustained planning consent to sustain their annoyance beyond reasonable reciprocal effects (ie, where neighbouring landowners enjoy being able to create similar annoyances), the system should facilitate negotiated agreements, covenants on deeds of titles, mitigation or compensation when an otherwise enforceable right is limited by statute. The key change from our proposal would be to shift the burden of costs and obligations towards the activity causing the annoyance to better align with the share of burdens that a property rights-based system would provide.

2.1 Recognise impositions and establish durable compensated entitlements (CC-1, CC-3–4)

Public law granting permission to impose an annoyance to neighbouring lands requires particular attention.

For longstanding interference, compensation should consider losses already capitalised into purchase prices and the likelihood that landowners bought their land after the land price decreased, while distinguishing the physical nuisance from buyers’ expectations about their continuing legal rights to object in common law, which runs with the land.

A designation for activities to create a new or different interference / annoyance can:

1. reserve an option to compulsorily acquire land in future, causing planning blight;
2. create a presumptive pathway to approval of works whose noise, emissions or other effects interfere with neighbours’ enjoyment; and
3. restrict buildings or other land uses before acquisition.

These are distinct economic impairments, or annoyances, not necessarily three statutory property rights. An economic benchmark for compensation to the neighbouring landowners is that they be indifferent between the permission being granted or not. Their scale, duration, probability and incidence should be assessed separately, avoiding omissions and double-counting. Similar impositions are made by INFR-Directive 1.3(a) when requires plans to enable unfettered access by utility providers within their “operational envelope”, without regard to whether the dimensions of those envelopes are cast too generously.

The NPD should require consideration of compensation being paid where public law permits an interference (including any mix of points a, b, or c above regarding designations) that would otherwise be unreasonable under private law, and if so, proportionally reduce the regulatory burdens on applicants being granted designations.

Resetting the allocation of costs towards those activities that cause unreasonable annoyance, and broadening the scope of matters that create interference or annoyance (such as points a, b, and c above that grant rights to the requiring authorities over private land) mitigates the costs to communities from growth. This promotes pillar 3 of the Government’s Going for Housing Growth agenda by changing the political economy incentives against growth.

The NPD should further direct how matters considered in clause 26 of schedule 5 regarding awarding a designation. That clause requires considering the strategic need of the project, whether the general location is appropriate to realise the need, positive effects (ie, benefits) of confirming the designation, and adverse effects. These are matters

that determine the economic viability of the project which is the problem of the requiring authority, and not a matter of wider public interest. If the requiring authority / operator has demonstrated willingness to pay all costs by actually internalising all costs and burdens its designation imposes, then the NPD should direct approvers to give substantial weight to that evidence when considering the strategic need, location, benefits and adverse effects of the project, while retaining consideration of any wider public interests not reflected in those payments. That is because the operator would not have paid the costs if there was no strategic need for the investment option, or if alternative locations were more viable, or if the benefits were not large enough. The key judgement for authorities granting designations is to ensure the true costs of awarding designations are correctly identified, which can also be served by ensuring those landowners that suffer costs/annoyance (over and above any betterment they receive) have consented.

There is a theme of overreach within the application of the Planning Act 2026 into the commercial and economic benefits of investment. INFR-Directives 1.2 and 2.4 require land use plans to recognise the benefits of infrastructure, which requires infrastructure providers to satisfy the planning system of their business needs as well as their own owners. On the other hand, there is perhaps greater scope within application of the Natural Environment Act 2026 for environment plans to consider the public benefit of the use of common pool resources that are owned and stewarded collectively.

There is a division of responsibilities the NPD needs to recognise:

- The requiring authority determines if the project is worthwhile, if options are assessed, and it bears the financial consequences of its decisions
- The system within the Planning Act 2026 protects the reasonable use and enjoyment of neighbouring land, addresses externalities and coordinates significant infrastructure and other public goods
- The system within the Natural Environment Act 2026 allocates, protects, and enhances the natural environment, by addressing externalities, providing for public goods, and coordinating resource use
- Other public institutions remain responsible for subsidies, competition, public expenditure accountability, and sector-specific regulation of requiring authorities.

