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1.0 FORWARD

1.1 The Government, through the Minister for Treasury and Finance has formally requested the Independent Consumer & Competition Commission (“Commission”) to undertake a review into the current state of the housing Industry (“industry”) in PNG to identify any impediments hindering growth in this industry and make appropriate recommendations that the Government could adopt in order to foster the growth and development of the industry.

1.2 In accordance with the official referral by the Minister for Treasury of the Review under Section 123 of the Independent Consumer and Competition Commission Act 2002 (the “ICCC Act”), the Commission must release an Issues Paper, Draft Report and the Final Report and make available copies of the relevant documents at those stages of the Review.

1.3 Consistent with the requirements of section 124 (2) of the ICCC Act, public and industry stakeholders’ involvement forms an important element in the entire consultation process.

1.4 In August 2009 an Issues Paper was released which provided a brief overview of the issues the Commission considered to be relevant to the Review and was also intended to stimulate discussion among the public and stakeholders. The Commission invited all stakeholders, key Government departments, interested parties and the general public to make submissions in response to the issues paper, and a number of submissions were made. Following the receipt of these submissions, in September 2009 the Commission undertook consultation with stakeholders, interested parties and key Government departments to discuss, in further detail, some of the issues raised in submissions.

1.5 A draft report was released on 6th November 2009; public consultations were held in four regional centres and Port Moresby; and both written and oral submissions were received thereon. A copy of each submission was placed on a register available for inspection by the public and also uploaded on the Commission’s website.

1.6 The Commission considered the submissions made, both in writing and in discussions, on the draft report and now releases the final report which contains the Commission’s findings and recommendations. A copy has been provided to the Minister for Treasury and Finance.

1.7 I take this opportunity to thank every industry stakeholder, interested parties and members of the public who have one way or the other provided comments and submissions and participated in consultation workshops during the conduct of this inquiry. The submissions and comments provided has greatly assisted the Commission to explore and identify key issues in the industry consistent with the official terms of references to which this Review is conducted.

1.8 Finally, on behalf of the Commission, I would like to acknowledge the assistance provided by consultants from Reform Strategies Pty Ltd in association with Spier Consulting in the undertaking of this inquiry and the valuable input made by the staff of the Commission, which has made it possible to complete this important review on a critical national issue requiring urgent attention, ahead of the intended date. As always, while assistance has been
provided by a number of parties, the final conclusions and recommendations are those of the Commission itself.

Thomas Abe
Commissioner & CEO

19th January 2010
2.0 EXECUTIVE SUMMARY

2.1 Background to this Report

2.1.1 The availability of housing for the citizens of a country is generally accepted to represent one of the key measures of the level of development of a society and adequate housing is one of the millennium development goals (‘MDGs’) agreed in 2000 by the United Nations Organisation. The Government, recognizing the critical shortage in housing, has requested the Independent Consumer & Competition Commission through the Minister for Finance and Treasury to undertake this comprehensive review into the housing and real estate industry in PNG.

2.1.2 This Review covers a wide range of issues consistent with the official Terms of Reference relating to the overall structure, composition, operation, market conduct, competition and consumer protection issues related to the housing and real estate industry in order to identify key impediments and challenges and provide appropriate recommendations and implementation strategies which the Government could adopt to address the housing scarcity and foster the growth of the industry and the national economy.

2.1.3 In August 2009, the Commission released an Issues Paper to commence the consultation process as part of this review. A total of 22 submissions were received in response to the Issues Paper. The Commission also met with some key stakeholders from both the government and private sector and independently carried out its own research to verify some of the issues raised during the consultation.

2.1.4 The Draft Report made initial findings on the basis of the feedback to the Commission from the submissions to the Issues Paper and the subsequent consultations and contained the Commission’s preliminary analysis and recommendations. Submissions were invited on the Draft Report by 11th December 2009. Six submissions were received on the Draft Report. Those submissions were considered by the Commission and, to the extent relevant, are commented upon in this final report which is now presented to the Government through the Minister for Treasury and Finance. A key difference between this review and others conducted through taskforces or internally by Government is that this report is the outcome of a transparent process, which has involved consultation with all interested stakeholders and the public, where all the arguments; analysis and evaluation have been fully documented. Consequently, the Government has the benefit of being able to consider recommendations which have been tested.

2.1.5 A key aspect of this review is that it recommends a holistic approach to the problem of housing scarcity, which has reached crisis proportions. Approaches which address only a part of the problem, e.g. affordability, by providing monetary assistance to certain segments of society, do nothing to resolve fundamental economic bottlenecks - they only create distortions which exacerbate the problems for others. Furthermore, attempts by Government to provide housing directly, in circumstances where its resources are very limited compared to scale of the challenge, offer little prospect of success.
2.1.6 This review recognises that high prices and lack of affordability are only the symptoms of significant underlying failures, represented by the inefficient and insufficient supply of ‘raw’ land (‘portions’); the conditions of its allocation to developers, which are neither transparent, nor based on objective criteria to encourage competition and efficiency at every stage of the vertical chain; organisational deficiencies; and lack of clarity of Government policy, which, in turn, creates the conditions for divergent, and often conflicting, initiatives on housing, by various arms of Government. A lack of coordination within the National Government, and between that level of government and the relevant arms of the Provincial and Local Level Governments, in relation to issues such as zoning, building approvals, and other statutory authorisations also holds back residential construction.

2.1.7 The lack of a coherent, sustainable housing policy, which takes account of the scale of the problem, and inefficient administration of the land tenure system has deprived the nation of the economic benefits of a growing housing sector and the overwhelming majority of Papua New Guineans of adequate shelter.

2.2 Recommendations

2.2.1 The approach recommended requires the following key actions:

- implementation of an effective consumer protection regime to prevent exploitation of consumers to address ‘opportunistic’ conduct in the real estate agency; building; and other activities in property-related transactions:
  - through codes of conduct mandated under the ICCC Act, including in relation to:
    - i. bonds;
    - ii. rent increases ‘within lease’;
    - iii. maintenance; and
    - iv. poor residential-building quality, through a minimum-period structural warranty requirement;
  - b. addressing information asymmetry on property prices and rents through transparency initiatives, including collation and publication of statistics on prices and rents in various areas; and
  - c. addressing other conduct not considered acceptable, such as misleading, deceptive and unfair conduct, by inclusion of a simplified general consumer protection part in the ICCC Act, with enforcement by ICCC (for systemic or persistent problems) as well as by right of private action. For regulatory neutrality, the Government should give consideration to widening the application of the amendment referred to in ‘c’ above to all commercial transactions.
  - d. require licensing of real estate agents and builders and observance of their mandatory codes by ICCC.

- freeing up the supply of State land; and encouraging the ‘bringing to market’ of customary land; to address scarcity of ‘raw’ land wherever it exists;
- improving title registration, record-keeping and title transfer procedures to ensure the security of land as collateral (policy initiatives have been taken and work has commenced);
• promoting competition and efficiency at every stage of the vertical chain by
  ▪ adopting regulatory approaches based on efficiency-enhancing incentives;
  ▪ price-based auctions of raw land, with the exception of that earmarked for low-income housing;
  ▪ setting objective and transparent criteria for the award of urban development leases (‘UDLs’);
  ▪ untying the functions of developing land into serviced building allotments from that of residential construction either by policy approaches or by potential investigation of such conduct under the ICCC Act;
  ▪ setting and enforcing new time-limits on ‘bring to market’ requirements; to speed up (a) the supply of serviced land and (b) construction of houses;
  ▪ incorporating probity monitoring safeguards;
  ▪ addressing costs of ‘utility’ provision to reduce ‘input’ costs of developers by making transparent the performance of utilities and any efficiencies gained; and
  ▪ preventing anti-competitive structures emerging in the land development market;
  ▪ removing or reducing tariffs on materials used in residential construction, on criteria relating to efficiency and profitability of protected firms.
• implementing initiatives for efficient and cost-effective assistance to low-income first-home-purchasers, with lowest-cost based tenders for resale of building allotments for certain UDLs as described later;
• avoiding intervention to provide financial incentives for the purchase of land or housing and only considering them as a ‘counter-cyclical’ tool during any national economic downturn, after the markets for land and housing have been substantially ‘freed up’;
• recognising that the Government of a country at PNG’s stage of economic development is unlikely to be able to meet the demand for public housing, on the scale required, by direct provision of housing - the failure of NHC to do so has come in for serious criticism from many other stakeholders, but should not be surprising, given the lack of incentives for efficiency and the limited resources of the State.
• generating efficiency and creating space for the private sector by winding back inefficient Government involvement in housing, such as
  o the proposed reintroduction of direct provision of public housing through NHC or any vehicle company there under, when experience has shown that to be inefficient;
  o direct provision of ‘institutional housing’ and ‘home-purchase assistance’ policies for employees of agencies of Government (including SoEs and statutory authorities), which distort markets and divert scarce financial resources from expenditure on national development needs;
• introducing a property-related capital gains tax to curb windfall profits and reduce speculation; and removing tax deductibility for private sector expenditure on employer-assisted housing to moderate demand-side price pressures.
• adopting urban renewal policies to encourage more efficient use of urban land by zoning high-value, low population-density areas for possible future re-development with both high-density and medium-density dwellings (multi-level apartment
accommodation; row houses etc) to maximise land use and reduce unit costs of infrastructure operation by serving larger communities with existing infrastructure. This would also increase variety and enrich the ‘character’ of major urban centres;

- encouraging innovation in building materials and design, by construction of a ‘PNG Haus’;
- addressing rural-to-urban drift at its source, while creating employment for the urban unemployed, particularly in the residential construction sector through
  - the strategies above;
  - other ‘pro-poor’ and ‘pro-growth’ policies; and
  - encouraging private sector micro-finance provision for housing with appropriate incentives
- exercising great care in resettlement initiatives to avoid moral hazard and large, recurrent costs to Government;
- authorising a Joint Co-ordinating Group, chaired by the Treasury and including the ICCC, National Research Institute, the Office of Urbanisation and the Department of Provincial and Local Government Affairs, to oversee the implementation of these reforms, liaising with all other stakeholders, including relevant Government departments, agencies, SoEs and statutory authorities;
- effective public reporting of progress and accountability for carriage of the reforms; and
- adoption of a consistent, economically sustainable, housing policy – the present ambiguity permits ‘silo-oriented’, divergent, and sometimes, contradictory initiatives which create uncertainty for investors; reduce public confidence; and erode bureaucratic commitment for implementation.

2.2.2 Adoption of these recommendations and taking a co-ordinated approach to their implementation will not only go a long way to resolving the housing scarcity, but will ‘kick-start’ the residential construction sector and create the conditions for its evolution into a key contributor to national economic growth, with resulting benefits for employment, incomes, diversification of the economy and general improvement in living standards for ordinary Papua New Guineans.

2.3 Implementation Strategies

2.3.1 The following is a summary of implementation strategies to set the direction and sequencing of the reforms, allocate responsibilities and ensure accountability for achievement.

2.3.1 Strategic direction

2.3.1.1 There is an urgent need for Government to provide certainty to all stakeholders for investment; create confidence by all stakeholders and the public in the materialisation of reform; which also creates incentives to save. This should be considered as a matter of priority. The consumer protection proposals could be implemented relatively quickly, with immediate beneficial effects in resolving such problems.
2.3.2 **Timing and sequencing strategies**

2.3.2.1 If these recommendations are adopted by Government

- ICCC should be given responsibility for property-transaction related licensing and its supervision, either directly, or via a co-regulatory framework, for those involved in the real estate and building sectors, which could be done relatively quickly and would deliver results immediately after implementation. It is suggested that a time frame of **six months** be adopted for this process.

- The process of aggregating all State land under the recommended regime should be completed within **ten months**; and commencing release of land immediately, if possible, but no later than **six months, under the new criteria recommended**;

- All State-owned dwellings, including those managed by NHC and SoEs, to be aggregated for sale or, in exceptional circumstances, of contracting management to private sector property managers to be completed in **ten months**;

- Organisational reform within the Department of Lands and Physical Planning should be completed in **six months** and a realistic time-table for record digitisation; accountability systems; and probity controls; should be negotiated with the responsible Minister and DL&PP should be required to publish a time-table for completion of all reforms being implemented under LDP

- IPBC and the utilities to
  - **immediately** publicise indicators of performance of utilities currently being provided to IPBC;
  - improve supply of services to settlements by connecting and charging for utilities (water, electricity, sewerage, as begun in Morata) commencing **immediately** and report to the Joint Coordinating Group, recommended to be formed to oversee implementation, on progress;
  - Prioritise particular areas e.g. Koki in POM, which raises serious environmental issues, for improvement

- Issues requiring legislation, including amendments to the **ICCC Act** to allow the ICCC to mandate codes of conduct and to introduce a general prohibition on misleading and deceptive conduct should be targeted for completion in **6 months**;

- ICCC should continue its programme of examination of the efficiency of utilities and explore the scope for inclusion of obligations to supply settlements identified for service improvement, either in regulatory contracts or as part of industry codes and services standard;

- Resettlement of squatters needs to be sensitively handled; in a well-thought out way, taking account of economic principles; and sequenced by:
  - Delaysing any resettlement until progress on housing policy reform implementation is visible, to give confidence on outcomes;
  - Giving priority to addressing housing scarcity generally and then exploring resettlement options;
  - Avoiding ‘moral hazard’ issues that could be created with premature resettlement or offers of compensation by
encouraging formation of new settlements or spurious claims to benefits under any resettlement programme;
- Enforcing of property rights of the State (and private property owners) against illegal occupation needs to be substantially improved.

2.3.3 Organisational, Transparency and Accountability Approaches

2.3.3.1 To maximise the prospects of success of the reform package, it will be necessary to carefully allocate responsibilities to agencies best equipped to achieve results efficiently.

2.3.3.2 There would be a need for a co-ordination agency with overall responsibility for top-level administration; resolving policy issues; dealing with inter-agency rivalries; and reporting progress. For reasons discussed elsewhere in this report, the Commission suggests that a Joint Co-ordinating Group, consisting of the Treasury Secretary as Chair; the ICCC as an ex-officio member of the Board; and including NRI, Office of Urbanisation and DPLGA; be given this responsibility, reporting annually on what it sees as having been achieved.

2.3.3.3 The Commission recommends that responsibility for land and planning reform remains with DL&PP, with support from CSTB and the ICCC for tendering expertise, because of the (a) tendering aspects; (b) land issues; and (c) competition and probity elements; incorporated into this reform package, in which respective areas the three organisations have experience and expertise.

2.3.3.4 Managing the withdrawal of Government from its current role in direct provision of public and institutional housing and home-ownership subsidies involves the need for immediate cessation of approval of home-ownership subsidy grants to staff; new contractual commitments for building; ensuring a comprehensive property register is compiled; and the transfer of rental management of housing from NHC to the private sector, pending sale of all but ‘exceptional circumstances’ institutional housing, as described later in this report. Public service institutional rental housing (for staff of Government Departments) is currently managed by DPM, which has a de facto implementation role for housing provision on behalf of a number of departments. This function is intended to be ultimately transferred to the private sector. DPM would need support from CSTB for tendering expertise, with an external probity monitor, as discussed elsewhere in this report to effect such transfer.

2.3.3.5 Because of the severity of the housing problems in many major population centres throughout the country, political control should be exercised by NEC via periodic reporting from the Joint Co-ordinating Group.

2.3.3.6 Accountability and transparency needs to be improved by the following procedures:
- Within each relevant organisation, a chain of accountability should be specified
- Time-lines for actions should be set and published
- Achievements/failures should be monitored by the Joint Co-ordinating Group and reports are to be provided to relevant Ministers and published for public information
2.3.4 **Funding Issues**

2.3.4.1 If these recommendations are accepted, the ICCC will have substantially increased responsibilities. Adequate resources in terms of funds and staff will be required. On the other hand, as outlined in detail later in the report, this package of reforms will yield substantial revenue in the form of capital receipts for land releases; recurrent revenue from increased rentals, following the revaluation of land as a result of auctions; property capital gains tax; removal of tax deductibility of costs of private sector employer provided housing; and certain cost-recovery initiatives; and those will reduce the costs of implementation.

2.3.4.2 The utilities can be expected to earn additional revenue from services currently provided to settlements but not paid for. Increased efficiency from improvement in their operations, together with public scrutiny of their performance, should also assist their financial position. The increased revenue and cost savings should finance installation of ‘trunk services’ to newly granted UDLs.

2.3.4.3 In addition, it is expected that the growth of this neglected sector of the economy would generate employment in the formal sector, with additional taxation revenue, except to the extent any tariff reductions are made or tax concessions are granted as incentives to save for the purchase of the first home.

2.3.4.4 Such funds that are generated should improve the Government’s budgetary position and allow funding of these reform initiatives.

2.3.4.5 A more detailed discussion of the issues is contained in the following sections of this report, including the complete set of recommendations and implementation strategies, which are contained in Chapter 11.
3.0 INTRODUCTION

3.1 Background to the Review

3.1.1 On behalf of the Government, the Minister for Treasury and Finance, requested the Independent Consumer & Competition Commission (“ICCC”), on 16th June 2009, to undertake a review into the current state of the housing Industry in Papua New Guinea (“PNG”) and existing impediments to its growth, identifying any appropriate actions the Government could adopt in order to foster the industry’s growth and development.

3.1.2 The Treasurer included Terms of Reference to ICCC to conduct the Review and a financial allocation to meet the cost of the Review.

3.2 Legislative Basis of the Review

3.2.1 The Commission is undertaking this review under Part VIII of the ICCC Act which provides the broad guidelines that the Commission must adhere to in undertaking inquiries which have been referred to it by the Minister or inquiries which the Commission has initiated itself.

3.3 Purpose and Objectives of the Review

3.3.1 The housing industry could play an important role in facilitating economic growth and development in PNG by providing housing to Papua New Guineans efficiently and at affordable prices. Having a safe and secure home environment provides a critical link encouraging positive outcomes in education, health, economic development and employment.

3.3.2 Housing also has the potential to contribute to economic development in its own right, by increasing employment, income-earning opportunities and through ‘multiplier’ effects.

3.3.3 Problems in the housing industry over the years, particularly the mismatch between supply and demand, have prompted the government to request the Commission to undertake this important Review.

3.3.4 The purpose of the Review is to identify and make practical recommendations that the Government could adopt to deal appropriately with the shortage of housing to meet the increasing demand whilst concurrently assessing the general market conduct and behaviour of key participants in the industry to ensure that the industry achieves a greater level of operating efficiency and effectiveness as well as being cost competitive going forward.

3.3.5 The principal objectives of the Review are to:

- Report on the current state and operation of the Housing Industry in PNG;
- Identify issues and areas where Government action may be appropriate to address the problems and issues which are contributing to the failure of the market to get the

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1 The Official Terms of Reference is provided in Annexure A
demand and supply balance right to improve the overall competitiveness, efficiency and effectiveness of the Housing Industry in PNG; and

- Make recommendations on what action by Government could assist in rectifying any problems in the current structure, regulation and operation of the Housing Industry with a view to improving competition and the imbalance in the supply and demand for residential accommodation.

### 3.4 Scope of the Review

3.4.1 This Review is intended to examine a wide range of issues relating to the operation, composition, structure and regulation of the housing sector. The Housing Industry includes housing provided by the government, State-owned enterprises, statutory authorities, semi-government entities, private companies and individuals. The functional level of the industry consists of those in the development, construction, letting and servicing of residential accommodation in the urban, semi rural and rural areas.

3.4.2 The Minister, in his reference of this matter to the Commission for the purposes of this review, adopted a working definition encompassing housing provided by the Government, private companies and individuals and those in the development, construction, letting and servicing of residential accommodation in urban and semi-rural areas.

3.4.3 There are other types of short term accommodation, such as hotels and lodges, or medium term accommodation such as hostels and informal letting of rooms, which meet particular needs, based on length of occupancy and affordability. The Commission sees no need to offer a comprehensive definition of the housing sector for the purposes of this review. The common understanding of ‘housing’ and the working definition in the Ministerial reference is sufficient for this review. The Bank of PNG, in its submission, compared housing issues with Government office accommodation and commercial buildings, pointing to similarities of problems with institutional housing, building degradation and land scarcity. While the analysis and recommendations herein relate to housing, similar approaches to the leasing of land for office accommodation and to the provision of short-term residential accommodation operated for profit, such as hotels and lodges, to the extent they can be applied, would be equally effective in stimulating competition, efficiency and growth and reducing costs and rents in those segments of the broader accommodation sector.

3.4.4 In conceptual terms, it is useful to categorise housing as either ‘formal’ or ‘informal’, as there are policy implications flowing from such a division. The formal sector is usually characterized by its location on State land, which allows for regulation, title transfer, registration of mortgages, and, therefore, loan financing. However, this sector represents only a small proportion of total housing. Nevertheless, this sector is within the direct control of the National Government and offers the opportunity of more immediate reform, particularly in the major urban centres, where the problem is greatest.

3.4.5 The ‘informal housing sector’ consists of illegal squatter settlements, usually on State land, but also includes arrangements for use of customary land, in peri-urban and rural areas, with the permission of the traditional landowners and, in some cases, without permission. Until recently, such arrangements with customary landowners could not be registered but recent amendments to legislation, discussed later, permits such registration and leasing directly by the landowners to users. By such arrangements, ‘informal’ land usage agreements could be ‘formalised’. Furthermore, that segment of the informal sector represented by illegal
squatter settlements on State land, also offers the opportunity of more immediate reform, where the problem is greatest – in the major urban centres.

3.4.6 The significance of the informal housing sector for policy-making is that it meets the needs of most Papua New Guineans for shelter. To be effective, any reform package needs to take account of this sector. From the above analysis, there is scope for Government reform initiatives in both the formal and informal sectors, which would make a considerable difference for ordinary Papua New Guineans.

3.4.7 Examining issues associated with the supply of houses by the private sector; various Government Departments; the National Housing Commission; SoEs and statutory authorities was an integral part of this review. The Terms of Reference of this Review specifically included the role of the National Housing Commission, and other relevant Government instrumentalities that are directly or indirectly associated with this industry such as the Lands Department, Building Boards, utility service providers and the local municipal authorities. The terms of reference require the review to examine the key aspects of the various segments of the housing industry particularly those relating to the ownership, management, lease, sale, valuation and appraisal, brokerage, development and consulting in respect of housing development and improvements situated in Papua New Guinea.

3.4.8 At the public consultation seminar on the Draft Report, in Port Moresby, a representative of the Department of Personnel Management suggested that the review be limited to private sector housing issues as existing Government policies covered public service housing. In his submission to this inquiry, the Minister for Public Service wrote “Statutory authorities have a right to devise their own schemes by virtue of powers bestowed by their respective Acts”. There is no suggestion, however, that the involvement of Government departments and authorities in housing activities is carved out of the scope of this inquiry by the terms of reference. On the contrary, in requesting this review, the Minister of Treasury and Finance, in the terms of reference, said: “For the purposes of this review, the Housing Industry encompasses housing provided by the government, private companies and individual and those in the development, construction, letting and servicing of residential accommodation…..”. and included “the role of the National Housing Commission, and other relevant Government instrumentalities that are directly or indirectly associated with this industry”.

3.4.9 This Review is designed to assist the Government to explore practical solutions to the mismatch that currently exist in the supply and demand for housing in PNG with a view to providing policy options that can be adopted to facilitate development of affordable housing. A workable regulatory framework for consumer protection has also been a priority of the review and forms part of the reform package recommended.

3.4.10 Two speakers, from the real estate agency sector, expressed the view at the General Forum organized by the Commission in Port Moresby on 25th September 2009 that the scope of the review was too wide. In essence, they said that the range, complexity of the issues, the different levels of the industry and the interrelationships between the stakeholders at each level made it an impossible task to do justice to all the issues and make sensible recommendations within a reasonable time.
3.4.11 They suggested, instead, that the Commission focus on the real estate sector, so that once workable recommendations were made in relation thereto, the Commission could move on to other sectors of the housing industry in a ‘step-by-step’ approach.

3.4.12 The Commission accepts that the housing industry consists of a number of levels, each with its own set of issues and stakeholders, with complex interrelationships, some of whom have conflicting incentives, while others have coinciding ones, all of which makes the task challenging. The Commission did not accept, however, that the task was ‘impossible’. While gathering relevant information; interpreting and analysing it sensibly; and drawing justifiable conclusions is a challenge in this industry with its extensive linkages; that is the primary role of the Commission in its work under PART VIII of the ICCC Act, under which it inquires and reports into a range of complex industries. The Commission was reasonably confident, therefore, of containing its inquiries to relevant areas and producing practical recommendations for reform of the housing and real estate sector.

3.4.13 There is another, more significant dimension to the scope of this review. A sequential approach to the issues would only lead to incremental, and, necessarily, significantly slower, reform. A broader approach, resulting in a holistic, multi-pronged approach to a complex series of inter-related issues, comprising a much larger, multi-faceted problem, would take advantage of various economic ‘feed-back loops’ in a dynamic way, providing benefits whereby ‘the whole is greater than the sum of the parts’. These economic dynamics are discussed under Chapter 4: The Housing Industry and the National Economy.

3.4.14 It needs to be remembered, also, that this review is driven by a reference from the Minister for Treasury and Finance the Hon. Patrick Pruaitch, MP. The Commission, therefore, could not seek a restriction in the terms of reference, without sufficient reason and considered it appropriate to complete its review in accordance with the terms of reference.

3.4.15 The Bank of the South Pacific submitted that the scope be extended to include “a review of the capacity of the service providers such as PNG Power, water and sewerage authorities, and Telikom, as well as planning authorities to meet the development requirements associated with land development throughout the country”.

3.4.16 The Commission recognizes the significance of such services as cost drivers to the development costs of land, flowing through to end-selling prices, and comments on their significance in Chapter 6: Structure and composition of the housing industry. Furthermore, to the extent relevant to the primary task of reviewing the housing and real estate sector, the Commission drew on information available to it to provide the necessary contextual picture and any available evidence relating to their performance, as that is relevant to the costs and prices of land. If BSP’s suggestion was to extend the review to examine and report in detail on the operations, efficiency and measures for improvement of the ‘utilities’, that was not practicable within the time-frame, as each such enterprise is large and complex and such sectoral studies require detailed information and analysis, as inquiries, each in its own right.

3.4.17 In this regard, the Commission has requested the Independent Public Business Corporation (“IPBC”), as steward of the Government’s shareholdings in State-owned enterprises, to provide annual accounts and key performance indicators against benchmarks as comparators, for PNG Power, PNG Waterboard, Eda Ranu, PNG Ports and Telikom PNG for a period sufficient to draw conclusions, including comparisons with each other, on trends...
in their efficiency and performance. While some information was provided, it was insufficient to make a proper assessment for this review.

3.4.18 Most of the submissions received on the Issues Paper were in general support of the scope of the Terms of Reference and thus the Commission proceeded on that basis.

3.4.19 One issue raised by a speaker at the General Forum held by the Commission in Port Moresby on 25th September 2009 was the claimed adverse effects of AusAID ‘taking over’ entire compounds for their expatriate consultants and staff causing eviction of existing tenants, who had to look for new rental accommodation, thus ‘pushing down’ the problem, particularly in Port Moresby – but mention was made of expatriate staff for the proposed LNG project as well.

3.4.20 The discussion below, on the above claim, applies equally to other towns where such a claimed problem is said to exist; as well as to other donors and to enterprises employing expatriates who require to be accommodated.

- First, high-rentals are charged for such accommodation – it is not of a standard that ordinary Papua New Guineans can usually afford. Secondly, the ‘push down’ effect would only apply if the evictee has reached the end of their tenancy agreements/leases, as such legal agreements should not be breached. Third, the evictee would be looking for a comparable standard of accommodation, which has little relevance to the ordinary Papua New Guinean.

- The claim included a suggestion that the ‘push down’ reached more modestly priced accommodation. Such a ‘market-segment-linkage’ scenario would probably only apply to a very small proportion of such modestly priced accommodation. While there may be some linkage between the two discretely priced segments of the broader rental accommodation market, in large part, that is likely to be very limited. There is no evidence that the high-priced segment of the market has noticeable effect on the medium-to-low end of the market.

- A further dynamic dimension is that rental accommodation apartment blocks are being built to satisfy such a ‘niche’ demand within a relatively short time-frame, as the investment opportunity ‘window’ is also relatively short – the expatriate staff for the LNG project may well be accommodated near the site of the liquefaction plant; or after a large initial influx, their numbers could begin to taper off.

3.4.21 In economic terms, therefore, the extent of the claimed problem is limited to the ‘high-rental’ segment; is likely to be short-lived as a result of the supply response; and, therefore, is assessed as having little significance for the much larger housing scarcity problem, in the ‘low’ and ‘medium’ rental segments, affecting most Papua New Guineans.

3.5 Conduct of the Review

3.5.1 The Commission undertook a detailed consultation process to ensure that all stakeholder comments are received and considered. This was supported by the Commission’s own analysis and research. The consultation during the Review has been broad and included all major stakeholders and major industry players operating in PNG such as the real estate
companies and large corporate landlords, the Department of Treasury and other relevant Government Departments, other interested parties and the general public.

3.5.2 As part of this consultative process, the Commission:

- released an Issues Paper on 12th August 2009, inviting submissions;
- advertised and held a public forum on 25th September 2009;
- engaged in individual discussions with various stakeholders it considered could contribute useful information;
- carefully considered the views and information contained in submissions and expressed in discussions;
- issued a draft report, inviting submissions on the tentative conclusions and recommendations therein;
- conducted public seminars in Lae, Goroka, Alotau, Kokopo and Port Moresby on the draft report;
- received and considered submissions following the release of the draft report and seminars; and
- now issues its final report on the review.

3.5.4 The Commission was aware, on the one hand, of the magnitude of the task; and, on the other, the extensive research and analysis contained in previous reviews and reports by various task forces commissioned by the Government to examine and make recommendations on the land and housing sectors. The Commission did not, therefore, attempt to 're-invent the wheel' and reviewed all such previous work made available to it. In areas where the methodology adopted, analysis contained and recommendations made, followed generally acceptable economic and public policy approaches, which were likely to contribute to resolving the housing scarcity, it has incorporated their conclusions, with or without suggestions for amendment to their recommendations, as it considered appropriate.

3.5.5 At the General Forum in POM on 25th September 2009, organised by the Commission, a number of speakers expressed their concern that the review was a vehicle to generate a recommendation for control over rents or prices for sale of property. The Commission Officers made it clear then, and this report repeats that clarification, that the review started from the position that Commission did not have preconceived ideas, approaches or conclusions, to form the basis of its recommendations. The usual approach of the Commission to its work was followed:

- An open, consultative approach was adopted.

- Relevant facts were gathered and taken into account and were assessed impartially and objectively.

- No ideological theory was relied upon exclusively to govern the economic analysis.

- A problem-solving approach was adopted, which identified specific constraints to the growth of the housing sector and targeted them with approaches which would address those constraints.
Each level and function of the industry was given appropriate attention to address issues at any level of the vertical chain, which could restrict growth and its benefits in a complex industry.

The recommendations were intended to be capable of implementation in a practical sense, within time limits and under the organizational arrangements which the Commission recommended.

The arguments and reasoning which formed the basis of the recommendations are laid out in sufficient detail for fair and objective conclusions to be drawn by reasonable minds.

The outcome sought to be achieved was governed by the principle of ‘the greatest good of the greatest number’, which promotes the growth of the housing sector and provides housing for as many Papua New Guineans as possible, rather than giving weight to sectional interests, which would be inequitable for ordinary citizens.

3.6 Structure of this Report

3.6.1 The next chapter of this report will discuss the economic significance of the industry, followed by one examining the spatial features relevant to industry performance and the direction of reform. Subsequent chapters examine the structure and regulation of the industry; relevant economic principles; previous studies; and the effectiveness of reform initiatives attempted.

3.6.2 Following the above analysis, the report explores the causes of the problems, particularly the constraints at each of the vertical levels of the supply chain, and suggests approaches that would address them. The approaches proposed are aimed at introducing competition at every level of the industry, as a way of generating efficiency to reduce costs and ensure that the effective operation of market forces transmit those benefits to the end-user. A key focus will be to deal with perverse incentives and secure a substantial expansion of the supply of ‘raw’ and subdivided land and residential construction, by encouraging desirable incentives.

3.6.3 The prevalence of consumer complaints about the conduct of landlords and real estate agents is addressed by suggesting a consumer protection framework which is comprehensive, robust and credible.

3.6.4 The final chapter summarises the Commission’s conclusions about the state of the industry; key problems that need to be overcome; the initiatives to address them; strategies to implement the recommendations, with options where appropriate; suggesting suitable time frames, organizational arrangements and transparency, monitoring and accountability frameworks.

3.6.5 The package of reforms recommended represent a holistic, consistent and comprehensive set of initiatives which address issues throughout the vertical chain of supply, from raw land to residential construction. If accepted by Government, a clear statement which endorses the recommended approach is necessary to direct and focus the attention and energies of all stakeholders, avoid ambiguity and divergent or contradictory initiatives, by
different arms of Government; and produce a co-ordinated and unified effort to address this critical and growing national problem.
4.0 THE HOUSING INDUSTRY AND THE NATIONAL ECONOMY

4.1 The PNG Economy

4.1.1 Papua New Guinea is the largest developing country in the South Pacific Region with a total land area of 463,000 square kilometers and territorial sea area of 3.12 million square kilometers. The country consists of twenty provinces and the last sitting parliament enacted legislation to create two additional provinces, Hela and Jiwaka. The provinces extend across the coastal and mainland regions and covers rugged terrain which creates significant challenges for development. Of the total land mass, some 97% is customarily owned and the remaining 3% is alienated land, overwhelmingly located in or near the major cities and towns.

4.1.2 The country has a dualistic economy with most of its people entirely dependent on subsistence living while a small proportion is engaged in the formal economy. It is richly blessed with natural resources including oil, gas gold, copper, nickel, marine resources and tropical rain forests. Agriculture and the extractive industries together dominate the economy, accounting for some 62.5% of GDP whilst the services and the manufacturing sector account for just under 30 percent of the GDP.

4.1.3 The total population of Papua New Guinea as reported by the Asian Development Bank was 6.52 million people in 2008 with an average growth rate of 3.4% per annum. PNG is the world’s second-least urbanised country, with 12.5% of its population living in urban areas. The rest of the population live in rural villages and are heavily dependent on subsistence activities. Rural-to-urban migration (or ‘urban drift’) is nevertheless substantial. The opportunities for formal employment are limited and there exists a large “informal” sector in most urban centres such as Port Moresby and Lae, consisting of those employed casually and the ‘self-employed’ who do not feature in official statistics.

4.1.4 The Bank of Papua New Guinea Quarterly Economic Bulletin showed that growth in the domestic economy slowed down due to the impact of the global recession having had a negative impact on the export of mineral and agricultural products. This also led to the slow increase in total employment, but on a positive note, inflation has reduced significantly from the high of 13.5 percent in September quarter of 2008 to 6.7 percent in June quarter 2009.

4.1.5 While broad economic indicators might indicate substantial progress, the scale of the challenge to house PNG’s population can be envisioned by one statistic – some 40% of the population live in poverty, defined as living on less than US$1 a day. There are reported to be more than 100 squatter settlements in Port Moresby. The population living in informal settlements is estimated to double every nine years while that of the city as a whole will take

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4 Burundi, with 10.1% of its population living in urban areas is the least urbanized: Urban and rural areas. UN Department of Economic and Social Affairs; 2007.
twice as long to double. Squatter households accommodate, on average, 15-20 people and have also developed around Lae, Mount Hagen and Rabaul.5

4.1.6 The scale of the task of housing PNG’s population, therefore, needs to be kept in view in formulating reforms to address the problem. It has implications for

- assessing the likelihood of making inroads into the housing shortage under current or proposed strategic approaches;
- the capacity of Government to dedicate financial resources to this sector under existing budgetary constraints; and
- the efficacy of spending under alternative initiatives.

4.2 The Size of the Housing and Real Estate Sector

4.2.1 Historically, the housing industry in PNG has been largely driven by the Government, which provided either rental accommodation at an affordable rate to public servants throughout the country, or financial assistance to its employee-home-buyers; and public housing. These initiatives were taken at the time when the economy was buoyant from aid and income from the Bougainville mine, coupled with limited demand. The Department of Works and the then Department of Housing, were reasonably efficient in supporting government policy in the provision of housing to its employees. More recently, there has been no new provision of new public housing.

4.2.2 From a social perspective and according to Maslow’s (5) Hierarchies of need, housing is classified as the second most important need (as part of safety/security needs) with the first hierarchy of human need being physiological needs, that is, basic survival needs such as food, water and air. Various conventions under United Nations Charter and that of the International Labour Organisation on human rights, have recognised the provision of shelter to be a condition in employment for member countries so both public and private sectors contribute to house their employees, which can ultimately contribute to resolving the housing woes faced by countries6. Housing, however, is not a condition of service for Government and SoE employees.

4.2.3 The housing industry in Papua New Guinea is critical to fostering healthy living standards which in turn enhances development in other sectors of the economy, through increased productivity.

4.2.4 While the housing and real estate industry in PNG has grown over the years, its significance in overall economic development is difficult to assess because disaggregated data are not available on the contribution of the housing and real estate industry to the overall economy. Information available from the 2009 Budget shows a combination of finance, real estate and business services together contributed about 3.8 percentage to the overall GDP, whereas the construction sector contributed just under 14.0 percent to the overall GDP – the latter figure, however, is understood to largely represent commercial and industrial construction, with housing accounting for a small proportion.

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6 Public Service Housing Policy, March 2009
4.2.5 Despite the estimated small contribution to the economy made by the residential construction sector, compared to some other sectors, the industry has enormous potential to grow and contribute to the domestic economy, as will be seen in the section immediately below.

4.3 The Inter-action between National Economic Policies and the Housing Sector

4.3.1 In this early part of this report, it is useful to set out the broad context of national economic performance and its relevance to the housing sector, as the latter cannot be seen in isolation. The demand for housing is linked to national economic performance. The supply of, and demand for, land and housing is a function of the vigour with which economic reform is pursued and the stage it has reached. On the other hand, the housing sector has much to contribute to national economic growth.

4.3.2 Progress on increasing (a) the supply of land and housing; and (b) affordability for ordinary Papua New Guineans will depend on the success of the Government in accelerating the pace of improvement in both, macro-economic and micro-economic performance through appropriate reform strategies.

4.3.3 It is not an objective of this review to explore the progress of macro-economic and micro-economic (or ‘structural’) reform generally, nor to make detailed recommendations in relation thereto. Those responsibilities rest with other agencies of Government such as the Treasury and the Bank of Papua New Guinea. To the extent that impediments to increasing the supply of housing and its affordability are identified and the housing sector is considered to be adversely affected by particular elements of Government policy, they will form part of the analysis and recommendations for consideration by the Government in the context of the formulation of macro-economic and micro-economic policies.

4.3.1 The significance of economic policy for housing

4.3.1.1 The significance of macro-economic performance and growth to housing is that, on the one hand, they are relevant to inflation and, therefore, should ordinarily influence price expectations for dwellings and, on the other, they affect total employment and incomes, which affect affordability of housing.

