

SUBMISSION ON THE RESOURCE MANAGEMENT (ENABLING HOUSING SUPPLY AND OTHER MATTERS) AMENDMENT BILL

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Planning is essential to achieving a better New Zealand

Te Kokiringa Taumata | New Zealand Planning Institute (NZPI) is the voice of planning in New Zealand. It is the professional organisation representing this country's planners, resource managers, urban designers, and environmental practitioners. Planners have a critical role in shaping New Zealand's future by helping to develop solutions to key issues, such as population growth, infrastructure needs, pressure on natural resources and environments, demographic change and transport

SUBMISSION

1. Te Kokiringa Taumata | New Zealand Planning Institute (NZPI) welcomes the opportunity to present this submission on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (the Bill). NZPI supports the overall intent of the Bill, which is to accelerate the supply of housing through amendments to the Resource Management Act (RMA). The Bill is potentially a significant step towards improving housing choice and accelerating the impact and implementation of the National Policy Statement for Urban Development (NPS-UD).
2. NZPI consider that aspects of the Bill should be redrafted to better address key issues. As drafted it may inadvertently give rise to unintended consequences / poor outcomes, as the Bill creates a planning framework that enables medium density development away from local centres and public transport.
3. We understand that Government is intent on seeing these amendments through. Our submission makes recommendations that seek to address these and other potential consequences.
4. NZPI make the following recommendations:
 - a. Planning policies that support affordable housing should be incorporated into the Bill, noting that simply allowing for a diversity of housing choice and an increase in supply will not necessarily lead to affordable homes being built;
 - b. Amend the Bill to require that Independent Hearings Panel (IHP) members be independently appointed, and require that commissioners who are planners be Full Members of NZPI;
 - c. Include standardised objectives and policies that identify clear outcomes sought by the rules in the Bill. In other words, the Bill should include a coherent package, rather than just the rules with none of the objectives, policies, and assessment matters;
 - d. Include the criteria to be applied by authorities and IHPs when considering exemptions on qualifying matters;
 - e. In respect to the Ministry for the Environment (MfE) and the Ministry for Housing and Urban Development (MHUD):
 - i. these parties should be active submitters / participants in the plan change process to provide guidance and support to see that a consistent approach is applied to the implementation of the Bill; and
 - ii. the support and involvement of MfE and MHUD staff will also help to ease the burden of implementation.
 - f. The growth planning work already done by Tier 1 and 2 Councils should not be lost, and MfE should consider how this work can inform, and be integrated into, this process. For example, tailored identification of where the new provisions will land, prioritising the application of these rules within urban areas already considered locally for intensification;

- g. The Bill should provide an ability for local authorities to amend funding plans to require development contribution modifications for new permitted activities to fund necessary infrastructure expansion and address constraints; and
- h. In respect of the Medium Density Residential Standards, we recommend:
 - i. prescribe a minimum level of sunlight access at the Equinox to the existing outdoor living space of a neighbouring property; and
 - ii. set recession planes that recognise that the further south you go, the lower the sun angle and shorter the length of day in winter - therefore the effects of shading are more pronounced.
- 5. The above submission points are discussed in greater detail in the attached supplement to this submission.
- 6. NZPI wish to be heard in support of this submission.

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SUPPLEMENT TO SUBMISSION

INTRODUCTION

1. Te Kokiringa Taumata | New Zealand Planning Institute (NZPI) welcomes the opportunity to present this submission on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (the Bill). NZPI is the home of planning in New Zealand, with 11 branches within New Zealand and overseas. Our growing membership of over 2800 members – mainly professional planning practitioners – are involved in strategic planning initiatives, implementation of urban and rural plans, consenting, plan-making, and policy-analysis, at local, regional and national levels.
2. Due to the timing of the Bill, this submission has been prepared without consultation with the membership. Instead, it has been developed by our Senior Policy Advisor with guidance and input from our Board, and with input from our Resource Management Advisory Group, a sub-group of experienced practitioners that provide input and advice on matters relating to planning.
3. NZPI note that it is not possible to represent the diverse range of views of our membership, and that our members may express views in their personal submission that differ to those provided here. Instead, the objective of the NZPI in making this submission is to represent the interests of the profession and comment on the proposed amendments from an implementation perspective.
4. NZPI note that the NZPI Special Interest Group, PlanTechNZ, is making its own submission. We support the content and recommendations therein.
5. NZPI supports the overall intent of the Bill, which is to accelerate the supply of housing through amendments to the Resource Management Act (RMA). The Bill is potentially a significant step towards improving housing choice and accelerating the impact and implementation of the National Policy Statement for Urban Development (NPS-UD). Removing barriers to urban intensification, by making medium density housing normal in areas close to transport and centres, can go some way towards achieving well-functioning urban environments where people live closer to their work, community facilities, and essential services.
6. As drafted, however, NZPI are concerned that the Bill will not address most of the issues it seeks to address and may inadvertently give rise to unintended consequences and poor urban planning outcomes. Houses alone do not create a thriving community, where the diverse needs of those living in that urban space can be met. We wish to reiterate that planning regulations are but one element in a complex mix of constraints on supply.