The Act already moves some distance in this direction. Section 17(1)(d) requires decision-makers considering effects to disregard a project's lack of demand or financial viability. The remaining scrutiny after compensation has been paid should focus on uncompensated externalities, relevant planning constraints and coordination problems, rather than reconsidering the requiring authority's commercial or investment judgement.

2.2 Use economic appraisal to entitle annoyance or entitle quiet enjoyment (CC-1, CC-3–4)

Airports illustrate why automatic first-in-time protection is inadequate. Their footprints and flight frequencies evolve with cities. In Coase's (1960) framework, alternative allocations of rights and costs should be assessed against the costs of prevention and interference, aiming to minimize the sum of the two, recognising transaction costs and distributional effects. Although private law is grounded in stable property rights, it does use the principle of reasonableness to judge trade-offs, and Coase aimed to inform the evolution of those judgements. Robust cost-benefit analysis may support retaining or expanding an airport in or near a city with defined "rights to fly" — the negative externalities may be exceeded by the public goods that the airport provides a city, such that aggregate urban land values are higher with the airport operating freely. Alternatively, changes in demand, accessible alternative airport sites and transport connections may favour limits on operations or relocation, with aggregate land values being higher in the latter case. Denver illustrates the possibility of airport relocation; a New Zealand infrastructure delegation examined that example in 2018.

Public law has an advantage over private law in this case to recognize these evolving economic circumstances that would vary case by case, whereas private law norms change slowly. But how would a 'right to fly' permission square with our recommendation to pay compensation to landowners suffering annoyance? If all city lands incurred that negative externality cost equally, the value of the public goods might more than offset the losses for each landowner, such that all enjoy higher net land values. If the airport imposed upon a minority of the urban area's lands, then there is incongruence between those that benefit and lose, and 'tyranny of the democratic majority' may cause an injustice and misallocation of entitlements by exploiting the minority community. Compensation from landowners that gain to those that lose is still possible. A practical mechanism for collective compensation may be proportionally lower local authority land/property tax rates on the affected lands. Therefore, the NPD can still promote a principle that those suffering an annoyance be compensated in some form, even for nationally significant infrastructures, provided it allows for consideration of broader ways that compensation (or 'regulatory relief') is provided and from whom. The same considerations apply to seaports and other major facilities.

2.3 Give zoning a clear policy purpose, linked to infrastructure (HD-1.3, HD-2.1–2.3)

NPD needs to give a clear policy purpose to national standardised zones to guide their design and application. This underpins the confidence of those that invest in infrastructure and development. National standardised zones should be directed in NPD on how to judge reasonable reciprocal effects (the principle of "give and take, live and let live"³) and to be designed using cost-benefit analysis (say, to chiefly maximise local land values by maximizing net-benefit⁴), including effects on land values, positive amenities and negative externalities. The purpose of zoning should be to enable the highest and best use of land subject first to environmental limits, then to not imposing private annoyance (ie, a public law equivalent of nuisance), then to infrastructure constraints that cause public annoyance (analogous to the tort of public nuisance)⁵.

This framework provides enough scope for local nuances, and for balancing wider trade-offs. The relative balance of trade-offs can be altered to account for nationally significant matters via the 'compliance framework' proposed that accounts for the severity of determinations by the statutory officer. For instance, a determination by the officer of a severely uncompetitive local urban land market in part caused by local authority acts or omissions could require the judgement of reasonableness to place proportionally less emphasis on private and public annoyances. This would progressively cause more locations to be incrementally upzoned, without directing which particular areas upzoned, increasing overall development capacity and relieving the harm to local urban land market competition.

Local development objectives should not be free-standing grounds for restricting entry (HD-Directive 1.3). The choice of an area's zone should be explicitly linked to infrastructure capacity. There should not be unconditional instructions to maximise heights (such as HD-Directive 2.2). Where infrastructure investment relieves binding constraints on capacity that had caused a lower intensity zoning to prevail—for example, trunk water, transport access or electricity

³ Smiley, John (2001) 'Nuisance', *The Law of Torts in New Zealand*, 3rd Edition, pp490–561.

