

Submission

By

**THE
NEW ZEALAND
INITIATIVE**

to

the Environment Committee

on the Government Bill

**Resource Management (Enabling Housing Supply and Other
Matters) Amendment Bill**

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INTRODUCTION AND SUMMARY

- 0.1 This submission on the Government Bill *Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill* [The Bill] is made by The New Zealand Initiative, a think tank supported primarily by chief executives of major New Zealand businesses. The purpose of the organisation is to research to contribute to developing sound public policies in New Zealand to help create a competitive, open and dynamic economy and a free, prosperous, fair, and cohesive society.
- 0.2 The Initiative has, since its founding, undertaken substantial research into housing supply, zoning, and local government. About a third of the Initiative's work for the past decade has been devoted to housing and local government. It includes over sixty reports, research notes, policy briefings, and submissions.
- 0.3 We strongly support the intentions of the Bill. This submission explains why we think it is important, how New Zealand came to require this kind of measure, and what complementary policy initiatives will be necessary to enable this Bill to have its desired effect.
- 0.4 In summary, New Zealand has far too few houses. We have too few houses because councils have zoned against increasing housing supply in the places where people want to live. When cities are not allowed to grow up or grow out, or both, in response to population change or population increase, shortages develop and prices increase.
- 0.5 Councils engage in this kind of zoning behaviour because it has been strongly in their interest to do so. For a council at or near its debt limit, funding and financing the infrastructure necessary to support growth is difficult. And when infrastructure costs fall on the community more generally, rather than on the beneficiaries of that new infrastructure in particular, existing residents' opposition to growth
- 0.6 The tools available to councils to finance this growth were removed in the Bassett reforms. Since then, councils have come to use zoning and consenting policy to protect their balance sheets. When central government draws the lion's share of the benefits when councils enable growth through increased company tax, GST, and income tax, councils are left with an infrastructure bill that is difficult to fund or finance. Conflict between central and local government is inevitable.
- 0.7 Allowing more building is critically important. There is arguably no greater first-order problem facing the country. The effects of housing shortages are pervasive. Councils face incentives that cause them to use zoning and consenting to protect their balance sheets. Forbidding more intensive development in places where people want to live is one way councils avoid the trunk infrastructure upgrade costs that can come with urban growth. Requiring councils to zone for more intensive development, as the Bill proposes, closes off that option. But where the underlying incentives facing councils have not changed, councils will look for other tools to protect their balance sheets against the costs they face.
- 0.8 Consequently, we urge the government not only to enable greater housing supply by banning low-density zoning in Tier 1 cities, but also to encourage councils to welcome growth as a benefit to be sought rather than a cost to be mitigated through zoning and consenting.
- 0.9 Central government can do this by enabling better infrastructure and financing tools for local councils. Councils need the ability to issue debt that is backed by the revenues that flow from new infrastructure projects, with no recourse to councils' main balance sheets if the revenues from the project are less than expected. Central government should also consider sharing some of the benefits of urban growth with councils.

0.10 Finally, the legislation should be strengthened to allow a broader range of activity. More intensive urban forms will require more services in local communities. At the same time, the Commerce Commission identified zoning as a substantial barrier to competition in its market study into the grocery industry. We consequently urge the government to amend the legislation to allow property owners to build more homes on their property by-right, and to build a supermarket.

1. Council incentives and enabling growth

1.1 The Bill addresses a desperately important problem. New Zealand's housing shortage results in hardship and inequities. It also hinders economic growth by making it harder for people to move to the places where their skills are most valuable. When housing supply is tightly constrained, urban productivity growth will benefit existing landowners rather than the firms and workers who provided that growth. Zoning constraints create a rentier economy.

1.2 New Zealand's housing shortage is directly attributable to a lack of land zoned for new building – both for expansion at cities' fringes and for more intensive uses. Many problems that also stymie new development are downstream from a lack of zoned land.

1.3 For example, New Zealand's construction sector developed to the scale permitted by zoning and consenting constraints. If building large new subdivisions or broad new terraced housing developments is highly restricted, the construction sector will respond by not expanding and focusing limited capacity on bespoke building projects. All of that would change under a more enabling regulatory environment.

1.4 But an inadequate supply of appropriately zoned land is itself downstream of another problem.

1.5 Currently, a council enabling greater intensification and new development in places people want to live faces substantial difficulties. Existing owners and residents regularly oppose new development. But where the benefits of new development largely flow to central government through increased tax revenue, the costs of that development remain at a local level. Developments that would easily pass an overall cost-benefit assessment can then be stymied when, from a council's perspective, they are primarily left dealing with the costs. They will also then have little ability to fund other local improvements that might assuage local opposition.