NZPI has broad concerns with the Bill

7. NZPI would like to record the following broad process and outcome concerns with the Bill. These are simply noted and are not discussed further in this submission.
 - a. NZPI is concerned that there is no section 32 RMA equivalent report to support the modelling and justify the rationale behind the proposed rules. NZPI considers that an

external review or hearing process (for example, administered by the Environmental Protection Agency (EPA)) to test and refine the provisions would have been appropriate and would have led to more robust and refined outcomes. This lack of robust analysis should not be duplicated when considering future proposals of this scale and significance.

- b. NZPI is generally concerned with the lack of engagement leading up to the development of the Bill. NZPI believes that had government undertaken a compressed consultation with Iwi, Tier 1 councils, along with infrastructure and housing providers, the Bill could have been a more integrated and complete reform, rather than being restricted to requirements for housing numbers and location standards.
- c. NZPI notes that this Bill came as a surprise, and there are serious questions as to how it will interact with the other pieces of legislation proposed to be introduced next year by the Government. The Strategic Planning Act, for example, seeks to ensure that development and infrastructure occurs in the right places at the right times. This Bill, however, creates a planning framework that enables medium density development away from local centres and public transport.
- d. NZPI is aware of the amount of growth planning work that has been done by Tier 1 and 2 Councils up and down the country. NZPI submits that this work should be considered so that intensification enabling provisions of the Bill apply in areas that respective Councils have already identified for intensification in their growth strategy/spatial plans and thereby to areas and zones where medium density housing has been contemplated.
- e. NZPI consider that this approach (permissive) will become typical in an outcomes-based system, and that identifying outcomes and the standards to achieve these will become the norm. Although we are excited to see this shift, we are concerned that the Bill and associated standards as drafted will not achieve good urban planning outcomes, nor create thriving communities.

SPECIFIC COMMENTS ON COMPONENTS OF THE BILL

8. The remainder of this submission details our specific concerns with the Bill.

Housing affordability

9. NZPI note that there are no provisions in the Bill relating to affordable housing.
10. NZPI are concerned with the idea that simply allowing for a diversity of housing choice and an increase in supply will lead to affordable homes being built. Whilst we recognise that dwellings entering the market are not all priced the same, flexible zoning provisions are only one very small step in increasing the number, affordability, and diversity of housing stock in New Zealand. There are many factors at play, and it is perhaps better to think of this as an “affordability problem” rather than a housing supply problem.
11. NZPI recommends considering planning policies that support affordable housing (such as inclusionary zoning) in the Bill. In the long term, if we are to tackle the affordability problem, the structural reasons outside of planning regulation – including wages, cost of living, and

demand incentives – need to also be addressed.¹

Independent Hearings Panel

12. NZPI support the intent to reduce overall timeframes and costs. Whether this will be achieved through the removal of the Environment Court, and whether this approach will improve the efficiency and effectiveness of the process whilst achieving quality decisions and outcomes, is uncertain.
13. NZPI would like to voice concerns in relation to the appointment of panel members to the IHP.
14. Territorial authorities are required to establish Independent Hearings Panels and delegate necessary functions. NZPI caution that, for the integrity of the process to be retained, panel members should be independent commissioners (i.e. not also councillors).
15. NZPI understands that the Minister will determine the level of experience and qualifications a person must meet before a territorial authority can appoint a person to an IHP. We note that, whilst appointees to a hearing panel must have accreditation to make decisions, NZPI is of the view that appropriately qualified planners should be making plan and placed-based decisions. NZPI strongly recommend the Bill be amended to require that commissioners appointed to the IHP who are planners be Full Members of NZPI.