⁴ One may ask whether maximising local land values is consistent with the goal of competitive urban land markets, which is to lower land values. The difference relates to what factors are internal to (ie, endogenous; determined by) a policy context or external (exogenous; taken as given). Competitive markets rely on firms individually aiming to maximise profits (taking prices as given), but their collective actions result in prices reducing to marginal costs, and their economic profits being driven down to zero. In any one highly localised land area being zoned, its impacts on house prices within the metropolitan area, or across metropolitan areas is negligible. It is how all the zones operate together to enable abundance or scarcity of urban land supply that price efficiency indicators and the statutory officer can judge, which is a systems-wide function.

⁵ See Annex A of [Competitive Urban Land Markets and the Planning Bill 2025 | The New Zealand Initiative](#), particularly clauses (a), (b), (c), and (g).

capacity—up-zoning should automatically be triggered, in service of the constrained optimization procedure recommended above. This would support increased local land value uplift, which both represents social benefits and is the ideal funding source for the growth works. Creating a formal conceptual link between infrastructure and zoning in the NPD is key to enhancing the economic, funding, and financial viability of growth infrastructure investment, linking pillars 1 and 2 of both this Government’s ‘Going for Housing Growth’ agenda and the previous Government’s ‘Urban Growth Agenda’.

3 Narrow regional spatial planning to strategic coordination (CC-4–7 and sector directives)

Significant scope-creep has occurred with regional spatial plans. Their original policy intent, first promoted by the Productivity Commission, was in accordance with Solly Angel’s 2012 book *Planet of Cities* of a generous ‘grid’ of general purpose arterial corridors spaced about a mile apart.⁶

Section 76 of the Planning Act 2026 lays out a selective and strategic set of contents for regional spatial plans. They must set out key drivers of growth and change, map out priority areas for growth and change, map strategically important infrastructure for growth, map significant constraints, and map designations, sites of significance to Māori, and some other miscellaneous items.

The illustrative NPD cumulatively asks spatial plans to identify and direct growth across energy, primary production, horticulture, aquaculture, quarrying, mining, waste and other sectors. It requires regional spatial plans to more actively manage land use and infrastructure supply to promote the uptake of that infrastructure. This risks recreating integrated regional economic planning, which the two-act structure explicitly sought to move away from. Spatial plans should limit their focus to matters with strong regional coordination failures: principally long-term arterial transport and trunk water corridors, and strategically material hazards or constraints. Their scale should be metropolitan where network spillovers are metropolitan. For rural regions, require additional work only where a demonstrated cross-boundary coordination problem warrants it. Non-urban regional spatial plans should be based on economic relationships, rather than only the current administrative boundaries of regional councils. Prioritising individual development areas, local land-use compatibility and utility investment detail generally belongs to land-use plans and operators, not regional spatial plans. The level of detail would quickly overwhelm the effectiveness and efficiency of regional spatial plans, or else cause them to be overly prescriptive rather than generally enabling.

CC-Directives 4–7 and the sector directives should require RSPs to identify sector activities only where they create a strategically material spatial coordination issue. Detailed allocation of land uses, local compatibility assessments and sector development priorities should remain with the relevant land-use planning processes or responsible infrastructure providers, unless a specific regional coordination failure justifies their inclusion. The definition of “strategic infrastructure” should be given in NPD, focusing on facilities substantial enough to alter urban forms at the level of metropolitan urban areas, or have regional (not local) impact.

⁶ An example of a metro-scale strategic plan that accords with Solly Angel’s approach is the Major Thoroughfare and Freeway Plan for the metro area of Houston www.houstontx.gov/planning/transportation/MTFP.html, which Chris Parker took Minister Hon Chris Bishop to visit in July of 2025. The powers of the plan are to limit subdivision within the stated corridors; they otherwise have no takings, taxing, nor policing powers. No compensation is given because the corridors create more betterment than detriment (as evidenced by land values increasing causing a problem of landowners claiming they have a designation over their land when they don’t). Note, however, their land plots in urban fringes are not as fragmented as New Zealand’s, so they can internalize betterment easier. Some more explicit mechanism to share the betterment might be required in New Zealand’s case, and this may require amendment to the Planning Act.