4.3.1.2 The level of inflation and affordability of housing are, therefore, entwined in a mutually interactive ‘feedback loop’. Taking the negative case, inflation reduces the value of disposable income, which reduces savings as well as the ability of home-buyers to meet loan instalment payments. At the same time, the tight housing supply situation drives purchase prices and rents higher, which, in turn, adversely affects disposable income, which reduces savings as well as the ability to meet loan instalment payments.

4.3.1.3 Those dynamics generate a ‘vicious circle’, which stifles the growth of the sector. The reverse would also apply, leading to a ‘virtuous circle’ of affordability driving demand, which encourages expansion of supply.

4.3.1.4 The fact that a substantial reduction has been achieved in the rate of inflation without reducing housing price expectations, strongly suggests that the tight housing supply situation
is attributable to fundamental rigidities in markets which ‘feed’ into the ultimate product – housing; and the general expectation that such rigidities are likely to continue into the future.

**Box 1:** Macro-economic and micro-economic reform policies affect a range of industry sectors, both directly and indirectly, which, in turn, ‘feed into’ the efficiency of the housing sector in meeting demand. Such policies, therefore, affect housing supply and affordability.

Without attempting to advise the Government on broad economic reform policies, it is useful to refer briefly to the empirical evidence of the beneficial effects of such reform. For example, in recent years, the national budget has achieved relative stability, creating the conditions for steady economic growth.

In terms of micro-economic reform, the implementation of a particular initiative, which led to the withdrawal of Government from the commercial banking sector and the creation of the Bank of the South Pacific, re-invigorated the financial sector, making significant efficiency gains possible. At the same time, ongoing Government financial support for a State-owned bank, and unproductive investment in it, was no longer necessary, thus saving substantial public funds.

Of greater significance than the saving of public funds, however, are the benefits from increased economic activity, which resulted from the reform. Credit growth has increased substantially and this, being a key ingredient for the expansion of commerce, has facilitated lending to business and economic growth.

Innovations, such as SMS banking, increase efficiency, reduce transaction costs (for customers and the bank) and utilise technologies emerging from the communications sector, which, itself, is being transformed by competition, with both sectors ‘feeding each other’ and contributing to broader public benefits.

Other examples of beneficial structural reform, in which the Commission has been closely involved, are the telecommunications and aviation sectors. The introduction of competition in mobile communications and international aviation has led to significant growth in those sectors, contributing to employment and GDP growth. Equally significantly, they have acted as ‘enablers’ of growth in related industries such as information technology and tourism respectively. Both sectors have contributed significantly to the improvement in living standards of ordinary Papua New Guineans through ‘spin-off’ effects by increasing the efficiency and reliability and reducing the costs of travel and business and personal telecommunications.

If the home lending sector has not grown in proportion to the general economy, this points to rigidities in the sector which need to be addressed, so as to ‘free it up’ to allow it to achieve its full potential for the expansion of the national economy and the benefit of the public, as have the other sectors mentioned above.

4.3.1.5 National economic growth, usually measured as GDP, should reflect affordability. Real GDP of 6.6% has been achieved in 2008 and is forecast to reach 6.2% in 2009, in a
global environment of low growth. Population growth, however, is averaging 3.4%, reducing the impact of GDP growth. Of course, GDP growth does not, of itself, translate into improved affordability, as the nature and extent of the distribution of GDP growth benefits governs the income of ordinary Papua New Guineans. The net effect of GDP growth, its distribution and population growth needs to be established, to assess whether housing affordability should be improving. If such indicators suggest affordability should be improving, but it is not, then that indicates significant rigidities in the housing and related markets. The limited analysis above suggests that the economy is growing but housing affordability is reducing.

4.3.2 The significance of the housing sector for national economic performance

4.3.2.1 The significance of the ‘human’ aspects of need for shelter are implied in its inclusion in the millennium development goals agreed by the United Nations in 2000 (MDGs). The contribution to living standards, economic productivity and the achievement of the full potential of individuals, resulting from improvements in their access to shelter has been discussed above and there is widespread consensus on that. The gap in meeting the requirements for adequate shelter for Papua New Guineans is understood to be so significant as to prevent the achievement of the MDG, by the target date, under this criterion, if the supply of housing is not significantly improved. If correct, that would be a serious matter, particularly as PNG is the second least urbanised country in the world and has shown steady economic growth in recent years, with real GDP growth exceeding population growth in the last three years.

4.3.2.2 There is another dimension to housing, however, and that is its potential to contribute to national economic growth. While the obverse side of the coin is the influence of national economic performance on the housing sector, the reverse is the contribution that the housing sector can make to economic growth.

4.3.2.3 The National Land Development Taskforce (the recommendations of which will be discussed further in this report) mentioned the significance of land as a factor of production and, to that extent, pointed to the opportunities foregone for economic development arising from rigidities in the supply of land and the lack of firm direction by Government on policy approaches to resolve this problem. In this section, we emphasise the specific significance of land development and construction of dwellings as a driver of national economic growth, in its own right.

4.3.2.4 Overall economic growth can be accelerated by the development of a dynamic, competitive and efficient housing sector, through a substantially expanded programme of new land releases for subdivision and house construction. The expansion of this sector offers the scope for dynamic and sustained growth of the economy, with positive outcomes for

- direct employment;
- national savings and investment;
- value added by ‘downstream processing’ of timber and steel;
- ‘spin-off’ or ‘multiplier’ effects from investment and overall employment;

all cumulatively enhancing national economic growth and living standards.
4.3.2.5 The objective here should be to ‘facilitate’ the growth of the sector by removing impediments to land development and dwelling construction to increase supply. Say’s Law – “Supply creates its own demand” is very relevant here. This approach of increasing supply will lower costs of development through efficiencies generated by the reform package recommended in this report by encouraging:

- competition among land developers and builders;
- lower prices for land and lower building costs for homebuyers; and
- create the incentive for private sector investment by expanding demand.

Efficient and sufficient supply of building lots will reduce costs; make them more affordable; and create incentives for purchase of land, for the purpose of building houses.

4.3.2.6 This approach, which encourages expectations of ownership by individuals and increases affordability, also creates incentives for private savings, which flow through to investment. An increased rate of private savings does two things: first, it mobilizes resources for financial institutions to facilitate lending by them. Secondly, it assists prospective home purchasers to generate the equity contribution required as a ‘deposit’ by lending institutions for the purchase of property.

4.3.2.7 There appears to be no shortage of funds available for investment by financial institutions – quite the contrary, institutional investors are looking for worthwhile projects in which to invest. Submissions on the Draft Report agreed that there is no shortage of funds available for institutional investment. Domestic investment opportunities reduce the need for domestically generated investment funds to look for a home abroad, which may be seen as an alternative to the delay and uncertainty of negotiating a way through the obstacles of investing within PNG. Domestic investment expands credit and facilitates economic growth. An effective housing policy offers opportunities for investment and the expansion of credit, with significant ‘multiplier’ effects for the general economy.

4.3.2.8 Private savings levels are understood to be low, mainly attributed to ‘cultural factors’ which include a greater historical propensity to spend rather than save. That spending propensity may, in turn, be linked to the cultural interdependence of individuals within the family, clan or tribe, which translates into obligations to ‘share’ income and assets, commonly referred to as the ‘wantok obligation’. While such cultural pressures can be significant, the possibility of owning property, created by lowering costs and prices throughout the housing chain, is a powerful incentive to saving. Increased employment and incomes also reduce the demand side of the ‘wantok obligation’.

4.3.2.9 The expansion of the housing industry would create the conditions for ‘downstream processing’ of timber from logs currently exported, or from imported steel, for use in the value-added activity of manufacturing building components. Indeed, the work of Habitat For Humanity (“HFH”) demonstrates the potential for downstream value adding – logs have been sawn for timber which has been used for housing, with the added benefit of skills development, at the local level.

4.3.2.10 The relatively high-level data in figure 4.1 below does not disaggregate housing from the broader construction sector. Based on the stock of housing and the scarcity of housing the residential construction segment of the construction sector is generally
considered to be likely to account for a relatively small proportion of GDP. The data in table 4.1 suggests that the construction sector itself has experienced high employment growth over the years.

Figure 4.1: % Contribution to Total GDP By Industry (2004-2009)


4.3.2.11 The data provided by Bank of Papua New Guinea (see table 4.1 below) show that employment in the building and construction industry has grown significantly compared to other industries - by 81.37% in the employment index movement since March 2005 while employment in other industries, on average, grew by 33%. The proportion of the growth of the broader construction sector that can be attributed to housing does not appear to be capable of being realistically estimated. In this context, housing forms a part of a grouping of construction activities that include commercial and industrial property construction, and large industrial construction projects. There are significant limitations on the collection and publication of statistics for housing. The availability of statistics for both building approvals and the aggregate financing of loans for the purchase of housing would go a long way to assist tracking the development of the housing sector and its contribution to national economic growth.

Table 4.1 : Employment Classified by Industry (March 2005-2009)

<table>
<thead>
<tr>
<th>Year</th>
<th>Retail</th>
<th>Wholesale</th>
<th>Manufacuring</th>
<th>Building and Construction</th>
<th>Transport</th>
<th>Agricultur e/Forestry/ Fisheries</th>
<th>Financial /business &amp; other services</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>92.8</td>
<td>122.0</td>
<td>120.8</td>
<td>92.3</td>
<td>108.6</td>
<td>106.7</td>
<td>106.2</td>
</tr>
<tr>
<td>2006</td>
<td>95.5</td>
<td>137.6</td>
<td>130.5</td>
<td>106.3</td>
<td>105.1</td>
<td>123.0</td>
<td>106.1</td>
</tr>
<tr>
<td>2007</td>
<td>111.3</td>
<td>159.0</td>
<td>136.8</td>
<td>130.9</td>
<td>116.2</td>
<td>134.7</td>
<td>111.1</td>
</tr>
<tr>
<td>2008</td>
<td>119.1</td>
<td>155.0</td>
<td>152.2</td>
<td>149.6</td>
<td>116.8</td>
<td>147.1</td>
<td>119.8</td>
</tr>
<tr>
<td>2009</td>
<td>126.6</td>
<td>164.0</td>
<td>162.7</td>
<td>167.4</td>
<td>142.5</td>
<td>149.3</td>
<td>128.9</td>
</tr>
<tr>
<td>% Growth</td>
<td>36.42</td>
<td>34.43</td>
<td>36.69</td>
<td>81.37</td>
<td>31.22</td>
<td>31.93</td>
<td>21.37</td>
</tr>
</tbody>
</table>

Source: Bank of PNG Quarter Economic Bulletin – March 2009
4.3.2.12 In developed countries, the housing sector is understood to account for a significantly larger proportion of their GDP and total employment. For comparison purposes, the following graph shows the respective proportions of employment of (a) total construction; and (b) total employment represented by the residential construction sector in Australia:

![Graph showing residential construction as proportion of total construction and total employment](image.png)

Source: ABS data

4.3.2.13 When ‘spin off’ income-generation e.g. self-employed tradesmen are added, substantial additional economic benefits can be seen to result. In the case of PNG, with a small formal sector, increasing residential construction would lead to a larger proportionate increase in overall formal employment than in Australia.

4.3.2.14 The significance of the housing sector as a contributor to GDP and employment can be inferred from the ‘counter-cyclical’ housing policies\(^7\) adopted by developed countries like Australia to achieve their economic objectives by:

- ‘kick-starting’ housing construction during economic downturns by incentives for new construction through
  - first home owners’ grants by federal and state/territory governments;
  - concessional stamp duty levels on title transfers/mortgage registration etc by state/territory governments;
  - central bank monetary policy (reducing interest rates, although this is also directed to overall encouragement of borrowing, not just for housing);

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4.3.2.15 Indeed, the decision by the Reserve Bank of Australia to raise its cash rate by 0.25% in October 2009, has been attributed to its concern about the risk of increasing inflation, associated with its assessment that Government stimulus to housing has led to growth in that sector which could lead to a housing ‘bubble’, which, in turn, could intensify inflationary pressures in the general economy and increase inflation beyond the long-term target band.

4.3.2.16 While the Commission has not carried out a detailed analysis of the Australian housing sector, the following graph indicates that its contribution to GDP is substantially higher than the estimated contribution of housing to the PNG economy, given that the proportion of the value of housing to that of total construction in PNG is generally accepted as being very small. The data are insufficient to form firm conclusions, but an inference can be made, however, that ‘counter-cyclical’ housing stimulus policies have led to its growth in Australia, which, in turn, has contributed to the achievement of objectives for the pace of broader economic growth, in that country, at the relevant time.

![Graph showing the value of residential construction approvals as a percentage of GDP.](image)

Source: Australian Bureau of Statistics, 2009, catalogue No. 8731: value of housing approvals; GDP from catalogue No. 5206: national accounts, with the following adjustments:
- Housing approvals converted from monthly data to quarterly intervals;
- Data standardised to millions of dollars;
- Dollar value of approvals calculated and shown as a ratio of the dollar value of GDP, expressed as a percentage; and
- Percentages labelled at 5-yearly intervals.

4.3.2.17 Thus, it is clear that the housing sector can be a key ‘enabler’ of economic growth by stimulating growth in direct and indirect employment in the land development and home building segments (the latter is labour intensive); credit expansion; and overall investment levels. A consequence is that increasing employment and consequently, increasing incomes, for an increasing number of people, from a growing housing sector improves the affordability of housing by

- ‘cool’ the housing market, by removing such incentives, as a means of dampening overall economic activity, when the economy is ‘overheated’ and that poses a threat to inflation.
• generating savings for a deposit; and
• providing the capacity to meet loan repayments

for a larger number of people who would be employed.

4.3.2.18 This improvement in employment increases the ‘effective demand base’ of prospective buyers and renters, who are capable of financing their needs for housing.

4.3.2.19 The effects of removing impediments to housing growth in reducing costs of housing; such improvement in affordability; and the cumulative effect of those two factors providing added incentive for developers and builders to increase supply (to expand their business activity); reinforce each other through mutual ‘feedback loops’ to enhance economic growth. It is this growth in economic activity that will generate employment and incomes, which, in turn, will form the ‘effective demand base’ which could afford competitively, priced land and homes. In turn, this sustained effective demand would constitute the incentive for developers and builders to expand supply. The process, through inter-active effects, in a continuous dynamic (repeated in successive rounds), leads to a ‘virtuous circle’ of economic benefit which, in the long term, would go a long way to addressing the housing shortage.

4.3.2.20 Harnessing this dynamic sector to drive economic growth, therefore, would be a major step forward in accelerating national development. The residential construction sector, if allowed to grow to its full potential, under the reform recommendations contained herein, offers the opportunity for diversification of the economic base, with the benefit of ‘cushioning’ the economy from external shocks to the agricultural and mineral resource sectors which currently dominate the economy.

4.3.2.21 Apart from the general interactions outlined above, a particular consequence of the housing shortage is its effect on small to medium size businesses in all areas – urban, peri-urban, small townships, as well as in certain rural and remote areas, where Government, mineral companies or tourism-related enterprises operate. While large scale businesses can afford to pay the high rentals for accommodation of their staff, small-to-medium enterprises are unable to do so. This itself is a serious limitation on access to an essential input to business – skilled staff. The high rents themselves contribute to raising the costs of operating businesses and act as a specific disincentive to investment.

4.3.2.22 While quantifying the potential for growth of the housing sector in PNG and its potential to contribute to national economic progress requires relevant data, it can be reasonably concluded that it is an ‘underperforming sector’ with substantial economic benefits foregone.

4.3.2.23 This approach, of encouraging investment in the markets for land and housing, is not to suggest that the State undertake the development of land and construction of dwellings itself. The resources of the State are limited and the scale of the housing problem in PNG is immense, compared to developed economies – This point is discussed briefly in paragraph 4.3.2.12 above and in greater detail in paragraph 8.7.8 below. There are also significant risks in the State channelling its limited funds directly into the provision of housing, as exemplified by the performance of NHC, discussed below. There are competing demands on State financial resources to address the pressing development needs of the nation. Rather than ‘entering’ the housing sector directly as a participant, by organising the construction of
houses itself, with all the costs and risks involved, far less resources would be required to be diverted by the State to housing if they were directed to the ‘facilitating’ function exclusively, and, thereby, encourage private investment in the sector. This theme will be developed in greater detail further in this report.
5.0 SPATIAL DIFFERENCES AND IMPLICATIONS FOR REFORMS

5.1 Spatial Differences in Housing Scarcity

5.1.1 There are significant spatial differences between the housing problems in remote; rural; urban and peri-urban areas and within each of those categories. The differences include the nature and extent of the respective problems e.g. the problem of housing scarcity in urban and peri-urban centres is understood to be much more severe than in remote and rural areas.

5.1.2 There are similarities too, e.g. a general scarcity of housing; high costs and low affordability. The differences and similarities are discussed below, followed by their implications for reform.

5.1.1 Remote and rural areas

5.1.1.1 In remote and rural areas, the provision of housing has been simply and conveniently described by NRI to the Commission as follows: The decision to allocate customary land for a dwelling and to construct one thereon, to house a family, is usually made by the village group or clan elders, often following a marriage. As the family unit grows, offspring and relatives often continue to live under the same roof, often involving extensions to the home. Thus, shelter is constructed, and expansions made thereto, as required, to accommodate the extended family group which include relatives from more than one generation, exhibiting, in effect, the features of ‘communal’ housing. Structures are built of locally available, traditional materials. Construction is usually undertaken by clanspeople or ‘wantoks’ on the basis of mutual assistance. Basic needs for shelter are met by these structures, rather than those requiring compliance with building standards applicable in the urban centres. There is no suggestion that these rural structures are unsafe. The provision of housing, therefore, is a joint responsibility of the clan or village grouping and the process generally appears to work reasonably efficiently. These occupancy arrangements are based on customary understandings and traditional housing can be seen as part of the ‘informal housing’ sector in the sense that no title registration applies, nor can any encumbrances be imposed on the land.

5.1.1.2 The conditions of living, however, in rural areas are very poor. According to research cited by HFH, in its publication *Poverty Housing in the Developing Nations of the Pacific Islands*8

“70% of households use untreated drinking water from a spring, river, stream, pond, lake, or dam. Less than 10% of households have access to piped water. Approximately 76% of households still use traditional pit toilets and 16% have no toilet facility9. In some regions, there is a total lack of electricity10. An estimated 17

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8 Published by Habitat for Humanity International, Asia-Pacific Office, Bangkok, Thailand, 2009
10 Ibid.
% of the population does not have access to any sort of road and 35% live more than 10 km from a national road.\textsuperscript{11}

These circumstances give rise to accelerating urban drift.

\begin{figure}
\centering
\includegraphics[width=\textwidth]{box2.pdf}
\caption{Non Government Organisations have been involved in assisting home-building in rural areas. For example, Over the 25 years in which Habitat For Humanity operated in PNG, approximately 1200 houses were built, the majority prior to 2000 and in Morobe Province. These houses were built in association with village based building communities (8 in total, as affiliates of HFH-PNG). Through the affiliates, HFH-PNG provided training in saw milling and carpentry to teams within each community. HFH has temporarily suspended its operations in PNG for logistical reasons. The assets created jointly by HFH-PNG and the affiliates have been signed over to the building communities - the assets included outstanding mortgages on houses (estimated to total close to K1 million); resource buildings (meeting facilities and workshops) constructed in communities; tools and equipment including saw mills; vehicles - in the hope that the building communities can maintain their own building programs, independent of HFH. The former affiliates have been encouraged to continue to collect repayments on outstanding mortgages and to use the flow of funds to assist other families acquire their own permanent homes - using the equipment and skills available within the communities. In the communities in which HFH-PNG was operating, Habitat was generally the largest single provider of houses. Using micro-finance principles and community responsibility for repayment, HFH has provided loans for new home building and extensions, with community – based revolving finance used to build subsequent houses in the community. ‘Wantoks’ assist with construction on the basis of expectation of mutual assistance.

It is understood that the HFH approach has required a cash input (but also incorporating ‘in-kind’ contributions such as cooperative labour) of some USD 10,000 per dwelling. Such a cost structure is also reflected in a housing initiative in the Northern Territory of Australia, run by an indigenous Australian NGO.}
\end{figure}

\textbf{5.1.2 Small towns in rural and remote areas}

5.1.2.1 Housing is required in smaller towns, where Government presence, such as an ‘administrative centre’; aid post; school; or where significant private sector mineral extraction or processing and tourism-related activities have led to the creation of local workforces to ‘service’ such activities; and those rural areas which are likely to become such ‘smaller towns’ due to the expected establishment or expansion of such activities. Examples are Alotau; Misima, Kerema etc. An emerging location is not far from the outskirts of Port Moresby, where the liquefaction plant for the PNG LNG project is intended to be located, although the effects on housing could be felt either in the local township or as far as Port Moresby – it is uncertain at this stage. Considerable concern has been expressed about the

impact of the LNG project on housing demand and supply in either location and these sorts of concerns arise in other small townships subject to such pressures from large projects.

5.1.2.2 The populations employed in the administrative centres are likely to be semi-permanent in the sense that the incumbent is rotated, but long-term, in the sense that the position or function is permanent. Those employed in the mining-related-activity-based ‘towns’ are likely to be transient, as personnel are replaced, even though ‘mine life’ could extend over decades. For the purposes of this analysis, the ‘transient’ nature of the occupant is taken to reduce the incentive to purchase a house.

5.1.2.3 While Government employees recruited from the local area could continue to live in traditional accommodation, those from outside the local area have hitherto been accommodated in institutional housing. The reforms proposed in this report will have consequences for the previous approach to institutional housing for Government employees.

5.1.2.4 For those brought in for mining-related activities, there is a need for securing the permission of customary landowners to use their land for the construction and housing of such workers. This may involve Government participation in negotiating the terms and conditions of tenancy of such land. In the ordinary course, the mining company would have negotiated with both the Government and the landowners on the terms and conditions on which the underlying commercial activity could proceed. The Commission understands that incorporated landowner groups (ILGs), which negotiate community benefits with the extractive industry operators, are now empowered to register land under the Land Registration Act. This assists negotiation of the terms and conditions of the use of land for housing employees to support the commercial activity and should form part of the broader negotiations for the use of the land for the latter.

5.1.2.5 For tourism-related activities which lead to the formation or expansion of such ‘small towns’, there may only be a requirement for a very small addition to the local workforce, in the way of skilled staff, in which case the additional pressure on accommodation is relatively small. In the long term, however, as the local tourist-based industry grows, accommodation pressures may be felt, depending on competing demands for land use.

5.1.3 Urban centres

5.1.3.1 The urban (and peri-urban) centres, on the other hand, are characterized by problems which are quite different to those experienced in relation to housing in remote and rural areas. As between urban centres, themselves, similarities, as well as differences, in the problems of housing their populations can be observed as follows:

- The approximately 3% of the total land mass that is alienated is overwhelmingly located in urban centres.

- The urban areas have generally experienced problems arising from the same cause – rural-to-urban drift. The most obvious consequence of this problem is manifested in illegal squatter settlements, which often do not have reticulated water, sewerage or
power and are often akin to ‘slums’. These squatter settlements exist largely on State land, because the enforcement of property rights has been deficient, although they can be found on customary land and land where title is disputed. Such squatter settlements form part of the unregulated ‘informal housing sector’, which caters for much of PNG’s low-income housing needs.

- While urban drift needs to be addressed at its source, the unemployment problem in the urban population also needs to be addressed. Growth of the labour-intensive residential construction sector, in urban areas where the need for both, housing and employment, is greatest, will lead to significant employment opportunities for the urban unemployed.

- Another significant similarity between urban centres is the scarcity of building allotments – i.e. land which has been subdivided and utility services, such as water, sewerage and power, provided to the lots, to make them ready for building houses.

**Box 3:** It is not an objective of this review to conduct a detailed analysis of the causes, effects and possible approaches to resolving urban drift, except to point out the usual and well-known drivers of this phenomenon –

- dissatisfaction of rural dwellers, especially the younger generation, with:
  - the lack of income-earning opportunities;
  - boredom;
  - living conditions;
  - lack of services;
- and their aspirations of a life in the city that will meet their expectations.

One submittor suggested that the drift of rural population to Port Moresby is related to NCD politics, which is said to have close links with the squatter settlements. Their growing population is claimed to result from encouragement by candidates to people in other parts of the country to move to Port Moresby.

It is not within the scope of this review to explore such allegations. It is more appropriate for other agencies of Government, such as the PNG Electoral Commission and/or the Ombudsman Commission to consider such allegations, if evidence is made available to them.

On the other hand, it is relevant to point out that pro-growth and pro-poor policies, which enhance national economic development, the benefits of which reach the ‘grass roots’ in the villages in which ‘Papua New Guinea lives’, are crucial to improving rural living standards and services, as a way of retaining rural populations and reducing urban drift. More specific policy recommendations to stem urban drift, however, are beyond the scope of this review, as detailed analysis is required.

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5.1.3.2 There are, however, significant differences between the problems in urban centres, which can be summarized as follows:

- The severity of the housing shortage between some urban centres and others e.g. between Port Moresby and Lae on the one hand, and other centres such as Kimbe, Goroka, Vanimo, Alotau and many others, on the other, varies significantly. Further, the problem is more severe in Port Moresby than in Lae.

- In terms of qualitative differences, in some urban and rural centres, such as Port Moresby, Tari and Minj, there are substantial tracts of State land available for subdivision into housing allotments, while in Goroka, little, if any, State land is said to be available.

- In those urban and rural centres where State land is available, the impediments to its use need to be identified and strategies formulated to overcome them, so as to enlist a valuable economic resource in resolving a worsening problem, while creating a new and powerful driver of national economic growth.

- On the other hand, where State land is not available, ways need to be found to encourage customary landowners to make their land available for housing, under a framework that is mutually beneficial, provides certainty to all parties, and enhances social and economic development. Initiatives are in train to do that, under the National Land Development Programme (‘NLDP’), following the report of the National Land Development Taskforce (‘NLDT’).

5.1.3.3 More broadly, the variations in the nature of problems in different locations means that solutions need to be designed which focus on overcoming the different impediments in various locations. A ‘one size fits all’ approach will not work. Instead, a well-thought out, rational, consistent and coherent package of remedial steps, which specifically target the particular problem encountered, needs to be fashioned and implemented in a holistic way, if significant progress is to be made toward achieving the mission of housing PNG’s population.

5.1.3.4 In this report, while the discussion of housing problems in Port Moresby and Lae may appear to occupy a disproportionate amount of space, it reflects the severity, complexity and extent of the problem in those other cities compared to other smaller towns and remote and rural areas. This gradation of severity is reflected in the Ministerial reference seeking this review. In this report, the Commission neither intends to focus unduly on Port Moresby and Lae, nor to diminish the severity of the housing problems there. A balanced approach will be taken and, where appropriate, discussion will canvass issues relating to housing in those two urban centres without neglecting analysis of such issues in other towns, cities and rural areas.

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13 Just outside the limits of the National Capital District, the proposed ‘Central City’, which has been the subject of collaboration between the National and Central Provincial Governments for a considerable time, has significant ‘raw’ land available, but there has been little progress towards development.
5.1.4 Peri-urban areas

5.1.4.1 In large part, the housing problems in peri-urban areas are similar to those in urban areas. There is a layer of special problems however, not usually encountered in urban areas, which are identified as follows.

- While in urban areas, significant tracts of land have been alienated from customary ownership to the State, in peri-urban areas, this may not be the case.

- As the towns and cities grow, they gradually reach the limits of State land. The pressure on land for housing means that housing often ‘spills over’ the limits of State land, into customary land. This means that customary land needs to be ‘harnessed’ for housing use. In this respect, they share some characteristics of rural areas, arising from the customary ownership of land.

- In some cases, dwellings, on land owned under customary systems, are built under loose, informal arrangements with customary landowners, resulting in unplanned, though not necessarily illegal, settlements\(^{14}\), creating the conditions for low-amenity, poor quality housing, without connection to basic services such as water, sewerage and power, which, at the extreme, amount to slums. Locals, belonging to the same clan or tribe, are more likely to secure agreement to use such land than ‘outsiders’. These settlements also form part of the ‘informal housing sector’ on which most Papua New Guineans depend for their shelter. Ordinarily, there would appear to be little need for Government involvement in such developments but issues such as structural safety; health and hygiene standards; fire risk, access to water, power, sewerage and roads; and law and order problems; may need to be addressed by the relevant authorities.

- Some arrangements involving both locals occupants and outsiders (i.e. those needing such peri-urban accommodation but not originating from the area), are emerging, as will be discussed in subsequent sections of this report, under current initiatives to ‘bring to market’ customary land in peri-urban areas, under the National Land Development Project. These initiatives are intended to increase the quantity of land available for housing and to improve the level of amenity through such housing developments, on the fringes of towns, where customary land is sought out for housing development.

5.1.5 All areas

5.1.5.1 Besides the similarities of general scarcity of land and housing, the ‘one-off’ impact of large projects in the extractive industries create ‘localised shocks’ of varying degree, which have implications for housing.

5.1.5.2 The likely ‘spike’ in demand for housing to cater for the personnel involved in the natural gas liquefaction plant near Port Moresby is well known. The planning, approval and logistical issues are less well known. Clearly, they are significant and have, both, immediate consequences for the location in which the housing is required, but also for the general housing market in the city.

\(^{14}\) Some settlements on customary land are understood to be illegal, while others are on land to which title is disputed.
5.1.5.3 In the rural areas, such as Kutubu (where housing for the oil extraction project was required to be provided); the other locations for the proposed extraction plants for natural gas; in or near Madang, where the Ramu nickel/cobalt refining operation will be located; and in the many centres which need to accommodate personnel in various other mining operations e.g. gold, copper etc. such one-off accommodation requirements create similar ‘shocks’, of varying degree, for the local populations.

5.1.5.4 While the predominant proportion of the cost of servicing land and building dwellings to accommodate staff in such projects would be met by the resource enterprises themselves, the efficiency of the planning, regulatory and approval processes of Government would affect the timing of completion and preparedness for the underlying project to proceed. Such opportunity costs are significant, as will have been seen from the section titled: The Significance of the Housing Sector for National Economic Performance in Chapter 4: The Housing Industry and the National Economy.

5.2 Implications for Reform

5.2.1 The different features of the land and housing sector in various areas are relevant to the nature of the problems identified and frame the context for approaches to address them.

5.2.1 Rural and remote areas

5.2.1.1 No specific problems were drawn to the Commission’s attention in relation to the availability of housing to people ordinarily living in villages in the rural and remote areas of Papua New Guinea, under traditional arrangements. The problem of rural-to-urban drift has the effect of reducing the size of non-urban population from levels that would otherwise prevail, although birth rates offset the reduction in absolute numerical terms. A general conclusion is capable of being drawn, however, on the basis of national birth rates, that the population is likely to grow in non-urban areas, albeit with regional variability, depending on different rates of urban drift and other factors affecting population growth. The work of HFH and other NGOs demonstrate, however, that standards of housing in rural and remote areas require improvement and housing scarcity in those areas addressed, both to improve the living standards of people there and to reduce urban drift.

5.2.1.2 So long as land is available for allocation for new housing, under customary arrangements, arguably, subject to affordability, no housing problem should arise and no Government intervention would seem to be necessary in those areas, apart from issues of structural safety, fire safety and the like. Should land for housing needs conflict with alternative uses for customary land, such as for agriculture or forestry, a problem could arise. In the future, the current cultural values, which include ‘extended family’ living under the one roof, may give way to smaller size family units, which may create additional demands for housing in rural areas, potentially leading to pressure on land. Safety and accessibility to roads, water, sewerage and power, would require Government involvement but the Commission has not received any information to suggest that land availability is a significant or an incipient problem, in any location. In any such case, customary dispute resolution procedures are likely to result in decisions which balance the interests of individuals against those of the clan, tribe or group. The NLDT recommended the introduction of special land courts and modern alternative dispute resolution (‘ADR’) systems for land disputes and the Commission commends that approach.
5.2.1.3 There is however, the problem of affordability of housing in rural areas. NGOs have attempted to address this problem through micro-finance strategies based on community-based revolving credit. Again, this is not to suggest direct Government involvement in rural housing finance. NGOs are better equipped and motivated to perform this function and, to the extent Government budgetary circumstances permit, utilising the skills of such NGOs, with appropriate probity safeguards, would be a much more efficient approach. Unlike urban areas, where land and housing is scarce and any demand side incentives would only serve to push up prices, in rural areas, well-targeted incentives, such as tax concessions for private sector provision of community-based micro-finance offers scope for improving housing in those areas, in which the vast majority of Papua New Guineans live.

5.2.2 Institutional housing in remote and rural areas

5.2.2.1 There are different housing needs for Government employees in remote and rural areas e.g. teachers, police, workers in aid outposts etc. They are usually brought in from another part of the country, remain for fixed terms and expect to leave the location after that period. Historically, the Government has built and provided houses to them, either with or without rental. Generically, such rented accommodation has come to be known as ‘institutional housing’. The provision of such housing has historically been prone to significant inefficiencies, which will be discussed in subsequent chapters of this report.

5.2.2.2 From a reform perspective, such smaller towns require particular consideration of their housing issues. For those workers who are drawn from the local community, their shelter requirements usually do not change from the traditional basis. For workers brought in from other areas, meeting their accommodation needs through institutional housing may require access to customary land on fair terms and the element of transience of occupants needs to be factored in to the housing strategy adopted in such locations.

5.2.3 Urban and peri-urban areas

5.2.3.1 Clearly, urban drift needs to be addressed particularly through economy-wide structural and macro-economic reform which addresses the root causes of such migration and stems it at its source. While a detailed examination of urban drift is beyond the scope of this review, appropriate policies could include;

- Macro-economic policies to control inflation and stabilise the national budget;
- implementing pro-growth and pro-poor initiatives which move towards bridging the gap between the small number of ‘haves’ and the vast number of ‘have nots’;
- creating income-earning opportunities in rural areas;
- improving delivery of health and education facilities in rural areas;
- increase employment in urban areas, particularly through a housing policy which provides employment opportunities where the unemployed are most concentrated – in urban areas;
- ensuring the safety of people by improving law and order;
- encouraging the building of homes in rural areas which meets minimum safety and health standards; and
• extending roads and other networks to supply power, water and provision for sewerage and providing such services reliably, to people in rural areas.

5.2.3.2 Where State ‘raw’ land is available, substantial tracts need to be released quickly and effectively for sufficient subdivision and construction of residential construction.

5.2.3.3 In those urban areas where State land has been, or is being, exhausted, implementation of initiatives to bring customary land ‘to market’ for housing are necessary.

5.2.3.4 Subsequent chapters of this report describe in detail the reforms needed to achieve desired outcomes on the supply side, with practical recommendations and implementation strategies.
6.0 STRUCTURE AND COMPOSITION OF THE HOUSING INDUSTRY

6.1 Market Structure

6.1.1 The housing and real estate industry in PNG consists of various participants, including: town planners; tenants; landlords; providers of materials; builders and project designers; valuers; lawyers; architects/draftspersons; financiers; land owners and purchasers; local and central organs of the state, including government agencies; religious organizations and representative organisations. The participants, in some situations, are dependent on each other’s performance. Each step taken to solve the housing supply will require contributions from all sectors.

6.1.2 It is important to identify the main categories of players in the PNG housing market context as different economic incentives and responses to market conditions relate to the various categories of players. The owner-occupied and lessor segments comprise the demand side of the market for the purchase of houses; renters/tenants/lessees comprise the demand side of the market for rental housing; while the developers and builders comprise the supply side of the market for land development and house building. The main categories of participants and their roles which make up the housing and real estate industry are represented by the schematic diagrams and descriptions below:

6.1.3 Owner-occupied houses in the country have been either self built, or bought under various assistance schemes, or through the government giveaway scheme, private sector housing schemes or though the open market.

6.1.4 In PNG a portion of the housing market consists of owner occupied dwellings mostly by individuals who intend passing the title on to their children to maintain ownership. This is common in most centres around PNG. The proportion of owner-occupied housing, however, is not known and would be difficult to establish with current statistical collection arrangements.
6.1.5 The lessor or landlord is a person who grants a lease of property and who holds a title to convey the right to use and occupy a property under a lease agreement. Under the lease agreement, the lessor /landlord prescribes the set of rules that binds the occupancy of the property with the landlord. The rules set the obligations of the landlord who should from time to time respond to the tenant’s complaints or needs.

6.1.6 Although the tenancy arrangements should be legally enforceable, it appears that agreements made directly between the landlord and the tenant are often oral and, therefore, difficult to enforce. Where in writing, the absence of involvement by lawyers also seems to create significant enforceability problems. This is true for individual landlords but for corporate landlords the arrangements would generally be more organized and enforceable.

6.1.7 Lessors range from individuals, the larger private sector companies, landowner groups, Government statutory bodies, Government Departments, the National Housing Corporation and others. Aside from the government institutions, all other lessors are investor-landlords. Although the National Housing Corporation is required to operate on the basis of commercial principles, that objective has been mixed with social obligations. A more detailed analysis of its operations are contained in Section 6.2.4. The profit-oriented rental segment of the housing industry has grown in most centres of PNG whereby lessors either expand or redevelop the existing house, buy houses on the market, or buy vacant land to develop for leasing, triggered by tenant demand.

6.1.8 A tenant holds a lease agreement and has the right to use or occupy a property under a lease agreement. The lease agreement outlines the responsibilities of the tenant and the landlord which is perceived to be binding.
6.1.9 Tenants taking occupancy of the house lodge a financial bond (to cover any damage they may cause, and any outstanding rent on termination of the lease) and an upfront month’s rental to the landlord followed by monthly rental payments. The tenancy agreement can vary by landlord e.g. in some instance the ‘user pay’ policy applies where the tenants pay for power and water bills, while the landlord meet the other overhead costs.

6.1.10 The demand for rental housing has significantly increased due to the growing economy and increased employment in centres throughout PNG. Tenants vary from those who have some form of housing allowance and those who either share the cost of rental or individually meet their own rental needs and can be individuals who are employed, with or without dependants, or short term visitors.

6.1.11 The Commission has attended many consumer complaints from tenants who claimed to be ignored by the landlord when approaching landlord to address the housing conditions and other related issues. This will be discussed in detail under the Consumer Protection Section of this Report in Chapter 10.

6.1.12 The developer performs the role of converting raw land (or ‘portions’) either into serviced lots for sale to others for housing construction; or to build houses on them, itself, for sale on the market as a ‘land and house’ package.

6.1.13 Large developers such as the superannuation industry are now undertaking land development and building houses on serviced lots for sale.

6.1.14 General feedback from the inquiry is that if land is available as serviced lots on the market for individuals to purchase and build their own house, the total cost of the land and house will be lower than if the purchasers have to purchase the complete land and house package from the developer.
6.1.15 The operations of companies in the building industry include residential, commercial and industrial construction, with some specialising in one or other segment and others involved in more than one segment. The housing sector of the construction industry has seen a significant number of participants consisting of existing and new entrants into the market. The building and construction companies are made up of large corporate organizations and smaller companies involved in building of houses. Some organizations for which building is not their main business, have a small unit of building employees in the whole operation. The major building construction companies are staffed with skilled employees including from carpenters, plumbers, electricians, architects, draftsman, cabinet makers, etc. With the employment of all these professionals, they are well equipped to easily coordinate and execute housing projects. For small scale operations, it could involve hiring or sourcing these skills on a needs basis.