1.6 Some local opposition to local intensification is perfectly understandable when existing residents expect local infrastructure to not be upgraded to meet new needs. As an anecdotal example, one opponent to Wellington Council's proposed upzoning in Khandallah reported that heavy rains frequently resulted in sewage backups overflowing into his back yard. He worried that more homes served by that pipe would result in more waste showing up more frequently. This is not NIMBYism. Rather, it is a symptom of dysfunctional infrastructure funding and financing and policy settings that send the tax revenue from urban growth to central government while leaving the costs with local government.

1.7 At the same time, financing the infrastructure to enable growth can be impossible for councils at or near their debt limits. Consider a council at its debt limit in non-Covid times: debt cannot be more than 250% of its revenues. Suppose a new urban development will generate an extra \$25 million in rates revenue for the council, forever, that council cannot spend more than \$62.5 million on the infrastructure to support that development: 2.5 times the annual revenue supported by the debt. This is equivalent to requiring that infrastructure that will last for decades pay itself off in less than three years.

1.8 Councils, in that situation, can also defray some of the trunk infrastructure cost through development contributions from the developer. Doing so effectively pushes infrastructure costs into the upfront cost of serviced sections (or reduces the initial land value) while

imposing a substantial capital requirement on the developer. The infrastructure winds up being financed at the eventual purchaser's mortgage interest rate rather than at a rate reflecting the pooled risk of the development.

- 1.9 When councils face financial incentives, over decades, to use their zoning and consenting abilities to protect their balance sheets against the costs that urban growth imposes, consenting and zoning become pathologically broken. A generation of council planners has known only environments where urban growth is a cost to be contained. It is not surprising that strongly anti-development cultures are built and reinforced. Those cultures are downstream of the underlying incentives that create and encourage them. With different financial incentives, different cultures would be built and reinforced instead.
- 1.10 The Bill addresses one important symptom of the underlying disorder in zoning and consenting. Low-intensity zoning where people want to live helps councils avoid the infrastructure cost of trunk infrastructure upgrades to service more intensive development. Banning low-intensity zoning and setting an Independent Hearings Panel to oversee the intensification planning instrument is helpful. But the underlying incentives have not changed.
- 1.11 The incentives facing councils have not changed. Councils still face the same difficulties in funding and financing the infrastructure necessary to accommodate urban growth. So existing planning cultures at councils will encourage looking for new ways to stymie growth and protect council balance sheets.
- 1.12 It is difficult to predict what instruments councils might use to frustrate growth in areas where growth would be particularly costly to accommodate. A short indicative list of measures they may try:
 - 1.12.1 Financial contributions policies imposing a cost on new developments in excess of any infrastructure burden they impose;
 - 1.12.2 Green building standards ostensibly set as part of council commitments to mitigating climate change but really aimed at increasing the cost of new development to prohibitive levels to frustrate development;
 - 1.12.3 Setting broader heritage and character designations and orders;
 - 1.12.4 Setting informal requirements. For example, developers could be made to understand that getting final building approval will be incredibly slow and fraught unless development is less intensive than is allowed by formal zoning under this Bill.
 - 1.12.5 Myriad other measures that will occur to council planners well versed in the arcane arts but that are invisible to Parliament.
- 1.13 Parliament and Independent Hearings Panels can attempt to chase after each of the new ways that councils find to frustrate development as they occur, but it is a mug's game. It will be impossible to keep up. Council planning offices will always have an informational advantage over Parliament.
- 1.14 Changing the incentives is required to fundamentally change the game. The Bill is excellent and warranted. But it would be surprising if councils were not already looking for innovative ways to thwart its effects.
- 1.15 Enabling councils to set infrastructure bonds providing no recourse to councils' main balance sheets in case of default would assist in removing one reason that councils object to new development. Parliament could set legislation allowing councils to issue infrastructure debt with a statutory prohibition against bailing out the bonds. Councils could then issue bonds

backed by a special levy on properties serviced by the infrastructure, or through charges for the services provided by the infrastructure, or a combination of the two.