4 Purpose and provisions of NPD

NPD should decide substantive policy, specify how statutory goals and conflicts are resolved, and explain the market failure warranting intervention⁷. National standards should implement those choices and establish procedural or regulatory consistency, rather than independently deciding major questions of rights, development priorities, environmental limits or compensation. The draft repeatedly defers such decisions to future standards.

We also favour clearly differentiated direction for the Planning Act and Natural Environment Act: the former chiefly addresses land-use externalities and coordination; the latter environmental limits, common-pool resources and allocation. The current approach to drafting NPD risks reverting to an integrated management approach, whereas Parliament desired two acts with contrasting characters and purposes. Avoid duplicating regulations across both systems.

The NPD should also provide substantive direction on how uncertainty is to affect planning decisions. Our 2021 review of councils' Housing and Business Development Capacity Assessments for MfE found that their conclusions were highly sensitive to assumptions, particularly population projections, infrastructure capacity and housing-market responses. The NPD should require decision-makers to recognise material uncertainties, test whether decisions remain justified under plausible alternative futures, and distinguish irreversible decisions from those that can be adapted as information improves. Uncertainty should not, by itself, justify indefinitely restricting development. National standards should specify the technical methods for assessing and reporting uncertainty.

Throughout the NPD it refers to “efficient use”. Our concern this can be interpreted as “productive efficiency”, meaning “minimise costs of supplying a given good or service”, rather than the more general concept of “allocative efficiency” of maximising benefits net of costs, or “dynamic efficiency” of achieving allocative efficiency over time. We recommend “efficient” be defined to “allocating resources to maximise benefits net of costs” (or similar).

5 Apply economic tests to sector protection, public values, and resource allocation

Proposed controls protecting high-value growing land, mineral deposits, future infrastructure or particular production activities should identify an externality or coordination failure and compare the costs of excluding competing uses. Private owners already have incentives to preserve the value of future options. Where a public benefit genuinely requires acquisition of private rights, transparent acquisition and compensation are preferable to uncompensated regulatory protection.

Consider whether quarrying projects need a separate statutory designation pathway when the cost of aggregates is too high; quarrying is not automatically eligible simply because aggregates become scarce. In the next amendment bill for the Planning Act (presumably in 2027) consider expanding the list of other infrastructure operators in clause 11(10) of schedule 5 to include quarrying. This is particularly relevant given Minister Bishop’s direction to Te Waihanga Infrastructure Commission to investigate the high cost of constructing infrastructure projects⁸ and given NZIER (2013)⁹ identifying the risk of quarry supply reducing.

⁷ For example, see Problem definition and options identification – A Resource | Ministry for Regulation

⁸ [Speech: Civil Contractors NZ Conference | Beehive.govt.nz](#)

⁹ NZIER (2013) *Construction industry study — Implications for cost escalation in road building, maintenance and operation*, Report to the Ministry of Transport, November 2013

For public access to rivers and lakes, distinguish maintaining valued access from uncritically preserving every historical means by which it was imposed. The Ngāti Tūwharetoa settlement history records unequal treatment of Māori and non-Māori land under the 1926 Lake Taupō access arrangements. Existing statutory and settlement rights must be respected, but the policy should examine their origin and encourage agreed or compensated arrangements where appropriate. For natural-resource allocation, the NPD should support transparent, tradeable permissions where justified, while clarifying their legal status and conditions of revocation.

Our recent peer review for the Ministry for the Environment (MfE) of the *Economics of Environmental Limits Overview Report* reinforced the importance of economic evidence in setting environmental limits. The benefits of environmental improvement may be difficult to quantify, but so too are the longer-term costs and benefits of economic adjustment to limits. The NPD should direct that the setting of limits be informed by assessment of the benefits, opportunity costs, uncertainty, irreversibility, and likely behavioural and economic adjustments, subject to the statutory requirements governing those limits. National standards should provide the technical methods for these assessments.