6.1.16 The larger building companies include Fletcher Morobe, Home Guard Limited, Associated Builders & Contractors, Ela Builders & Contractors, Hornibrook NGI, Goroka Builders, Tasman Builders, Guangdong construction (PNG) Ltd, Hyper Construction, Lae Builders & Contractors, Island Contractors Limited, etc. The entry into this sector is easy and each province throughout PNG has its building companies who undertake housing construction in the provinces. The larger companies often work on large scale housing projects in a number of provinces.

6.1.17 Houses can be built from prefabricated materials, home-building kits, or from building materials sourced from different suppliers and used for ‘on-site’ construction. PNG Forest Industries Ltd and Kwik Built, a company related to Hardware Haus, market timber kit homes, while Atlas Steel markets steel kit homes.

6.1.18 Some purchasers of land take responsibility for having their houses built by tradesmen they contract to provide relevant building services e.g. carpenters, plumbers, electricians, block layers and masons etc etc. Other purchasers may opt to enlist their ‘wantoks’ to assist in the building of their houses themselves.

6.1.19 The building and construction industry has grown, reacting to the need for further housing development; creating a degree of competition among these companies. In terms of the relevance of spatial differences to industry structure and competition, it is to be expected that the relatively limited demand for residential construction in rural and remote areas, as well as in smaller regional townships, would mean that the scope for competition is correspondingly limited. So long as entry is free, however, potential competition from new entrants would constrain unjustified price increases. Furthermore, as competition intensifies in urban areas following implementation of the reforms recommended herein, a larger pool of potential entrants, most of which would be small, PNG National-owned builders, would be created, who could enter such rural areas, if existing builders raise prices unduly.

6.1.20 If effective provision of micro-finance for housing can be encouraged, from public housing budgets, using NGOs or private sector intermediaries, or through appropriate tax incentives, the rural housing industry offers significant scope to grow; generate skills where they are needed most; improve standards of living; contribute to economic growth; and reduce urban drift.

6.1.21 Entry into the building sector, in a legal sense, is unrestricted and, if the corporate form of organisation is adopted, only requires company registration with the Investment
Promotion Authority. The current practice of granting UDLs to vertically integrated companies, for both land development and house construction, however, raises the economic barriers to entry and limits participation in the residential construction sector to the larger corporations. The construction of buildings and houses are required to adhere to the design approved by the Building Board Authority. There is currently no regulatory oversight of the building and construction companies but it is understood, the Department of Commerce and Industry has instituted a registration process for the companies to be recognised by the Department for the purpose of awarding building and construction tender projects under the control of that Department.

6.1.21 With the predicted boom in building and construction, companies will be stretched out due to short-term capacity constraints. The Commission notes that occupational health and safety of construction workers as well that of the general public within the vicinity of construction sites may be an issue. No submissions were received as to whether there are any statutory safety procedures in place and if at all these requirements are being adhered to by building companies.

6.2 Brief Description of Main Facilitators

6.2.1 The housing industry consists of participants who are largely dependent on each other in the provision of houses on the market. The role of facilitators in the market is to facilitate the purchase and building of houses and those identified under the category of facilitators are both Government organisations and from private sector. In Papua New Guinea the major facilitators identified in the industry, although not in the order of significance, are listed in Table 6.1.

6.2.2 These participants in a number of ways interact either directly or indirectly in the provision of houses. The Department of Lands plays an important role as it is acknowledged that without land, housing development of any form cannot take place. As such, both private and public institutions depend on Department of Lands to facilitate and identify alienated land before development could take place. The Lands Department can also facilitate customary land to be registered and leased for development. The banks and financial institutions as a requirement have always required formal land title as a precondition before any form of financing for loan can be approved, so that their mortgage interest can be registered and the loan thereby secured by property. It is necessary for all institutions to play their respective complementary roles efficiently as any inefficiency in one institution has the potential to affect the efficiency of the other institution which ultimately affects the overall efficiency of the housing industry.
Table 6.1: Facilitators in the housing industry

<table>
<thead>
<tr>
<th>Facilitators</th>
<th>Role in the Housing Industry</th>
</tr>
</thead>
<tbody>
<tr>
<td>Real Estate Companies</td>
<td>Manage, lease or sell properties on behalf of owners</td>
</tr>
<tr>
<td>Banks and non Bank Financial Institutions/superannuation</td>
<td>Provide financial loans/equity for purchase of private houses and for commercial developments, including financing for land development and residential property investment. In the rural areas, micro-finance providers have provided loans for home building, but on a small scale, inadequate to make an impression on the scarcity, due to the enormous scale of the problem.</td>
</tr>
<tr>
<td>Insurance Companies</td>
<td>Provide insurance needs for housing cover</td>
</tr>
<tr>
<td>National Housing Corporation</td>
<td>Mandated by the Government to provide affordable housing to citizens under the National Housing Corporation Act</td>
</tr>
<tr>
<td>Department of Lands and Physical Planning</td>
<td>Deals with all land matters for town planning; housing development; and approvals for building plans as well as compliance issues. In some provinces, responsibility delegated to provincial level government building boards, but latter are chaired by representatives of DL&amp;PP. A key responsibility is the control of the land title registration system, under which title is granted to State land when sold and recording and certifying the fact of transfer of title on subsequent sale or transfer of properties. The holder of the statutory office of Valuer-General determines the value of land for charging rental for State land and for related rating purposes.</td>
</tr>
<tr>
<td>Municipal Building Boards</td>
<td>Screen all building plan, under authority delegated by DL&amp;PPs</td>
</tr>
<tr>
<td>Architects</td>
<td>Responsible for housing design</td>
</tr>
<tr>
<td>Valuers</td>
<td>Provide professional valuations of property, often used by banks to establish value for the purpose of determining loan amounts, under their loan-to-valuation-ratio polices (LVRs).</td>
</tr>
<tr>
<td>Private land developers/investors</td>
<td>Responsible for developing land into serviced building lots</td>
</tr>
<tr>
<td>Customary Landowners</td>
<td>Traditional landowners who control customary lands and can supply land for housing development, under an appropriate legal framework. They account for 97% of land in PNG.</td>
</tr>
<tr>
<td>Building Material Suppliers</td>
<td>Vendors of building materials to builders or construction companies</td>
</tr>
<tr>
<td>Utility Companies (PNG Power, Eda Ranu, Waterboard and Telikom)</td>
<td>Responsible for connecting essential utility services such as electricity, water, sewerage and telephone infrastructure.</td>
</tr>
</tbody>
</table>

### 6.2.1 Real estate companies

6.2.1.1 There are a number of real estate companies operating mainly in the major towns in the country with most of the companies based in Port Moresby and Lae. The entry into the
real estate industry is unrestrictive and the type of activities performed range from the ownership, management, lease, sale, valuation and appraisal, brokerage, development and consulting in respect of housing development and improvements situated in Papua New Guinea.

6.2.1.2 Entry into the market by potential real estate companies and exit of existing companies is relatively easy. To enter the market, potential real estate companies have to meet the requirement under the Companies Act to register as an incorporated entity with the Investment Promotion Authority (IPA), if they adopt the corporate form of business organisation. Entry by natural persons is unrestricted. Currently, there are significant number of real estate companies in the market, hence competition is strong.

6.2.1.3 Real estate companies operate on a commercial basis. Over the years, some professional real estate companies have grouped themselves to form the ‘Real Estate Industry Association’ which is the peak industry body with the ultimate aim enshrined in its rules to act as lobby group for the real estate industry on any issues affecting its operation and foster goodwill and harmony between members of the Association. The submission by REIA to this inquiry claimed to have a total number of nine (9) members. Membership to this association is not compulsory which resulted in many real estate agencies operating on their own without necessarily seeking to join this grouping. Apart from these members, there are significant numbers of real estate companies who are not members of the REIA and are operating individually.

6.2.1.4 While there appear to be an adequate number of real estate companies in the market place to provide effective competition, the current circumstances in the provision of housing have not significantly changed over the years. From the housing perspective, although there have been some developments in some market segments; housing is still inadequate to meet existing demand which has in recent times outgrown prevailing supply.

6.2.1.5 Real estate companies deal with clients from different market segments. Generally almost all real estate companies perform the same businesses but there are few exceptions where some real estate companies have dual or diversified operations performing some other functions outside of their core business activity. The operation and function of the real estate companies is sustained through the Commissions from sale, letting or rental and other auxiliary services. This commission varies between different real estate companies but most commissions are fixed for the services provided while others vary with the deals on a case by case basis.

6.2.1.6 Presently, there is no specific industry regulator of the real estate companies that can adequately deal with issues affecting the real estate companies. Nor is there any regulation either to ensure consumer protection or professional standards. There is no regulation of licensing, control of moneys accepted by agents by way of trust funds, educational standards nor protection of tenants such as limits on rental bonds, bond money to be held by someone else other than the landlord or agents, fair contracts and limitation on rental increases ‘within lease’ and controls on the eviction of tenants.

6.2.1.7 In many other countries, the real estate industry is regulated to ensure fair play within the industry itself and that service quality and reliability is maintained at acceptable levels. Such regulation is usually conducted in a fair, accountable and transparent manner.
6.2.1.8 The absence of any formal regulation in the PNG context to some extent gives rise to an uneven playing field amongst the real estate companies and between them and consumers, with no enforceable checks and balance on the operations of industry stakeholders. Importantly, it does not provide consumer protection over the level of service that they receive.

### 6.2.2 Banks and financial institutions

6.2.2.1 The role of the banking and financial institution sector is critical for any developmental process and the housing industry is no exception. Most of the housing development and purchase of housing in the country is being financed through loans by these institutions.

6.2.2.2 The Banks and Financial Institutions sector has grown over the years and currently there are four commercial banks and other deposit-taking institutions, including 21 savings and loan societies and 10 licensed financial institutions. Savings and loan societies are mainly linked to groups of employees, or are regionally based. Licensed financial institutions include credit providers that also provide limited deposit facilities such as term deposits and some microfinance entities.

6.2.2.3 There are also some very small microfinance groups that are not presently covered by the prudential regulator. The not-for-profit sector is also represented in the micro-finance sector, with at least one NGO active in housing micro-finance until recently – HFH. This organization has ceased operations while it is reviewing its activities. PNG Sustainable Development Programme is also active in micro-finance, although it does not provide finance for housing. While not a licensed deposit-taking institution, the PNG Government’s National Development Bank lends to rural and regional borrowers from capital provided by the Government but, it is understood, not for housing.

6.2.2.4 Support from these financial institutions either in the form of equity or outright capital injection, has been a significant component in facilitating growth and development of the housing industry over the years. The Commission recognises that being an integral part of facilitating the overall economic development process, the operation and conduct of the banks and other lending institutions are critical. Any inefficiency in that sector will have an adverse impact on the housing sector, and, indeed, other sectors of the economy as well.

6.2.2.5 The Commission also notes that banks and financial institutions have prudential guidelines that govern their overall conduct and operations which are being regularly checked by the Central Bank in its role as the prudential regulator. In terms of financing of housing projects, each institution has its own requirements, that applicants seeking any financial assistance are required to meet, before housing loans are approved, which are also independent from the government. Nevertheless, the Commission recognises that Banks and Financial Institutions play a very important role in providing much needed capital to home buyers as well and other institutions and businesses seeking to engage in the construction of housing.

6.2.2.6 The banks and financial institutions also charge various banking and service related fees when dealing with the provision of housing loans. Foremost among the charges imposed by these institutions are the interest rates applied to their loan facilities. The Commission notes that these rates vary between different lending institutions depending on competition
and are largely driven by the Kina Facility Rate set by Bank of PNG and the overall risk and cost of doing business in the PNG context.

6.2.2.7 In PNG, there is no consumer protection type of regulation or a self regulatory code of conduct covering the provision of banking and financial services.

6.2.3 Insurance companies

6.2.3.1 The Commission notes that taking out an appropriate insurance cover is an integral part of the overall framework of the development of the Housing Industry as banks and financial institutions will generally require insurance cover as an important prerequisite to approving financial loans for housing development. As a home is usually the largest single expenditure/investment a person makes, insuring it is generally considered to be a prudent safeguard. The submissions from the Office of Insurance Commission and Croesus Limited claim that there is sufficient competition in the general insurance industry and the provision of insurance cover differs between different insurance products. The availability of information on various products is made through publications and commercial advertising and consumers have a choice of products to meet their needs.

6.2.4 National Housing Corporation

6.2.4.1 The government’s role in the provision of housing development in the country is being implemented through the National Housing Corporation (“NHC”), which is established by an Act of Parliament, the National Housing Corporation Act (1990) and is mandated to facilitate the development of a private market in low to mid-cost housing that is affordable for low to medium income citizens of Papua New Guinea. NHC is a wholly state-owned entity which was formed as a business enterprise and is accountable to the National Executive Council through the Minister for Housing and Urbanization.

6.2.4.2 According to the NHC corporate plan (2006-2011), it has a mission to operate commercially oriented housing/land portfolio to ensure increasing levels of access to affordable and appropriate range of housing and with a vision to build and develop healthy communities by way of provision of appropriate and affordable houses and planned settlements for low and medium income citizens.

6.2.4.3 The National Housing Corporation has been vested with the following corporate objective as defined in its corporate plan to:

- develop land;
- provide housing;
- arrange housing mortgage financing;
- provide agency functions to the state;
- provide property management services;
- provide project (construction) management services;
- develop housing (real) estate development;
- develop building material industry; and
- develop an efficient workforce to deliver those services.

6.2.4.4 Historically, the NHC has been a key element in PNG housing policies to meet the country’s housing needs through the development of land and construction of houses for sale
and rental to citizens. The NHC role previously encompassed both public housing and institutional housing for Government employees. In recent years, however, it has not been effective in its operations. The main issues limiting NHC’s performance, identified by the National Research Institute in a study into housing policy for the National Housing Taskforce, are:

- Conflicting Objectives
- Lack of Competitiveness
- Low Rental returns
- Divestment of housing stock and lack of finance for new stock

Consequently, the NHC role of managing institutional housing for employees of Government departments has been, or is progressively being transferred to the Department of Personnel Management. For some years, no new public housing has been built by NHC.

6.2.4.5 In relation to its objectives, NHC is supposed to be operating as an incorporated entity on a commercial basis. That conflicts with its other motive of providing affordable houses to low and middle income wage earners or lease at an affordable rental charge. Those mixed objectives are claimed to have blurred the focus of NHC and distracted it from achieving its intended purposes.

6.2.4.6 The NHC, on the other hand, drew attention to the following:

- the alleged failure of the Department of Finance to remit moneys it receives for rents from tenants of NHC dwellings, back to it, which restricts its cash flow and ability to operate successfully on a commercial basis;
- long-standing differences between the Minister responsible for the NHC and the NHC itself, which has had the effect of paralyzing its operations;
- the conflicting objectives in its charter, of, on the one hand, operating on a commercial basis; and, on the other, of providing housing to Papua New Guineans, at affordable cost.

6.2.4.7 The last issue has been discussed elsewhere in this report, pointing out that it has achieved neither objective and, according to submissions to this review and one-on-one discussions with stakeholders, on the basis of its track record, is unlikely to be able to do so.

6.2.4.8 Recent media reports suggest that over the years, NHC performance has been mixed at best. The entity has delivered some housing projects but the output has not been anywhere near sufficient to meet the overall demand for the housing in the country. Most of the current stock of houses owned by the NHC were built under the then Department of National Housing. Despite its social housing obligation objective, NHC has not been active as far as construction of homes for PNG citizens generally is concerned (as opposed to public service housing provision). In relation to the construction of homes under public service home ownership schemes, the role of NHC has largely been supplanted by the Department of Personnel Management.

6.2.4.9 Being a major player in the housing industry with a large share of the market in the supply of houses in different parts of the country, the NHC has not been effective in using

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15 The Commission makes this statement based on the sentiments expressed by the public and the reported infighting between the management and Minister responsible which has been publicised widely in the print media in recent times.
this market advantage to further develop the industry for the benefit of the general public. In accordance with the scope of this review under the terms of reference, the Commission has considered the operations of the NHC to identify any policy, institutional and operational issues that the Government could explore with a view to overcoming those challenges and achieving its objectives in the housing sector.

6.2.4.10 According to the annexure to the submission by Treasury to the Commission’s Issues Paper, outlining current housing projects and plans, which is understood to have formed part of the submission to NEC by the NHTF, the proposal for the National Housing Development Project (NHDP), considered on 20th December 2006, included a vehicle company to be established under the control of NHC to implement the NHDP. Some serious problems were identified with the proposal, including the lack of tendering in the allocation of work to a foreign company (despite local firms, banks and superannuation funds being available to undertake the investment).

6.2.5 Department of Lands and Physical Planning

6.2.5.1 The Department of Lands and Physical Planning (DL&PP), the department responsible for all land matters of the country, administers all alienated land (State and Freehold) in PNG; and also facilitates customary land title creation and transfer (land under the ownership of the original inhabitants of PNG); at the discretion of the customary landowners.

6.2.5.2 The mission of the Department is to promote the best use of land in PNG in the interests of all citizens, individually and collectively, by ensuring that an orderly process exists for land to be made available for sustainable economic and social development and that land rights are guaranteed. To achieve this mission the Department is working toward partnership with Local, Provincial and the National Governments, major local and offshore investors, key stakeholders and the public at large.

6.2.5.3 A priority programme of reform has been formulated for the department by the National Land Reform Task Force, which reported in 2007, under which it is intended to achieve the following:

- Structural Reform of the DL&PP
- Land Reform
- Preparation of Provincial Development Plans
- Information Systems, Communications and Technology

6.2.5.4 The Department, through its Land Administration Division, also provides support services to the Papua New Guinea Land Board. The Land Board is established under the Land Act 1996 and its roles and functions are set out therein.

6.2.5.5 Unlike other Statutory Boards, the Land Board is a non-working Board and the members only meet when a meeting is scheduled for the Board to sit and consider applications referred to it by the Minister or the Department for grant of state leases.

6.2.5.6 During the sitting of the Land Board, applicants are required to provide the following important information or evidence at the Land Board Meeting;
• Evidence of financial standing, bank statements, if applicants are financing the
development through own savings.
• Architectural Design and Building Plans of the intended development.
• How the applicant intends to finance the development - if it is through
  o bank loan, a letter of commitment is required from applicant bank;
  o a housing scheme, a letter from applicant’s employer confirming their
    eligibility; and
  o Nambawan Super or NASFUND a contributor’s account statement is
    required.16

6.2.5.7 It is through this process that the Land Board makes its final decisions on the
applicants and land titles are issued to those who meet all the requirements. While these
procedures are prescribed in the legislation, the Commission is not in a position to form
conclusive views on the level of compliance by the Land Board with those requirements,
because that would require an in-depth study of its operations. The Public Accounts
Committee (“PAC”) of the National Parliament has, however, reported extensively on the
deficiencies of the title registration; title transfer; and legal encumbrance registration system
and there is considerable public disquiet about its operations. The keeping of records of land
titles by the Department and effective response to clients have been widely described as poor
which is further compounded by the shortage of alienated land in the country. A number of
land title disputes are before the Courts. There is sufficient information on the public record,
therefore, which suggests that the operations of the Land Board and DL&PP merit significant
reform.

6.2.5.8 The Government set up a National Land Development Taskforce, which has
completed its Report and its findings and recommendations. Following the NLDT report, the
Government has set up a National Land Development Project, under the stewardship of the
Deputy Prime Minister, the Hon Sir Puka Temu, M P within his responsibilities as Minister
for Lands and Physical Planning to look into the affairs of the DL&PP and other related
issues with a view to making appropriate recommendations to improve the overall
performance of the Department. That process is now in train.

6.2.6 Municipal Building Board Authorities

6.2.6.1 In the development of alienated land for building construction, there is no one agency
that has the overall power to give final approval for any such construction whether
commercial or private. The process involves a combination of agencies before the building
board gives its nod for the development. In the example of the National Capital District, the
main agencies that are involved in the development approval process are as follows:

a) The National Capital District Physical Planning Board (NCDPPB) and its support
  unit, the National Capital District Physical Planning Office (NCDPPO) operating
  under the Physical Planning Act 1989 and the Physical Planning Regulations 1990,
  promulgated thereunder;

b) The PNG Lands Board and its support unit, the Department of Lands and Physical
  Planning (DLPP) operating under the Lands Act 1996; and

16 Information sourced from http://www.lands.gov.pg
c) The National Capital District Building Board (NCDBB) and its support unit, the National Capital District Building Authority operating under Chapter 301 of the Building Act, and the Building Regulations 1994, thereunder.

6.2.6.2 The Building Board function initially was exclusively within the control of the National Department of Works but in some areas has been transferred to a number of town authorities who have shown competencies in taking this responsibility for regulation of building activities. The Commission is aware that Port Moresby, Lae, Mt Hagen, Madang, Goroka and Kokopo have their own building boards. The operations and function of the respective boards are administered through the Building Regulations under the Building Act.

6.2.6.3 In terms of spatial differences, while the building approval function has been devolved to Provincial Governments, the National Government has retained close involvement appointing the chair and deputy chair of the Boards. The role and extent of responsibility delegated to Provincial and Local Level Governments, however, are not known, nor the efficiency with which they perform their functions.

6.2.6.4 The respective town Boards have regulatory oversight over the type of building structures to be erected in each town and also plays the lead role in approving all building plans. However, the Commission notes that there have been concerns on the turn around time of the boards in considering and providing feedback on applications for approval of building plans and the regular inspection on construction sites that failed to meet the Board’s requirements. These have the potential to delay and frustrate building developments, with consequential costs for the parties involved.

6.2.6.5 When buildings are constructed, they must be consistent with the original approved architectural design. Where the construction of the building is not consistent with the approved design, the Board has the power to instruct demolition or modification of the building to ensure that construction is consistent with the approved plans.

6.2.6.6 The board’s inability to enforce regulations has resulted in widespread disregard of the law particularly the erecting of unapproved structures in towns. Commonly sighted in the residential zone in major towns like Port Moresby are tucker shops, stalls and shanty houses.

6.2.6.7 It is understood that the relevant building authorities are tasked with the power to undertake the following:

- Investigating possible contraventions of relevant law on buildings;
- Instituting proceedings against those who contravene the law;
- Promoting appropriate standards of conduct; and
- Providing advice and assistance to building and construction industry participants.

6.2.6.8 However, it is not known to what extent the Boards have fully utilised their powers to ensure effective regulation of the building industry.
6.2.7 **Architects**

6.2.7.1 The design of houses also influences the cost of construction and architects play an important role to ensure their design suits the client’s need and also meet municipal building board requirements.

6.2.7.2 The Institute of Engineers has advocated a shift in design in housing which it claimed has been mainly borrowed from other countries. It wants locally designed housing which is environmentally friendly, uses local materials and is cost-effective to be built. The Commission believes that this can be achieved through discussion between the Institute of Engineers, Institute of Architects, the National Institute of Standards and Industrial Technology and the Building Boards on adopting design that suits the PNG environment and context. There are examples of cost effective housing in PNG, e.g. HFH projects, from which lessons could be drawn.

6.2.8 **Valuers**

6.2.8.1 The role of valuers in the housing industry is important as it provides professional, independent and confidential advice on all types of residential, industrial, commercial and rural property valuation in the country. The value of a property for sale and the valuation (whether under or over) can have a profound effect on both the demand and supply side of the market. Valuation takes into consideration various aspects of the property from safety to the quality before a final value is given.

6.2.8.2 The Office of the Valuer-General within the Department of Lands and Physical Planning offers a wide range of valuation services to the general public particularly on Rating & Taxing Valuation (Valuation Rolls), Valuation of Unimproved Value, Reappraisal Valuation (Rent review), Acquisition & Compensation Valuation, and Probate Valuation. Apart from these services, there are individuals who are either licensed or non licensed performing appraisal of property value and this is done due to absence of market based pricing mechanism. The Commission understands that valuation of properties is often guided by sets of rules that determine the value of the property bearing in mind that no two properties are identical although in the same location.

6.2.8.3 Valuations in general are regulated by the *Valuation Act* (Chapter 327) and through this Act provides for the existence of the PNG Valuers’ Registration Board for professional valuers to become members of this organisation. It is understood, however, that no course of training or education has been specified as a minimum competency qualification for valuers as a pre-registration requirement.

6.2.8.4 A question that arose was the efficiency and ethics of valuation of properties. Lenders have guidelines for the ratio of the amount of a loan granted to the valuation of a property (LVR). In times of high inflation, clearly, valuations also go up. They are also influenced by scarcity. Essentially, valuations represent the prices that prospective purchasers are willing to pay to willing prospective vendors of properties.

6.2.8.5 Because of scarcity and inflation, a ‘bubble’ could easily develop, exposing purchasers and their financiers to undue risk. Financiers manage this risk by decreasing the LVRs they use, effectively requiring a greater proportion of the price to be financed by the purchaser, through a deposit. Also, in certain large property transactions, more than one
valuation may be commissioned by the lender. The objective is to limit bad debts (usually described as ‘non-performing’ or ‘delinquent’ loans).

6.2.8.6 There is a question whether valuers contribute to this risk. In other jurisdictions, such as Australia, State/Territory based licensing regulates the entry and ongoing conduct of valuers. Competency is gained by qualification through universities, which entitle graduates to practice in the profession, subject to probity requirements. The Australian Property Institute (“API”), which includes the property valuation profession in its membership, administers a self regulatory regime, authorized by the Australian Competition and Consumer Commission (‘ACCC’ – the Australian counterpart of the ICCC). Generally API membership is adopted as a norm by Governments and banks etc. API, in effect, regulates various segments of the property industry under self-regulatory arrangements.

6.2.8.7 Written and oral submissions from valuers, on the other hand, argued that valuations reflect the recent prices at which comparable properties were bought and sold in comparable neighbourhoods and valuers had little scope to manipulate valuations.

6.2.8.8 The transparency suggested through release of current prices/rentals, from reliable databases, would go a long way to resolving this problem. Prudential safeguards by lenders should not be ‘regulated out’ by controlling maximum deposit levels, as that could trigger market collapses, where property asset prices have risen disproportionately to other assets and created a ‘property bubble’. Indeed, BSP drew attention to this risk by pointing to the US ‘sub-prime’ crisis, arising from poor creditworthiness safeguards.

6.2.9 The legal profession and legal documentation

6.2.9.1 It has been submitted that property rental and purchase documentation is ‘non-standard-form’, leading to difficulties for consumers. One example mentioned by BSP was the lack of uniformity of property purchase contracts in including a ‘subject to finance approval’ provision. The difference between its inclusion and non-inclusion has very serious financial implications for the consumer.

6.2.9.2 Similarly, a range of matters, including arrangements which govern adjustments to rentals, may or may not be included in lease agreements, again with significant financial consequences for consumers.

6.2.9.3 The answer appears to lie in regulating for the mandatory incorporation in ‘pro-forma’ documentation, of certain conditions, which may either be non-excludable or excludable, according to their nature, in such contracts.17 The parties would not be prevented from including other provisions, of which they are explicitly made aware, or excluding certain provisions defined as ‘excludable’, but would be unable to ‘contract out’ of certain essential, ‘non-excludable’ provisions.

6.2.9.4 A further problem noted was the claimed high costs of preparation of legal documents. An approach adopted by many developed countries is to encourage the evolution

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17 For example a ‘subject to finance’ clause in property purchase contracts could be excludable (with the prospective purchaser’s attention drawn to it), if unacceptable to the vendor. In times of severe scarcity, as is the case now, vendors are in a strong bargaining position (i.e. a ‘sellers’ market’) and should not be compelled to enter into contingent sale contracts, when alternative purchasers, with finance in place, are ready, willing and able to conclude a purchase. On the other hand, a ‘warranty of good title’ is at the core of the transaction and should not be excludable.
of ‘conveyancers’, who specialize in property title transfer arrangements. Their educational qualifications, while in some respects, mimic those of lawyers, need only be limited to the transactions of purchase/sale/lease of properties. This has had the effect of reducing legal fees for conveyancing.

6.2.9.5 In combination, standardizing essential terms of the conveyancing contract, and encouraging the emergence of a more specialized profession, would go a long way to addressing contractual problems and costs of legal services in property transactions.

**6.2.10 Customary landowners**

6.2.10.1 As land is an issue affecting the growth of the housing industry and 97% of the land is customary land, it is important to align housing development with the aspirations of the customary landowners. In urban centres, it is noticeable that the peri-urban area is customary land and how this land can be brought to the formal market for housing development is not isolated from other development needs of the country.

6.2.10.2 Under the National Land Development Project, positive steps are now taken to establish a Division in the Department of Lands and Physical Planning to deal with customary land issues particularly for development. The Government through the Office of Urbanisation, assisted by NRI, has also undertaken some pilot land development projects with customary landowners to bring their land to market for development.

**6.2.11 The building materials sector**

6.2.11.1 In the housing industry, the supply; prices and availability of building materials is an important factor in the overall cost of supplying housing in the market. The Commission recently undertook studies on the wholesale and retail industries in PNG including hardware stores and noted that there has been an increase in the number of suppliers of materials for building houses.

6.2.11.2 However, although competition can occur at the retail level of the building materials market, if this material is produced by a single manufacturer or supplier of imports, the retailer does not have sufficient bargaining power to secure competitive prices; hence this cost is passed to the builders of housing and, in turn, to consumers.

6.2.11.3 Suppliers of building materials vary in their operations but generally it appears that they become a ‘one-stop-shop’ for all the material needs of the building companies. Where the materials are not being sourced locally, the builders, either directly or indirectly, after discussion with the suppliers who may be located overseas, normally source materials abroad.

6.2.11.4 A range of materials is required for the development of land to produce serviced building lots. They include

- Concrete and PVC pipes for sewerage;
- Cement and sand for kerbing and guttering
- Road base, bitumen etc for internal roads
- Copper piping for installing water reticulation networks
- Steel or timber for street lighting poles
- Street lighting poles and electric wiring
6.2.11.5 The subsequent construction of a dwelling includes requirement for:

- Cement and sand for concrete foundations
- Masonry blocks or clay bricks
- Roofing materials – steel sheets or concrete tiles
- Wall board for internal wall cladding
- Copper and plastic tubing for water plumbing
- PVC pipes for stormwater and sewerage connections
- Timber for framing
- Glazed window frames
- and a range of other products such paint, plumbing and electrical fittings and fixtures, door furniture etc etc

6.2.11.6 Cement, which is produced in PNG, is protected by a tariff of 15%. It is not known what other building products are protected by tariffs.

6.2.11.7 As an alternative to the construction of a dwelling on-site, packs of pre-fabricated components of a complete house can be purchased and erected on site. They include pre-packed timber kits or steel kits. Both types of kits are manufactured within PNG. PNG Forest Industries and KwikBuilt Kit Homes market timber home kits, while Atlas Steel markets steel home kits. There are indications that other firms are interested in exploring the possibility of entering the kit home pack segment of the home-building market.

6.2.11.8 Many of these materials are imported, some are produced within PNG, but all require to be transported from their source to the building site by sea and by land. The efficiency and costs of transport, which includes shipping, fuel and port costs, influences the delivered cost of the materials.

6.2.11.9 The provision of roads and the standard of their maintenance, as well as the time taken to load/unload cargo at the ports, influence the overall costs of building materials.

6.2.11.10 The comments below, in relation to the efficiency of ‘utilities’ and their relevance to the efficiency and costs of provision of housing, apply equally to the ports and road networks. A submission from PNG Ports indicated that efficiency in its general operations, which has been made a focus for the management, has shown improvement and that land issues have been given priority.

6.2.11.11 A further dimension to the cost and efficiency of supply of building materials is that a growing residential construction sector, by expanding the demand for such materials, encourages new entry into that sector. Increased participation leads to competition, which spurs efficiency and usually results in reduced prices, which in a competitive building market, should flow through to purchasers of homes.

6.2.11.12 In the long term, such increased demand and new entry is likely to encourage downstream processing of raw material into ready-to-use building materials. An example is timber, which has been sawn and used in HFH projects, with generation of local carpentry skills. PNG is blessed with abundant timber resources. It is not suggested that old-growth forests be logged to manufacture materials for the residential construction sector. Plantation timber would be more appropriate and would generate income-earning opportunities at the
plantation level, as well as value-adding, downstream processing opportunities and employment in their conversion to ready-to-use building components.

6.2.11.13 The sole cement manufacturer, in a growing market, could expand production and, where economically viable, integrate backwards into the production of clinker.

6.2.11.14 Innovation in the use of locally available materials offers scope for cost reductions. People in a number of developing countries (and some developed ones) are experimenting with and adopting alternative materials for residential construction.

6.2.12 Suppliers of electricity, water and sewerage services

6.2.12.1 The supply of electricity to most households in PNG is mainly undertaken by PNG Power Ltd, a state-owned enterprise. The connection of power from the main electricity distribution network to the house has to meet certain requirements before approval is given for the power to be connected. That includes the electrical wiring in the house to be supervised and certified by licensed electricians. The generation of power; installation and maintenance of main power transmission lines; and construction of trunk lines; is the responsibility of the power supplier. The Commission is the licensing and economic regulator for the electricity sector. In addition to PNG Power Ltd, and the Commission recently issued a licence to PNG Sustainable Energy Limited to provide electricity in parts of Western Province. Regulation of electricity is guided by a regulatory contract which the Commission uses to monitor the service standard performance of the entity against the consideration of annual tariff adjustment. The Commission has been monitoring the service standard of the electricity suppliers closely from consumer complaints.

6.2.12.2 The supply of water and sewerage services in towns and semi rural towns is currently undertaken by PNG Waterboard for all parts of PNG except NCD, where Eda Ranu supplies Port Moresby residents. Both these entities are being regulated by the Commission in terms of the water and sewerage tariff; and are being monitored against their services standards. As in electricity, the connection of water and sewerage into new developments must obtain approval from these entities, which are responsible for installation of trunk lines.

6.2.12.3 The supply of these essential services to new developments is important to ensure that the development meets the urban planning standards. However, the cumbersome process of certifying and delivering to new connections has been claimed to be a bottleneck for the progress and completion of new property developments.

6.2.12.4 In discussions with the suppliers of electricity and water companies, they have claimed that they have the capacity to extend their current network to connect new land development for housing construction. It is not clear, however, whether this ‘capacity’ includes financial resources to do so. In the discussion under Section 8.4.1, a tentative and preliminary assessment of the efficiency of utility providers suggests that their financial performance generally does not provide them with capital to engage in substantial network expansion from internal resources.

6.3 Interaction between Participants in the Housing Industry

6.3.1 There are business relationships between various actors in the supply of housing industry, which are relevant to economic incentives. In some circumstances, some
participants depend on decisions of others and different incentives apply to each party on either side of the transaction; in other circumstances, parties have co-incident interests and incentives. From the competition perspective, it is important to take account of such incentives to:

- avoid collusion or other anti-competitive conduct among parties with co-incident commercial interests to take advantage of consumers. Such collusion, if explicit, is illegal under the ICCC Act, which prescribes agreements among competitors which substantially lessen competition. There is a broader issue of ‘tacit collusion’ in circumstances where only a very few competitors operate in the relevant market space – this could be the case where, without explicit agreements, market participants can make commercial decisions on price or volumes of supply (which have price impacts) which are perceived by competitors as ‘facilitating’ similar decisions by them, to the mutual benefit of all competitors in the market; and

- encourage efficiency through policies which increase competition.

6.3.2 The Consumer Protection Division of the Commission has attended to numerous complaints relating to conduct in this industry alleging frequent and high rental increases, poor housing condition, lack of maintenance, and a range of other practices, leading to high rentals and purchase prices for housing.

6.3.3 The lack of competition in different markets which feed into the final product, housing, and economically sensible approaches to address the problem in each market, form the subject of discussion in a later chapter.

6.4 Public and Private Sector Housing

6.4.1 Houses on the market are provided through the public and private sector. In the public sector, public housing and institutional housing were historically provided through the National Housing Corporation but that is no longer the situation as various departments and statutory organisation’s need for housing for their employees were not adequately met, which compelled them to undertake their various housing programmes. Recently, most houses constructed by NHC for the relevant government agencies have been institutional housing which ultimately led to homeownership schemes; or home ownership schemes directly.

6.4.2 Private sector participation in the subsidisation of housing for private sector employees was also driven by lack of houses. On the supply side, the larger private sector housing development projects in the country were undertaken by the superannuation industry which developed land and built houses for sale as ‘land and house packages’. Such houses, however, are priced far beyond the reach of ordinary Papua New Guineans.

6.4.3 In their role of assisting their members, Nambawan Super Ltd and Nasfund Ltd have provided financial support in the form of releasing superannuation equity to their members to obtain loans from other financial institutions to fund their housing needs. The Commission, however, is not aware of direct provision of finance for home-purchase.

6.4.4 Apart from private organisations, some government departments and statutory organisations have developed home ownership schemes for their employees. There have been
a number of residential accommodation projects built under the various housing schemes, notably, the Departments of Finance and Treasury, PNG Ports Corporation, Bank of PNG, PNG Power Ltd, Telikom (PNG) Ltd and National Broadcasting Corporation. Such schemes for public servants employed in departments (as opposed to SoEs or statutory authorities) have now been, or are progressively being, amalgamated under the Public Service Home Ownership Programme (‘PSHOP’), managed by the Department of Personnel Management.

6.4.5 The Commission had difficulty obtaining reliable and updated data on housing development, but, based on data from the National Statistical Office on Building statistics published in June 2000 shows that the shares of the home building market as between the private and public sectors has fluctuated widely, but the latter appears to have been overtaken as the main contributor of housing in the market by the former. It is not clear, however, what recent trends have been, nor what proportion of the privately built housing has been undertaken by employers for their staff. The figures for 2000 show very few commencements and completions. The number under construction is also declining. More recent data would assist understanding of the trends in the composition of the housing market.

Table 6.2 Number of New Houses and Flats in PNG by Ownership Classification

<table>
<thead>
<tr>
<th>Year Ended 31 December</th>
<th>Publicly Owned</th>
<th>Privately Owned</th>
<th>Overall Dwellings</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Houses Flats Total</td>
<td>Houses Flats Total</td>
<td></td>
</tr>
<tr>
<td>Commenced During the Period</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td>81 34 115</td>
<td>133 27 160</td>
<td>275</td>
</tr>
<tr>
<td>1998</td>
<td>234 43 277</td>
<td>27 27 304</td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>52 10 68</td>
<td>7 32 100</td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>6 6 7</td>
<td>1 8</td>
<td>15</td>
</tr>
<tr>
<td>Completed During the Period</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td>15 15 73</td>
<td>3 76 91</td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>91</td>
<td>91 12</td>
<td>12 103</td>
</tr>
<tr>
<td>1999</td>
<td>93 47 140</td>
<td>7 34 174</td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>6 6 7</td>
<td>7 13</td>
<td></td>
</tr>
<tr>
<td>Under Construction at the end of the Period</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td>147 86 233</td>
<td>45</td>
<td>251 484</td>
</tr>
<tr>
<td>1998</td>
<td>290 129 419</td>
<td>45</td>
<td>265 1352</td>
</tr>
<tr>
<td>1999</td>
<td>255 92 347</td>
<td>45</td>
<td>264 2396</td>
</tr>
<tr>
<td>2000</td>
<td>219 92 311</td>
<td>46</td>
<td>261 1145</td>
</tr>
</tbody>
</table>

Source NSO, 2000

6.4.6 In terms of value of residential construction, however, the statistics compiled by NSO show that the public sector dominated the private sector during the period shown above. Because no recent statistics are available, no meaningful conclusions can be drawn on the current value and trends in value, of the sector.