Rules and Standards for plans, but no Objectives and Policies

16. NZPI is concerned that the Medium Density Residential Standards (MDRS) are half a zone, and territorial authorities will be required to develop new / bespoke objectives and policies that will enable the MDRS (including assessment criteria for restricted discretionary activities).
17. NZPI consider that the objectives and policies that identify clear outcomes sought by the rules in the Bill should also be standardised and form part of the legislation. In other words, the Bill should include a coherent package, rather than just the rules with none of the objectives, policies, and assessment matters. This will enable consistency across plans. Otherwise, there is a risk that each Plan will have different outcome statements and no consistency of approach at an Objective and Policy level.
18. This package could be based upon existing medium density zones in Auckland or Christchurch. These zones provide a complete suite of provisions, and have been developed through a section 32, with widespread public input, tested again by an expert panel. These also have the benefit of having been implemented in the real world and appear to be delivering both very high rates of uptake and reasonable design and planning outcomes.
19. Further to the above, it will take significant time and effort to go through a plan change process to include objectives and policies for permitted activity rules which have been set at a national level. A coherent package, with criteria/directives to focus the local plan change,

¹ NZPI would like to draw your attention to recent and relevant policy work prepared by the Planning Institute of Australia on the issue of affordable housing, which is set out in its [submission to Australia's Parliamentary Housing Supply and Affordability Inquiry](https://www.planning.org.au/documents/item/11517). The Australian Parliament's Standing Committee on Tax and Revenue is presently inquiring into and reporting on the contribution of tax and regulation to housing affordability and supply in Australia. This submission can be accessed at: <https://www.planning.org.au/documents/item/11517>

will streamline this process.

20. NZPI suggest that the Ministry for the Environment (MfE) and the Ministry for Housing and Urban Development (MHUD) be active submitters / participants in the plan change process by Councils to provide guidance and support as necessary, and to see that a consistent approach is applied to the implementation of the Bill.

Implementation – stress on practitioners in the urban planning and resource management sector, including central government staff, council staff / wellbeing

21. NZPI is concerned about the amount of time available for practitioners in the urban planning and resource management sector to implement a plan change process for this Bill. We have heard anecdotally that planners and associated professions are overwhelmed with their current workload (which, we note, includes implementing other recent national direction) with the added stress of doing so in a pandemic. Whilst we agree that the housing crisis requires immediate and urgent action and are supportive of the Bill, we are concerned for the wellbeing of our members.
22. NZPI is also mindful of the amount of growth planning work that has been done by Tier 1 and 2 Councils up and down the country, and of the impact of withdrawing plan changes after years of work. Practitioners across New Zealand have worked hard to implement the NPS-UD and to change the overall direction and approach in their respective plans; this work should not be lost, and MfE should consider how this work can inform, and be integrated into, this process.
23. NZPI consider that the support and involvement of MfE and MHUD staff will help to ease the burden of implementation, and clear guidance and direction should be available ahead of time. As noted previously, providing a complete package (inclusive of objectives, policies and assessment matters) would alleviate some of the pressure for practitioners. Finally, it is imperative that central government fund the resources councils will require to implement the plan change processes.

Infrastructure

24. The proposed amendments make it very hard to predict where the additional demand will land, which makes any infrastructure upgrades reactive rather than proactive. The Bill has the potential to turn single house zones into medium density zones across Tier 1 Council's, in areas that are not planned for growth / intensification, and that do not have excess capacity (in pipes, roads, parks, etc.). The amendments decouple the ability to link areas of planned growth with areas of known capacity or programmed upgrades. This uncertainty may delay the implementation of housing in these areas. NZPI recommends prioritising the application of these rules within urban areas already considered locally for intensification.
25. Infrastructure capacity and capital improvements will need to be considered by Councils through their Infrastructure Strategies and Long-Term Plans if this proposal is to be successful in increasing intensification, by ensuring that funding needed for the planning and production of increased infrastructure capacity is available.
26. An increased funding ability will be required to meet demand for housing in brown-fields areas of the Tier 1 cities where the existing infrastructure is less likely to have the capacity to sustain growth. Funding for infrastructure to support growth, especially in the established

urban areas, needs to be provided beyond the current initiatives if long delays are to be avoided.

27. NZPI suggest that the Bill provides an ability for local authorities to amend funding plans to require development contribution modifications for new permitted activities to fund necessary infrastructure expansion and address constraints.
28. NZPI point to the Draft New Zealand Infrastructure Strategy² which set out five objectives to achieve a thriving New Zealand. These included “building attractive and inclusive cities that respond to population growth, unaffordable housing and traffic congestion through better long-term planning, pricing and good public transport.” New Zealand has under-invested in infrastructure in the past, resulting in lower service quality and congested infrastructure. Consequently, there is an existing lack in capacity which will be exacerbated by the housing growth envisioned by the Bill. NZPI caution that keeping a narrow focus without looking at the full suite of levers that go into any development (from planning/regulatory to infrastructure and financial) may set development up to fail.