More needs to be said in the NPD about supporting the efficient allocation of resources within the Natural Environment Act 2026, ie to their net benefit maximisation allocation. The NPD can provide directions on whether any permissions are tradeable. Presumably it would need to stress that these are not property rights, and that no compensation would be payable if traded permissions were revoked.

NPD should also consider how institutions can reveal communities' willingness to pay for environmental protection, rather than relying solely on administrative assessments. This could include enabling the purchase, transfer and retirement of resource-use permissions, or the collective acquisition of land or relevant interests to prevent resource-depleting activities. Such arrangements would make environmental preferences more visible and create opportunities for voluntary reallocation of resources. NPD should establish the policy principles, with the detailed trading and acquisition mechanisms specified through the appropriate legislation and instruments.

6 Hazards, infrastructure and accountability

Natural-hazard provisions should avoid incentives for avoidable risk-taking or expectations of automatic public bailouts. Clarify the allocation of responsibility between landowners, infrastructure operators and public authorities, including duties for harms imposed on others.

There's a likely problem of moral hazard and time inconsistency that needs to be managed.¹⁰ The NPD should clarify the allocation of natural-hazard risks between landowners, infrastructure operators and planning authorities, including circumstances in which informed landowners should bear risks they voluntarily assume. Where the NPD cannot itself create sufficient immunity to planning authorities from otherwise available legal claims then the government should consider whether statutory clarification or protection for planning authorities is warranted in the next amendment bill to the Planning Act and Natural Environment Act.

Where infrastructure improvements remove material risks from natural hazards (such as walls guarding against flooding or slips), land-use plans should provide a predictable mechanism for corresponding development capacity to

10 'Moral hazard' (AKA principal-agent problem) is where the 'agent' (in this case property owners) has an informational advantage over the 'principal' (in this case, public authorities) and subsequently acts more carelessly or opportunistically, reducing allocative efficiency.

'Time inconsistency' is the problem of someone or something not being able to keep their earlier promise because incentives or preferences change, and people know their promises are not credible and so do not believe them. In this case authorities may wish to not be liable for damages from natural hazards but feel compelled to step up and pay in the case they eventuate. Then knowing this is the case, property owners take too many risks at the public's expense.

be enabled (as per our recommendations on growth infrastructure triggering upzoning). This helps bring forward investments and realise their wider economic benefits.

The system-wide SW-Directive 2.1(a) says regional spatial plans must direct growth towards areas where natural risks can be avoided or mitigated. We have two issues with this: one, whether this exceeds the role of regional spatial plans and that the matters are better addressed through land use and natural environment plans; and that it ignores the economic benefits of accessibility to key locations.

On our first issue, our recommendation on regional spatial plans was they should be limited to matters that are strategic (ie, focusing on major arterial network corridors), extending across multiple areas covered by land use plans, and not be engaged in directing and coordinating particular land uses. Given directive SW-2.1(b) already provides for identifying risk and prioritising adaptation planning, directive 2.1(a) should be moderated by replacing “direct” with “accommodate”, so that it helps attract development away from risky areas by providing more planning services at superior locations.

On our second issue, commercial and industrial activities often depend on accessibility to ports, transport networks, workers and customers, and relocating them may impose substantial productivity and infrastructure costs. This can conflict with HD-Directive 2.1's objectives for accessibility and suitable business locations. The NPD should therefore require consideration of the relative costs and benefits of avoidance, protection, adaptation and relocation, rather than presume that the lowest-hazard location is necessarily preferable.