6.4.7 Nevertheless, it is clear that the number of dwellings being built, whether by the public sector or the private sector, is unlikely to make much of an impression on total housing demand. In the context of need, therefore, these figures, if accurate, portray a dismal picture, with little prospect of progress in housing the people of PNG. Clearly, a new approach is necessary to address the national housing shortage.
6.5 Housing Finance

6.5.1 Access to finance is another important aspect in the building and development of housing. Equity is crucial before the funds can be released. Individuals are often faced with this dilemma.

6.5.2 The minimum equity requirement from the commercial banks in terms of housing finance has recently increased to 30% whilst members of the superannuation funds are required to contribute only 20% and this equity contribution varies between commercial banks and the financial institutions. The terms of loan repayment also varies from the institutions but for housing loan, the maximum years is 25 years for one bank of which the repayment of loan is spread through that period. For other purpose loan, the repayment period is normally below the 25 years mark.

6.5.3 Individuals wishing to enter the housing market either as owner occupiers or investor landlords are often faced with the difficulty of obtaining credit to finance the construction or purchase of their home. An individual’s ability to obtain credit will depend on their ability to meet financial institutions requirements in terms of initial equity, insurance coverage and ongoing ability to discharge a mortgage.

6.5.4 Commercial banks recognize that buying a house or owning house is the most important financial decisions that most individuals will ever make and are ready to help. Some banks offer subsidized interest rates to first home buyers purchasing a home they intend to live in and repayments are structured to suit the income and loan terms are as long as 25 years.

6.5.5 The requirements to obtain loans differ from one commercial bank to another but generally the following form the main prerequisites:

- Steady employment with regular income sufficient to meet loan repayments
- Personal contribution equivalent to 20 or 30% of the purchase prices plus establishment cost
- History of savings with the bank
- Home must be occupied by borrower

Non adherence to the above requirements renders the loan applications unsuccessful.

6.5.6 In rural areas, some micro-finance has been provided for housing by HFH, but with the suspension of its operations, the extent of such financing now available is unknown.

6.5.7 Finance for enterprises engaged in residential construction is also an important requirement for the growth of the sector. The current dominance of the sector by larger developers has limited the scope for small to medium enterprises, particularly builders owned and operated by Papua New Guinean Nationals, to enter the market. The proposals for reform contained herein create the conditions for significant participation by such builders. They will require finance for working capital and, it is to be expected that financiers will set up effective credit scoring frameworks to allow the provision of finance to credit-worthy smaller builders.
6.6 Housing Quality

6.6.1 Quality problems of housing persist both in the private housing sector and in institutional housing. Ageing and poorly designed dwellings also suffer from quality problems, although there are attempts being made to upgrade and renew such housing to a standard that reflects the market price for both rental and sale.

6.6.2 The Commission is aware of complaints that there is some housing which is under maintained and has been sold at ‘excessive’ prices, without due consideration to quality. Although these houses do not necessarily meet expectations, with lack of supply people do not have much choice and are being forced to accept what is being provided on the market. Often some houses that are sold on the market do not appear to match their long term historical values, compared to what is being charged. This is mainly to do with the current stock of houses that has been built some 30 years ago. In such circumstances, following the purchase, the buyer will have to look for additional money to do renovation and maintenance to bring the house on par with the market. In doing so it is an extra cost to the buyer.

6.6.3 Price levels generally and the quality of a particular house for a given price, however, are the result of the demand and supply equation.

6.6.4 Housing quality depends on building standards and their enforcement. On the one hand, excessively high standards, usually ‘imported’ from developed countries, raises costs. If not enforced, however, buildings usually do not meet such standards. A new approach, which sets standards according to the environmental and climatic conditions of PNG and meets the more modest aspirations of the people, would reduce costs of construction. Proper enforcement of those standards would provide assurance of their observance.

6.6.5 The above discussion relates to the ‘formal’ housing sector. In the ‘informal’ sector, particularly in the illegal squatter settlements, problems of overcrowding, safety of construction, law & order and inaccessibility to essential services are well known. In those areas, ‘quality’ is less important than adequacy of space to accommodate the family and availability of essential services. As such settlements meet a significant proportion of the need for shelter in urban areas, these require urgent attention.

6.6.6 The problems outlined above strongly suggest that new policy initiatives are urgently needed to address both the fundamental issues of shortage of land and housing, discussed in Chapter 8; and basic quality issues of structural standards. Regulating for price levels generally or for the overall quality of houses for sale, is unlikely to be feasible, although certain basic information e.g. pest status certification, may be possible to address information asymmetry.
7.0 REGULATION OF THE INDUSTRY

7.1 Legislative Environment

7.1.1 The key legislation directly governing the supply of land and housing in the market are:

- Physical Planning Act (1989),
- Lands Act (1996),
- Land Registration Act and Regulation (1999),
- Land Registration (Customary Land) (Amendment Act 2007)
- Physical Planning Regulations (2007),
- Land Groups Incorporation Act (1974),
- Land Incorporation Amendment Act (2007),
- Building Regulations Act (1994)
- Building Act (1971)
- National Housing Corporation Act (1990)
- Valuers Act

7.1.2 In the housing industry there is no single piece of legislation that regulates the whole industry. Different players in the industry are being regulated differently under their respective legislation.

7.1.3 There is little specific consumer protection legislation, although the ICCC has acted as a consumer advocate in many instances in relation to real estate and building transactions.

7.1.4 For the Building and construction companies, although there is some oversight under the Building Act, that oversight is limited to the building structure but not so much on the way they operate in the market. Likewise the same can be said for the real estate companies, where their activities have grown with many players entering the market with competitive pressure on them. Although regulation is not a best option for the industry, where there is prima facie evidence to prove that the market is not competitive and there is an uneven playing field amongst the players in the industry disadvantaging the consumers, it might be considered necessary.

7.1.5 Access to alienated land for development is very limited and has been identified as the major hindrance to development. The stock of land that has been available are those developed during the colonial era and have been passed on from different owners for developmental purposes.

7.1.6 Recognising the shortage of Land for development, Government set up the National Land Development Task Force to review the land administration, land dispute settlement and the customary land development for the country as it has recognised that 97% of the land is customary owned.

7.1.7 A number of recommendations have been proposed in the area of land administration, land dispute settlement and customary land development by the Taskforce. With the
recommendations now in place, it will require leadership from all levels for the implementation of the findings and recommendations.

7.1.8 In terms of the recommendations for the customary land developments, the following were proposed by the Taskforce:

- Substantially amend the *Land Groups Incorporation Act* (1974), and make the Incorporated Land Groups (ILGs) the vehicle for development. Customary land will be released for development by the ILGs, together with stringent measures for greater accountability and transparency in their management and operations. The ILGs will then have the management powers over their land, the use of the land rents, and the income generated from the business activities. Adequate attention should be given to improving the management of the ILGs. That legislation has, in fact, been enacted;
- Substantially amend the *Land (Tenure Conversion) Act* (1963), to enable individuals and even family members to secure their own piece of land. Strict restrictions should be placed on this land, so that the land remains in the hands of the landowning unit;
- Introduce a *Customary Leasehold Bill*, to be an instrument for releasing and accessing customary land for development;
- Make appropriate amendments to the lease-lease-back, state land acquisition, and state land lease provisions of the *Land Act* (1996), so that they become instruments for both the release of, and access to, land for development;
- Engage a team of technically competent personnel to coordinate the ILGs, to get their land surveyed, issue their radical titles, and register companies to engage in business enterprises; and
- Promote the rental of customary land, in preference to outright purchase, because the latter has proven to be insecure in Papua New Guinea. To facilitate this, the proposed *Customary Leasehold Bill* should be drafted and enacted\(^\text{18}\). Again, this has been enacted in the form of the *National Land Registration (Amendment) Act, 2007* to amend the National Land Registration Act, to introduce new administrative frameworks for the registration of customary land.

7.1.9 All these recommendations emanated from the comprehensive land review and the Commission considers that work that has already been commenced, to implement those recommendations, should continue with high priority and urgency. The implementation of those recommendations would result in participation by traditional landowners in commercial ventures either through the Incorporated Landowners Group (ILG) or through partnership arrangements. In this way, investors, developers or individuals who have the capital can work together in partnership to develop the land.

7.1.10 The above reforms, which assist in ‘bringing to market’ customary land, are wealth-creation opportunities for customary landowners, and also provide employment and income-earning opportunities for people in the local community, by creating opportunities for them to supply goods or services to enterprises engaged in resource development, tourism-related activities, home construction and the like.

\(^\text{18}\)A report prepared by the National Land Development Taskforce Committees on Land Administration, Land Dispute Settlement, and Customary Land Development, 2007
7.1.11 There has been a positive response from the customary landowners, particularly the ILGs being formed for the extraction of the resources. However, with awareness of the facility for registration of land by customary landowners for housing development, some customary landowners in the periphery of main towns will benefit if they can organise to form ILGs and have their lands registered and made available for lease to potential land developers for sub-division. These new arrangements for the registration of customary land and the operations of ILGs are the basis of the initiatives involving the Office of Urbanisation and NRI to encourage customary land being brought to market in Taurama (near Port Moresby) and Fanayufa (near Goroka), which are discussed in the following chapter.
8.0 OVERVIEW OF ECONOMIC ISSUES AFFECTING HOUSING; PREVIOUS STUDIES; AND REFORM INITIATIVES

8.1 Shortage of Housing and Land

8.1.1 The previous chapter has discussed recent initiatives to overcome impediments in bringing customary land to market. Chapter 5 outlined the exhaustion of State land in some towns, while in others, substantial tracts of State land are available, but release is insufficient. Although the shortage of housing in Papua New Guinea has been identified for some time, Government intervention to address the issues has been largely unsuccessful over the years. This is evident in the different type of policies that have been adopted particularly on institutional housing, home-ownership schemes and the establishment of the National Housing Corporation entrusted with the responsibility of providing affordable houses to all Papua New Guineans. There have been several policies and strategies setting out the framework to assist relevant implementation agencies, particularly within the Government in the provision of housing, but the Commission notes that little has eventuated in the way of concrete policy on housing.

8.1.2 The most recent commitment by the government in addressing the acute housing problem was the establishment of the National Housing Policy Taskforce (“NHTF”) in 2007 to look into the status of the housing problems faced by Papua New Guineans. It is believed that the Taskforce has presented a National Housing Strategy to the Government and awaits feedback on how the policy recommendations in it can be actioned. To date, no decision appears to have been made by Government on the recommendations of the NHTF. The reason for the delay in the making of a decision is not known.

8.1.3 The Government does appear to be committed to addressing the housing problem and there are current developments on housing and land reforms that are taking place. Some developments on the reform of the land and housing sectors are:

- The Office of Urbanisation, in conjunction with NRI, has
  - initiated a number of pilot projects for the development of customary land for purposes such as housing. Pilot projects are planned and initial steps have commenced, for Taurama (NCDC – Customary land), Fanayufa (Goroka – Customary land), Minj (Mt Hagen – State land) and Tari (Southern Highlands – State land); and
  - developed a National Urbanisation Policy for submission to NEC.

- The development of the Central City Project, which is intended to include a large residential housing project. Some 500 hectares of State land is understood to be available for housing. It is useful to note that this project offers a supply side alternative to Port Moresby through its potential to relieve the latter from its current pressure on land. In addition, landowners in the Central Province would have the opportunity to participate, under the new land registration amendments, in housing developments, which would provide them long term
benefits. A number of industries which are currently restricted by the prices of land and its limited supply in Port Moresby, could relocate to Central City and their workers could relocate with them. All of this offers considerable potential for the growth of the housing sector, through decentralisation, with its economic benefits, particularly by providing a ‘counterweight’ to the city with the largest housing problem.19

- The endorsement by Government of the National Housing Development Project (NHDP) proposed to establish a vehicle company to undertake the planning and construction of housing;
- The establishment of the National Land Development Taskforce (“NLDT”) to implement the recommendations of the National Land Development Report of 2006;
- The adoption of the National Land Development Project (“NLDP”) under the stewardship of the Deputy Prime Minister, Sir Puka Temu, MP, within his portfolio responsibilities as Minister for Lands and Physical Planning; and
- The centralisation of institutional housing for public servants employed in departments, which is now overseen by the Department of Personnel Management, to bring under one ‘umbrella’ organisation, a number of such public service rental schemes previously administered by various departments such as the Department of Finance; Department of Treasury etc. This, however, does not include those rental schemes managed by SoEs and statutory authorities.
- A home ownership scheme (‘PSHOP’) for public servants administered by the Department of Personnel Management.
- An initiative by the National Capital District Commission to explore resettlement of squatters in some settlements.

8.1.4 Some of the work programmes mentioned above have been underway for some time, whilst others have yet to take shape. While the government has shown commitment and concern about the problem, it recognises that the resources of the State are limited and it needs to prioritise and direct expenditure to those national development needs which it alone can achieve, rather than dissipate such scarce resources on areas in which the private sector is best placed to meet the need, on the basis of market incentives which drive competition and efficiency. It is now recognised that, because of the scale of the housing problem, the private sector is an important stakeholder and should be allowed to participate in the land development and residential construction sectors, in partnership with the government.

8.1.5 There has been a building boom in PNG despite the global economic down turn.20 The recent boom has been triggered by past shortages in all types of commercial, industrial

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19 The Central City Project submission to NEC notes that 500 hectares are available to be sub-divided and sold. This would be a substantial addition to the stock of building allotments.
20 The ‘boom’, in large part, appears to relate to all kinds of commercial and industrial construction, with some high-income apartment-block housing included. Despite housing forming a part of the so-called ‘building boom’, the proportion of that
and residential accommodation including hotel rooms, standard housing, apartments, commercial office space (both private and government), factories, and shopping centres. All new building projects require vacant land, but this shortage has been particularly severe in relation to land for housing.\(^2\)

8.1.6 It is recognised that whilst the expansion in the sector developing commercial and industrial properties is significant, the residential accommodation sector is being severely restricted due to the severe shortage of serviced land and the extraordinarily high prices now prevailing in the current property market as a result of such scarcity.

**8.2 Relevance of Competition and Efficiency to the Supply of Land and Housing**

8.2.1 The Commission has examined a range of impediments to efficiency in the housing sector. A key issue is the level of private sector participation and, as a result, the degree of efficiency and competition in various sectors of the industry. That situation is the outcome of a combination of the ambiguity of Government policies and, even where clear, the inefficiency of their implementation. This section of the report will focus on impediments to competition and efficiency that have been observed by the Commission in its review of the housing and real estate industry, including the role of Government.

8.2.2 It is recognised that there has been recent expansion in the construction and provision of housing in PNG. However, this is largely being provided in the urban centres of Port Moresby and Lae but not so much in other centres and in the rural towns and the Districts. Despite the emphasis of building in Port Moresby and Lae, however, the supply is inadequate to make inroads into the shortage, which has reached critical proportions in those cities. Furthermore, home-building activity has largely occurred in the high-end, more lucrative, segment of the market, which is unaffordable by ordinary Papua New Guineans.

8.2.3 If there were to be sufficient competition in the market for building houses, people would have a choice of a number of alternative builders they could contract with, thus exerting ‘consumer pressure’ to get ‘better value for money’. Cumulatively, such pressure generates ‘consumer power’ which drives competition and efficiency. In the housing market, it appears that competition is very limited, thus people have very little choice in terms of the cost and type of houses and locations that they prefer to live in.

8.2.4 From the viewpoint of ‘demand substitutability’, which is a common tool in economic analysis, the availability of substitutes for housing is either non-existent, or extremely limited. People are being forced to live in the squatter settlements on the fringes of the towns and these settlements often lack basic services in terms of water, electricity and good road networks. Although these settlements are inadequate, they have been the only locations for people to seek shelter, in the absence of an efficient regulatory response - they can be seen as accounted for by low-to-middle income houses is seen as insignificant and no appreciable effect on demand for affordable housing is likely to be noticed.

\(^2\) The reforms proposed herein are aimed at increasing the efficiency of supply of land, as well as competition in residential construction. The key principles, however, are equally applicable to the supply of land for use for other purposes, such as hotels; commercial and Government offices; and industrial uses mentioned above.
a consequence of the failure of policy to ensure that supply is sufficient to meet pent up demand. This represents an ‘informal housing’ supply response, which, while much less desirable, does have the effect of meeting demand from the lower socio-economic level of the urban population, which represents the overwhelming proportion of unmet demand and for whom standard housing is unaffordable.

8.2.5 While it may surprise some, a substantial proportion of Government employees, who as salary earners, could be expected to afford standard housing, are unable to do so and are forced to live in the squatter settlements.

8.2.6 All of this is not to condone the expansion of squatter settlements but to explain their economic function, as a sub-optimal supply response, in a market that is not operating efficiently.

8.3 Demand Side Issues

8.3.1 Unmet demand

8.3.1.1 The demand for housing in PNG far outweighs the supply and is being driven by the growth in the population, economic growth and, in the major urban centres, by rural-to-urban drift - the movement of people into towns in search of employment, better living standards and business opportunities. It is recognised that the scarcity of housing is more significant in the urban areas than in the villages. Due to the specific requirements of urban planning, building a house in towns is subject to stringent planning and building guidelines and, therefore, it is more expensive to build or buy houses in the cities and towns, in contrast to those on customary land.

8.3.1.2 The demand for housing, like other goods, depends upon the level of the buyers’ disposable income, the price of housing relative to other goods and buyers’ tastes. Price levels depend on the number of houses on the market relative to demand. As there are different segments of the market and different types of housing, it is in the non prime areas that there is greater unmet demand, relative to affordability, and it is in this category where the bulk of the formal sector, who are low to medium wage earners, seek to buy or rent. Inhabitants of these houses are sensitive to prices and where their income level is below that required to afford the market price, these people are pushed out of the market. In the prime locations, inhabitants are much less sensitive to price as they are economically far better of and have limited choices on where to live, due to their concerns about law and order problems.

8.3.1.3 To a large extent, the demand for housing is a function of demographics, lifestyles and individual preferences. But ultimately the level of demand and house prices are likely to be a function of the availability and cost of properties, in relation to the disposable incomes and wealth of prospective purchasers.

8.3.1.4 Due to the high demand and low level of supply of houses, prices and rents of houses have soared, denying average wage earners the opportunity to own and live in a house. The demand for houses varies from individuals, corporate clients, and employees of government department, students and even short term visitors. As a consequence, tenants are forced to reduce the weight they would otherwise give to their tastes and preference on the type of
houses they would like to buy or rent because they are restricted to those that are available and, depending on their level of income, affordable by them. Some private sector employees, on the other hand, appear to receive generous housing allowances, which are sufficient to give them some bargaining power to negotiate the high-rental type of house or apartment that suits their budget requirement, but they form a very small part of the market.

8.3.1.5 The demand for housing in PNG far outweighs the supply. While, historically, the main supplier of housing was the National Housing Corporation, its role has diminished significantly and the private sector has taken the leadership in the provision of housing. Notable among this private sector group are the superannuation funds, corporate businesses like financial institutions, mining companies, etc. However, the Government is still active in the housing market through institutions which have in place housing schemes (Dept of Police, Dept of Health, Dept of Finance, Dept of Education, various SoEs and statutory authorities etc), These schemes include the direct provision of rental housing, financial assistance for the purchase of housing; and housing allowances.

8.3.1.6 A distinction needs to be drawn, however, between the amorphous colloquial concept of ‘demand’ in the sense of a ‘need’ or ‘want’ for housing; and the economic concept of ready buyers, willing and able to pay a price that would prevail in an efficient and competitive market. The ‘demand’ in the colloquial sense is almost limitless. In the economic sense, however, the pool of potential buyers, able to pay reasonable prices, is much more limited. The size of this pool reflects the overall stage of national economic development and employment levels. As previously outlined in Chapter 4, the speed and efficiency of the implementation of macro-economic and micro-economic (or ‘structural’), reforms governs the size of this pool of buyers for whom housing would be affordable, if the sector were efficient in delivering the product at reasonable prices.

8.3.1.7 It may seem contradictory to discuss the encouragement of the expansion of an ‘ongoing effective demand base’ for housing at a time when the supply of housing is scarce. Intuitively, any increase in demand could be seen as exacerbating the problem by driving prices further upwards. This analysis is intended, however, to show that the increase in land development expected from streamlining processes of planning; land allocation; and approvals is likely to spur residential construction activity, which:

- Would, on the one hand, increase supply and, in the long term, bring prices to ‘competitive levels’;
- while, on the other hand, generate employment in the sector and bring additional purchasers to the market, who can afford the new, ‘competitive’ price levels.

8.3.1.8 While the development and growth of a socio-economic strata group (described by some submittors as a ‘middle class’) which can generate sufficient savings and income to afford formal housing is a function of the pace of overall national economic development, dependent on a range of contributory factors, the residential construction sector (including subdivision of land into building lots) can be a significant driver of economic growth, as shown in Chapter 4.

8.3.1.9 Reference has already been made in Chapter 4 to counter-cyclical policies to stimulate or restrain growth in the housing sector, as general economic circumstances may require, at various points in the economic cycle. Such policies include grants to first home buyers and stamp-duty concessions. In this review, suggestions were made by various parties for such
incentives, including “double or triple tax deductibility for employers providing housing allowances or suspensory loans to assist their employees with loan repayments and equity contributions”; and specific incentives for saving. Some submitters suggested increased access by contributors to their superannuation savings, even to the amount of the employer-contribution component, to assist affordability.

8.3.1.10 Incentives to employers to assist their employees in housing suffer from a fundamental flaw in an environment of acute scarcity - such benefits in the hands of employers provide them with a financial incentive to assist their employees, with the amount of the assistance serving to ‘push up’ prices, leaving the employer and employee no better off and leaving others much worse off, including

- the State (in the form of loss of tax revenue);
- non-assisted employees (who face higher prices as a consequence); and
- enterprises which do not provide such assistance to their employees. A similar analytical framework applies to ‘institutional housing’ schemes, discussed in the next chapter.

8.3.1.11 In a submission to this Review, the Minister for Public Service, the Hon. Peter O’Neill, M.P., pointed to tax-deductible private sector rental subsidies, of the order of up to K3000 per week, as being the primary driver of increases in rents and house prices, impliedly necessitating rental and home purchase subsidies by the State for its employees at market rent reimbursement levels. In considering this point, the following matters are relevant:

- Private sector employer funded rentals of the order mentioned above are available to only a few executive level employees; are so few; and for such ‘high-end’ accommodation as to be largely irrelevant to the general market for housing for ordinary Papua New Guineans. This point has been explained in some detail in Chapter 3 (see paragraphs 3.4.19 to 3.4.21).
- It may be justifiable to consider temporary adjustments to tax laws to remove tax deductibility for employer expenses on housing rental assistance;
- Consideration could also be given to a temporary tax on real estate capital gains, which could help fund the reforms proposed herein and partially address land speculation.

8.3.1.12 The Bank of PNG forwarded to the Commission a copy of its submission to the NHTF, as its submission to this review. One of the points of submission related to the use of superannuation funds by contributors as deposits for home purchases, to which it was opposed. The reason given was that “such uses reduce the rights on retirement or the entitlement of the families if the member is deceased”. The Commission has considered this point and offers the following comments.

- It is possible that the concerns of BPNG are based in the high-profile failures of large financial enterprises of the past, including that of the Public Officers’ Superannuation Fund (now “Nambawan Super”), which led to a substantial part of contributors’ savings being lost. In the present context of a situation of highly inflated real estate asset prices, with a ‘bubble’ emerging, the concerns of BPNG are well founded.
- That risk, however, would be considerably reduced with the new arrangements for prudential supervision; and, if these recommendations, to remove the rigidities in various levels of the housing market, are adopted. The result would be a much more competitive and efficient sector, with price reductions removing the asset-inflationary
component from the market and, hence, that particular risk for contributors. Prices would then be competitive and more realistic in terms of long term asset values.

- Residential property would then not be more volatile than commercial property, and more closely resemble the risk profile of the latter. In this context, the use by contributors of their superannuation savings could be seen as a form of ‘disintermediation’, with no greater risk than that of the intermediary investing in a range of assets, including equity and commercial and residential property.

- Investment in housing by the owner-occupier avoids expenditure on rent. The result is the gradual accretion of a significant asset, by avoiding recurrent expenditure on rent, which does not generate an asset. The asset acquired would also represent a form of retirement savings, which, in the long term, under the new housing approach recommended, is likely to show a level of capital growth which more than offsets inflation. Such capital growth is likely to equate to superannuation savings. Once committed to home purchase, the repayments of the borrower can be seen as ‘forced savings’, at the expense of ordinary expenditure for depreciating consumer assets.

8.3.1.13 In distinction to incentives for the suppliers of housing or land, the introduction of incentives targeted at home purchase by those who have not owned one before, and have limited means to do so on their own, is more justifiable in an economic sense, but only after structural reform of the industry which increases supply substantially; and when used in a ‘counter-cyclical’ policy setting.

8.3.1.14 The Commission sees no ‘in principle’ objection to such incentives, except as to timing. In the current circumstances where housing scarcity is reaching crisis proportions, the immediate introduction of any such incentives would merely serve to push prices up higher. The timing of any such initiatives, therefore, needs careful consideration. The Commission envisages that at least 5 years would need to elapse from the time of the full implementation of the reforms recommended herein, before such incentives could be introduced without further distortion to the land and housing market. Furthermore, such incentives should only be used ‘counter-cyclically’, to give the Government a tool to address economic downturns, rather than to address a ‘price’ issue arising from the supply/demand imbalance.

8.3.1.15 In its submission to this Review, the Treasury stated that it “opposes the recommendations on the incentives for first home buyers (counter cyclical measures) since they do not seem to address underlying problems in the housing market. They will add to distortions to the market and will be a costly exercise for the Government”.

8.3.1.16 The Commission’s recommendations on incentives need to be seen in the context that submissions by others have sought such incentives for employers providing employee housing assistance. Having pointed to the disadvantages of such incentives, the Commission considered the issue of first-home-buyer incentives. The Treasury’s concern about adding distortions to the market would be valid if such initiatives were introduced in the current conditions of scarcity of land and insufficient new housing construction levels. If the Commission’s recommendations on timing and pre-condition of supply side improvements are met, the question of introducing such incentives would not arise in the near term. If and when the pre-conditions are met, the counter-cyclical economic benefits of employment and credit expansion arising from such incentives would outweigh the risk of market distortion. In terms of the cost for Government, it is relevant to note that all proposed budgetary expenditure and proposals for foregoing revenue by incentives need to be prioritised under
national development objectives and criteria in the budget preparation process. Assisting Papua New Guineans to acquire secure housing would appear to constitute a high priority. Furthermore, the fact that the proposals for reform of auctioning raw land, removal of deductibility for employer-assisted housing and imposition of property-derived capital gains would yield substantial revenue, likely to significantly offset the cost of incentives, should be factored into consideration of the approach. The economy-wide economic growth benefits of a growing housing sector also needs to be factored into the cost-benefit analysis.

8.3.1.17 In the Commission’s assessment, the only exception to its opposition to supply side incentives applies in certain special circumstances in rural areas, where the supply of land for housing is not constrained. In those areas, there is an argument to encourage micro-finance provided on a community basis as that is often linked with ‘self-help’ housing initiatives of the kind previously organised by HFH. In these special circumstances, where significant distortions are unlikely, there is a stronger argument for tax or other forms of incentives for such finance provision.

8.4 Supply Side Issues

8.4.1 The supply of housing is influenced by the availability and cost of land, appropriate materials, technology and skilled labour. Supply patterns are influenced by any form of subsidy or favourable tax treatment; conditions concerning allocation and sales of the dwelling; and the cost and availability of finance for land development and home purchase.

8.4.2 Table 8.1, extracted from a Report published by the Australian Housing and Urbanisation Research Institute on International trends in housing and policy responses, shows some factors inhibiting supply of houses are not unique to PNG. The difference, of course, is in the scale of the problem.

8.4.3 While the comparator countries are western, developed economies, the table does illustrate the range and nature of steps to address housing sector problems. Interestingly, in the East of Germany, demand incentives have been initiated to address over-supply. This is the kind of ‘counter-cyclical’ policy referred to in the section: The Significance of the Housing Sector for Economic Performance in Chapter 4: The Housing Industry and the National Economy.
Table 8.1 Factors influencing recent supply trend of houses in selected countries

<table>
<thead>
<tr>
<th>Country</th>
<th>Factors</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Government programs stimulating supply, such as co-financing with low-interest loans, which are responsive and can meet a range of economic and social objectives.</td>
</tr>
<tr>
<td>Belgium</td>
<td>Rising cost of scarce developable land, significant in a self-build market, is a major reason for the decline in building starts. Low consumer confidence and regional differences in economic and population growth have undermined the housing market. Inner city gentrification has helped to improve the housing stock but has displaced lower-income and immigrant families.</td>
</tr>
<tr>
<td>Denmark</td>
<td>Danish housing is costly due to low productivity, high materials costs and a higher rate of building defects. Social rents are very low, tied to capital costs set in 1982, and insufficient to cover contemporary financing costs. Low consumer confidence is affecting the housing industry adversely.</td>
</tr>
<tr>
<td>France</td>
<td>Subsidies extended to 41% of housing starts in 2003, promoting the provision of a range of tenures. Significant public investment in social housing rehabilitation and renewal has increased quality.</td>
</tr>
<tr>
<td>Germany</td>
<td>Tax concessions have helped to promote the construction and purchase of housing for owner occupation. Absence of demand and over-supply conditions have dampened investment for new construction in particular regions, especially the East. Subsidies for private and social rental supply have been cut back due to fiscal problems.</td>
</tr>
<tr>
<td>Ireland</td>
<td>Supply has not been adversely affected by the requirement on developers to contribute 20% of new dwellings for affordable housing, in a context of strong economic growth but rapid house price inflation. There has been an increase in subsidies for social housing production. A permissive approach to land use planning has facilitated rising housing output in Ireland; however, rising land prices and lack of suitable development land has hindered greater output, especially in urban areas (Gardner 2004; Norma and Shields 2007).</td>
</tr>
<tr>
<td>Netherlands</td>
<td>Factors contributing to the stagnation in supply include the high cost of land, skilled labour shortages that have increased construction costs, and an increase in speculative land holding (following privatisation of land development). At the same time, the generous tax regime for home buyers has stimulated demand in a non-responsive market, producing severe inflationary pressure on house prices.</td>
</tr>
<tr>
<td>UK</td>
<td>Lack of, and high cost of, infrastructure to facilitate developable land is a constraint. There is political and community opposition to urban expansion into rural areas.</td>
</tr>
<tr>
<td>Switzerland</td>
<td>Interest rate conditions in the capital market have made investment more attractive in specific sectors. Fragmentation in the building market has had an adverse impact on the cost of construction.</td>
</tr>
<tr>
<td>Canada</td>
<td>Low rent levels reduce the rate of return on rental investment. Less policy intervention to increase investment, compared with neighbouring USA.</td>
</tr>
<tr>
<td>USA</td>
<td>A speculative bubble in housing prices is affecting the ownership market, partly generated by higher income and lower interest rates. It is possibly influenced by constrained housing supply and high land costs, yet rents have decreased in some cities.</td>
</tr>
<tr>
<td>NZ</td>
<td>High costs of land, possibly influenced by constraining government legislation concerning the management of resources and local government planning, is currently under review.</td>
</tr>
<tr>
<td>Australia</td>
<td>Delayed release of serviced land for new development in some cities is holding back supply. Low production of social housing and loss of low-cost private rental stock (e.g. boarding houses) to gentrification is having an adverse impact on access and affordability for lower-income households.</td>
</tr>
</tbody>
</table>

Source: various country reports

8.4.1 Efficiency of utilities suppliers and costs

8.4.1.1 The efficiency with which suppliers of utility services operate their businesses affect the costs of land development, which feeds into home building costs and prices.

8.4.1.2 To undertake any construction in the housing industry in the zoned areas, the availability of basic amenities is important to ensure that building conforms to town planning requirements. These important amenities include the water and sewerage pipes and electricity pole for connection of water and power. Prior zoning, its publication and the provision of

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arterial roads construction are also important. Without such basic infrastructure, the building and construction sector would be faced with extreme difficulty to ensure the availability of those services before construction commences.

8.4.1.3 An issue has arisen about who is responsible to provide these services, both ‘trunk’ connections to, and within, the zoned area, where the land is customarily owned. For State land, this responsibility lies with the government, but with the development of customary land, it appears that the zoning and service will be the responsibility of the landowners through their incorporated entities. In the current situation on existing allotments, there are already mains water and sewerage lines put in place and all the service provider does is to connect from the mains. Traditional telecommunication connections may be of secondary importance, as wireless communications gain ground and potentially replace wireline networks.

8.4.1.4 In the case of development of new zoned areas for housing development, there has to be coordination between the amenities suppliers and the land developer to ensure trunk lines providing these vital amenities to the edge of the new development do exist before any building and construction of houses takes place.

8.4.1.5 The cost of developing and subdividing raw land into building allotments is based on the cost of inputs such as materials, labour, the attributable cost of capital equipment and payments to the ‘Utilities’ for connecting the development to the existing networks of power transmission lines, water reticulation and sewerage mains. Wireline telecommunications networks are not discussed in detail herein as there is the likelihood that over time, wireless networks (whether fixed or mobile) will displace wireline networks for new developments, due to the relatively higher costs of expanding such networks. As a comparator, however, the performance of Telikom, both as an integrated fixed and mobile operator, and now as a fixed network operator, to demonstrate the beneficial effects of competition and structural reform, could show the general potential for efficiency improvement of other SoEs which constitute input costs for land development and house construction. It is useful to note that the transport of materials for development e.g. concrete pipes, and for house construction e.g. masonry products, timber products, steel products and cement, involve significant costs as well. Besides the shipping sector, on which the ICCC has inquired and reported previously, the efficiency of port operations by PNG Ports Ltd is relevant to the overall costs of land development and house construction.

8.4.1.6 The Commission notes that information obtained by it under processes provided in the regulatory contracts of the respective SoEs within the purview of the Commission’s oversight under the ICCC Act and the Prices Regulation Act are not available to be used for any other purpose, including this review.

8.4.1.7 The Commission has sought annual accounts and time-series data on key indicators of technical efficiency and financial performance of relevant SoEs, from the Independent Public Business Corporation (“IPBC”), which has been given the responsibility of managing the State’s interests in some SoEs and is, in effect, the ‘parent’ or ultimate holding company, of the relevant utility SoEs.

8.4.1.8. In its submission to this Review, IPBC pointed to the steps it is taking to improve the efficiency of the utilities and their progress in terms of financial management, profitability and enhanced ability to either borrow or internally fund capital expenditure to improve
service delivery. In terms of the Commission’s recommendation that the SoE performance benchmarks obtained by IPBC be published, IPBC says that they are based on unaudited figures and that annual accounts have not been audited for some years. The Commission, however, sees no difficulty in publishing unaudited performance results against benchmarks, so long as they are appropriately qualified as to their status. The benefits, on the other hand, of increased transparency, would be significant.

8.4.1.9 While there is some variability between the performance of SoEs in relation to certain criteria, a preliminary analysis of some material provided by IPBC suggests the following general tentative inferences can be drawn about their efficiency:

- Most SoEs control assets of significant value
- No, or very small, dividends are paid to Government
- Technical efficiency appears to be stagnant or erratic, rather than showing consistent improvement
- Despite generally growing revenue, with relatively high ratios of gross profit to revenue, net profits ratios are relatively low, and expenditure appears to be growing, particularly in areas such as travel costs.
- The broad picture emerging from a cursory analysis suggests little focus on
  - cost containment, especially on unproductive overheads;
  - reduction of end charges to consumers; or
  - increasing technical efficiency.

8.4.1.10 While not every ‘utility’ SoE exhibits all the above characteristics, many of them exhibit a number of them, in varying degree.

8.4.1.11 The following table from the ‘Doing Business 2010 PNG’ as compiled and reported by the World Bank on the procedure that has to be followed with the time taken for processing the applications and delivering of the services and the costs that are involved in building and eventual taking occupancy.

8.4.1.12 The example cited is for building a warehouse but the same is applicable to housing construction. The registration requirements are captured in the table below as well as the provision of water and sewerage, electricity and telephone services as an important pre-requisite to site development. The period taken for the connection of these utility services is between 27 and 29 days.