- 1.16 Better infrastructure financing mechanisms would remove a disincentive for enabling growth. The government could go further by sharing some of the revenue that central government receives when growth is enabled. The Initiative detailed one mechanism for doing this in our report *In The Zone*. But alternative blunter arrangements are entirely possible, like providing a grant to councils for every new dwelling receiving final building approval.
- 1.17 Finally, we note that while we completely support enabling greater density within cities through the Bill, enabling suburban expansion at the city's fringes also remains essential. Important externalities from urban expansion are either already internalised, through the Emissions Trading Scheme, or are soon to be internalised, through congestion charging. Failing to enable expansion at the fringes of the city means that urban land prices will not be anchored by bare land costs at those fringes.
- 1.18 Downtown land prices will always be higher than prices at the fringes of a city because of amenities available downtown. But development at city fringes, when allowed, anchors urban land prices. If people can easily build at the city's edges, land prices downtown will not bid up beyond the cost of development at the fringes, including the infrastructure costs of that development, and the disamenity of living further from work and cultural amenities. When building at the fringes is impossible or tightly regulated, urban land prices can more easily become unhinged. Affordable downtowns require that suburban expansion be possible, even if relatively few people choose the suburbs.

2. ...and a supermarket

- 2.0 We suggest that the government consider broadening the range of activities enabled by the Bill. The Bill could be updated to set medium-density mixed-use zoning as the default, enabling retail and commercial premises and residential buildings.
- 2.1 When more people live in a city's inner suburbs, more services close to those communities can be supported, from grocers and florists to restaurants and pubs.
- 2.2 An enabling and liberal zoning framework would allow businesses to emerge in the places where residents would find them valuable, rather than requiring councils to anticipate where those needs might arise.
- 2.3 Land use regulation was identified as a substantial constraint in grocery competition in the recent Commerce Commission inquiry. Allowing more places to be supermarkets would remove one barrier to entry and enable stronger competition and better outcomes. Obviously, a supermarket will not fit on most lots. But if it is allowed by right, potential grocery entrants can accumulate titles into a footprint that works for them.
- 2.4 Broad mixed-use zoning as the default zoning setting is enabling. When only a tiny number of sites are allowed to be supermarkets, the government should not be surprised if there is less competition in the grocery sector than it might prefer. If supermarkets could be located in more places, a substantial barrier to entry would be eased. Ensuring that an international entrant did not face restrictions through the Overseas Investment Office, where mixed-use land could be considered residential, would also be important. Where the Commerce Commission has considered new grocery entry to be in the national interest, it seems odd to require that such entry face an OIO hurdle.
- 2.5 Broad mixed-use zoning would also enable other local retail to emerge in places where the business case for it stacks up. Instead of councils picking and choosing places where bakeries,

coffee shops, greengrocers and dairies might be allowed to operate, businesses would simply open where community demand for their services seemed to warrant it. A developer could choose to set two stories of apartments above street front retail. It is a fundamentally more flexible approach and will allow more walkable communities simply to emerge.

3. Further recommendations

- 3.1 The Coalition for More Homes has provided additional useful suggestions that we here endorse. They suggest allowing building to the boundary, rather than to a recommended setback. We encourage that the legislation make it simple for neighbouring property owners to mutually agree to waiving setback requirements at their common boundary.
- 3.2 Those agreements should be made durable by placing them on the LIM for each property, so that they bind subsequent owners. This would allow neighbours to agree to set aside setbacks at their common boundary even if one owner is not yet ready to develop his property.
- 3.3 Imagine two neighbours, Able and Beth. They would be happy to agree to waive setback requirements at their common boundary so they could each redevelop their property for more intensive use. Beth's financing is arranged and she is prepared to redevelop. Able expects to be able to redevelop in a decade. If Able fears that the new owners of homes on Beth's redeveloped property will block Able's building to the boundary, he will be less likely to agree in the first place. The agreement needs to be codified on the LIM.
- 3.4 The Coalition for More Homes also suggests enabling building to the front boundary, so that perimeter blocks become possible. We also endorse this recommendation.

4. CONCLUSION

- 4.0 We commend Labour and National for a bipartisan approach to addressing the housing shortage. The housing shortage is fundamentally a shortage of appropriately zoned land in places where people want to live. This legislation requires councils to zone for more dwellings in places where people want to live. It will help. Parliament should pass the legislation.
- 4.1 If the goals sought by this legislation are to be realised, Parliament needs to change the incentives that have driven councils to use their consenting and zoning functions to mitigate the risks that urban growth poses to their balance sheets. Improved infrastructure funding and financing mechanisms would help. So too would incentive payments to councils that share the benefits that central government enjoys, in higher tax revenues, when councils accommodate and encourage growth rather than frustrate it.
- 4.2 We suggest that Parliament consider broadening the legislation to allow not only building of more homes by right on one's own property, but also retail activities. A default mixed-use zoning allowing building up to three stories would allow services to follow population and enable more walkable neighbourhoods to emerge.