The directives for infrastructure (INFR-Directive 3.1) and for primary production (PP-Directive 5.1) say they are already competent at managing natural hazard risks well and land use and environment plans should ignore natural hazard risks in relation to them. In contrast, HD-Directive 4.1(b) requires land use plans to block housing and development where risks are assessed as “very high”, with no regard to mitigation measures nor judgements about the internalisation of risk. Why are infrastructure and primary production deemed so much more competent than other sectors of the economy to warrant such different treatment? If that was true, should remaining sectors of the economy be brought up to the same level of competence, or be granted the opportunity to a similar level of freedom if they prove themselves capable, rather than be outright blocked?

7 Recommendations

We request the following to improve the durability, transparency and economic performance of the new system:

1. On competitive urban land markets:
 - a. Strengthen HD-1.1(c) with a binding, transparent competitive land market compliance framework within NPD; refer to our annex
 - b. Expand HD-Directive 1.5 to prohibit sequencing requirements that artificially ration land
2. On reverse sensitivity, imposing annoyance/adverse effects/nuisance:
 - a. The NPD should reaffirm explicitly that common-law nuisance remedies should remain unless Parliament expressly modifies them
 - b. Consider adopting in NPD a clearer public-law vocabulary that is directly analogous whilst distinct to private law (eg, annoyance for nuisance)
 - c. Consistent with CC-Directive 1 the NPD should state that “their moving to the annoyance is not a defence to be an annoyance” (or similar)
 - d. The NPD should recognise that whether an existing or future activity that causes annoyance can continue depends on the merits of each case, rather than a default presumption that they can and should

continue. Direction should be issued regarding considering the size and distribution of costs and benefits, and whether those that benefit have compensated those that lose

3. On awarding designations

- a. The NPD should direct approvers of designations to prioritise the identification of costs/burdens/annoyances created by granting a designation (over and above any reciprocal betterment they enjoy)
- b. The NPD should state that where the designation applicant has obtained the consent of impacted landowners, then approvers can consider negative effects of relevance to the Planning Act have been addressed, and that their need to have regard to the strategic need of the project, the appropriateness of the location, and the positive effects (ie, benefits) of confirming the designation (under clause 26 of schedule 5 of the Planning Act) have been satisfied

4. On national standardized zoning:

- a. The NPD needs to give a clear purpose for designing and applying standardised zoning, such as ‘to enable the highest and best use of land subject to constraints managed by the Planning Act and the Natural Environment Act’
- b. The NPD needs to direct the procedure for designing and applying standardized zoning, namely how to judge the highest and best use, and what constraints to consider and how. In particular, where zoned intensity is principally limited by infrastructure (be it capacity for growth, or resilience for natural hazards), then expansions of that capability should trigger upzoning automatically to support the economic viability of that investment
- c. The NPD should integrate this guidance with the competitive urban land market compliance framework

5. On regional spatial plans:

- a. The NPD should distinguish regional spatial plans into two kinds: metropolitan area major thoroughfare plans (MAMTPs), and regional spatial plans
- b. The NPD should limit the scope and detail in regional spatial plans to matters that are material to the whole region (which is not limited to regional council boundaries) and cannot be better addressed by land use plans, environmental plans or the plans of major investors (utilities, and developments)
- c. The NPD should define “strategic infrastructure” and limit regional spatial plans consideration of infrastructure to that
- d. The NPD should direct that where a regional spatial plan prefers development in one location over another that it should improve the attraction of that former location rather than limit the ability to develop the latter

6. General approach and framing of the NPD:

- a. Substantive policy choices should be settled in NPD, not deferred without direction to standards.
- b. NPD should require planning provisions that deviate from outcomes that would result from private law are demonstrably in the public interest by addressing market failures that warrant public policy intervention and occur by exception rather than by norm. NPD should note landowners already have incentives to preserve the value of future options on the use of their land
- c. The NPD should differentiate direction for the Planning Act and the Natural Environment Act, given the two acts have different purposes