**Table 8.2 Dealing with Construction Permit in PNG**

<table>
<thead>
<tr>
<th>No.</th>
<th>Procedure</th>
<th>Time to complete</th>
<th>Cost to complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Request and obtain planning permission</td>
<td>30 days</td>
<td>PGK100</td>
</tr>
<tr>
<td></td>
<td>from DL&amp;PP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.</td>
<td>Request and obtain certificate of ownership and</td>
<td>30 days</td>
<td>PGK100</td>
</tr>
<tr>
<td></td>
<td>Site map from DL&amp;PP</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3*</td>
<td>Request and obtain permission from Fire Authority</td>
<td>30 days</td>
<td>no Charge</td>
</tr>
<tr>
<td>4*</td>
<td>Request and obtain project clearance from Health Dept</td>
<td>29 days</td>
<td>no Charge</td>
</tr>
<tr>
<td>5*</td>
<td>Request and obtain project clearance from Dept of Environment and Conservation</td>
<td>28 days</td>
<td>no charge</td>
</tr>
<tr>
<td>Step</td>
<td>Activity Description</td>
<td>Duration</td>
<td>Charge</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------------------------------------------</td>
<td>------------</td>
<td>----------</td>
</tr>
<tr>
<td>6*</td>
<td>Request and obtain project clearance from Water and Sewerage Authority</td>
<td>27 days</td>
<td>no Charge</td>
</tr>
<tr>
<td>7</td>
<td>Request and obtain building permit from DL&amp;PP</td>
<td>90 days</td>
<td>PGK100</td>
</tr>
<tr>
<td>8</td>
<td>Request and received foundations work inspection from Municipal</td>
<td>90 days</td>
<td>no Charge</td>
</tr>
<tr>
<td>9</td>
<td>Request and received concrete work inspection from Municipal</td>
<td>1 day</td>
<td>no Charge</td>
</tr>
<tr>
<td>10</td>
<td>Request and received steel work for slabs inspection from Municipal</td>
<td>1 day</td>
<td>no Charge</td>
</tr>
<tr>
<td>11</td>
<td>Request and received frame inspection from Municipal</td>
<td>1 day</td>
<td>no Charge</td>
</tr>
<tr>
<td>12</td>
<td>Request and received damp-proof course inspection from Municipal</td>
<td>1 day</td>
<td>no Charge</td>
</tr>
<tr>
<td>13*</td>
<td>Request for electricity connection</td>
<td>1 day</td>
<td>no Charge</td>
</tr>
<tr>
<td>14*</td>
<td>Receive electricity inspection</td>
<td>1 day</td>
<td>no Charge</td>
</tr>
<tr>
<td>15*</td>
<td>Connect to electricity from PNG Power</td>
<td>29 days</td>
<td>PGK 100</td>
</tr>
<tr>
<td>16*</td>
<td>Request water and sewerage connection</td>
<td>1 day</td>
<td>no charge</td>
</tr>
<tr>
<td>17*</td>
<td>Receive plumbing inspection</td>
<td>1 day</td>
<td>no charge</td>
</tr>
<tr>
<td>18*</td>
<td>Connect to water and sewerage services from Eda Ranu</td>
<td>29 days</td>
<td>PGK2,000</td>
</tr>
<tr>
<td>19*</td>
<td>Request telephone connection</td>
<td>1 day</td>
<td>no charge</td>
</tr>
<tr>
<td>20*</td>
<td>Receive inspection from Telikom</td>
<td>1 day</td>
<td>no charge</td>
</tr>
<tr>
<td>21*</td>
<td>Connect to phone services from Telikom</td>
<td>27 days</td>
<td>PGK100</td>
</tr>
<tr>
<td>22</td>
<td>Request occupancy permit</td>
<td>1 day</td>
<td>no charge</td>
</tr>
<tr>
<td>23</td>
<td>Receive inspection</td>
<td>1 day</td>
<td>no charge</td>
</tr>
<tr>
<td>24</td>
<td>Obtain occupancy permit</td>
<td>29 days</td>
<td>no charge</td>
</tr>
</tbody>
</table>

Note – Takes place simultaneously with another procedure.
- DL&PP stands for Department of Lands and Physical Planning

8.4.1.13 Papua New Guinea is ranked 102 and 121 out of 183 economies in the category of Ease of Doing Business and Dealing with Construction Permits respectively. PNG rankings in Doing Business 2010 compared to a global good practice economy, as well as selected economies, are captured in the table 8.3 below.
Table 8.3: Snapshot of PNG ranking out of 183 economies by Doing Business 2010

<table>
<thead>
<tr>
<th>Rank</th>
<th>Doing Business 2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ease of Doing Business</td>
<td>102</td>
</tr>
<tr>
<td>Starting a Business</td>
<td>104</td>
</tr>
<tr>
<td>Dealing with Construction Permits</td>
<td>121</td>
</tr>
<tr>
<td>Registering Property</td>
<td>83</td>
</tr>
<tr>
<td>Getting Credits</td>
<td>135</td>
</tr>
</tbody>
</table>

8.4.1.14 The development of housing industry is highly depended on the players in the industry and their associated costs are important to the housing industry. There are many costs in delivering housing in the market and some of the costs identified include:

- Land cost
- Building material costs
- Labour costs
- Building Design Costs
- Insurance Costs
- Stamp duty Cost
- Cost of basic infrastructure
- White goods costs
- Cost of Bank fees
- Agent’s Commission and other related fee

8.5. Tariffs as a Contributor to Costs, Economic Distortions and ‘Rent-seeking’ Behaviour

8.5.1 The contribution to costs in the form of tariffs also needs to be considered. Clearly, tariffs are a component of the revenue base, which, in aggregate, funds all Government expenditure. There are, therefore, macro-economic considerations to be taken into account in relation to tariffs, in so far as they affect the revenue base, in the context of the expenditure envelope necessary to meet the ordinary expenditure of Government as well as that for national development priorities.

8.5.2 On the micro-economic side, the Commission considers it necessary however, to identify the effect of tariffs on building materials in raising the costs of residential construction.

8.5.3 During discussions with the Department of Commerce and Industry, representatives of that department expressed its mission as being ‘to protect domestic manufacturers’. If that is indeed the official mission statement of the Department, the Commission considers that to be a significantly incomplete mission statement. The usual stated objective of tariffs is to provide protection to ‘infant industries’. PNG itself has, in the past, had policies which encouraged the growth of ‘pioneer industries’ behind protective tariff walls. The experience of such approaches, in the 70’s and 80’s, show that the performance of such protected industries, like sugar, did not improve sufficiently to meet strict time lines. Experience worldwide has also shown that these ‘infants’ do not generally ‘grow up’ until tariffs are removed.

8.5.4 A significant level of natural protection exists in the form of international shipping costs, although partially offset in PNG by inefficiency in coastal shipping; port operations; and land transport.
8.5.5 On the other hand, if the domestic manufacturer is profitable, there is no need for protection. Tariffs, in these circumstances, merely allow the domestic manufacturer to raise prices right up to the import parity price and encourage rent-seeking behaviour generally, through requests from other industries for similar benefits.

8.5.6 It is necessary, therefore, to carefully monitor the costs and profitability of industries receiving tariff protection, on an ongoing basis, examining the need for continuing protection and being prepared to reduce or remove it, if not justified. It is understood that, following the conclusion of the Tariff Reduction Programme in 2006, a review was conducted and recommendations made to the Government by Professor Scolley, of the University of Auckland. There is no indication of the recommendations or of their outcome, in the form of a long-term Government tariff policy. The Commission suggested in its Draft Report that the Department of Commerce and Industry, in conjunction with the Treasury, review the need for tariffs in each industry sector, on the basis of objective criteria, including the profitability of each enterprise receiving tariff protection.

8.5.7 The Treasury submission on the Draft Report raised the issue of piecemeal changes to the tariff. The Commission considers that, ordinarily, tariff changes should be considered in a holistic way, across all sectors. The Treasury submission indicated that work is in progress to review the tariff. In these circumstances, the issues raised in relation to the construction materials sector should be incorporated into the review. If the review is likely to be a drawn-out process, however, the Commission believes that consideration should be given to ‘ad hoc’ review of tariffs for this sector, in light of the pressing circumstances of lack of housing for the overwhelming majority of Papua New Guineans. Again, this issue would appear to merit a high priority, relative to other matters, in terms of national importance.

8.5.8 More broadly, the established competition policy of PNG needs to be factored in to such tariff policies as their allocative efficiency consequences affect national economic performance. Furthermore, PNG is a party to various international trade agreements through its membership of such organisations as the World Trade Organisation (‘WTO’) and the United Nations Conference on Trade and Development (‘UNCTAD’), which have strong relevance to its tariff policies.

8.5.9 An alternative to tariffs is to grant GST exemption to processors of raw materials into ‘downstream’ products, such as timber, used in the building industry. This, of course, results in the loss of tariff revenue as well as GST revenue. The ‘spin-off’ effects, however, are likely to more than compensate for such revenue losses. If effective in reducing costs of domestic production, significant ‘value-addition’, in the form of employment and import substitution, can be achieved from ‘downstream processing’.

8.6 Competition in the Home Building Sector

8.6.1 There is no suggestion that Papua New Guinean-owned firms are unable to enter the home-building market or that Papua New Guineans are not able to build houses. Some operate in the market at present. So long as entry barriers are low, they can enter and compete effectively.

8.6.2 The current approach, however, of leasing land to developers who also build houses on them, under the perceived obligation to do that to comply with the ‘improvement’
requirement, within the time period of some 5 years, constitutes a significant barrier to entry and competition, particularly for small-to-medium enterprise builders (discussed below).

8.6.3 Under the section discussing the leasing approaches, the anti-competitive effect of such an approach has been alluded to. There are wider economic consequences which need to be considered.

8.6.4 One issue which merits scrutiny is that the vertically integrated industry structure generated by the current leasing approach has excluded small builders from a large segment of the market. A significant consequence of de-coupling land development from residential construction would be the encouragement of small builders, who, for the most part, are likely to be Papua New Guinean owned and operated. In the earlier discussion of the financing sector, finance for small builders was alluded to. Widening the scope for entry of small, locally owned builders, would create the conditions for financiers to provide working capital loans and encourage growth of a building sector that is largely owned by PNG nationals, thus meeting a need for small builders as well as providing lending opportunities for financial institutions.

8.6.5 It is recommended that any condition in the grant of UDLs, if such exists, requiring developers to construct dwellings on the land, as distinct from servicing it with internal roads, water, electricity, sewerage and street lighting and subdividing it into building lots, be removed. Further, the time-limit for completion should be considerably shortened, say to between 12 and 18 months, and the conditions should be strictly and vigorously enforced.

8.6.6 The expansion in the home-building market that would be generated by the implementation of recommendations in this report would lead to a substantial increase in the level of employment in the building industry, with commensurate training opportunities that would ‘take up’ a significant proportion of urban youth that are unable to find work or get a place in education. These benefits generate substantial social benefits by reducing unemployment in the urban areas and through their consequent reduction of crime.

8.6.7 ‘Downstream’ conditions on the grant of title to individual lots should also contain conditions requiring commencement of construction of the dwelling within, say, 12 months and completion thereof, within, say, a further 12 months. Again, the conditions should be strictly and vigorously enforced.

8.6.8 The above two approaches will prevent hoarding and speculation over:

- raw land over which an UDL has been granted;
- serviced building lots, title to which has been granted.

8.6.9 The accelerated supply of building lots to the market will begin to ameliorate the imbalance between demand and supply. The ability of prospective home-owners to choose their builder will inject competition into the building market, which would reduce prices for building. In combination, these measures should:

- dampen the expectation of windfall profits to owners of existing homes and to current and prospective developers, thus creating the incentive to sell, rather than to hold properties from the market in the expectation of spiralling prices;
increase the incentive of prospective home-buyers to save, thus enhancing affordability of housing

8.6.10 *The Independent Consumer and Competition Commission Act 2002*, which regulates commercial conduct by setting rules, which prohibit certain anti-competitive conduct and business acquisitions and protects consumers from certain unfair practices, also applies to the building industry.

8.6.11 More specifically, sections 50 to 52 prohibit contracts, arrangements or understandings which substantially lessen competition. The Commission has not examined whether the conduct of tying sales of land to the building of houses amounts to a breach of any of those provisions. If the reforms recommended in this report, to de-couple land development from residential construction are adopted, investigation of whether such tying conduct amounts to a breach of the legislation would be unnecessary. If such ‘bundling’ of land and home building continues, the Commission may well need to consider initiating an investigation as to whether the conduct amounts to a breach of relevant provisions of the *ICCC Act*.

8.6.12 There is another issue related to tying land development to residential construction in UDLs. The current approach poses some risk to the wider economy. Because of the vertically integrated market structure for residential construction, a few, relatively large, firms dominate that market, which is also skewed towards high value dwellings. This is evidenced by the high prices charged for such ‘house and land’ packages, targeting end purchasers who are high-income earners; and landlords investing in accommodation for transient high-income earners e.g. expatriates working on large mineral resource projects for medium term periods. If the global markets for extractive-industry exports experience shocks that result in contraction of those sectors in the domestic economy, the rental market for such high-value accommodation is likely to also experience contraction. Large developers with significant construction work-in-progress without pre-committed sales and landlords with substantial investment in such accommodation could, consequently, be exposed to financial stress and risk of failure, which could have ‘knock-on’ effects through the financial sector and, through second-round effects, adversely affect the wider economy.

8.6.13 Such ‘knock-on’ financial effects were queried by the Minister for Public Service in his submission on the basis that the suggested higher profits from vertical integration would constitute a buffer against any downturn in prices. This, of course, depends on the level of gearing of developers – the higher the gearing, the higher the risk. Broadly, depending on the degree of market distortions, significant departures from long-term or ‘normal’ levels of prices in a market of substantial value pose risks of knock-on effects, as has been experienced in the effects of the ‘sub-prime’ lending crisis in the United States of America.

8.6.14 The vertical separation of land development from residential construction, together with increased availability of land for subdivision, particularly for low-income housing, would gradually create a larger, more stable, market for housing for middle-income PNG nationals, rather than the smaller, relatively more risky one, focussed on housing high-income earners, who are mainly transient expatriates.
8.6.1 Innovation in design, materials and construction

8.6.1.1 The Commission has seen little evidence of innovation in the production of building materials and their use in home building. In discussions with PNG Institute of Engineers, it emerged that building standards which cover home design and building materials, were largely ‘transplanted’ from Australia and New Zealand during colonial times and very little change has been made since.

8.6.1.2 During the General meeting in POM on the 25th September 2009, the Commission staff suggested that interested parties, such as NISIT, PNG Institute of Engineers, relevant Building Board representatives, architects and town planners liaise closely in exploring the scope for indigenous home designs and materials to be evaluated for certification under relevant standards. Such initiatives would reduce costs and increase affordability of housing, besides injecting a national character into housing.

8.6.1.3 One reaction from one of the agencies mentioned above was that its legislation did not provide for such liaison. The Commission is surprised at that reaction. There is no suggestion that the relevant legislation prevents such liaison between organisations with common interests to improve the performance of the housing sector. Currently, NISIT formally includes participation by the PNG Institute of Engineers in its work programme. There is no reason why that co-operation could not be extended, whether formally or informally, to include other interested parties which are presumed to share the common vision of improving affordability through innovative design, while maintaining appropriate safety standards.

8.6.1.4 The increased use of local alternatives to conventional building materials used in the ‘formal’ housing sector is visible in developing countries. Such materials include sun-dried mud bricks (which are used even in developed countries) and a range of products made locally, which ‘recycle’ waste paper and other materials. There appears considerable scope, therefore, for efforts to incorporate the use of alternative materials, which are both low-cost and more environmentally compatible, to minimise building costs.

8.6.1.5 The work of HFH in designing low-cost housing, integrated with the use of locally available materials and trade-skills training is noteworthy in exemplifying the scope for such approaches.

8.7 Other Studies and Recommendations

8.7.1 The Government has funded a number of studies into the housing industry to develop an appropriate national housing policy for Papua New Guinea. There have been numerous reviews in the 1970s that recognise the failure to provide affordable housing. These Reviews have resulted in different forms of government intervention to address the housing woes but those interventions have not worked. The NRI in the National Housing Strategy it produced as Strategic Adviser to the National Housing Task Force, which the Government nominated the Secretary of the Treasury, Mr Simon Tosali, to chair, identified the following public sector housing policies that have been attempted by government:

1. Institutional Housing;
2. Home ownership Schemes;
3. The National Housing Corporation, the responsibilities of which encompassed both public housing and institutional housing for public servants;

4. The 2002 Housing Policy (still in draft form and understood not to have been considered by Government);

5. The 2007 National Housing Task Force (no decision on the report of which is understood to have been made by Government yet).

8.7.2 Other housing policies have been discussed in the previous section. The 2002 Housing Policy was drafted for the Minister for Housing in March 2002. The policy was to have all Papua New Guinean have decent houses at affordable cost. However, this policy has remained in draft and has not been implemented. This policy is understood to have

- advocated private sector involvement; but recommended that
- the National Housing Corporation provision of houses continue, albeit in more viable commercial format.

8.7.3 The intentions behind such policy statements, as “have all Papua New Guineans have decent houses at affordable cost”, are laudable, however, detailed analysis of the impediments to the achievement of the objectives and a roadmap for implementation are essential to resolve the problem and meet the public expectations that are created by such broad public statements.

8.7.4 In Chapter 3, the scale of the problem has been outlined. A key element in the planning for such public housing that appears to have been omitted is identification of the scale of the problem and matching that against the proposals to address it and resources required.

8.7.5 The most recent study into the housing industry commissioned by the government was the National Housing Task Force, in 2007, to assist which the National Research Institute was engaged as the strategic consultant. NRI prepared a National Housing Strategy document which outlined the proposed approach for the development of the housing policy in Papua New Guinea and presented to the Government with a view for government endorsement of the strategy to pave way for further consultations with key industry participants to formulate a comprehensive National Housing Policy. To date, the government has yet to endorse this strategy for the housing policy to be finalised.

8.7.6 That strategy set out the framework within which a policy should be developed, in particular the appropriate roles for government and the private sector, to establish a common position within government in order that more specific implementation strategies could be developed. As a way forward, the strategy strongly advocated is for the role of government to be the facilitator and regulator of the industry with the private sector more involved in the construction and building of houses.

8.7.7 The Minister for Public Service, in his submission on the Draft Report of this review, quoted from the letter from his Departmental Secretary to the Treasury Secretary on the latter’s draft submission to the National Executive Council, tabling the recommendations of the National Housing Taskforce, in which he opposed the withdrawal of Government from direct housing provision, pointing to

- the direct provision by many governments of housing;
the experience of Canberra, where housing was provided for the Government’s workforce; and
the approach of Singapore and many western economies of providing housing directly.

8.7.8 A number of difficulties arise from such analogies. The scale of the housing scarcity in PNG dwarfs that in the other countries mentioned. It is the scale of the problem which demands a rethink to previous and current approaches. The Minister’s submission points out that in Australia, some 350,000 people are estimated to occupy public housing while the figure of the estimated population lacking housing is 250,000. The latter represents some 1% of population and its composition is transient, according to employment status, physical or mental health, alcohol and drug abuse status etc. In PNG, poverty levels (living on less than US$1 per day), are estimated at 40% of total population with ‘settlement population’ in major cities doubling every 9 years, and total urban population increasing at half that rate. Making significant inroads into the problem in PNG with current approaches is highly unlikely, in contrast with developed economies. A new framework is required, which does not rely on limited Government resources. In the absence of a demonstrated ability to meet the demand by direct provision of housing, under current approaches, it appears unlikely that the State can achieve its objectives for housing the population of PNG.

8.7.9 Canberra was established as a new capital, requiring internal migration, with incentives to attract people. Port Moresby and other cities in PNG are more than adequately populated and no incentives should be required to attract workers. Further, the ‘housing commission complex’ approach has been discarded in Canberra, which has demolished such concentrations of low-income housing as Melba Flats and Burnie Court, with Fraser Court also to be demolished. The current approach is to require developers to make available a proportion of the blocks in the development at lower-cost for low-income first-home buyers and to subsidise privately supplied rental accommodation for low-income earners. Some aspects of that approach are now being followed in New South Wales. In the US, approaches have existed for some time which involve indirect incentives, e.g. tax breaks for private sector provision of public housing.

8.7.10 Singapore does not have natural resources and is dependent for its economic survival on its efficiency throughout the economy. It competes with Hong Kong, Malaysia, Thailand, South Korea etc in a range of markets, including the transhipment trade for sea cargo, as a commercial aviation hub, a regional financial centre, and in shipbuilding, scientific research, biotechnology and other markets. Any inefficiency in one sector such as housing would damage its competitive ability in other markets and jeopardise its economic survival.

8.7.11 Singapore has, consequently, evolved as a dynamic economy, with some features of central management and a culture of social obligation and public scrutiny, which maintains the pressure on efficiency in all sectors. Such conditions do not prevail in PNG and attempting to ‘transplant’ approaches that work in Singapore to PNG is accompanied by significant risk of failure.


24 Ibid
8.7.12 As for Western Economies, Table 8.1 shows a range of approaches, from rehabilitation of public housing in France to Ireland, where developers are required to contribute 20% of new dwellings for affordable housing - and the latter has not reduced supply. Such approaches need to be seen in the context of the scale of the challenge in PNG, which dwarfs that facing Western European economies and calls for a paradigm shift in thinking, if real progress is to be made in housing the population.

8.7.13 The quoted letter from the Secretary DPM to the Treasury Secretary’s draft NEC submission also argued that the profit motive involved in private sector supply raised prices and Government could provide housing at lower cost with proper management. The competition-enhancing initiatives recommended in this report would reduce ‘economic rents’ without sacrificing the efficiency of the private sector – incentives for which are absent from the public sector. In discussions with individuals, estimates were provided for (a) developing land in cities – approximately K60,000; and (b) building a basic house of two bedrooms – approximately K35,000.

8.7.14 Without suggesting that PSHOP provides only the basic minimum standard of house, the cost of which is estimated above, the prices for PSHOP houses, proposed to be built under a current contract, range upwards from approximately K180,000. There is a question whether given the choice, public servants would prefer a more modest house at a substantially reduced cost.

8.7.1 Initiatives to encourage the supply of customary land

8.7.1.1 The Commission has considered the NLDT report and supports its recommendations. The Commission acknowledges the support for the implementation of those recommendations at the political level, supervised by the Hon. Sir Puka Temu, the Deputy Prime Minister, in his capacity as portfolio Minister for DL&PP and the progress achieved, in conjunction with the Office of Urbanisation within the Department of Community Development, in the National Land Development Project.

8.7.1.2 A summary of current initiatives under that project, provided by Treasury, is contained in Annexure E. The Commission would encourage wider adoption of the principles and approaches being used in those initiatives in relation to the

- Peri-urban fringes of the larger cities, where employees of Government or the private sector are forced to seek accommodation;

- Smaller towns where
  - Government administrative centres; and
  - commercial activities related to mining or tourism are being, or are proposed to be conducted or expanded

to encourage the supply of land for housing the staff which are employed in such activities.

8.7.1.3 Tourism has significant potential as a growing area of economic activity. A number of tourism-based commercial projects are in the pipeline for development on certain provinces like Eastern Highlands, Madang, Milne Bay, New Ireland and East New Britain. These are wealth-creation opportunities for landowners, together with income-earning
opportunities for local people, who may supply goods or services to enterprises engaged in tourism-related activities as well as local employment.

8.7.1.4 As indicated in Box 1, tourism has been growing following the intensification of competition in the international aviation sector. It has the potential to grow to become a substantial component of economic activity. Such a development, together with a substantial expansion of the housing sector, will diversify the base of the national economy and create a ‘buffer’ against external shocks to the agricultural and mineral resource sectors, on which the nation largely relies.

8.7.1.5 As mentioned earlier in this report, legislative amendments have been enacted to permit customary landowners to register customary title and enter into leasing transactions for such land.

8.7.1.6 One known concern of landowners is the use of such property as collateral for loans to lessees, and their apprehension that business failure of the lessee might result in foreclosure on the land by mortgagee-financiers. That concern is understood to have been addressed by appropriate legislative provision preventing such foreclosure action which might lead to loss of long-term control over the land by its customary owners.

8.7.1.7 More generally, the whole area of customary land issues needs to be handled with great sensitivity. Quite apart from the value of land as an economic resource, which is recognised world-wide, the close emotional bond between Papua New Guineans and their customary land is a factor which needs to be appreciated. It is this close relationship with the land which generates intensely passionate responses to land disputes, sometimes leading to violence and long-lasting feuds between clans and tribes.

8.7.1.8 Some existing 99-year leases of State land are understood to be coming up for renewal. There has been some concern that customary landowners may require the return of such land. The Commission understands, however, that arrangements for renewal of such leases have been, or are being, put in place by DL&PP.

8.7.1.9 The work of the Office of Urbanisation and NRI in educating customary landowners at Taurama near Port Moresby and in Goroka, is ground-breaking and needs to be supported and emulated elsewhere.
9.0 Reform Proposals to Address Impediments to Competition and Efficiency

9.1 Applying Economic Principles to Drive Efficiency and Reduce Costs of Housing

9.1.1 This section explores the scope for the adoption of approaches to enhance competition as a way of achieving efficiency improvements to overcome the impediments to the growth of the housing sector and resolve the housing problem.

9.1.1.1 Institutional housing; home-ownership schemes and rental assistance for employees of the state

9.1.1.1.1 It is appropriate to begin with institutional housing and home ownership schemes subsidised by the State for its employees. A number of departments and agencies of the State control land under ‘certificates of authorisation’. Some of them are: Departments of Finance and Treasury, PNG Ports Corporation, Bank of PNG, PNG Power Ltd, Telikom (PNG) Ltd and National Broadcasting Corporation. The reason for such devolution of control is not known. As described in Chapter 8, those agencies and departments of State have used some of the land under their control to provide housing to their respective staff.

9.1.1.2 Furthermore, a number of entities have policies on funding assistance for home-purchase and the assistance depends on the nature of the entity. In some schemes, employees are normally being assisted in the following ways:

- Provision of loans
- Interest subsidies
- Assistance with deposits or repayments
- Provision of land or assistance in the construction of houses

9.1.1.3 Such home-ownership assistance schemes have been seen as beneficial to the employer in terms of increased staff productivity, morale and loyalty, and, although an added cost to the administration of the entity, has been considered to less costly than the provision of institutional housing as it requires on going maintenance cost. However, this is unlikely to be the case, as argued below.

9.1.1.4 For institutional housing, the state currently provides a large number of housing to its employees across a wide range of occupation including, defence, police, nurses, doctors, corrections service officers, teachers and others. The private sector also has some form of housing assistance policies for its employees but not significant compared to the public sector.

9.1.1.5 In this arrangement, where housing is provided as a condition of employment in the private sector, it forms part of the overall package for employment. In Government Departments and SoEs, however, housing is not a condition of employment.
9.1.1.6 To the extent that the State provides financial assistance to its employees in securing housing, a number of issues of equity and economic rationale arise. In this context, financial assistance for rental and for purchase leads to similar outcomes in the rental and purchase markets for residential accommodation described below. First, such schemes benefit one section of society, but not others. Even within individual agencies, some employees are provided benefits and others not, while some receive greater monetary benefits than others. Such policies, in effect, discriminate in favour of some sections of society and against others. The common justification for such ‘in house’ housing schemes is that they assist in retaining valuable staff. In practice, various schemes apply on a ‘slab’ basis to personnel within certain grade bands. There is no suggestion that all personnel within the relevant bands are equally efficient. Furthermore, there is no suggestion that all personnel below the relevant bands are inefficient. Finally, the implementation of such schemes is deficient in that many former employees, who should have vacated institutional-owned residential accommodation, continue to occupy them. In those cases, whatever may have been the claimed justification, it does not apply to such unauthorised and continuing occupation.

9.1.1.7 From the viewpoint of economic distortions and their effect on allocative efficiency, a number of concerns arise. First, such schemes do little to address the fundamental impediments to increasing the supply of housing and, therefore, high residential property prices and rentals. While some new building may occur, the cost of provision, for reasons which will become clear later, are disproportionately high and are borne by the public purse, which is already hard pressed to direct scarce resources to the priority tasks of national development. A rational approach would save the State the significant costs of subsidising its employees for their accommodation expenditure.

9.1.1.8 Secondly, in an environment of scarcity, where the ‘market clearing’ or ‘equilibrium’ price would, in any case, be extremely high, the subsidisation of housing for Government employees only pushes the price level upwards, as the employees’ enhanced ability to pay is reflected in higher price offers by them to secure scarce dwellings. Landlords and vendors, acting rationally, will seek out, and only agree to accept, the highest prices offered.

9.1.1.9 Hence, much of the value of the financial assistance provided by employers is eroded by the resultant higher rents and prices for residential properties. Furthermore, such price increments mean that those citizens who are not employed by the State suffer the consequences of further reduced affordability. Where the disadvantage is manifested in rent levels, the ability to save towards a deposit is further eroded. For prospective purchasers who have saved the deposit, the proportion of their disposable income required for loan instalment repayments is increased, thus increasing the financial stress for them, where it is probably already high, as a result of the price levels reflecting scarcity, even before the distortionary effects of employee-assistance initiatives.

9.1.1.10 On the basis of the above analysis, it can reasonably be concluded that employer-provided housing assistance to their employees is of little benefit to the employees themselves; and of considerable detriment to the rest of the community, including those employees who do not qualify for such schemes.

9.1.1.11 Consequently, as part of the package of reform initiatives to grow the housing sector, the Commission recommends that an immediate ‘freeze’ be applied to the provision of institutional (rental) housing (except in certain special circumstances, discussed later); bearing the cost of renting properties from the real estate market for staff; subsidies for staff
purchase of homes; and development of land and building houses for staff housing ownership schemes. This is not to suggest that legally enforceable contracts already executed should be rescinded. However, if these recommendations are accepted, no new arrangements should be entered into from the date of decision by NEC.

9.1.1.12 In his submission on the Draft Report, the Minister for Public Service opposed this approach on the basis that the case had not been made for withdrawal of institutional housing in particular and from public housing generally. The Draft Report, however, allowed for institutional housing provision in “exceptional circumstances”, involving temporary posting in remote areas for essential service employees such as teachers, medical staff, police etc. The Commission suggests that the definition be extended to include ‘Operational Officers in the Defence Forces, Police and Correctional Services, in recognition of the security challenges they often face, but not including bureaucratic staff, who do not face such situations of personal risk. The Minister’s arguments on public housing have been discussed earlier. In relation to rental subsidies, particularly ‘market rental equivalent’ amounts, the Minister pointed to private employers subsidising rentals up to K3000 per week. Such subsidies are likely to be few and the standard of housing involved bears little relationship to housing of a standard applying to public servants or most Papua New Guineans, as mentioned in Chapter 3. Any distortionary effect, therefore, on the broader housing market is unlikely to be significant.

9.1.1.13 As for public housing, the scale of the problem, when combined with the inefficiency of provision by Government, requires a new approach. The Minister’s submissions on overseas approaches have been considered and commented upon in the previous chapter.

9.1.1.14 The grant of some financial allowance to Government employees, to help defray the cost of housing, however, could continue for a transitional period, until the package of reforms begins to have beneficial effect. Such allowances should be non-trivial but non-distortionary i.e. although relatively small, they should constitute assistance, without amounting to ‘re-imbursement’ of market rents for a given standard of accommodation so as to be large enough to cause significant distortions. Similarly, the expenditure of some Government employers, including statutory authorities and SoEs, e.g. PNG Power Ltd, on housing should not equate to current expenditure on rent re-imbursement, nor for direct provision of housing, but follow the principle outlined above for Government employees, for a transitional period, until property values resume their long-term trend. At the end of that transitional period, all such allowances, whether for those employed directly by Government or by SoEs or statutory authorities, should be withdrawn.

9.1.1.15 The Commission has been given to understand that the Department of Personnel Management has contracted Hays, to review remuneration levels, including housing allowances provided by Government. While the recommendations may be referenced to ‘market rents’, their effect of ‘pushing up’ rents needs to be considered. Furthermore, if the initiatives proposed in this report are adopted, it would be reasonable to expect a reduction in property values and, consequently, in rents. Hence, decisions on any adjustments to housing allowances should take account of the recommendations in this report, rather than rely exclusively on ‘market-based’ rental assistance levels that may be recommended, if they are based exclusively on the current levels of rent, as that may only reflect current inflated rent levels, rather than what would prevail in the long term, under efficient market conditions.
9.1.1.16 The Public Service Minister is concerned that if allowances are not tied to housing, they may be spent on non-merit items such as gambling and alcohol, which detrimentally affect productivity. The State, however, is not able to control such personal decisions by individuals and, while educative initiatives are appropriate, regulating to prevent inappropriate individual choices is impracticable and, where it raises broader economic issues, is likely to be inappropriate. Approaches to staff performance management need to be more specific rather than tie allowances to particular expenditure. In any case, expenditure that is tied, allows discretion on expenditure of remaining, untied, income and the identified objective of tying allowances to housing expenditure can easily be circumvented.

9.1.1.17 Without any such tie between allowances and housing expenditure, recipients of the allowance, with the incentive to maximise the benefit of the limited allowance, would then be able to make rational decisions as to the best use of such funds i.e. they would not be bound to spend the entire allowance on rent or purchase of houses or on a particular standard of housing; instead, they could make expenditure decisions based on ‘best value for money’ to meet their accommodation needs. This enhances allocative efficiency.

9.1.1.18 The discretion of recipients on the use of the accommodation allowance would ameliorate the pressure of demand for both rented housing and housing purchase, to some extent. Furthermore, the supply side of the rental and house purchase markets could not exert the same degree of the market power arising from scarcity to the extent they currently do, as Government and SoE employees, who form a not-insignificant proportion of the total urban housing markets, where the problem is greatest, would no longer have the financial ability to bear such levels of rents and purchase prices sought by landlords and prospective vendors of property.

9.1.1.19 The cumulative effects of this approach on the housing market would be to limit rent and price increases for houses, without significant detriment to staff; and signal the seriousness of the Government’s commitment to resolve the housing crisis, thus limiting expectations by speculators of reaping economic rents far into the future.

9.1.2 State-owned properties

9.1.2.1 Submissions have been received that the management of State-owned properties, provided to employees under ‘institutional accommodation’ arrangements, based on rent payable by the employee to the State agency, has not been efficient. Maintenance has been poor; in many cases, rent has not been collected; occupiers have continued in occupancy beyond the conclusion of their employment; some occupants do not appear to have had a legitimate claim to occupancy at any time; and the cost of repairing tenant damage has not been recovered. The fact that no comprehensive register of property owned by the State exists, at least in so far as the NHC is concerned, speaks volumes about the level of efficiency of management of State-owned residential properties. It is not surprising therefore, that the State has periodically tried to ‘cut its losses’ by housing ‘giveaway schemes’.

9.1.2.2 All of the above leads to

- considerable financial costs to the State, in the form of holding substantial assets without obtaining a reasonable return, at a time when more pressing development priorities have to be postponed due to budgetary stringency;
• administrative costs in maintaining various bureaucracies to manage different housing assistance schemes
• ‘moral hazard’ in encouraging prospective tenants to engage in dubious practices to secure such housing, then fall into arrears, damage properties or otherwise behave in ways to ‘secure’ such ‘giveaways’;
• inequities between employees who, on the one hand, secure such housing at deeply discounted rents; and receive ‘giveaway’ housing; and, on the other, employees who are unsuccessful in obtaining either;
• inequities between employees who benefit in such ways and other citizens who do not;

9.1.2.3 This report recommends the immediate cessation of new initiatives for provision of institutional housing identified above (with limited “exceptional circumstances” arrangements discussed elsewhere) and that the function of managing rented properties be transferred to private sector service providers. In the transitional arrangements to the proposed cessation, however, certain sequenced steps need to be taken for the transfer of the management of State-owned housing to the private sector.25 A complete asset register for each State-owned property, under the management or control of every State agency, department, SoE or statutory authority needs to be compiled, including the properties managed by NHC. An appropriate co-ordinating agency needs to be identified to manage the transition, which needs to incorporate open, transparent and competitive public tendering procedures. A staged, but speedy ‘pipeline’ of properties needs to be fed into the transfer process, with agreed timelines.

9.1.2.4 Subject to the arrangements for “exceptional circumstances” accommodation needs described in elsewhere in the report, in the longer term, the rental properties owned by the State, whether controlled by NHC or other agencies of Government, should be sold. Those occupying the properties legitimately should be given the opportunity to bid for them. Dubious claims to ownership by occupants needs to be addressed as described below.

9.1.2.5 Prompt legislative action is necessary to discourage unjustified claims to ownership by tenants of property provided to them by NHC or other departments, agencies, SoEs or statutory authorities. This can be achieved by legal provisions having the effect of requiring courts to have regard, and give adequate weight to: the original rental/leasing arrangements under which the claimant commenced occupation; conditions including any requirements for cessation of the tenancy; and giving up occupation on cessation of employment by the relevant organization which originally provided the accommodation.

25 The concept of public-private partnerships (‘PPPs’) is gaining popularity with politicians and the bureaucracy. The approach recommended above resembles a PPP. It appears to be the case, however, that many so-called PPPs under way do not incorporate an essential feature – open, transparent and competitive tendering under an objective criterion. There appears to be evidence to support the view that in the housing sector, the private sector partner is selected by private negotiation c.f. example cited by Treasury in annexure to its submission on the Issues Paper. Not only do such deficient approaches forego the key economic benefits to the State of achieving PPPs, but they encourage corruption in the form of efforts by the private sector to suborn public officials in order to gain a commercial advantage, rather than submit themselves to an open, transparent, and competitive process, anchored in objective criteria for the award of a PPP. A detailed study of PPPs in existence or in train is, however, beyond the scope of this review.
9.1.2.6 It would also be necessary to legislate for individual title rights in multiple-dwelling properties, as a precursor to divestment of land under unit title, as that has been identified as a barrier to divestment of individual dwellings to separate purchasers or current occupants. Other issues, such as installation of separate metering for utilities, can also be addressed systematically and concurrently with a programme of divestiture.

9.2 Supply of ‘Raw Land’ (or ‘portions’) Controlled by the State.

9.2.1 There is the broader issue of raw land under the control of the State, or its agencies (‘State land’) being available, but not released for general residential development, having the effect of creating a ‘land bank’ at a time of acute scarcity of raw land on the market. At present, it is understood that substantial tracts of State land are available in the large urban centres like Port Moresby and Lae. Some of this land forms the subject of discussion elsewhere in the Report, wherein it was pointed out that various departments, agencies, statutory authorise and State-owned enterprises control substantial parcels of land, which they have reserved for staff housing. The proposed ‘Central City’ project, outside the border of the National Capital District, is another example of State land not being released, when a substantial amount is available. It is clear, therefore, that, generally, substantial tracts of land are available in or near the larger cities, although there is some variability on this point, as discussed in the chapter on spatial differences. There is no obvious reason to withhold such land from the market, at a time of acute housing scarcity.

9.2.2 Failure to embark on such a programme of land sales is likely to have generated, and to continue to generate, immense pressure on the private sector to engage in dubious or corrupt practices to acquire scarce land. That is especially so since no effective economic cost attributable to the land itself is paid, acknowledging that developers bear the cost of servicing the land. However, the cost of servicing, and much more, is likely to be recouped in the subsequent sale of the built property due to scarcity and no incentive exists to develop and sell it quickly – indeed there is the contrary incentive of ‘hoarding’ it. If substantial amounts of such ‘land banks’ were privately owned, they would create significant opportunities for hoarding and speculation. The State, in failing to release land that it controls, at its market value, does not reap the financial benefits of this asset, nor makes progress in meeting an important development objective, of housing its people, that it has identified as a priority. When land is released in such circumstances of scarcity, the developer gains windfall benefits from the high price levels. To address speculation and expectation of windfall profits, a property-based capital gains tax would be useful.

9.2.3 The Public Accounts Committee of the National Parliament has reported in detail on such matters and the Commission does not attempt to reproduce material from its report in this report. The Commission commends the report of the PAC to interested parties. It would be inappropriate for the Commission to comment on the subject matter of litigation currently before the courts, as the issues are sub-judice, but the press coverage of litigation frequently relates to disputes about land title grants and transfers. The PAC report and the level of litigation on land title issues suggest endemic failures in efficiency, at the least. This concern highlights the importance of fundamental systemic reform on an urgent basis, to leasing of State land, as suggested below.

9.2.4 Raw land should not be released under the same processes that it has been in the past. Significant reform of the land release process is required. It is not suggested that the State
should seek to profit from restricting land releases for future gain, but ensure that its economic value is charged to developers, under conditions of adequate supply. In this respect, while the Commission strongly supports the recommendations of the NLDT, it recommends the incorporation of certain criteria and safeguards to protect the public interest.

9.2.5 This report recommends the aggregation of State land, whether owned by departments, SoEs, statutory authorities or any other agency of Government, for release for housing, where appropriate.