Thriving Communities and Design

29. NZPI notes that the Bill will encourage densification, something we need to do as a nation if we’re serious about climate change and achieving modal shift. However, for denser neighbourhoods to be more liveable there needs to be more neighbourhood amenities including open space (active and passive), access to groceries, cafes, and meeting places etc., which will not automatically be produced by this proposal.
30. Zones also control other activities, i.e. preschools, health, spiritual, retirement villages etc. Do the built form rules also apply to non-residential activities in the residential zones, or do different provisions apply to non-residential activities? This needs to be clarified.
31. At neighbourhood level, NZPI notes the lack of spatial planning content in this proposal. There is a need for spatial planning of our cities to ensure we deliver thriving communities in the future. The context for the intensification direction appears to look at housing in isolation of the other aspects which are important for our communities.

Medium Density Residential Standards

32. With the exceptions noted previously, NZPI are supportive of the provision of Medium Density Residential Standards. However, NZPI would like to voice the following concerns:
 - a. **Recession Planes:** NZPI has concerns about the effect the building standard recession plane will have in terms of overshadowing neighbouring properties at a time in history where solar access is fundamental to sustainability in housing. As urban areas intensify, there needs to be a residential standard that will ensure that the outdoor living space of adjoining properties receives a reasonable level of sunlight access. Recession planes should also recognise that the further south you go, the lower the sun angle and shorter the length of day in winter - therefore the effects of shading are more pronounced.

² The Draft New Zealand Infrastructure Strategy can be accessed at <https://www.tewaihang.govt.nz/assets/Uploads/211012-Draft-New-Zealand-Infrastructure-Strategy.pdf>

- b. NZPI recommend the inclusion of a standard that protects sunlight access to a prescribed area of outdoor living space on adjoining properties. For example, the Victoria (Melbourne) Planning Provisions which include a standard that prescribes a minimum level of sunlight access at the Equinox to the existing outdoor living space of a neighbouring property.³
- c. **Impervious surfaces:** NZPI are specifically concerned about the 60% impervious surface standard, which will be difficult to achieve with a 50% built coverage. The reality is built coverage will need to be closer to 45% to deliver a 60% impervious surface area total, once you take in paths, driveways, onsite stormwater detention tanks, and rain gardens. This appears to be a mismatch unless the applicant opts for no onsite parking.⁴
- d. **Sites:** The definition of 'site' should be included in the proposed amendment. It is in the draft National Planning Standards, but not yet in the RMA.
- e. **Outlook:** NZPI suggests adding a balcony outlook/boundary setback rule – again having 3 story balconies set 1m off internal boundaries in a suburban context (or 2m separation between facing townhouses) delivers outcomes (in respect to privacy, sunlight, etc.) for those living in these areas.

Other concerns

- 33. NZPI is generally cautious about the unintended consequences and side effects from such radical reform. We recommend that central government analyse and understand how these new processes will actually work on the ground in order to deliver the intent of the Bill without introducing new and unplanned costs and effects. Some preliminary thoughts and suggestions are provided here.
 - a. NZPI anticipates a substantial impact on issues such as stormwater volumes coming from the increased building coverage provisions, an increased need for on-site attenuation methods, and a substantial increase in traffic volumes as the densities increase across suburban areas which have minimal public transport. Hence our submission that the Bill prioritises application in urban areas already considered locally for intensification.
 - b. Trees and bush provide character, stormwater and biodiversity benefits, cooling to urban environments, and act as carbon sinks. If they have to be lost on-site due to intensification, can they be redistributed in the public spaces, i.e. within the transport corridors and green spaces?
 - c. NZPI endorse the use of regulations to refine the legislation in regard to application of the ISSP in certain Tier 2 areas. These could also be used to standardise fees collected to fund increased IHP activity which will be an additional cost to territorial authorities unless limited by standardisation, or perhaps by subsidy.

³ Another example is within the Auckland Unitary Plan, which contains assessment criteria (a minimum, measurable standard) in its two mixed housing zones relating to solar access (refer Chapter H4.8.2 (4)). This requires a minimum of 4 hours sunlight between 9am and 4pm at the Equinox over a prescribed area of outdoor living space on an adjoining site.

⁴ We note that whilst the NPS-UD rejects minimum parking standards, Policy 11 of the NPS-UD does require each integrated development to prepare a Comprehensive Parking Management Plan which will need to show how parking demands are met

- d. Councils will need to identify and appropriately map qualifying matters used to limit the requirements of the provisions. The Bill restricts this consideration to natural hazard and heritage matters. While these are important matters, NZPI is aware that many other matters – including Geotech and stormwater - are weighed in spatial/growth planning activities carried out by and for Councils in order to create well-functioning, safe and thriving communities.
 - e. Medium-density for greenfield areas should be close to public transport and active mode alternatives or have these opportunities built-in for future connections. Some key technology could facilitate this by having all councils being put on similar GIS systems. The utilisation of LIDAR to map existing buildings and using good 3D mapping of proposed new buildings so they are located in appropriate locations.
34. NZPI wish to be heard in support of this submission.