- d. NPD should direct how uncertainty is treated in planning decisions
 - e. NPD should define “efficient” as “allocating resources to maximise benefits net of costs” (or similar)
7. On the use of natural resources:
- a. NPD should direct how opportunity costs, uncertainty, irreversibility and economic adjustment inform environmental-limit decisions
 - b. NPD should provide direction on whether resource-use permissions are tradeable, including whether they may be purchased and retired for environmental protection, and how such arrangements can reveal communities' willingness to pay for environmental outcomes
8. Miscellaneous provisions:
- a. In the next amendment bill to the Planning Act consider including quarries as ‘other infrastructure’ able to obtain ‘requiring authority’ status in clause 11(10) of schedule 5 to reduce the excessive cost of construction
 - b. For existing public access to rivers and lakes the NPD should require their examination of their origin and encourage agreed or compensated arrangements where their origin was unjust
 - c. The NPD should clarify the allocation of natural-hazard risks and liabilities between landowners, infrastructure operators and planning authorities, and the government should consider statutory protection for planning authorities where necessary
 - d. The natural hazard directives should require consideration of the economic and accessibility costs of relocating development, compared with protecting or adapting existing locations
 - e. The NPD should justify any special exemptions to sectors not needing to be regulated in land use plans to manage natural hazard risks.

Appendix A: A competitive urban land market compliance framework

The following adapts as applicable from the tabled amendments to the Planning Bill from Hon Phil Twyford and from Arena Williams, in House of Representatives Committee of the Whole, on 26 August 2026.

National policy direction should include a “competitive urban land market compliance framework” to direct local authorities on how to serve the goal of competitive urban land markets and how to respond to determinations from the statutory officer. (This is not the framework the statutory officer uses to make determinations, which would be developed by the officer.)

The compliance framework operates within the hierarchy of planning instruments established by section 14 of the Planning Act. A determination by the statutory officer triggers the duties and review processes specified in the NPD; it does not itself amend any planning instrument, prescribe particular plan provisions or displace the statutory authority of the Minister or local authorities.

The compliance framework should—

1. particularise the meaning of the goal in section 13(d); and
2. direct how land use plans must avoid causing or contributing to an urban land market not being competitive; and
3. specify the outcomes that a local authority must achieve if a determination under clause 3 of Schedule 11 finds that—
 - a. an urban land market in its district or region is not competitive; and
 - b. an act or omission of the local authority contributed to that result; and
 - c. specify the time frames within which those outcomes must be achieved; and
 - d. specify how a determination under clause 3 of Schedule 11 must be applied when a land use plan or a change to a land use plan is prepared or decided; and
 - e. provide for monitoring, reporting on, and reviewing the implementation and effectiveness of the framework.

The Minister should ensure that the compliance framework is included in NPD no later than 12 months after the commencement of section 221 of the Planning Act 2026.

The compliance framework may provide for different or graduated requirements according to the nature, extent, persistence, or causes of a lack of competitiveness.

The compliance framework should not require a land use plan to include or exclude a specified plan provision.

Before recommending the approval of national policy direction that includes the compliance framework, the Minister should—

1. provide the proposed compliance framework to the statutory officer; and
2. request the statutory officer to provide advice under clause 4(2) of Schedule 11 on whether the proposed framework is sufficient.

The Minister should not recommend the approval of the proposed framework unless—

1. the statutory officer has advised that the proposed framework, or the revised proposed framework, is sufficient within 30 working days after receiving the proposed compliance framework or proposed amendment from the Minister; or
2. if the statutory officer advises the compliance framework is insufficient the Minister should publish both the officer's advice and the Minister's reasons for recommending approval despite that advice;

If the statutory officer makes a determination under clause 3 of Schedule 11 that an urban land market is not competitive, and advises that an act or omission in NPD contributed (under its advisory function of clause 4), the Minister should, no later than 12 months after the determination is published—

1. review whether the compliance framework provides sufficient direction for addressing the factors identified in the determination and any identified act or omission of a local authority; and
2. if the compliance framework is not sufficient, promote an amendment to the national policy direction that addresses the insufficiency; and
3. publish the outcome of that review no later than 20 working days after completing the review or receiving the advice, as applicable.

If an amendment is made in response to a determination, the same provisions should apply for the statutory officer to be informed, invited to advise, and the Minister either recommending approval of their advice or publishing reasons for not recommending approval of their advice.