9.2.6 PNG Ports Ltd requested that it be allowed to retain land under its control because it plans expansion of its operations which would necessitate additional land. The use of land by each entity should be governed by its approved objectives; the proposals for use should conform with those objectives; and realistic plans for the use of the land should be put forward, rather than broad claims of intention for future use. The co-ordination agency for implementation recommended in this report should exercise great care in considering claims for use of land by the entities holding such land and should not accede to requests for ‘ambit strategic business claims’ nor for staff housing purposes.

9.2.1 Charging for lease of state land to developers

9.2.1.1 When State land is released for development, it is understood that no capital charge is made; only a periodic rental payment is required to be made. The prevailing prices for new-building of medium and high covenant houses strongly suggest that the land on which they are constructed have a substantial economic value. If developers are not being charged for that, it would be a significant misallocation of resources, because it devalues the asset to the detriment of the State and the benefit of the developer, who can charge monopoly prices and reap ‘economic rents’, without sharing them either with the State, or with end-purchasers.

9.2.1.2 This raises a serious concern that valuable assets of the State, represented by raw land holdings, often in prime locations, are being transferred to private ownership, creating significant private wealth, at the expense of the State and its citizens. Once secured, the developer can take ‘economic rents’ by charging a monopoly price to the builder or end purchaser of the land and house respectively. This may explain the general practice of developers not offering building lots for sale, but ‘house and land’ packages, where the economic rents do not have to be shared between developers and builders, but can be reaped over the entire supply chain and appropriated by developers. Such circumstances create incentives for corrupt conduct and have the potential to encourage such conduct.

9.2.1.3 Consequently, some perverse economic incentives are generated. Developers who are successful in obtaining raw land, have the incentive of ‘preserving’ scarcity, to continuing to reap economic rents. Government decision-makers are exposed to the temptation of corruption by developers who are willing to offer unlawful incentives to obtain scarce State land. Bureaucrats, who are confident of continuing to receive their pay packets, have little incentive to improve efficiency. This may explain the reported examples of erroneous issuance of titles and poor record-keeping. These perverse incentives, if not addressed, have the potential to undermine the basis of land grants and the accuracy of title records. As a result, lenders, who provide home loans on the hypothecation of land, through encumbrances on title, might no longer consider title to be adequate security. At that point, the entire system of lending for home building (and development of land as a commercial activity), is
likely to ‘freeze up’, with catastrophic economic impact because it would affect commercial/industrial land as well.

9.2.1.4 The introduction of a capital charge for land released to developers, on the basis of a current valuation by the Valuer-General’s Office, would properly reflect the economic value of the resource being awarded to the developer. The Valuer-General’s role of assessing a market value for the purpose of annual rental could be used to set a ‘floor’ value (or ‘reserve price’), below which bids would not be accepted. Furthermore, the valuation, if conducted regularly, can be used as a basis for quantifying the periodic rental, which would be higher, reflecting more current values, and would provide ongoing higher levels of revenue to the State. Such increased revenue, from land releases and realistic annual rentals, would contribute to funding key national development priorities (including expenditure on urban infrastructure discussed later in this report).

9.2.1.5 While it may be argued that any capital charge would raise the end-price of the land or/and house package to the purchaser, a proper analysis suggests that would not be the case. From the perspective of purchasers of land aspiring to build houses thereon, the transfer of value of the land from the developer to the State would only account for a part of the likely ‘economic rents’ (excessive profits) currently being taken by the development-construction supply chain. For reasons which will become clear later in this report, the reforms suggested would ultimately lower the cost of, both, subdivided land and house construction. Hence, instead of an additional cost element being imposed, consumers will be better off, the State revenue base will be enhanced, the housing sector will grow and entrepreneurs in the industry will have increased opportunities to enter the market and expand their businesses.

9.2 Basis of award of lease of state land to one developer from among many applicants

9.2.2.1 Having discussed the valuation of State land and the incorporation of such value into the system of leasing State land to developers, the question arises as to which of a number of developers the land should be leased to.

9.2.2.2 The valuation would form the ‘floor’, ‘reserve’, or minimum, price for the lease. Where a number of applicants seek the lease, some objective criterion needs to form the basis of adjudication of bids and the award of the lease to the successful tenderer. At the core of such reform would be the introduction of open, competitive tendering, based on the price offered for the relevant portion. Lest this be argued to increase the cost of land to prospective buyers who cannot afford high prices, the proposals in this report would lead to efficiencies and cost reductions throughout the vertical chain, that are more than likely to exceed any capital charge for land, the economic value of which, in any case, is now implicitly factored into the ‘economic rents’ taken by the supply chain, arising from the ‘scarcity’ value built into current price levels. The cost reductions would come from increased supply of raw land, generating competition for land subdivision and in the building sector.

9.3 Strategies for Assisting the Low-Income Segment of the Population to Purchase Building Lots

9.3.1 The economic linkages above show that, despite the price-bid auction basis of awarding raw State land to developers of housing lots, prices should not rise as a consequence, but fall.
The Commission considers, therefore, that that regime, described above, should apply to most land (as it represents a scarce and valuable resource), but that there is one situation which should constitute an exception to the above general rule. That is the approach to low-income housing. The succeeding paragraphs describe the regime that the Commission recommends should be followed for awarding land for specifically for development and use in the construction of housing for the low-income socio-economic sector of the population.

9.3.2 In essence, the system is based on the award of the lease of certain portions of land, identified for low-income housing, to the developer who tenders the bid which stipulates the lowest weighted average sale price for building lots (the subdivided land on which houses are to be built) to be sold to end-purchasers. This involves the State foregoing revenue from the capital value of the land, which, in the general regime, it is recommended to charge, on the basis of a highest price-based bid. There are three justifications for this exceptional approach to lease of land for low-income housing. First, the State is not now receiving any capital value for such land (or for any land, for that matter) and, therefore, would be no worse off. Secondly, and of much greater significance, it is foregoing the revenue for the very laudable objective of meeting its obligation to provide housing to its economically disadvantaged citizens. Thirdly, of equal importance to the previous justification, is the significant ‘multiplier’ effects of stimulating the new-home-construction sector, discussed in some detail elsewhere in the report.

9.3.3 The bids for lease of raw land for low income housing are to relate solely to the development and sale of subdivided residential building lots, not the sale of ‘house and land packages’. This is to encourage competition in the home building sector. The costs of entry into large-scale development and home building are high and, if the supply of land and houses is vertically integrated, such costs will remain high and limit competition. Opening up the market to builders of single homes would inject a substantial degree of competition which, of itself, would lead to efficiency and lower, competitive, prices for the construction of dwellings.

9.3.4 The policy aim of assisting first home buyers who do not have the means to acquire their homes without such assistance would best be achieved by objective ‘means testing’ criteria; verification of ‘first home buyer’ status; and ‘low’ value limits on the construction cost or the price of completed dwellings. This would involve an effective income-and-asset-testing system together with a reliable title recording and checking system. A key probity control on such low-income housing approaches is to prevent resale by the first end-purchaser for a significant period, say 6 years.

9.3.5 If for any reason the above approach proves incapable of implementation, an alternative approach would be to contract out the subdivision of State land earmarked for low-income housing to the developer who wins the tender on the basis of the lowest cost bid. The land

26 This approach is based on economic principles accepted by eminent economists. The central principle of contracting for the provision of the service on the basis of the lowest delivered price (or weighted average thereof) is to ensure that economic rents are ‘competed away’ at the bidding stage and ensure that end-purchasers are benefitted by contractual conditions of the auction, strictly enforced by the relevant authority. Some references are:
could then be sold to qualifying first home buyers on the basis of the ‘means-cum-assets’ test; and ‘end-value’ limits outlined above, recognising that verification of such limits need strong probity safeguards.

9.3.6 Another approach could be the one adopted in the Republic of Ireland and in the Australian Capital Territory, where a specified percentage of building allotments are required to be provided at a nominated price for low-income first home buyers.

9.3.7 Having discussed the key criterion for the award of the lease over State land, it is important to emphasise that, apart from general ‘conditions for tender’ which stipulate various essential criteria which all tenderers have to comply with, discussed below, it is crucial to limit the criterion for bidding to a single one. If that approach is followed, there would be only one ‘variable’ for bidders to consider. The inclusion of additional ‘variables’ as criteria for the award of the lease, would mean:

- Uncertainty for bidders as to the relative weight that would be given to the different ‘variables’ by the decision-makers.
- The decision-makers, likely to consist of a number of persons, are likely to disagree on the weighting or come to different conclusions on their assessment of competing bids.
- The assessment becomes subjective (often described as a ‘beauty contest’) and is difficult to justify to unsuccessful bidders and the general public.
- Such a subjective process could also sow the seeds for corrupt conduct, by allowing justification on ‘alternative’ weightings of the multiple criteria.

**9.3.1 Possible implementation issues for suggested approach to low-income housing**

9.3.1.1 The proposal to have land for low-income housing auctioned to the bidder who offers the lowest weighted average end price for the subdivided land, however, has implementation issues. It is envisaged that some ‘means test’ would apply, presumably on the basis of ceilings on assets/income, and a requirement that the purchaser would have to be a ‘first home-owner’ to qualify to buy a building lot in the development subject to this wholesale auction criterion. In developed countries, that is not very difficult to implement, with the risk of severe penalties, if found out to be a false claimant, acting as a powerful deterrent.

9.3.1.2 In PNG, however, with an unreliable property registry system currently operating and little in the way of an alternative, comprehensive, database which records individual property information, establishing that a person has not owned a home before might prove difficult. If the title records were accurate, that would suffice, but they are not. If the current reforms to DL&PP can be expected to deliver a reliable title registry system within the time frame envisaged for the implementation of the initiatives in this report, that particular difficulty would be overcome.

9.3.1.3 Furthermore, a reliable income tax system, which accurately reflects personal income and financial assets held, would assist greatly in policing eligibility compliance. It is not known, however, whether the tax information system is sufficiently robust, nor whether privacy laws allow, or prohibit, the use of tax information for other Government purposes, such as policing of such eligibility for assisted housing. For those in full-time employment, however, evidence of salary levels are easily established. That, however, does not eliminate
the possibility of other income, which would be difficult to establish, without access to their tax records. A powerful disincentive to ‘cheating’ the system would be significant penalties, including jail terms, for breach, and they would need to be vigorously enforced to constitute a meaningful deterrent.

9.3.1.4 Another theoretical argument could be made that those most disadvantaged do not pay income tax and, therefore, would not be able to access such preferential housing. If the incomes of the disadvantaged are so low, however, as to exclude tax liability, they probably could not afford the deposit and repayments for owner-housing anyway. In the current economic circumstances, it is beyond the capability of the State to provide housing to every citizen. So those in ‘formal’ employment or earning a regular income from self-employment, who meet an income ceiling criterion would form the first homebuyers demand base.

9.3.1.5 It is recognised that establishing a reliable and effective system of means-testing for income and assets, with a verifiable system of enforcing ‘end-value-limits’ may prove to be a significant obstacle to the integrity of the process.

9.3.1.6 If the implementation difficulties prove so significant as to cast doubt on the integrity of the system, it may be advisable to initially maintain the general approach, of allocating raw land to the bidder who offers the highest price, relying on the expectation that the system would yield appreciable benefits in the first place because

- bids, and end-prices, would progressively become lower, as more land is released;
- competition among developers to enter would keep end-prices for serviced land down;
- competition among builders would keep house building prices low;
- when those of the existing stock of houses come on the market, they would also reflect lower price trends; and
- the release of NHC properties on to the market would boost supply of mostly low-price range dwellings on the market

All the above trends would be likely to bring prices sufficiently down to make a meaningful impact on affordability.

9.3.1.7 At this stage, when certain agencies, which would be key to the implementation strategy, are undergoing significant change, it would be inappropriate to be prescriptive about the approach to be adopted for low-income housing. The choice of the approach should be one for the Joint –Coordinating Group, recommended to have responsibility for the implementation of these recommendations, on the basis of their assessment of the capabilities of relevant agencies at the time, when the effects of current reforms can be assessed.

9.4 Strategy for low-income rural dwellers to build houses on customary land

9.4.1 The above discussion of provision of land for low-income housing is focused on State land. In rural areas, however, where most Papua New Guineans live, customary land is available for housing but lack of access to finance is a major impediment. The work of HFH, described earlier, demonstrates that arrangements based on co-operative principles, allied with micro-finance on a community based, revolving credit provision system, can work. There is an argument, therefore, for policy initiatives to encourage such financing. In these special circumstances, the Commission sees merit in providing tax or other incentives to
private sector or NGO providers of micro-finance for rural housing on customary land, where ‘self-help’ community-based, revolving credit is provided. The reasons are that
  o customary land is available in rural areas and no existing scarcity is being exacerbated by stimulating demand.
  o Furthermore, improving rural housing would reduce urban drift and generate employment at the source of such drift, thus raising living standards.
  o Some 87% of Papua New Guineans live in rural areas and it could be argued that development needs merit priority and financial incentives.

This is not to suggest, however, that the State should enter the micro-finance sector itself.

9.5 Some Key General Conditions of Tender for State Land

9.5.1 Apart from the specific pricing criterion for the auction of the two categories of raw State land, certain general conditions for tender, which are provided to prospective tenderers (and well-publicised), need to be included, to promote competition and efficiency in the supply of subdivided land. The following are suggested:

- The tender criteria for all raw land should include a realistic, but much shorter time frame for delivery of the subdivided land to market than currently applies. Presently, UDL lessees are required to ‘make improvements’ on the land within 5 years. There is a common understanding that such ‘improvements’ constitute dwellings, which means that the developer markets ‘house and land packages’. For the reasons in the previous dot point, that approach results in muting competition and raising end prices for housing. As the proposed ‘deliverable’ is to be subdivided land, a much shorter period, say between 12 and 18 months from the date of award of the right to lease, would be the appropriate time limit.

- It is understood that even the current 5 year time limit for ‘improvement’ of the land is often breached and that action to enforce the obligation is not usually taken. There is no justification for such inaction. Enforcement of lease obligations is a key requirement in the regime being proposed. Otherwise, there would be no assurance that the scarcity of housing would be addressed within a reasonable time frame.

- The lease conditions should require every purchaser of the subdivided land to commence construction of a dwelling the design of which is approved by the relevant authority and which complies with approved standards, within 12 months, and completed within two years of the grant of title. This is to prevent speculation in subdivided land and the creation of hazard to the community for fire, illegal occupation, criminal activity etc.

- Whether a UDL holder who has not completed the subdivision of a portion of land awarded to it, should be allowed to bid for another portion, should be assessed by the ICCC.

- Furthermore, the winners of UDLs should be monitored to ensure that an anti-competitive market structure does not emerge. In this connection, the organisation awarding the UDLs should require prospective bidders to list all UDLs they have been awarded, whether their ‘improvements’ have been completed or not, for the purpose of securing ‘clearance’ by the ICCC, as the competition authority, prior to consideration of their bids.

- As the probity of various tender awards in various sectors of the economy have been called into question over previous years, the decision-making body should include a
‘Probity Monitor’, appointed from outside the organisation, with no pecuniary interest in the property sector, to ensure the ethical conduct of the tender process. Such a person should have the power to report to NEC any irregularities that occur in the tender process.

- The outcomes of all tender awards should be made public on the day of the decision.

9.6 Town Planning and Pro-active Initiatives for Urban Renewal

9.6.1 As cities mature, the inner suburbs become more sought after, both for dwelling and, progressively, for commercial use. Because of the rising value of inner-city land, higher quality dwellings are constructed, to reflect the higher land value, often in the form of medium or higher density housing – ‘row houses’ multi-level’ apartments, etc.

9.6.2 Such renewal generates higher land rentals for the State as well as accommodates proportionately greater numbers of residents.

9.6.3 Urban renewal, therefore, should be encouraged by pro-active zoning to flag the acceptability of such re-development.

9.6.4 In time, what may now be inner-city squatter settlements, or older areas which may have degenerated into ‘slums’, could offer the opportunity for such renewal and ‘gentrification’, as is experienced in most cities around the world.

9.7 Organisational Arrangements for Implementation

9.7.1 The options for choice of members for an umbrella co-ordinating and supervising agency, referred to in this report as the Joint Co-ordinating Group are:

1. Independent Public Business Corporation (IPBC)
2. Department of National Planning
3. DL&PP
4. NHC
5. Treasury
6. ICCC
7. NRI
8. Office of Urbanisation
9. Department of Provincial and Local Government Affairs

9.7.2 The IPBC has the responsibility for managing the Government’s ownership interests in a number of SoEs and has had that responsibility for several years. More recently, it has been closely involved in the negotiations for the PNG LNG Project. There is a considerable way to go in improving the efficiency of those SoEs and it is crucially important to achieve such improved efficiency as they have an enormous impact on economic growth generally and, particularly in respect of some of them, for overcoming problems in the housing sector. The PNG LNG Project is also significant and its implementation will continue to require considerable Government input, which is assumed to continue to remain under the IPBC’s wing. It is undesirable that its executive attention and organizational resources be diverted to another pressing and competing national priority. A most useful and productive contribution by IPBC to resolving the housing crisis would be to improve the efficiency of its SoEs.
9.7.3 The Department of National Planning is engaged in the macro-planning function directed to achievement of the millennium development goals. The MDGs do, of course, include housing, but DNP is fully engaged in designing strategies to address the package of MDGs. That is a significant challenge, the achievement of which is critical to improving living standards. The Commission does not consider it appropriate to burden the Department of National Planning with this co-ordination role when it is occupied with other significant responsibilities.

9.7.4 DL&PP is in the throes of reorganizing itself, preparing to undertake much-needed and significant reform in the delivery of its services, which are key to resolution of the housing crisis. Again, it has ‘a lot on its plate’ and, moreover, its own performance would need to be monitored and assessed by an arm’s length agency not itself directly responsible for delivery of components of ‘programme and operational reform’ in the housing sector. It will also have an enhanced role under these recommendations.

9.7.5 The performance of NHC has been sub-optimal for a considerable period of time as seen elsewhere in the Report. While considerable criticism has been made of its ‘conflicting objectives’ of delivering affordable housing, on the one hand, and, on the other, of operating on a commercial basis i.e. funding its own operations and, presumably delivering dividends to the State on the assets it controls, it is also true that NHC has not succeeded in achieving either objective. It would be extremely risky to entrust the pivotal responsibility for co-ordination and supervision of such a major reform programme to an organization that has proven itself incapable of delivering results in such basic operational areas as building maintenance and ensuring that a register of properties is current.

9.7.6 The function of ‘steering’ reform of the housing sector would rely more on a profound understanding and application of the principles of public policy; monitoring and co-ordination of the activities of key Government agencies; competition and consumer protection policy and experience; and effective reporting to the Government, than on the skills of building or land development, per se. Furthermore, the membership of the Joint Co-ordinating Group should include those agencies which (a) have ‘reach’ to other stakeholders, whose co-operation is necessary for effective implementation, (b) have strong credentials in relevant economic and competition/consumer protection matters; (c) should not make it so large as to make the Group cumbersome, unwieldy and unable to provide timely and effective advice; and (d) not have potential conflicts of official interests which undermine its work.

9.7.7 The National Housing Task Force was, and continues to be, chaired by the Secretary of the Treasury, Mr Simon Tosali and, undoubtedly, Treasury staff have become familiar with the issues, organizations and difficulties faced by the sector, with their ongoing management of the Technical Working Group advising the Taskforce. The ICCC has extensive skills in competition and consumer protection matters.

9.7.8 In addition, NRI and the Office of Urbanisation have been involved in the four pilot projects involving mobilisation of both State land and customary land for housing and their experience would be valuable. NRI is also a research organisation with relevant economic-analytical skills required.

9.7.9 Finally, the implementation of these recommendations in the Provinces would require the liaison of the Department of Provincial and Local Government Affairs. After considered
assessment, therefore, the Commission is of the view that a Joint Co-ordinating Group, chaired by the Secretary of the Treasury and including the ICCC, NRI, Office of Urbanisation and DPLGA are best placed to take joint responsibility for the co-ordinating and supervising role in implementing these reforms.

9.7.10 In relation to implementation, DL&PP should be the agency to which all departments, agencies, statutory authorities and SoEs should transfer all their holdings of raw land, for leasing to developers under the regime recommended in this report.

9.7.11 A very short time frame, say ten months from the adoption of these recommendations, should be set for this first step, as it is unlikely to require legislation, but would require a decision by the Executive Government.

9.7.12 DL&PP should be given a maximum of three months to release the first portion, with subsequent portions put into the pipeline as soon as possible and no later than at 6-monthly intervals. The first portion could be a portion that is currently under the control of DL&PP, to avoid the delay that would be caused by the 10-month time limit for the aggregation of all State land.

9.7.13 A reporting process should be established to ensure the Minister responsible for the DL&P portfolio is kept informed of progress and can report to the Executive Government on the achievement of milestones.

9.7.14 Within DL&PP, a chain of accountability needs to be established with identified persons responsible for the carriage of implementation.

9.7.15 The NHC should be required to urgently compile a register of its property assets. DPM should take over the function of managing institutional housing properties owned by the State, through its departments. DPM could combine its management of rental properties with its administration of various staff home-ownership schemes under existing contractual commitments. The transfer of institutional housing properties from NHC to DPM could occur either before the property register is compiled or subsequent to that. No new home purchase assistance should be provided by any department or DPM from the date of the NEC decision to accept these recommendations. NHC should compile a property register and, in respect of its public housing portfolio, transfer it to private sector real estate managers, under the supervision of the Joint Co-ordinating Group and with the assistance of CSTB. This makes it important to have an enforceable code of conduct for the real estate sector, to ensure ethical behaviour towards tenants.

9.7.16 The ‘exceptional circumstances’ provision of institutional housing should include those provided by the Defence Forces, Police and Correctional Services, but only in respect of ‘Operational Officers’ (excluding bureaucratic staff) until the Joint Co-ordinating Group can examine in detail the special issues relating to those arrangements and formulate a long-term strategy. Where rentals are paid for such housing, they should be directed towards maintenance, with budgetary supplementation to restore them to acceptable standards. However, tenant obligations to preserve the properties should be enforced, if necessary by private management.

9.7.17 It is envisaged that SoEs, statutory authorities and any other type of agency owning land not required for their core function should divest it to DL&PP for aggregation and
In respect of institutional housing (other than ‘exceptional circumstances’ institutional housing) or home purchase assistance provided by SoEs, statutory authorities and any other agency, no new staff should be provided with such benefits from the date of decision by NEC to accept these recommendations and a ‘sunset’ period of 12 months should be applied to current rental assistance arrangements, within which period an assessment of appropriate transitional assistance could be made.

9.7.18 Every 3 months, progress reports should be made public as this is a matter of significant importance to the nation.

9.8 Asymmetry of Information and Negotiating Power Between Suppliers and Consumers

9.8.1 The key pre-conditions to improving competition and efficiency in the housing sector and the imbalance in negotiating power between suppliers and consumers of housing are:

- Ease of availability of relevant information to redress the asymmetry between suppliers and consumers. Transparency, therefore, needs to be increased;
- Common rules, with which suppliers in relevant markets need to comply. The significance of this for competition is that the ‘playing field needs to be level’. Otherwise, some suppliers, finding that the intensity of competition on price, quality and service puts them at a disadvantage, are likely to attempt to reduce service levels or include terms and conditions in their supply agreements that give them an advantage vis-à-vis their competitors and affect consumers adversely; and
- The expectation that laws, rules and generally accepted standards of behaviour are observed and enforced effectively, to give confidence to all suppliers and consumers that everyone is bound by the same rules and that non-observance will be punished.

9.8.2 The above issues are inextricably intertwined with competition and efficiency. They are, however, important enough to merit detailed discussion in their own right and, therefore, comprise a separate chapter which follows.
10.0 CONSUMER PROTECTION ISSUES

10.1 Consumer Behaviour in the Housing Market

10.1.1 Consumer behaviour in the housing market is largely determined by the spatial differences and the changes that are taking place in the housing market. Unlike in the rural and remote areas where kinship and clan support is the norm of providing housing, in urban centres housing needs are met by individual financial capacity. In the past two decades, there is a recognizable trend away from more traditional methods of consumers relying on government housing programs towards more market-based systems of housing finance whereby more people are buying and owning houses as owner occupiers or for commercial interest supported by accessibility to finance.

10.1.2 Housing design and standards for building in PNG have largely been borrowed from abroad and in most housing construction particularly the larger ‘housing schemes’ where houses are built to much the same design, consumers have no choice but to buy houses designed by someone else. As a consequence, consumers are locked into paying a loan for a house that they had not been part of the process to negotiate for a cheaper deal. The house size is also determined by the size of the family living in it but in PNG context where wantokism is strong and extended family living together, house size is less relevant as families fit into the available space in a house.

10.1.3 Information asymmetry is an important aspect to consumers in the decision making process of purchasing or renting houses. Apparently, when real estate agents act as intermediaries between the consumers and owners, consumers do not get the full benefit of knowing and understanding the exact housing condition as information is largely with the agent.

10.1.4 This has led to consumers’ decisions in renting or buying a house being compromised by quality and safety issues. With the absence of proper quality check on the housing condition, some materials used for building are substandard thus reducing the durability of the houses and consumers buying into it often realise that, over time, the house will either need to extensively repaired or rebuilt at additional cost.

10.1.5 The Commission recognises that the bargaining power of consumers in the housing market has been limited by restricted supply. With the limited supply of land and housing on the market, it is noted that consumers are subjected to different steps before the land or house being transferred to their ownership. If consumers do not have the financing capacity they would forgo participating in purchasing and renting houses or land. However, the inquiry is aware that the ineffectiveness of the process by some institutions in the supply chain that often led to high transaction cost in the purchase of the house or land could have been easily avoided had the whole process been effective. This review has discussed the issues on slow process of financing, title search, building design approval, etc. The submission by Bank of South Pacific to the inquiry stated that there is no standard contract documentation in PNG, which would generally be expected to include a “subject to finance” clause. This results in purchasers being unwilling to execute contracts until finance is approved by which time the
property may have been sold to another party, or conversely a contract is executed without finance in place with the contract possibly being subsequently cancelled or rescinded. The ineffectiveness in the system could be detrimental to the consumers when the deal does not proceed successfully. In an earlier chapter, this report has suggested ‘standard form’ documentation for residential property-related transactions, including, as appropriate, ‘excludable’ and ‘non-excludable’ clauses.

10.1.6 Under “Specific Tasks to be Undertaken” the terms of reference for this inquiry provides, at paragraph 2 (e) “Other consumer protection laws and requirements that may impact on the operation of businesses in this industry (including the ICCE Act and the Prices Regulation Act);”. In this report, the Commission has recommended legislative changes to allow promulgation of a mandatory code of conduct for all those engaged in residential property transactions. Some difficulties, however, arise. Banks, finance companies, insurers, builders, valuers, lawyers and possibly others, have business activities which extend beyond residential construction. Such regulation would apply to one part of their activities but not others.

10.1.7 While some consumer protection regulation, such as the conduct of leasing dwellings, are specific to the housing industry, others, such as preventing misleading and deceptive conduct, which, on the basis of consumer experience in this sector, are considered to be necessary, should relate to all businesses dealing with consumers, lest one sector consider itself unfairly targeted. Hence, issues of even-handedness of regulation need to be considered. In this report, the Commission has recommended some industry-specific regulation such as mandatory codes and licencing, but in respect of general misleading and deceptive conduct, considers that there is a need to avoid singling this industry out for special regulatory treatment. Hence, although this inquiry is primarily focused on the housing and real estate sector, some recommendations for regulatory reform are made which are intended to apply across the board, including amending the ICCE Act to include a simplified prohibition on misleading or deceptive conduct to all consumer transactions, across the board. The provision should be brief and easily understandable.

10.2 Consumers Accessibility to Housing

10.2.1 Consumers’ accessibility to housing is unrestricted, apart from the supply constraints arising from regulatory failure and affordability. The consumers are subject to various processes in purchasing and renting a house. For institutional houses and housing schemes, the processes could be considered easier as it is managed by those administering the schemes unlike the purchase and rental in the open market where the consumers are individually involved and need to be made aware of the processes and the transaction costs that are involved.

10.2.2 Government recognising this difficulty has attempted to supply houses through various schemes but this was part of a temporary solution. Assistance from the government to the general consumers has been in the form of exemption of stamp duty for first time home buyers for the purchase of a low cost house up to K70, 000.00. A suggestion was made to this inquiry by NASFUND that this ceiling is unrealistic as most purchase prices for low-income housing has surpassed this amount and it encouraged government to lift this threshold to K200, 000.00. Nambawan Super noted in its submission that the increase in threshold will assist its members to access the accumulated interest on top of 100% of their own contribution without getting assessed for tax. Furthermore, the recent change in the
Superannuation Act has only allowed for funds to be drawn from the contributors’ savings and not from employers’ contribution which placed the contributors in a situation where difficult to obtain the entire savings as equity for financing. On the other hand, the Treasury, in its submission opposed an increase in the ceiling for stamp duty exemption, presumably because it would amount to an increase in the cost to revenue. The Commission considers that the ceiling should not operate to assist the purchase of a home which exceeds the ‘low-income’ standard. Furthermore, any such initiative needs to be delayed until supply is increased to the level where a long-term, ‘sustainable’ price profile for housing can be established. Early introduction of such changes would only serve to ‘push up’ price levels. Should counter-cyclical macro-economic considerations justify a strategy to stimulate the economy, liberalising stamp duty exemptions on first home purchase could form part of a strategy to encourage residential construction, but the pre-conditions are not likely to be met imminently and the issue is, therefore, not a near term one.

10.2.3 Nambawan Super Ltd submissions also suggested the government give tax holidays for developers based on volume and funds invested in housing development say developer building more than 100 houses or K50m investment or more on serviced lots with all basic infrastructure. A significant defect of such ‘assistance’ to the entrepreneurial segment of the ‘housing industry’ is that it gives preferential tax treatment to commercial investors in one sector, but not in others. A criticism could be made that it amounts to ‘picking winners’ in the form of one industry versus others. To the extent such proposals relate to a minimum size of investment, they would favour large builders against small ones. Such assistance, is quite different from assisting prospective home-owners acquire their homes through stamp duty exemptions or savings incentives. Home-ownership is a desirable social goal, delivering significant economic benefits and stability described in Chapter 8 above. Entrepreneurial investment in residential property, on the other hand, is a commercial activity, which while contributing to society in the form of productive investment, cannot be qualitatively distinguished from other forms of business investment.

10.2.4 Bank South Pacific in its submission states that to counter affordability issues consideration should be given to double or triple deductibility for tax for private sector employers who provide either housing allowances or suspensory loans to their employees to assist with loan repayments and equity contributions. Some government and private sector employers are providing some form of housing assistance through housing allowance or subsidy to their employees for rental purposes or assist in the payment of loan for housing purchase through equity contribution, as outlined earlier in this report. The difficulty with such approaches is that they add to ‘demand pressures’ in an environment of severe scarcity, and the only effect they are likely to have is to raise prices higher than the prevailing high levels.

10.2.5 There is also a timing problem. At a time when housing is extremely scarce, and effective initiatives to sustainably resolve the fundamental problem of supply bottlenecks, have not yet been taken by Government, such incentives are highly likely to push up prices further, by encouraging investors to enter the market and add to demand for the limited land and housing available on the market.

10.2.6 The Commission, therefore, does not support the proposal for tax breaks for developers and employer-assistance for housing for their employees.
10.2.7 As outlined earlier, the Commission considers that the issue of affordability can be addressed much more effectively by increasing the supply of raw land, together with the promotion of competition in each sector of the housing industry, which will help to reduce end prices. In the current situation, developers of housing have avoided developing the land to ‘serviced lot’ stage and selling the lot for individuals to have their house build by the builder of their own choosing. Given the scarcity, this is to be expected, as the vertical integration, in a scarce raw land market, allows ‘profit maximisation’ in the end-product supply. Under the approach recommended, consumers would be very careful on the cost and will attempt to build a house that suits their budget and needs, thus exerting demand pressure on the building market.

10.2.11 The Institute of National Affairs in its submission to the inquiry acknowledged that developed housing, provided by institutions such as the superannuation funds, still appear outside the range of most middle, and even higher income, earners on current salary range and wanted this inquiry to explore ways to reduce those cost to buyers or self help owner-builders by reducing overheads (including time taken in gaining approvals, titles etc) and increasing competition in the building trade (which is particularly restricted in some provinces to one or two main builders). These comments are related to the vertical integration issue, discussed in detail earlier. Furthermore in small towns, the volume of building is unlikely to support many builders. The expansion of the building sector, however, particularly the small-to-medium segment, creates the potential for entry into those small towns, if the local builders increase prices significantly or lower the quality of houses they build.

10.2.12 The opportunity for building new houses in the current circumstances is limited; thus the same houses are being recycled on the market pushing up prices. The different effects of the consequences of well-intended, but irrational, policies, on the two main categories of purchasers, namely, owner-occupiers and purchasers of investment houses for leasing to tenants, needs to be considered carefully. The distinction is necessary as, in the case of houses purchased for commercial reasons whether at reasonable or high prices, the owners will still recover their money over time from the rental income unlike owner occupied where the owners will rely on their salary or savings to make the purchase.

10.2.13 Such incentives and linkages are to be expected and the Commission does not suggest policies to limit demand growth, as ‘demand generates its own supply’, whether planned or unplanned (in the latter case, through squatter settlements). For this reason, suggested solutions need to be holistic, integrated, deal with the scale of the problem and address the key causes of the malaise, rather than the symptoms alone.

10.2.14 Housing provided through the NHC is intended for the low to medium income earners and, in theory, should have been accessible by everyone. It appears that NHC does not have a proper registry of its houses and the tenants that are living in them and do not keep a track of the movement of tenants. Some tenants become unemployed, but continue to live in the NHC properties, provided they are able to meet the periodic rental and this leaves little opportunity for new entrants into the formal employment sector to seek accommodation through NHC. There have been suggestions that the allocation of NHC housing for rents is discriminatory and favouritism operates in the accessibility of housing. If true, the existence of such practices could deny genuine potential tenants and home buyers access to housing under NHC.
10.3 Challenges Facing Consumers

10.3.1 Consumers include first time home buyers, other owner-occupiers, and tenants. Firstly, in the absence of a proper policy on housing, there is lack of uniformity and clarity in the rules in dealing with purchase and renting of housing. The imbalance in bargaining power between sellers and buyers and between landlords and tenants give rise to the following consumer problems:

- Availability of land for housing development
- Affordability by Renters and Purchasers
- Financing

10.3.2 Some of these factors are within the consumers’ power whilst others are suitable for the external intervention such as government to facilitate the availability of land and providing incentives for consumers for the purchase and rent of housing. On the other hand, the consumer should have the financing capacity to tap into the rental and purchase market as the price is left to the market forces. The lack of supply of housing within individual budget has forced many low to medium wage earners to take occupancy in areas which are compromising safety and security issues.

10.3.3 The Commission is mandated to deal with consumer related complaints and in some cases complaints related to housing and real estate are not adequately resolved to the satisfaction of the complainant due to the absence of clear regulation where the Commission can intervene. The Commission since its establishment has been dealing with consumer issues relating to housing industry and the common issues reported are:

- Unjustified increased in rental levels
- Eviction without notice or justifiable reason
- Not responsive to maintenance complaints
- Tenant safety
- Payment of excess water charges
- Bond disputes

10.3.4 These issues are not isolated and are faced by many consumers with their landlords or the managing agents. Most of these issues are easily avoidable if there exists some level of clarity in the Lease Agreement between the landlord and the tenant.

10.3.5 The Government has recognised that citizens within their capacity as consumers under the Independent Consumer and Competition Commission Act 2002 have the right to:

- Safety
- Choice
- Consumer education
- Information
- Representations
- redress

10.3.6 While these provide some level of consumer protection, some of the issues such as rental prices are outside the scope of the Act.
10.3.7 The Commission is also aware that tenants renting properties are subject to the tenancy agreement which is binding between the tenant and landlord specifying the tenants and landlord obligations. Where the tenancy arrangement is not in writing, it is difficult to enforce and in most instances breaches of the agreement are difficult to resolve. Notwithstanding the aforementioned, the Commission is aware the lease preparation fee for the document is quite expensive and the money is often collected by the agents for preparing the lease agreement and from a standpoint where the lease agreement is not honoured, the money is being paid for a deal that does not live up to the requirement of the lease agreement.

10.3.8 In terms of the bond fee, the Commission is aware that there is little transparency and accountability in the handling of the bond fee for the tenants. This is to say that some agents disappear with the bond fee without the tenants taking occupancy of the property whilst in other cases at the end of the tenancy, bond fees are either not repaid, or repaid in part only, without justification.

10.3.9 The Commission knows that the Real Estate Industry Association, for the purpose of its members, has a code of ethics in place where it binds its members conduct in the housing and real estate market. Although the code is not mandatory at this stage, the Association in conjunction with the Commission has progressed work on the revised code to make it applicable to all real estate agents. The objective of the Code is to promote high standard of ethical conduct and practices in the real estate agency practice in Papua New Guinea when dealing with clients or customers by:

a) setting service and conduct standards for real estate agents; and
b) establishing principles for fair trading and ethical business conduct in real estate agency practice; and
c) providing for a system of complaint resolution for complaints about real estate agency practice.

10.3.10 The Commission was provided, as part of this Review with the draft Real Estate Industry Code which has been formulated by the REIA. No description of the operation of the REIA’s code was provided. In this respect, it would be relevant to establish whether a complaint-handling body exists to adjudicate complaints, the number of complaints made of breaches of the code, their nature, outcomes, if any agent was found in breach, and, where the agent was so found in breach, what penalties applied. These are some of the key criteria by which such codes are evaluated.

10.3.11 The Commission, based on the assessments of such codes by overseas regulators charged with the duty to protect their consumers, is not convinced at this stage, that such codes are, or would be, effective in protecting the interests of Papua New Guinean consumers, if they apply only to members of the REIA, under its self-regulatory arrangements, or that that there is evidence that it is enforced effectively by REIA. To be effective, a code would have to be mandatory for all real estate agents as well as landlords.

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27 There are significant risks in relying on a code of practice designed and administered by the members of an industry (a ‘voluntary’ or ‘self-regulatory’ code). The risks involved in exclusive reliance on self-regulation are identified in a report by the Australian Trade Practices Commission, the predecessor of the Australian Competition and Consumer Commission.: Self-regulation in Australian Industry and the Professions. AGPS, Canberra, February, 1988. ISBN . 0 644 074884.
directly leasing residential property, with enforcement of the code by an independent regulator with enforceable, realistic penalties for breaches of the code.

10.4 Consumer Protection Options

10.4.1 Self-regulatory option

10.4.1.1 The REIA submitted that membership of the REIA be made compulsory so that its code of ethics are applied across the industry. There would be a compulsion to join the association, which could well raise Constitutional issues, but more broadly, the effectiveness of that approach would be dubious. It would be impractical to compel the many individual landlords to join and the requirement to observe the code would, therefore, be almost impossible to enforce universally. Also, for reasons in paragraphs 10.3.10 and 10.3.11 above, the Commission considers that such an approach is undesirable.

10.4.2 Regulatory options.

10.4.2.1 It is the Commission’s view that a code of conduct be made mandatory under the ICCC Act. To the extent necessary, it could encompass other participants. For example, it could cover the following:

- **Real estate agents and private landlords**, including incorporated and unincorporated bodies, for all conduct in relation to the sale, letting and management of property, including the sorts of issues described in paragraph 10.3.3 above.
  - It may justifiable to regulate for a maximum number and percentage rental increase within the period of a lease and ensure no ‘gaming’ occurs from spurious termination to circumvent this requirement. This approach should be distinguished from rent control. The latter would be extremely difficult to implement as no two properties are identical in terms of location, size, quality, condition of maintenance, etc. Regulation of ‘within lease’ rent increases, on the other hand, prevents opportunistic rent-seeking behaviour which negates the terms of a willingly agreed lease.
  - The custody and management of bonds should be separated from the agency function, with appropriate safeguards against misappropriation, including regular external audit requirements.
  - Certain non-excludable terms should be introduced into the contracts for sale and lease, with standard form clauses, including some that can be excluded, as discussed earlier.
  - Rentals (for various suburbs and cities) could be recorded and made transparent to overcome information asymmetry.

- **Builders Warranties**— basic warranties be introduced, including for building, requiring a minimum period of structural warranty, say 10 years, including:
  - that Goods will be of acceptable quality.
  - Goods will be fit for any particular purpose.
  - Goods must be the same as any description given to the customer.
- Goods must be the same as any sample or demonstration model shown to the customer.
- Goods can be legally sold (the seller has the right to sell the goods and there are no undisclosed securities or encumbrances).
- Goods will cost the consumer a reasonable price if no agreement has been made about the price.
- Where services are provided in conjunction with goods, the services shall be of acceptable quality.

10.4.2.2 The above provisions should be enforced by private action and /or the ICCC for systemic issues. However remedies are to be confined to refund, replacement or repair, but not damages.

- **Misleading conduct** – it is suggested that PNG consider enacting basic misleading conduct prohibitions, along the lines of section 51A/52 of the Australian Trade Practices Act 1974, to be enforced by the ICCC.

- **Builders licensing** – it is suggested that there be basic builders licensing, linked to educational qualifications and experience and that all builders must display their licence number. The licensing of builders could be administered by the same process as that for real estate agents. In the future, considering the likely entry by small firms into this market, there may be a need for a code of practice, with its administration following the model suggested for real estate agents. A proposed mandatory Code of Conduct for Builders is attached as a discussion draft at Appendix B.

- **Real estate licensing** – all real estate agents to be licensed and must comply with a mandatory Code of conduct modelled on Real Estate Association Code. Code and licensing to be enforced by Association or some private firm with regular audits by independent body and submitted to ICCC. ICCC to also be able to take enforcement action under the code or under legislation to be enacted. A proposed mandatory Code of Conduct for real estate agents and landlords is attached as a discussion draft at Appendix A.

- **Tenancy protections** – basic tenancy protections to be legislated. These will, to some extent, be picked up by real estate licensing but private and government landlords need to be made subject to the same rules, by specifically including them through legislation, possibly by ‘declaration’ of the industry for regulation under the ICCC Act.

- **Lik Lik Tribunal** – the creation of a low cost, informal Tribunal where actions in relation to the above regulations can be enforced by private individuals, associations and the ICCC. Its operation would be simple, informal and would bar legal practitioners from acting on behalf of clients. In cases where a party’s presentation skills were clearly deficient, a lay person could, with the permission of the Tribunal, represent the party.

10.4.2.3 The system could be overseen by the Commission, whose end objective is the protection of consumers. It would be costly to create another regulatory body when an existing one has the necessary knowledge and skills. In large part, if not wholly, the system could be funded by a small charge on certain transactions.
11.0 CONCLUSIONS, RECOMMENDATIONS & IMPLEMENTATION STRATEGIES

11.1 Summary of Conclusions

11.1.1 Housing is both an important need for achieving human potential and a potentially significant contributor to employment; income-earning opportunities; economic growth; and improvement in the living standards; of the people of Papua New Guinea. The availability of housing for the citizens of a country is generally accepted to represent one of the measures of the level of development of a society and adequate housing is one of the millennium development goals agreed in 2000 by United Nations Organisation.

11.1.2 The constraints on the development of the housing sector are largely attributable to ‘piecemeal’ and sometimes contradictory, attempts to address the symptoms rather than the cause of the malaise. What is required is an approach which is holistic, internally consistent, economically sensible, effective in dealing with the scale of the problem and made known to the market and to the public, who are ultimately affected. This lack of certainty and direction has stifled investment in the sector.

11.1.3 Direct Government involvement in the sector has served to exacerbate the problems rather than resolve them. The key contributors to Government inefficiencies have been:

- lack of an effective housing policy, which takes account of the scale of the problem and lays out a strategy to address it, with milestones and accountability frameworks;
- the National Housing Corporation, through poor performance in ensuring cost-effective building, maintenance, rent collection and enforcement of rules of entitlement to occupancy of its dwellings, has created issues of inequity, moral hazard and economic ‘crowding out’ of the private sector, which offers far greater potential for efficiency;
- extensive ‘Institutional Housing’ and home-ownership assistance approaches, which have further distorted the sector, adding to the inequities and high prices;
- the Department of Lands and Physical Planning, the failures of which are well documented in PAC reports and the report of the NLDT. The consequences of such failure have seen the erosion of the security value of title; constraints on the supply of State land for development; anti-competitive effects in the markets for land subdivision and home building; and potentially improper influence on decisions to release land and to whom it should be released;
- internal inefficiencies in the supply of ‘utility’ services which raise costs of development of land and the end-price; and
- lack of coordination within the National Government and between that level of government and the relevant arms of the provincial and local governments in relation to issues such as zoning, building approvals, and other statutory authorisations necessary to facilitate building construction.
11.1.4 This report has discussed in detail the nature of the problems and possible approaches to remedy them, in earlier chapters. In this chapter, those problems are summarised and approaches are recommended, together with implementation strategies that

- take account of the scale of the housing scarcity;
- capture the synergies of a holistic approach;
- specifically address each of the problems;
- take account of incentives for efficiency; and
- Suggest
  - the sequence;
  - time-frames;
  - organisational responsibilities; and
  - accountability frameworks;

for implementing various steps.

11.2 Summary of Key Problems

11.2.1 A summary of the key problems are:

a. scarcity of ‘raw’ land in all areas;

b. inefficient and insufficient release of State land;

c. inefficiencies in management; planning; and co-ordination within and between the National, Provincial and Local levels of Government.

d. scarcity of subdivided building allotments in all areas;

e. urban drift exacerbating housing scarcity;

f. inefficiency in ensuring ‘bring to market’ requirements of UDLs;

g. insufficient customary land ‘brought to market’ for housing, although policy initiatives have been taken and pilot projects commenced;

h. unreliable title registration; record-keeping; and transfer system which erodes security of land as collateral (again, policy initiatives have been taken and work commenced);

i. lack of competition at different stages of the vertical chain in the supply of housing;

j. lack of policy consideration of regulatory approaches, based on incentives to promote competition and efficiency in land development and residential construction;

k. lack of consideration of principles of economic efficiency and social equity in allowing valuable land assets of the State to be transferred to private interests at no, or low, economic valuation (price), thus depriving the State of revenue to fund high priority national development initiatives, including infrastructure for housing;
l. poorly considered initiatives by Government on housing:

i. proposed reintroduction of direct provision of housing through NHC, when the experience suggests that it has been inefficient in the past;

ii. ‘Institutional housing’ policies of departments and agencies of Government (including SoEs and statutory authorities) distorting markets and diverting Government financial resources from expenditure on national development needs;

m. lack of regulation to prevent exploitation of consumers to address

i. ‘opportunistic’ conduct in the real estate agency and building sectors, including in relation to:
   1. bonds;
   2. rent increases ‘within lease’;
   3. maintenance;
   4. poor building quality .

ii. lack of standardisation of certain terms of property purchase and lease documents and requirement for their general application, to give certainty to real estate transactions;

iii. other conduct not considered acceptable, such as exploitation of information asymmetry on property prices and rents; and misleading, deceptive and unfair conduct.

n. lack of innovation in standards for building and materials;

o. inefficiency of SoEs providing ‘utility’ services to new developments and to home-owners;

p. expansion of squatter settlements, with no, or poor, supply of essential services, high unemployment and crime rates, on which a significant proportion of working Papua New Guineans rely for their accommodation needs, because of their inability to afford conventional housing.

q. Lack of a consistent, economically sustainable housing policy – the policy ambiguity and administrative overlaps permit ‘silo-oriented’, contradictory initiatives which create uncertainty for investors; reduce public confidence; and erode bureaucratic commitment and accountability for implementation.

11.3 Summary of Recommendations

11.3.1 As a publicly conducted inquiry, this review has invited public submissions and taken account of the diverse views of the community, Government departments, SoEs and
Ministers where submissions have been made. The benefits of such a transparent process are not always available to inquiries conducted internally by Government appointed groups such as task forces, nor to high level internal considerations by Government. From that perspective, this report allows Government policy to be formulated without undue delay, based on recommendations which rely on the evidence and arguments considered and tested transparently.

11.3.2 As the consumer protection reform recommendations are likely to be uncontroversial their implementation can begin as soon as Government decides to accept them.

11.3.3 The following is a summary of the recommendations of this review, following the Commission’s inquiry. For a more detailed discussion of particular recommendations, please refer to the relevant section of the report.

1. Examine Professional services rendered by

   a. Real estate sector – serious problems identified in property-related transactions, which need to be addressed by a mandatory code of conduct, enforced by a body independent of the real estate industry such as the ICCC, as discussed earlier.

   b. implement a single regulatory solution to consumer problems, which features:

      I. a co-regulatory framework, based on a mandatory code of conduct, approved by the ICCC and applying to all participants in the industry,— a possible draft code for discussion purposes is attached as Appendix. The ICCC Act will need to be amended to allow the ICCC to make such a mandatory code. For regulatory neutrality, the amendment should allow the ICCC to make mandatory or voluntary codes of conduct for industries other than regulated industries, to which the ICCC’s code making power is currently confined.

      II. coverage to extend to real estate; and where appropriate to other activities incidental to purchasing or leasing of property such as building; financing; insurance; and legal documentation;

      III. addressing information asymmetry by introducing transparency by collecting and publishing property prices and rentals in various areas;

      IV. compulsory licensing by the ICCC for all real estate agents and builders to be a requirement for carrying out such businesses.

      V. the regulatory regime would incorporate cost-recovery principles through industry funding approaches for administration of the codes, licencing and compliance costs. Real estate agents and builders would be required by their licences to comply with the mandatory ICCC code of conduct.
In addition, consideration should be given by the government to the introduction of suitable, simplified general consumer protection provision, prohibiting misleading, deceptive and unfair conduct across the board, applying to all consumer transactions in all industry sectors. This would ‘level the playing field’ as between industry sectors, avoiding having more onerous requirements imposed on participants in particular industries over commercial conduct in general.

2. Increase Supply of State Land for Housing

i. identify and make public all vacant State land under control of all Government agencies, including SoEs and statutory authorities and consolidate in one land register;

ii. zone urgently, wherever possible, for housing, in advance of release to the market;

iii. accelerate land release for housing development, incorporating a transparent process to allocate to applicants by public tender;

iv. use only a single criterion in each of two categories of land releases. The respective criteria for the two categories are identified below;

I. for all land, except that intended for ‘low-income first home-buyer’ housing, recover its economic value for State, (where now being appropriated by sectional interests), through introduction of ‘highest-price-bid’ tender auction, subject to a ‘reserve’ price established by the Valuer-General (to fund CSOs such as infrastructure for housing);

II. criteria for categorising land for ‘low-income first home-buyer’ housing would be (a) land which is not ‘top-market-end’, ‘highly-sought-after’ land. While subjective, a classification by the co-ordinating body would be required; and (b) should incorporate qualification criteria relating to limit on value of dwelling constructed on the land; purchaser not having owned a residential property before; and a means test based on ceilings for income and assets;

III. for low income, first home-buyer housing, development rights to be awarded on basis of the ‘lowest weighted average end-price (to purchasers) bid’ tender auction of subdivided building allotments.

IV. alternatively, contract out subdivision on basis of lowest cost bid and provide to low-income consumers on same criteria as in (II) above.

V. A further approach may be to include a requirement in tenders for development in various areas to undertake to sell a specified proportion of building allotments (say 10%) at a price nominated in tender documents, which would be affordable by ordinary Papua New Guineans seeking to own their first homes. These allotments would be of minimum size for a house.

VI. if for practical reasons of current inadequacies in title registry, or ‘means-testing’ capability, the criterion in (II) above proves unworkable,
a) use ‘highest-price-bid’ tender auction criterion in (I) above, because reform package would be likely to lead to substantially reduced costs and prices over time.

b) When capacity improves to detect ‘cheating’ by people claiming to be low-income first-home-owner applicants, when they do not meet the criteria, adopt development tender approach and ‘first-home-buyer’ qualification outlined in II above;

c) Joint Co-ordinating Group to make decision on approach in light of circumstances at the relevant time.

VII. General conditions for development to include:

a).  time limit requirement on ‘bringing to market’ subdivided land;

b)  review regulations on ‘completion’ covenants to ensure home-building not part of developer’s obligation under UDL and if necessary amend to exclude such obligation;

c). time limits to be shortened as land development work required to be completed is recommended to only be limited to ‘subdivision’ level (surveying; pegging building allotments; internal road-building installing ‘utility’ services to allotment boundary etc); but not including house building – suggested maximum 18 months;

d). include ‘downstream’ time limit on purchasers to commence home building (say 12 months) and further limit to complete building (say a further 12 months);

e). if bidders for raw land for subdivision have any ‘work-in-progress’, their ability to commence work immediately on any new land allocated is to be assessed by ICCC – this is to encourage competition and entry by new development firms – need full declaration of land holdings and completion in tender submission;

f). market structures to be examined to prevent anti-competitive structures emerging by requiring applicants to get ICCC clearance for pre – qualification to tender in terms of the effect on market structure. Probity clearance is dealt with in point ‘h’ below;

g). time limits to be strictly enforced – At present, time limits are either not enforced, or the existing market expectations of slack enforcement have led to resistance to strenuous enforcement, with the possibility of litigation. Automatic financial penalties should be built in, if necessary by regulations; and persistent failures to be taken into account in tenderer pre-clearance process outlined immediately below;

h). tender process requires a credible implementation agency with arm’s length, external, independent, ‘probity monitor’, which should be appointed by the ICCC, which should also issue tender guidelines in conjunction with other relevant agencies. The reason for recommending the ICCC involvement is that a key
aspect of this sector is the lack of effective competition; and because probity is relevant to a ‘level competitive playing field’;

3. *Increase supply of customary land* - progress implementation of remaining recommendations of NLDT through NLDP, with great sensitivity to landowners concerns, recognising their bonds with the land are deeper than simple economic utility:

   a. legislative amendments to facilitate customary title have now been enacted.

   b. organisational reforms to address title registration issues; record keeping; approvals process; purpose-built office; inspection and enforcement of land laws (in train under Minister for Lands & Physical Planning, the Hon. Sir Puka Temu);

4. *Remove distortions and inequities of ‘Institutional housing’* - freeze all new institutional housing initiatives (including by SoEs and statutory authorities) to end economic distortions which benefit developers and landlords; and inequities which benefit some citizens at the expense of others. Existing contractual commitments will need to be honoured. Subsequent recommendations outline a process of divestment of ownership and management of properties owned by the State or its agencies.

5. *Stop ‘crowding out’ the private sector through the inefficient operation of NHC and other agencies by*

   a. conducting an inventory of its housing assets and recording them in a property register;

   b. DPM, which is currently managing Public Service housing schemes, should be given responsibility for any departmental staff housing, including any home-ownership assistance schemes it does not manage, either before, or after, conduct of the inventory referred to in item ‘a’ above, as considered appropriate by the Joint Co-ordinating Group;

   c. strictly enforcing entitlement to occupancy requirements;

   d. progressively divesting NHC managed individual dwellings and other institutional housing not meeting the ‘exceptional circumstances’ criteria, whether managed by DPM, other departments, SoEs or statutory authorities, to end purchasers at market value (or slightly below for existing tenants, as transaction costs may be reduced);

   e. enacting separate title legislation for individual dwellings within multi-dwelling structures or complexes, to facilitate item ‘d’ above;

   f. contracting with private sector property managers on an open, competitively tendered basis, for management of properties, meeting the ‘exceptional’ circumstances (e.g. remote locations, time-limited and no private sector accommodation available at the location of employment, but including ‘Operational Staff’ housing provided for Defence Forces, Police and Correctional Services staff) with market-oriented measures to deal with outstanding maintenance issues. *This approach makes effective regulation of the real estate agency sector all the more important.*

   g. As a transitional measure, prior to divestment, contracting with private sector property managers on an open, competitively tendered basis, for management of other properties
(i.e. other than exceptional circumstances institutional housing) currently managed by NHC, SoEs and statutory authorities, with market-oriented measures to deal with outstanding maintenance issues.

6. **Address the High cost and scarcity of subdivided land and housing by**

   a. adopting approaches to grant of UDLs which:

      i. untie home building from land development;

      ii. increase raw land releases;

      iii. enhance competition with conditions on time limits for ‘completion’; requirement for end-purchasers to build houses; and

      iv. address costs of ‘utility’ provision to reduce ‘input’ costs of developers by analysing the performance of utilities. If inefficient, explore broad options e.g. PPPs implemented only through an open, competitive and transparent process. Noting that the minimum amount required for a PPP is PGK50.0 million, such projects could combine a number of utilities into one packaged project if individual projects cost less than K50.0m.

   v. Introduce a property-related capital gains tax to prevent windfall profits to speculators and to curb expectations of property inflation.

   vi. Remove tax deductibility for private sector employer-assistance for employee housing to reduce demand pressure on prices.

7. **Encourage innovation and reduce costs of construction by**

   a. adopting standards for design and construction of dwellings appropriate to PNG, rather than imitating standards in other countries for no good reason;

   b. increasing use of appropriate new or indigenous materials, which reduce building costs - the manufacture, import or usage of dangerous materials e.g. those that contain asbestos, should be banned, preferably by legislation;

   c. securing co-operation between NISIT; Institute of Engineers of PNG; Physical Planning Division of DL&PP; DCD Office of Urbanisation; others; to adopt standards appropriate to: PNG’s state of development; availability of raw materials; locational context; and the aspirational level of people, rather than attempt to ‘transplant’ developed country standards to PNG;

   d. considering construction of a demonstration ‘PNG Haus’ incorporating principles of sustainability; environmental compatibility; and cost-effectiveness, to create incentives for innovation in materials and design – possibly through a competition open to the public.
8. Consider urban renewal policies to

a. encourage more efficient use of urban land by

   i. zoning high-value, low-density areas for possible future re-development;

   ii. incorporating both high-density and medium-density dwellings (multi-level apartment accommodation; row houses etc) to maximise land use and reduce unit costs of infrastructure operation by serving larger communities with existing infrastructure. This would also increase variety and enhance the ‘character’ of major urban centres.

9. Address urban drift by ‘pro-poor’ and ‘pro-growth’ economic policies to encourage economic growth on a national geographic basis by:

a. implementing initiatives which accelerate bridging the gap between the small number of ‘haves’ and the vast number of ‘have nots’;

b. ensuring macro-economic policies to control inflation and stabilise the national budget;

c. creating income-earning opportunities, both in rural areas and in urban areas, for the unemployed urban drifters, particularly in the labour-intensive residential construction sector, by adopting the recommendations herein;

d. improving delivery of health and education facilities in rural areas;

e. ensuring the safety of people by improving law and order;

f. provide tax or other incentives for private sector-provided micro-finance for housing on customary land in rural areas to encourage housing in those areas and assist retention of rural populations; and

g. extending roads and other networks to supply power, water and provision for sewerage and providing such services reliably, to people in rural areas.

10. Develop policies for squatter settlements which occupy State land to:

a. improve the supply of utility services to older, long-established squatter settlements;

   i. progressively recover costs of supply of such services. While recognising the law and order problems in cost recovery, Eda Ranu has been successful in doing so and effective co-ordination between the utilities suppliers and the Police is likely to be productive;

   ii. recover land rental; and

   iii. generally regularise occupation, enforcing obligations on settlers which other residents comply with;
iv. generally bring such settlements as close as possible to ordinary, low-income housing, to avoid perpetuating the present poor conditions of living in squatter settlements

v. for recently established illegal squatter settlements, enforce the law against illegal occupation vigorously, and strengthen legislation, if necessary, to successfully evict illegal squatters;

vi. sequence any initiative to address resettlement of illegal squatters very carefully, preferably by scheduling after substantial land releases, including at least one large land release for low-income housing;

vii. ensure co-ordination of any future resettlement initiative with the Joint Co-ordinating Group on housing policy implementation to ensure that no inconsistencies arise.

viii. ensure moral hazard issues are avoided - this includes spurious claims aimed at benefiting from resettlement policies and compensation payments, as well as encouraging further migration to cities in the expectation of such benefits; and

ix. the costs to the State are minimised, including the risk of future costs from possible ‘precedent’ effects.

11. Address Housing affordability by

i. adopting the reform strategies proposed above, which are likely to significantly improve affordability of housing;

ii. tariff reform to reduce the cost of building materials;

iii. consideration of widening access to retirement savings, but only after benefits of the reforms above are visible, to avoid intensification of demand pressure before supply constraints are resolved;

iv. *In the long term, following substantial releases of land, and only after a substantial improvement in the supply position, explore ‘counter-cyclical’ incentives to first-home purchasers to stimulate the sector in times of a downturn in the economy.* These could include

   a) savings incentives in the form of Home Savings Bonds, with some Government addition;

   b) expanded access to superannuation savings; and

   c) stamp duty concessions.

11.4 Implementation Strategies

11.4.1 The following is a summary of implementation strategies to set the direction and sequencing of the reforms, allocate responsibilities and ensure accountability for achievement. In general, those initiatives that can be implemented without legislation or significant organisational change, should be commenced as soon as possible e.g. the consumer protection regulatory framework suggested below.
11.4.1 Strategic direction

11.4.1.1 There is an urgent need for Government to provide certainty to all stakeholders for investment; create confidence by all stakeholders and the public in materialisation of reform; and create incentives to save. This should be done by the adoption of these recommendations, and a public statement of such adoption, with relevant time-lines, organisational responsibilities and the accountability framework.

11.4.2 Timing and Sequencing Strategies

11.4.2.1 If these recommendations are adopted by Government

a. The process of aggregating all State Land should be completed within ten months;

b. land releases to commence as soon as possible and, in any case, no later than six months;

c. the process and conditions for leasing should be incorporated into the next release of raw land;

d. All State-owned dwellings, including those by NHC, departments, SoEs and statutory authorities, with the exception of those subject to special circumstances of housing needs, to be aggregated for sale, or as an interim approach, of contracting management to private sector property managers to be completed in ten months.

e. Organisational reform of DL&PP should be completed in six months and a realistic time-table for record digitisation; accountability systems; and probity controls; should be negotiated with the responsible Minister and DL&PP should be required to publish a time-table for completion of all reforms being implemented under LDP.

f. IPBC and the utilities to

i. immediately publicise indicators of performance of utilities currently being provided to IPBC and report publicly on performance of SoEs, with appropriate qualification if based on unaudited information;

ii. immediately commence initiatives to improve supply of services to settlements by connecting and charging for utilities (water, electricity, sewerage, as begun in Morata);

iii. Prioritise particular areas e.g. Koki in POM, which raises serious environmental issues, for improvement.

g. Issues requiring legislation should be targeted for completion in 6 months.

h. ICCC should
i. be given responsibility for all licensing and its supervision, either directly, or via a co-regulatory framework and to report annually on its work in relation thereto. This initiative lends itself to prompt implementation and should be prioritised in terms of timing. A time limit of six months should be targeted for implementation;

ii. continue its programme of examination of the efficiency of utilities and explore the scope for inclusion of obligations to supply settlements identified for service improvement, either in regulatory contracts or as part of industry codes;

iii. examine whether the conduct of tying land to the construction of houses by developer/builders contravenes any of sections 50 to 52 of the Independent Consumer and Competition Commission Act 2002

i. Resettlement of squatters\(^{28}\) to be sensitively handled by:

i. delaying any resettlement until progress on housing policy reform implementation is visible, to give confidence on outcome;

ii. giving priority to addressing housing scarcity generally and then exploring resettlement options;

iii. avoiding ‘moral hazard’ issues that could be created with premature resettlement, or offers of compensation, by encouraging formation of new settlements, or spurious claims to such benefits;

iv. enforcement of property rights of the State (and private property owners) needs to be visibly improved.

11.4.3 Organisational issues

11.4.3.1 To maximise the prospects of success of the reform package, it will be necessary to carefully allocate responsibilities to agencies best equipped to achieve results efficiently.

11.4.3.2 There would be a need for

a. A co-ordination agency with overall responsibility for top-level administration; resolving policy issues; dealing with inter-agency rivalries; co-ordinating implementation across the country; and reporting progress. For reasons discussed elsewhere in this report, the Commission suggests that a Joint Co-ordinating Group, consisting of the Treasury Secretary as Chair; the Commissioner of the ICCC as an ex-officio member of the Board; and including NRI, Office of Urbanisation and DPLGA; be given this responsibility, reporting annually on what it sees as having been achieved.

b. The Commission recommends that responsibility for land and planning reform remains with DL&PP, with support from CSTB and the ICCC for tendering

\(^{28}\) The National Capital District Commission is exploring options to resettle squatters in some settlements
expertise, because of the (a) tendering aspects; (b) land issues; and (c) competition and probity elements; incorporated into this reform package, in which respective areas the three organisations have experience and expertise.

c. Managing the withdrawal of Government from its current role in direct provision of public and institutional housing and home-ownership subsidies (including supply by SoEs and statutory authorities, but excluding ‘exceptional circumstances institutional housing’ as described earlier), would involve immediate cessation of new contracts for building and new approvals for home-ownership assistance; ensuring a comprehensive property register is compiled; and the transfer of rental management from NHC to another agency, pending divestiture of properties.

d. Political control should be exercised by NEC via periodic reporting from Treasury and NEC’s evaluation of progress be made public through periodic reports.

e. Accountability and Transparency issues

i. Within each relevant organisation, a chain of accountability should be specified.

ii. Time-lines for actions should be set and published.

iii. Achievements/failures should be monitored by the Joint Co-ordinating Group and reports are to be provided regularly to relevant Ministers and published for public information.

iv. The tendering system for land should include a probity monitor, who is not an employee of any of the administrative organisations involved, with experience or knowledge of ethics and incentives which promote probity and discourage dubious conduct.

11.4.4 Funding Issues

11.4.4.1 If these recommendations are accepted, the ICCC will have substantially increased responsibilities. Adequate resources in terms of funds and staff will be required. On the other hand, as outlined in detail earlier in the report, this package of reforms will yield substantial revenue in the form of capital receipts for land releases; recurrent revenue from increased rentals, following the revaluation of land as a result of auctions; property capital gains tax; removal of tax deductibility of costs of private sector employer provided housing; and certain cost-recovery initiatives; and those will reduce the costs of implementation.

11.4.4.2 The utilities can be expected to earn additional revenue from services currently provided to settlements but not paid for. Increased efficiency from improvement in their operations, together with public scrutiny of their performance, should also assist their financial position. The increased revenue and cost savings should finance installation of ‘trunk services’ to newly granted UDLs and subdivided land.

11.4.4.3 In addition, it is expected that the growth of this neglected sector of the economy would generate employment in the formal sector, additional taxation revenue, except to the
extent any tariff reductions are made or tax concessions are granted as incentives to save for the purchase of the first home.

12.4.4.4 Such funds that are generated should improve the Government’s budgetary position and allow funding of these reform initiatives.
Appendix

Annexure A: Draft Code of Practise for Real Estate Industry in Papua New Guinea

CODE OF CONDUCT FOR THE REAL ESTATE INDUSTRY IN PAPUA NEW GUINEA

First Draft

January 2010
1. **PREAMBLE**

1.1 This Code of Conduct has been developed from the principle of Sections 104 and 106 of the **Independent Consumer Competition Act 2002** (the Act) to ensure that consumer rights and interests are protected from the unethical conduct of those engaged in the Real Estate industry. This Code can be cited as the **Real Estate Industry Code of Conduct**.

1.2 Compliance with this Code does not ensure compliance legal and or regulatory obligations.

1.3 If there is a conflict between the requirements of this Code and any requirement imposed on the Real Estate Industry by statute, the statute will prevail.

1.4 This Code is voluntary but may eventually become the basis for a mandatory Code under the ICCC Act.

2. **OBJECTIVES**

2.1 The Objectives of this Code of Conduct are to promote high standard of ethical conduct and practise and increase the accountability of the real estate industry in Papua New Guinea when dealing with consumers through;

   a) Setting ethical conduct standards for the real estate industry
   b) Establishing principles for fair trading in real estate industry practise
   c) Providing for a dispute resolution process for complaints about real estate industry practice.

3. **DEFINITIONS**

3.1 For the purposes of this Code the following definitions apply

   i. **Real estate industry** includes sales and leasing of property and associated commercial operations, such as valuers and auctioneers. It includes private leasing but not occasional private sales.

   ii. **Real Estate Agent** includes an agency principal and a real estate sales person.

   iii. **Real Estate Code** means this ‘Code’ of conduct.

   iv. **Consumer** means ‘a person with whom a real estate agent deals on behalf of a client’

   v. **Client** means a person who appoints a real estate agent to perform an activity.
vi. Agency means a listing controlled or otherwise or property management appointments

vii. A reference to legislation is a reference to legislation in force in Papua New Guinea.

viii. Tribunal means the Real Estate Industry Tribunal established under this Code.

ix. Code Administration Committee means the Committee of that name established under this Code.

tax. ICC, is the Independent Consumer and Competition Commission Act 2002

4 CODE PRINCIPLES

This Code contains provisions with which a real estate industry participant must comply and as such overrides an instruction or request that does not comply with the Code from a client or, if a real estate agent is an employee, from the agent’s employer.

a) There should be a commitment to efficient and a fair transactions to maintain a high standard of professionalism by the members of the Real Estate Industry at all levels.

b) Real Estate Industry participants should provide adequate resources in order to render a maximum services to the satisfaction of the consumers with sufficient delegated levels of authority.

c) Real Estate Code should have the capacity to determine and implement and enforce remedies.

d) Where a person lodges a complaint in relation to the service provided by a participant and the customer and the member is unable to resolve the matter in dispute it be referred to the Tribunal for its determination.

e) Real Estate Industry participants should seek to resolve complaints at first point of contact where possible.

f) There shall be processes established and maintained for a systematic control of service standards and the recording of all the complaints and the outcomes of the complaints.

g) The Code is to be largely funded by the industry.

5. CODE MEMBERSHIP.

5.1 Any real estate industry participant can apply to adopt the Code provided that,
• They operate in the industry in PNG.
• They do not have a criminal record.
• They are not an undischarged bankrupt.
• Any other conditions imposed by the Code Administration Committee.

5.2 Once accepted to membership the participant must abide by the Code.

5.3 Membership can be terminated by the Code Administration Committee if,

• The conditions in 5.1 are no longer met and after a determination to that effect by the Tribunal.
• For non payment of fees.
• For conduct that brings the industry into disrepute and a determination to that effect by the Tribunal.

5.4 Members must prominently promote their Code membership on all promotional material, on stationary, on business cards and on office premises.

5.5 Members must promote the Code and its benefits.

6. CODE ADMINISTRATION COMMITTEE.

6.1 There shall be a Code Administration Committee.

6.2 The Committee will be appointed by the ICCC, after community consultation, and will consist of,

• Two Industry representatives, one being a real estate agent.
• One Consumer representative.
• One Law Society representative,
• Three other persons.

6.3 The Committee will be chaired by a person independent of the industry.

6.4 If the Chair is unavailable, the Chair will appoint a Deputy, who is also to be independent of the industry.

6.5 The Role of the Committee is to,

• Administer the Code on an on going basis.
• Admit persons to membership.
• Initiate possible cancellation of membership.
• Refer matters to the Tribunal,
• Propose changes to the Code.
• Issue guidelines in relation to the Code.
• Set fees
• Issue standard form industry contracts and other such documents.
• The setting and oversight of trust account rules, where these are appropriate.
• Report annually to the ICC on the operation of the Code.
7 EXECUTIVE DIRECTOR.

7.1 There shall be an Executive Director who is responsible for the day to day operations of the Code and the Committee.

7.2 That person shall be appointed by a panel consisting of the Commissioner of the ICC, the Chair of the Code Administration Committee and one other person selected by the other two members of the selection committee.

7.3 The Executive Director will report to the Code Administration Committee.

7.4 The Executive Director will have knowledge of and/or experience in the real estate industry in PNG.

8. ROLE OF THE ICCC

8.1 The ICC will oversight the Code and must approve any changes to the Code.

8.2 The ICC will consider if the Code needs authorisation pursuant to the ICCC Act and if the ICCC considers that it does the Code Administration Committee shall apply for authorisation of the Code.

8.3 Where the ICCC is of the view that the Code needs changes or its administration needs changes it will advise the Code Administration Committee accordingly.

8.4 Any communications by the ICC re the Code to the Committee or from the Committee to the ICCC will be placed on the ICCC website.

8.5 The ICCC will have standing to be involved in any matter before the Tribunal.

8.6 The ICCC will promote the Code and its benefits to the community.

9. THE REAL ESTATE INDUSTRY TRIBUNAL.

9.1 There shall be a Real Estate Industry Tribunal.

9.2 The Tribunal consist of three persons and is to be appointed by the ICCC in consultation with the Committee.
9.3 The ICCC will also select the Chair, who shall have legal qualifications.

9.4 The role of the Tribunal will be to,

- Consider disputes between consumer and members,
- Consider possible expulsions of members or disciplinary actions against members,
- Consider appeals against the refusal of the Committee to admit someone to membership.

9.5 The Tribunal shall set its own rules and make these rules public.

9.6 Tribunal processes can include hearings.

9.7 A refusal by a member to abide by a Tribunal determination is grounds for possible disciplinary action.

9.8 The Tribunal can make the following determinations,

- Allow or refuse an appeal
- Determine a consumer dispute and, if appropriate, order compensation or any other appropriate order.
- Order disciplinary action, including suspension or expulsion.
- Orders in relation to a failure by a member to abide by a Tribunal determination.

10. GENERAL RULES OF CONDUCT.

10.1 Knowledge of Act and Code

A member must have a reasonable knowledge and understanding of the ICCC Act and any other legislation that is relevant to this code of conduct.

10.2 Fiduciary Obligation

A member must comply with a fiduciary obligation incurred as an industry participant.

10.3 Honesty, fairness and professionalism

A member must act honestly, fairly and professionally in the conduct of its industry practice.

10.4 Skill, care and diligence

a) A member must exercise reasonable skill, care and diligence in the conduct of industry practise

b) A member must complete all work for a client as soon as is reasonably practicable.

10.5 Agents to act in client’s interest
A member must act in a client’s best interest unless is unlawful or unreasonable to do so.

10.6 Agents to act in accordance with the client’s instructions

a) A member must act in accordance with a client instruction unless it is contrary to this code or otherwise unlawful to do so

b) The price at which a member offers to sell and buy property must be done in accordance with the client’s written instruction.

10.7 Agents to keep client informed of developments

a) A real estate agent appointed to sell, buy, exchange or lease property for a client must keep the client informed of any significant development or issues in relation to the property.

b) Without limiting subsection 10.7(a) a real estate agent must immediately communicate to the client each expression of interest, whether written or oral, about the sale, purchase, exchange or lease of the property.

10.8 Member must ensure that employees comply with the principle and the standards required of by the ICCC Act and the Code and any other relevant legislation.

a) A real estate agent who is the principal member must take reasonable steps to ensure an employee of the agent complies with the principle of the Act and this code in relation to the agent’s business.

10.9 Unfair Conduct.

A member must not engage in conduct that is misleading or deceptive or unfair in the conduct of the real estate agent practise.

10.10 High pressure tactics, harassment or unconscionable conduct

A member must not engage in high pressure tactics, harassment or unconscionable conduct practice.

10.11 Claiming membership or endorsement

A member must not falsely claim or misleadingly imply to be a member of, or endorsed by, an organization or association.

10.12 Conflict of duty or interest

A member must not accept an appointment to act, or continue to act, as an agent for a client if doing so will place the agent’s duty or interests in conflict with the client’s interest.

10.13 Mandated documents

Members must use any Forms and Documents mandated by the Committee and the ICCC. Members must not alter these documents in any way.
11. DISPUTE RESOLUTION

11.1 Complaint handling procedure

(a) A member must have a reasonable, simple and easy to use procedure in place for handling complaints by clients or customers of the agent.

(b) The member must have information readily available to inform clients and customers of the procedure.

(c) The information must include the following details –

(i) how a complaint is to be made;

(ii) when a complaint must be in writing and when it may be in oral;

(iii) the person who is to handle the complaint.

(d) The member must consider every complaint made by a client or customer and –

(i) accept the complaint, whether wholly or partly; or

(ii) reject the complaint in writing.

(e) If the member accepts the complaint, whether wholly or partly, and restitution is required to be made to the client or customer (the complainant), the member must arrange for the restitution to be made –

(i) within 7 days after accepting the complaint; or

(ii) if the agent and the complainant agree by a later day.

(f) If the member rejects the complaint, whether wholly or partly, the member must give the complainant written reasons for the rejection.

11.2 Disputes

a) A complaint or disputes arising with respect to the service standards or unethical practices shall be submitted to the Tribunal for its determination and consideration with the necessary information that is subject of the dispute and any other information upon the Tribunals request.

b) Where a member is charged with an unethical practise and the member must provide all relevant facts and documents to the Tribunal for further investigation and consideration and the findings of the Tribunal be abided by the parties involved.

c) After all relevant materials are made available the Commission shall make a determination on the finding within 10 working days.
d) If the Tribunal is unable to make a determination of the above the Commission may in writing inform the parties to the dispute the reason for the delay.

12. RULES SPECIFIC TO REAL ESTATE AGENTS – IN ADDITION TO THE GENERAL RULES.

12.1 Prior appointment of another agent or auctioneer

(a) Before accepting an appointment to sell property for a client, a real estate agent must take reasonable steps to find out whether the client has already appointed another real estate agent or auctioneer under a sole or exclusive agency for the sale.

(b) The real estate agent (the new agent) must not solicit or accept the appointment if –

1) the agent knows, or should know, that the appointment of another real estate agent or an auctioneer (the existing agent or auctioneer) for the sale is in force and;

2) the client may have to pay the following if there is a sale-

   (i) a commission under each appointment;

   (ii) damages for breach of contract under the existing agent’s auctioneer’s appointment.

(c) Subsection 12.1 (b) does not apply if, before the client signs the new agent’s appointment, the new agent gives the client a written statement that, if the client appoints the new agent and there is a sale, the client may have to pay the following –

   (a) a commission under each appointment;

   (b) damages for breach of contract under the existing agent’s auctioneer’s appointment.

12.2 Conjunction Sales

(a) Before accepting an appointment to sell property for a client, a real estate agent must-

   (i) explain to the client general issues about a sale conducted in conjunction with other agents (a conjunction sale), and the issues about a conjunction sale relevant to the particular sale if it were to be a conjunction sale; and

   (ii) disclose to the client the agent’s policy about conjunction sales, including the percentage apportionment of commission between the agents.

(b) Before agreeing with another real estate agent to conduct a conjunction sale, an agent must-
(i) disclose to the client the name of the other agent with whom the agent proposes to act; and

(ii) advise the other agent of the client’s instructions for the sale.

(c) A real estate agent must conduct a sale in conjunction with another real estate agent if the client authorizes a conjunction sale.

12.3. Advice about market price or rent

(a) A real estate agent, in attempting to obtain an appointment to sell, buy, exchange or lease property, must not mislead a person about the property’s market price.

(b) If a real estate gives a person an opinion about the market price or market rent for property, the agent must not accept instructions from the person to act as a real estate agent for the property unless the agent has given the person a written statement of the material facts that the agent has take into account in forming an opinion about the property’s market price or market rent.

(c) A real estate agent appointed to sell, buy, exchange or lease property must keep the client informed, in accordance with the client’s instructions, if any, the agent’s opinion about the current market price or market rent of the property.

(d) Also, the real estate agent must tell the client if the agent considers the selling or purchase price of property expected by the client is substantially more or less than the market price of the property.

12.4. Finding out or verifying ownership and property description

Before listing property for sale, lease or exchange, a real estate agent must take reasonable steps to find out or verify the property’s ownership and property description.

12.5 Finding out or verifying material facts

(a) A real estate agent appointed to sell, purchase, exchange or lease property must take reasonable steps to find out or verify the facts material to the sale, purchase, exchange or lease that a prudent real estate agent would have found out or verified to avoid error, omission, exaggeration or misrepresentation.

(b) The steps must be taken before the agent lists the property and afterwards as the occasion arises.

12.6 Agent to encourage disclosure by client

(a) A real estate agent must, at the time of listing a client’s property for sale or lease and at all later times, encourage the client to disclose to the agent all relevant facts about the property.

12.7 Referral to service provider

(a) A real estate agent who refers a client or customer to a service provider must not falsely represent to the client or customer that the service provider is independent of the agent.
(b) For subsection 12.7(a), a service provider is independent of a real estate agent if –

(i) the agent received no rebate, discount, commission or benefit for referring a client or customer to the service provider; and

(ii) the agent does not have a personal or commercial relationship with the service provider.

1 A family relationship

2 A business relationship other than a casual business relationship.

3 A fiduciary relationship.

4 A relationship in which 1 person is accustomed, or obliged, to act in accordance with the directions, instructions or wishes of the other person.

(c) If the service provider is not independent of the agent, the agent must disclose to the client-

(i) the nature of any relationship, whether personal or commercial, the agent must disclose to the client.

(ii) the nature and value of any rebate, discount, commission or benefit the agent may receive, or expect to receive, by referring the client to the service provider.

(d) In this section –client includes a prospective client and service provider means a provider of professional services associated with the sale, purchase or exchange or lease of property.

12.8 Goods and services

(a) A real estate agent must obtain a client’s written approval before ordering goods or services if the price of the goods or services is more than the amount authorized to be incurred by the agent’s appointment.

(b) A real estate agent must take reasonable steps to ensure goods or services obtained for a client are at a competitive price.

12.9 Inducing breach of contract

A real estate agent must not induce, or attempt to induce, a breach of, or an interference with, a contract between a client and a customer unless instructed to do so by the client.

12.10 Duty to obtain maximum sale price

A real estate agent must obtain the maximum sale price for a client’s property that is available in the circumstances of the sale or lease.

12.11. Opportunity to obtain independent advice or representation
(a) A real estate agent must give a client a genuine opportunity to obtain relevant independent professional advice or representation before the client appoints the agent.

(b) A real estate agent must give a client or customer a genuine opportunity to obtain relevant independent professional advice or representation before signing a contract for the sale or purchase of property.

12.12 Failure to receive deposit

A real estate agent acting as a deposit holder under a contract –

(a) must inform the client in writing if the time under the contract for payment of the deposit has passed without the deposit being received by the agent; and

(b) must not accept any late payment of the deposit unless –

(i) the client has been informed under paragraph (a), and

(ii) the client gives written instructions to accept later payment of the deposit.

12.13 Trust Accounts

(a) Where an agent accepts moneys on behalf of a client, such moneys must be deposited in a Trust account in a bank in PNG.

(b) Trust Accounts must be managed along lines set out by the Committee or by the Real Estate Association of PNG.

13. PROPERTY MANAGEMENT

13.1 Inspection report and inventory

(a) This section applies if the appointment of a real estate agent to manage a rental property for a client provides for the agent to complete an inspection report and inventory and give the report and inventory to the client.

(b) The real estate agent must complete the report and inventory in accordance with the appointment.

13.2 Inspection of property for rent

(a) A real estate agent managing a rental property must accompany a customer on an inspection of the property.

(b) A real estate agent must not give the keys to a property to a customer, even for a short time.

(c) This section does not apply if the client has authorized otherwise in writing.
(d) Also, this section does not apply to a customer renting premises if the right of occupancy of the premises is to be given for holiday purposes.

13.3 Maintenance or repairs of rental property

(a) A real estate agent managing a rental property must promptly respond to and, subject to the client’s instruction, attend to a request by a customer for maintenance of, or repairs to, the property.

(b) This section does not apply to a customer renting premises if the right of occupancy of the premises is given for holiday purposes.

13.4 Breach of agreement or contract

A real estate agent managing a rental property must immediately notify the client in writing if the agent becomes aware of a customer’s breach of the agreement or contract for the property, unless the agent’s appointment to act as agent directs otherwise.

13.5 Notifying managing agent of appointment to sell

If a real estate agent accepts an appointment to sell a property that is a place of residence or business that is tenanted, the agent must immediately give written notice of the appointment to any agent responsible for managing the property.

13.6 Notifying customer of appointment to sell

(a) This section applies if a real estate agent managing a rental property is aware that –

(i) the property is listed for sale; or

(ii) a real estate agent or auctioneer has been appointed to sell the property; or

(iii) the client intends to sell the property by private sale.

(b) The agent must immediately give the customer written notice of –

(i) the intended sale of the property; or

(ii) the appointment of the real estate agent or auctioneer for the sale of the property.

(c) This section does not apply to a customer renting premises if the right of the occupancy of the premises is given for holiday purposes.

13.7 Final inspection of rental property

(a) A real estate agent managing a rental property must take reasonable steps to ensure that any final inspection of the property, on vacation of the property, is conducted in the presence of the customer.

(b) However, subsection 13.7(a) does not apply if the agent reasonably believes the agent’s life or physical safety may be endangered by conducting the inspection in the presence of the customer.
(c) If the final inspection discloses a thing to be done, including cleaning, for which the real estate agent has reason to believe the customer is responsible, the agent must give the customer a reasonable opportunity to attend to the thing.

(d) This section does not apply to a customer renting premises if the right of occupancy of the premises was given for holiday purposes.

14. USE, DISCLOSURE AND RECORDING OF INFORMATION

14.1 Confidentiality

(a) A real estate agent must not use or disclose confidential information about a client or customer obtained while acting for the client or dealing with the customer.

(b) Subsection 14.1(a) does not apply to information –

(i) used or disclosed for a purpose authorized in writing by the client or customer; or

(ii) that must be lawfully used or disclosed.

(c) In this section –

Client includes a former client.

Customer includes a former customer.

Real estate agent includes a former real estate agent.

14.2 Recording of Information

(a) A real estate agent gives information about a client or customer for recording in a public document or in a database relating to customer must –

(i) ensure the information is accurate; and

(ii) ensure the information, if adverse to the client or customer, relates to a matter that is not trivial or is not minor breach of a tenancy agreement; and.

(iii) take reasonable steps to disclose the information to the client or customer; and

(iv) give the client or customer a reasonable opportunity to review the information; and

(v) ensure the client or customer is informed about how the information may be used; and

(vi) immediately amend the information if the client or customer provides evidence that the information is inaccurate..

15. RULES SPECIFIC TO VALUERS – IN ADDITION TO THE GENERAL RULES.
15.1 Professional and Personal Conduct

(a) Members shall not accept an assignment that is contingent upon or influenced by any condition or requirement for a predetermined result where the exercise of objective judgment is required.

(b) Members shall maintain the strictest independence and impartiality in undertaking their professional duties.

(c) Members shall not provide any advice or make any statement without reasonable foundation unless it is appropriately qualified or limited.

(d) Members shall not claim or present professional qualifications which may be subject to erroneous interpretations or which they do not possess.

(e) Members shall not accept instructions beyond their competence; however, assignments may be undertaken in conjunction with a person having the required competence after disclosure to the client.

(f) No Member shall pay by commission, allowance or other benefit any person who may introduce clients to them without appropriate disclosure.

(g) Members shall not accept payment or favours from another party, which may affect their relationship with a client.

(h) A valuation shall not be performed by a Valuer without an inspection of the property concerned. The inspection shall be sufficiently comprehensive to enable the Member to complete the valuation in accordance with the proper Standards. Where, however, a client’s instructions expressly exclude the requirements for a comprehensive inspection and these instructions are accepted by the Member then the limitations to the valuation must be clearly acknowledged by the Member and client.

(i) Members shall accept full responsibility for the content of their reports. Where the report relies on professional opinion from outside experts, the degree of reliance must be indicated.

ATTACHMENTS TO THE CODE.

Standard form Contracts and Documents, including,

- Contract for Sale
- Listing Agreement
- Tenancy Agreement
- Trust Account Deposit Forms.
- Condition Report
- Any others mandated by the Committee,
Annexure B: Draft Code of Practise for the Residential and building Industry in Papua New Guinea

INDEPENDENT CONSUMER & COMPETITION COMMISSION

CODE FOR THE RESIDENTIAL BUILDING INDUSTRY IN PAPUA NEW GUINEA

First Draft

January 2010
1. Preamble

1.1 This Code of Conduct has been developed from the principle of Sections 104 and 106 of the Independent Consumer Competition Act 2002 (the Act) to ensure that consumer rights and interests are protected from the unethical conduct of those engaged in the Residential Building Construction industry. This Code can be cited as the Building Industry Code of Conduct.

1.2 Compliance with this Code does not ensure compliance with legal and/or regulatory obligations.

1.3 If there is a conflict between the requirements of this Code and any requirement imposed on the residential building construction industry by statute, the statute will prevail.

1.4 This Code is voluntary but may eventually become the basis for a mandatory Code under the ICCC Act.

2. Objectives

2.1 The Objectives of this Code of Conduct are to promote high standard of ethical conduct and practise and increase the accountability of the residential building industry in Papua New Guinea when dealing with consumers through;

   a) Setting ethical conduct standards for the residential building construction industry
   b) Establishing principles for fair trading in the industry.
   c) Providing for a dispute resolution process for complaints.

3. Definitions

3.1 For the purposes of this Code the following definitions apply

   • Residential building construction industry includes the construction of new houses and apartments and renovations and improvements to existing residential premises. It does not include the occasional construction by owner builders.

   • Building Industry Code means this ‘Code’ of conduct.

   • Consumer means ‘a person for whom a house or apartment is being constructed.

   • A reference to legislation is a reference to legislation in force in Papua New Guinea.

   • Tribunal means the Building Industry Tribunal established under this Code.

   • Code Administration Committee means the Committee of that name established under this Code.
• ICCC is the Independent Consumer and Competition Commission.

4. Code Principles

This Code contains provisions with which a residential building industry participant must comply.

a) There should be a commitment to efficient and a fair transactions to maintain a high standard of professionalism by the members of the Industry at all levels.

b) Industry participants should provide adequate resources in order to render a maximum services to the reasonable satisfaction of the consumers with sufficient delegated levels of authority.

c) The Code should have the capacity to determine and implement and enforce remedies.

d) Where a person lodges a complaint in relation to the service provided by a participant and the customer and the member is unable to resolve the matter in dispute is to be referred to the Tribunal for its determination.

e) Industry participants should seek to resolve complaints at first point of contact where possible.

f) There shall be processes established and maintained for a systematic control of service standards and the recording of all the complaints and the outcomes of the complaints.

g) The Code is to be largely funded by the industry.

5. Code Membership.

5.1 Any industry participant can apply to adopt the Code provided that,

- They operate in the industry in PNG.
- They do not have a criminal record
- They are not an undischarged bankrupt.
- Any other conditions imposed by the Code Administration Committee.

5.2 Once accepted to membership the participant must abide by the Code.

5.3 Membership can be terminated by the Code Administration Committee if,

- The conditions in 5.1 are no longer met and after a determination to that effect by the Tribunal.
- For non payment of fees.
- For conduct that brings the industry into disrepute and a determination to that effect by the Tribunal.
5.4 Members must prominently promote their Code membership on all promotional material, on stationary, on business cards and on office premises.

5.5 Members must promote the Code and its benefits.

6. Code Administration Committee.

6.1 There shall be a Code Administration Committee.

6.2 The Committee will be appointed by the ICCC, after community consultation, and will consist of,

- One Industry representatives.
- One Consumer representative.
- One Law Society representative.
- Up to three other persons.

6.3 The Committee will be chaired by a person independent of the industry.

6.4 If the Chair is unavailable, the Chair will appoint a Deputy, who is also to be independent of the industry.

6.5 The Role of the Committee is to,

- Administer the Code on an on going basis.
- Admit persons to membership.
- Initiate possible cancellation of membership.
- Refer matters to the Tribunal.
- Propose changes to the Code.
- Issue guidelines in relation to the Code.
- Set fees.
- Issue mandatory standard form industry contracts and other such documents.
- Report annually to the ICCC on the operation of the Code.
- Matters incidental to the above.

7 Executive Director.

7.1 There shall be an Executive Director who is responsible for the day to day operations of the Code and the Committee.

7.2 That person shall be appointed by a panel consisting of the Commissioner of the ICCC, the Chair of the Code Administration Committee and one other person selected by the other two members of the selection committee.
7.3 The Executive Director will report to the Code Administration Committee.

7.4 The Executive Director will have knowledge of and/or experience in the residential building industry in PNG.

8. **Role of the ICCC**

8.1 The ICCC will oversight the Code and must approve any changes to the Code.

8.2 The ICCC will consider if the Code needs authorisation pursuant to the ICCC Act and if the ICCC considers that it does the Code Administration Committee shall apply for authorisation of the Code.

8.3 Where the ICCC is of the view that the Code needs changes or its administration needs changes it will advise the Code Administration Committee accordingly.

8.4 Any communications by the ICCC re the Code to the Committee or from the Committee to the ICCC will be placed on the ICCC website.

8.5 The ICCC will have standing to be involved in any matter before the Tribunal.

8.6 The ICCC will promote the Code and its benefits to the community.

9. **The Building Industry Tribunal.**

9.1 There shall be a Building Industry Tribunal.

9.2 The Tribunal consist of three persons and is to be appointed by the ICCC in consultation with the Committee.

9.3 The ICCC will also select the Chair, who shall have legal qualifications.

9.4 The role of the Tribunal will be to,

- Consider disputes between consumer and members,
- Consider possible expulsions of members or disciplinary actions against members,
- Consider appeals against the refusal of the Committee to admit someone to membership.

9.5 The Tribunal shall set its own rules and make these rules public.

9.6 Tribunal processes can include hearings.
9.7 A refusal by a member to abide by a Tribunal determination or to cooperate with the Tribunal is grounds for possible disciplinary action.

9.8 The Tribunal can make the following determinations,

- Allow or refuse an appeal
- Determine a consumer dispute and, if appropriate, order compensation or any other appropriate order.
- Order disciplinary action, including suspension or expulsion.
- Orders in relation to a failure by a member to abide by a Tribunal determination.


10.1 Knowledge of Act and Code

A member must have a reasonable knowledge and understanding of the ICCC Act and any other legislation that is relevant to this code of conduct.

10.2 Honesty, fairness and professionalism

A member must act honestly, fairly and professionally in the conduct of its business practice.

10.3 Skill, care and diligence

a) A member must exercise reasonable skill, care and diligence in the conduct of industry practice

b) A member must complete all work for a client as soon as is reasonably practicable.

10.4 Members must ensure that employees comply with the principle and the standards required of by the ICCC Act and the Code and any other relevant legislation.

10.5 Unfair Conduct.

A member must not engage in conduct that is misleading or deceptive or unfair.

10.6 High pressure tactics, harassment or unconscionable conduct

A member must not engage in high pressure tactics, harassment or unconscionable conduct.

10.7 Claiming membership or endorsement

A member must not falsely claim or misleadingly imply to be a member of, or endorsed by, an organization or association.

10.8 Mandatory Forms and documents.

Members must use any Forms and Documents mandated by the Committee and the ICCC. Members must not alter these documents in any way.
Where Forms or documents are mandated only these can be used by members.

11 Dispute resolution

11.1 Complaint handling procedure

(a) A member must have a reasonable, simple and easy to use procedure in place for handling complaints by clients or customers of the agent.

(b) The member must have information readily available to inform clients and customers of the procedure.

(c) The information must include the following details –

   (i) how a complaint is to be made;

   (ii) when a complaint must be in writing and when it may be in oral;

   (iii) the person who is to handle the complaint.

(d) The member must consider every complaint made by a client or customer and –

   (i) accept the complaint, whether wholly or partly; or

   (ii) reject the complaint in writing.

(e) If the member accepts the complaint, whether wholly or partly, and restitution is required to be made to the client or customer (the complainant), the member must arrange for the restitution to be made –

   (i) within 7 days after accepting the complaint; or

   (ii) if the agent and the complainant agree by a later day.

(f) If the member rejects the complaint, whether wholly or partly, the member must give the complainant written reasons for the rejection.

11.2 Disputes

a) A complaint or disputes arising with respect to the service standards or unethical practices shall be submitted to the Tribunal for its determination and consideration with the necessary information that is subject of the dispute and any other information upon the Tribunals request.

b) Where a member is charged with an unethical practise and the member must provide all relevant facts and documents to the Tribunal for further investigation and consideration and the findings of the Tribunal be abided by the parties involved.

c) After all relevant materials are made available the Commission shall make a determination on the finding within 10 working days.

If the Tribunal is unable to make a determination of the above the Commission may in writing inform the parties to the dispute the reason for the delay.
ATTACHMENTS.

- Contract for the construction of a residential building
- Contract for the construction of renovations/improvements to an existing dwelling.
16th June 2009

Mr. Thomas Abe
Commissioner
Independent Consumer & Competition Commission
P O Box 6394, Boroko
National Capital District

Dear Mr. Abe,

SUBJECT: HOUSING INDUSTRY REVIEW

I write in relation to the above.

As the Minister responsible for the Independent Consumer & Competition Commission, I am formally directing the Commission to undertake the Housing Industry Review. This review will be undertaken as per the attached Terms of Reference for the Housing Industry Review.

I note that access to decent and affordable housing is an issue that is increasingly affecting Papua New Guineans. I expect that this review will identify some of the major failures within the industry that causes this and what the Government can do to address these issues.

With that, I look forward to receiving the Commission’s final report and hearing of the Commission’s progress in the interim through the consultation arrangements outlined in the terms of reference of this review.

Yours Sincerely,

HON. PARTICK PRUAITCH, MP
Minister for Treasury & Finance
TERMS OF REFERENCE

REVIEW OF THE HOUSING INDUSTRY

1. BACKGROUND AND PURPOSE

The Government, through the Minister for Treasury and Finance has asked the Independent Consumer & Competition Commission ("ICCC") to undertake a review into the current state of the housing industry in Papua New Guinea ("PNG") and existing impediments to its growth, and identifying any appropriate actions the Government might adopt in order to foster the industry's development. The review will also look at the role and place of regulation in the housing industry.

The Government recognises that accommodation is a basic need for all Papua New Guineans, particularly those who are earning a regular income through formal employment and living in urban centres. The provision of reasonable accommodation at relatively affordable prices has the potential to improve labour productivity, social welfare and enhance economic growth. Despite this potential, the Government is aware of concerns being raised by the general public and industry participants of the significant shortage of accommodation to meet existing demand in the urban and semi urban towns in PNG with practical issues but not limited to such as:

- availability of land for housing development,
- building plan approval,
- access to financing companies,
- connection to utility services such as water & sewerage, electricity and communications
- high rental and sale price of property

For the purposes of this review, the Housing Industry encompasses housing provided by the government, private companies and individual and those in the development, construction, letting and servicing of residential accommodation in the urban and semi rural areas.

The Review will also focus on the supply of and demand for housing needs in PNG in the supply of high, medium and low covenant houses which is the major concern unlike the high prestige houses. Since an integral part of this review will be to examine issues associated with supply of houses provided by the larger private sector, various Government Departments and the National Housing Commission, this terms of reference will also include reference to the role of the National Housing Commission, and other relevant Government instrumentalities that are directly or indirectly associated with this industry. This study should also examine the activities of the housing industry particularly in the ownership, management, lease, sale, valuation and appraisal, brokerage, development and consulting in respect of housing development and improvements situated in Papua New Guinea.
The review is intended to look at a wide range of issues relating to the operation, composition, structure, and regulation of the housing Industry. It is also envisaged that this review will look at the role of various arms of the Government at the national, provincial and local level government to establish if there is a need for further improvement that will enable new investment in this sector.

The Government is also aware that there are different market segments in the housing industry. The housing under these market segments varies from high to medium and low covenant categories and the locations also varies from prime location to the fringes of the main business district. Notwithstanding other economic considerations, the potential value of a house or the rental price of a property is invariably determined by its condition, category and location.

The Government recognises that supply of suitable housing and availability of land for housing development is scarce, and the ability of consumers to negotiate prices is non existence given the significant imbalance in supply and demand for properties. The potential of cartel activity and price fixing between the real estate companies cannot be overruled and this review will examine the extent to which any anti-competitive behaviour occurs within the housing industry notwithstanding any government policies and statutory requirements that are deemed to prohibit further development of this industry.

Houses or properties built on registered land are required to adhere to regulatory arrangements pertaining to building approval from the Building Board on their structural design and connection of basic utilities like water and sewerage lines and electricity services. The review will need to examine these regulatory arrangements to determine to what extent they act to inhibit or prevent competition from occurring in the market place.

In response to the review’s conclusions and recommendations, the Government will consider what if any policy response may be required to improve the overall efficiency, effectiveness, and competitiveness with a view to balancing the supply and demand of houses in PNG including adoption or revision of relevant regulatory arrangements.

2. TERMS OF REFERENCE

The principal objectives and deliverables of the review are to:

- Report on the current state and operation of the Housing Industry in PNG with a particular focus upon:
  - the size and other characteristics of the housing industry,
  - the competitive behaviour of participants in the industry,
  - impediments to competition in the industry, both regulatory and non-regulatory,
  - the relationship and interaction between real estate companies, the building companies, finance companies, National Housing Corporation, Department of Lands and Physical Planning, Insurance Companies and the owners of the properties,
  - any particular issues impacting on competition at the housing industries arising from the spatial characteristics of the country,
the current statutory arrangements in releasing land for property development to assess if some improvements are necessary;

- the nature of the regulatory and supply/demand factors acting upon the behaviour of the market
- the role and behaviour of the main players in the market such as land development companies, the National Housing Commission, the real estate agents, the larger private sector business who provide accommodation to its employees, government department providing housing to its employees and private individuals who acquire land or house

- factors determining the availability of housing for owners or for lease
- evidence of market failure (inability of the market to determine the right balance between demand and supply of dwellings
- finding out if the current high prices for property rental and purchase and the pent up demand is related to demand, supply or a combination of both and what policy measures would be required to address this; and

- the range of government policy and regulatory requirements impacting on the industry, including the consistency in these regulatory requirements at the national and provincial government level across the country.

- Identify issues and areas where Government action may be appropriate to address the problems and issues which are contributing to the failure of the market to get the demand and supply balance right to improve the overall competitiveness, efficiency and effectiveness of the housing Industry in PNG.

- Make recommendations on what action by Government may be appropriate to rectify any problems in the current structure, regulation and operation of the Housing Industry with a view to improving competition and the imbalance in the supply and demand for accommodations.

3. SPECIFIC TASKS TO BE UNDERTAKEN

Specific tasks to be undertaken as part of this review will include:

1. Review and report on the current operations of the Housing Industry in PNG including but not, limited to:
   a. The existing structure, size, ownership and operation of the industry;
   b. The degree of competition between suppliers of basic accommodation within the industry, taking into account the different market segment issues that impact on competition;
   c. Likely developments or changes in the existing structure of the housing industry including entry of new real estate companies and developments meant for accommodations in the foreseeable future.

2. Review and report on the current regulatory and supply/demand factors acting upon on the behaviour of the market, including but not limited to:
   a. The licensing requirements for housing companies and development for accommodations at the national and provincial level
   b. The National and Provincial Government policy or regulatory environment in the provision of houses;
   c. The regulatory oversight enforced by the building board;
   d. The requirements and procedures of allocating land and land titles for building developments in urban centres
e. Other consumer protection laws and requirements that may impact on the operation of businesses in this industry (including the ICCC Act and the Prices Regulation Act);

f. Overall impact of regulations on the cost of doing business

g. Other factors that act upon the way in which housing is owned or leased in PNG (the reliance upon the employer to supply housing or a housing allowance, and the heavy reliance on rental accommodation in the urban areas for example)

3. Advise on the role and behaviour of the main players in the market such as the land development companies, Department of Lands, the National Housing Commission, the real estate companies, the larger private sector business and private individuals

4. Consult previous documentations and related studies undertaken by independent agencies and organisations such as NRI, INA etc and others including the Government’s National Housing Taskforce in addressing the inherent housing problem and related issues. Discuss how the findings and recommendations of the earlier reviews can be aligned and all issues addressed in a coherent manner.

5. Advise on the opportunities and potential for the entry of new competitors into the housing Industry including:
   a. Likely areas for new entry;
   b. Potential impact on the industry;
   c. Pre-requisites for the entry of new participants;
   d. Likely benefits for the national economy.

6. Make recommendations on what if any action can be taken by Government to address regulatory impediments or enhance the prospects for increasing competition in the housing industry in PNG, including but not limited to:
   a. Reforming regulatory and licensing arrangements while retaining appropriate prudential safeguards;
   b. Removing other barriers to entry by new competitors into the industry;
   c. Enhancing the countervailing power of consumers and users of the industry’s services.

4. DELIVERABLES

The deliverables from this review will encompass the following:

- Verbal presentation with overheads and other summary material on the findings from stages 1 to 3 of the terms of reference as outlined above and preliminary comments on stage 4
  - To be made to the authorising Department and to occur prior to the finalisation of the Draft Report and in ample time for the authorising Department to make comments on the findings of these initial stages
- Preparation and presentation of a written Draft Report for consideration and comments by the Government and other interested parties
  - The presentation to be by way of a public presentation to a select audience and discussion on the Draft Report
  - Opportunity for submission of written comments on the Draft Report
- Preparation and presentation of a fully documented written Final Report to Government
Annexure D : Submissions to the Inquiry

Written Submissions to the Issues Paper

1) Bank of Papua New Guinea
2) Bank South Pacific Limited
3) Croesus Ltd
4) Department of Personnel Management
5) Department of Commerce and Industry
6) Department of Treasury
7) Divine Word University
8) Institute of National Affairs
9) Mr. David Kitchnoge
10) Mr. Vagi Genorupa
11) Mr. Jonathan Maninare
12) Mr. Elim Kiang
13) Nambawan Super Ltd
14) National Institute of Standards and Industrial Technology
15) National Housing Corporation - HQ
16) National Research Institute
17) Office of Insurance Commissioner
18) Real Estate Industry Association
19) Salvation Army
20) Tusiylala Architects
21) Zogizoka Homes Ltd

Written Submissions to the Draft Report

1) Department of Treasury
2) Independent Public Business Corporation
3) Minister for Public Services
4) PNG Chamber of Commerce and Industry
5) PNG Ports Corporations
6) Posanau Surveys
### Annexure E: Current Housing Project and Plan

<table>
<thead>
<tr>
<th>Work Program</th>
<th>Lead Agency</th>
<th>Details</th>
<th>Relationship with proposed Housing Strategy</th>
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<tbody>
<tr>
<td>National Urbanizations Pilot Projects</td>
<td>Office of Urbanisation</td>
<td>The Office of Urbanisation has a number of comprehensive pilot projects underway for the development of customary for purposes as housing. Pilot projects are planned in Taurama (NCDC), Fanayufa (Goroka), Minj and Tari. The 2007 Budget includes K15 million for this work.</td>
<td>This work is consistent with the proposed Housing Strategy as it provides a means to resolving customary land issue, which underlie housing shortages. There is a clear role for Government in this work in developing the legal framework for customary land to be leased and a sound and reliable title system. Furthermore, the Government can facilitate the development of such land through coordination of the project, provision of technical assistance to land owner groups, and potentially through the provision of essential infrastructure such as sewerage and water. This role for the Government is consistent with that proposed in the Housing Taskforce to work with the Office of Urbanisation to ensure delivery of the Pilot Projects in a manner consistent with the Housing Strategy, including:</td>
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|                                     |                                       |                                                                                                                                                                                                         | a) identify opportunities for the private sector in each pilot project  
|                                     |                                       |                                                                                                                                                                                                         | b) allocation of budgeted funds for purposes consistent with the role of the State in facilitating housing developments, such as facilitation of legal framework, securing titles and provision of essential infrastructure to pilot projects. |
### Strategy.

This project also includes scope for the private sector to engage in the pilot projects through the leasing of customary land and other development activity.

<table>
<thead>
<tr>
<th>Central City Project</th>
<th>Central Provincial Administration (CPA)</th>
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<tbody>
<tr>
<td><strong>The CPA is currently developing plans for Central City, which includes a large residential housing project.</strong></td>
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<td><strong>The CPA submission to NEC notes 500 hectares are available to be sub-divided and sold.</strong></td>
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<td><strong>The 2008 budget includes K50 million as the State’s contribution to the Central City project.</strong></td>
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<tr>
<td><strong>There are many issues to be resolved in regard to the Central City project, such as costings, scope and delivery mechanisms. However, the project provides a potential avenue to address housing issues in Port Moresby, where arguably housing pressure is greatest.</strong></td>
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<tr>
<td><strong>CPA’s proposal for the Central City considers various options for delivery of including by the state and/or the private sector.</strong></td>
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<tr>
<td><strong>The proposal includes options for the State to undertake feasibility</strong></td>
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<td><strong>Work to be allocated through a</strong></td>
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<tr>
<td><strong>The Housing Taskforce to work with the CPA Central City Project Team to ensure this project is developed and implemented consistent with the Housing Strategy. This includes:</strong></td>
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<tr>
<td><strong>a) State funding to be allocated to essential infrastructure, such as the entrance road and sewerage and water facilities;</strong></td>
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<tr>
<td><strong>b) Housing developments to be prioritized if delivered, funded and owned by the private sector</strong></td>
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</table>
studies, title registration, and delivery of essential infrastructure (in this case key roads and sewerage), whilst construction, development and ownership of property will be performed by the private sector. This approach is consistent with proposed Housing Strategy.

| National Housing Development Project (NHDP) | Minister for Housing | The NHDP was considered by NEC on 20 December 2006 and proposed the establishment of a vehicle company to undertake the planning and construction of housing. Serious problems were identified with this proposal, including:  
- the large cost to the State (estimated in excess of K98 million) | There are numerous inconsistencies in the NHDP and the proposed Housing Strategy. However, these are not insurmountable. The NHDP is looking to address the housing issue, however it fails to do so in a manner that avoids the mistakes of the past or achieves a sustainable and affordable outcome. Whilst the Housing Taskforce recommends strongly against the NHDP, there is potential for the transparent tender process. | The Housing Taskforce to work with the Minister for Housing and NHC to:  
  a) Identify the available stock of state-owned land for development  
  b) Identify state-owned properties that may be available for rehabilitation for housing purposes.  
  c) Prepare an implementation plan for the development of these sites, through open and transparent tendering of property for private sector development. |
the lack of tendering in the allocation of work to a foreign company (despite local firms, banks and superannuation funds available to undertake the investment)
the apparent repeat of fast mistakes in delivering housing (due to lack of maintenance, misallocation of properties, poor titles etc. None of these issues were addressed in the submission)
the lack of capacity of the NHC to deliver this large scale project. Rather, the priority of Government, with funding provided in the 2006 and 2007 Budgets, was rehabilitation of housing (which remains largely unimplemented.

| National Land Development Project | Land Development Taskforce, Department of Lands | The National Land Development Report 2006 identified legal, technical, and administrative constraints to assessing land for development and made over 50 recommendations, The proposed Housing Strategy depends to a large extent on achieving the recommendations set out in the Land Development Report. In particular: | The Housing Taskforce to work with the Minister for Housing to identify sustainable ways to utilize available state-owned land and properties for potential rehabilitation, in a manner that is consistent with the proposed Housing Strategy. | d) Develop a proposal for the allocation of the K15 million allocated to housing in the 2008 Budget, consistent with the above implementation plan
c) Prepare a submission inclusive of the above for NEC consideration |

a) Improve administration of the
including improvements to the land administration system.

The Land Development Taskforce continues to work towards the implementation of the report’s recommendations. Implementation of this work is a fundamental pre-requisite for improvements in the housing sector to be achieved.

The 2008 Budget included funding for the implementation of this work.

- improvements to the land administration system and security of property rights
- improving the ability of the Department of Lands to make titles to land available transparently for development
- improving processes related to urban development leases and compliance with the requirements of such leases (such as development within certain time periods)

### Institutional Housing Scheme

| Department of Personnel Management (DPM), and the Housing Taskforce | The 2008 Budget includes K27 million for institutional housing | The proposed Housing Strategy provides a framework for the provision of institutional housing. | DPM to work with the Housing Taskforce to:
<table>
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<tbody>
<tr>
<td>DPM have invited tender for the design and construction of</td>
<td>The framework is necessary if institutional housing is to be afforded by the State, equitably</td>
<td>a) Develop the list of public service positions that meet the criteria contained in the Housing Strategy for institutional housing;</td>
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<td>b) Ensure secure property rights</td>
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The Department of Lands to provide to the Housing Taskforce:

- a) A stock-take of available state-owned land for development and/or redevelopment (in consultation with NHC, as noted above)
- b) A list of urban development leases currently available
- c) A list of the issued urban development leases that are not currently compliance with their requirements for development
institutional housing allocated and appropriately maintained.

The framework provides the following criteria:

- Remote and rural public service position (including key district level positions); and
- Requires frequent relocation; and
- Appropriate housing is otherwise unavailable.

There may be scope to coordinate this work with the District Services Improvements Program (DSIP), to ensure funds are available for institutional housing which is consistent with the above criteria.

b) Develop an implementation plan for the delivery of institutional housing that is based on the principles articulated in the Housing Strategy, including private sector delivery and maintenance.

c) Consult with Treasury on the manner in which recurrent costs associated with the provision of institutional housing can be factored into departmental budgets.
## SCENARIOS FOR HOUSING SECTOR

<table>
<thead>
<tr>
<th>GOVERNMENT FUNDED HOUSING</th>
<th>GOVT FACILITATES PRIVATE SECTOR HOUSING</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Role of Government</strong></td>
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<tr>
<td>- establishes secure land titles system</td>
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<tr>
<td>- identifies land for development</td>
<td>- makes land available for sale or lease</td>
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<tr>
<td>- designs, constructions, and own housing</td>
<td>- may provide essential infrastructure (such as sewerage and water, roads)</td>
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<tr>
<td>- responsible for all maintenance and infrastructure</td>
<td>- provides appropriate regulatory environment</td>
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<tr>
<td>- subsidizes rents</td>
<td><strong>Role of the Private Sector</strong></td>
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<tr>
<td>Private sector may be constructed to perform work on behalf of Government, but ownership remain with the State</td>
<td>Private sector has the opportunity to invest in housing development, drawing on private financial resources. May involve individuals meeting own housing needs, or private developers delivering larger scale housing projects.</td>
</tr>
<tr>
<td><strong>Examples</strong></td>
<td><strong>Examples</strong></td>
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<tr>
<td>State funded housing schemes have been common in PNG since the 1970s</td>
<td>Rainbow Village</td>
</tr>
<tr>
<td>Eg: Various institutional housing schemes, Morgan Scheme (1980s) and, the National Home Ownership Scheme (1981) and, more recently, the National Housing Commission to manage State housing.</td>
<td>8-9 Mile housing Estate (NASFUND &amp; other private companies)</td>
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<td></td>
<td>Waigani development (Telikom housing scheme)</td>
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<td>ENSISI Valley Development (NHC and private sector participants)</td>
<td><strong>Outcome</strong></td>
</tr>
<tr>
<td></td>
<td>More affordable housing (as private sector works to produce more competitive prices)</td>
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<td></td>
<td>Development of domestic construction industry sector, local employment</td>
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<td>More equitable access to housing (not based on whether individual is a public servant or not)</td>
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<td></td>
<td>More sustainable source of funding and maintenance as costs spreads across many investors and home owners</td>
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<td>Reduce pressure on National Budget (no ongoing costs)</td>
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<td>Opportunity for Super Funds and Banks to finance and invest in the housing sector (building the domestic financing sector)</td>
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<td></td>
<td>Provides opportunities for Papua New Guineans to create wealth</td>
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<tr>
<td><strong>Outcome</strong></td>
<td><strong>Outcome</strong></td>
</tr>
<tr>
<td>- Inadequate supply of housing</td>
<td>- More affordable housing (as private sector works to produce more competitive prices)</td>
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<tr>
<td>- Costly for the state</td>
<td>- Development of domestic construction industry sector, local employment</td>
</tr>
<tr>
<td>- History of poor maintenance</td>
<td>- More equitable access to housing (not based on whether individual is a public servant or not)</td>
</tr>
<tr>
<td>- Limited private sector participation (thereby the development of a local construction industry and associated employment)</td>
<td>- More sustainable source of funding and maintenance as costs spreads across many investors and home owners</td>
</tr>
<tr>
<td>- Lack of equity in the allocation of housing (source of corruption)</td>
<td>- Reduce pressure on National Budget (no ongoing costs)</td>
</tr>
<tr>
<td>- Institutional housing in particular, reduces the affordability of housing for all other in the housing market (as supply is limited, prices for other citizens become less affordable)</td>
<td>- Opportunity for Super Funds and Banks to finance and invest in the housing sector (building the domestic financing sector)</td>
</tr>
<tr>
<td>- Subsidised rents create poor incentives, including for occupants to maintain accommodation</td>
<td>- Provides opportunities for Papua New Guineans to create wealth</td>
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<tr>
<td>- Fails to utilize the private funds available</td>
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<td>for investment in housing</td>
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<td>--------------------------------------------------</td>
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<td>• Fails to generate wealth for private citizens through home ownership</td>
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