

Property Council New Zealand

Submission on

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

16 November 2021

For more information and further queries, please contact

Leonie Freeman

leonie@propertynz.co.nz
--

16 November 2021

Committee Secretariat
Environment Committee
Parliament Buildings
Wellington 6140
Email: en@parliament.govt.nz

Resource Management (Enabling Housing Supply & Other Matters) Amendment Bill

1. Recommendation summary

1.1. Property Council New Zealand (“Property Council”) welcomes the opportunity to submit on the proposed changes to the Resource Management Act 1991 as set out in the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill (“the Bill”). We support intensification and believe that if done properly, will result in great outcomes.

1.2. At a high level we recommend the following:

Role of quality urban design

- take a balanced approach to delivering intensification by ensuring good urban design is in place (e.g. use of urban design panels; urban design assessment);

Need to address materials and skills shortages

- ensure MIQ spots will be increased to accurately match demand in the sector should it be required **and/or** extend the self-isolation pilot by allowing self-isolation for skilled workers who have been double vaccinated;

Alignment between different work programmes

- ensure the Bill (and what the Government is trying to achieve through the Bill) aligns with other relevant government work programmes (e.g. the Local Government review; Building System Legislative Reform; RMA reform etc);

Council involvement at the Code of Compliance point

- Work closely with councils in developing guidelines for first-time developers to help mitigate issues of misunderstanding the rules to avoid unintended consequences (e.g. risk of poor-quality materials and workmanship risk to health and safety and potential breaches due to lack of knowledge around latest requirements);

Better coordination between local and central government

- ensure better coordination between local and central government (e.g. funding of councils to ensure they have means to adequately fund their operations);

Changes to the National Policy Statement on Urban Development

- ensure that careful consideration is given to ensure the Medium Density Residential Standards (“MDRS”) regime won’t compete with or possibly undermine intensification policies under the NPS-UD;
- clarify if and when councils around the country will need to withdraw plan changes that are currently in process, and for which significant investment has been made;

Range of Powers – Minister for the Environment

- Clarify how the Minister for the Environment will determine (in consultation with the Minister of Housing) the later incorporation of a Tier 2 council.

2. Introduction to Property Council New Zealand

- 2.1 Property Council's purpose is "Together, shaping cities where communities thrive". We believe in the creation and retention of well-designed, functional and sustainable built environments which contribute to New Zealand's overall prosperity. We support legislation that provides a framework to enhance economic growth, development, liveability and growing communities.
- 2.3 Property is currently New Zealand's largest industry with a direct contribution to GDP of \$41.2 billion (15 per cent). The property sector is a key foundation of New Zealand's economy and caters for growth by developing, building and owning all types of property.
- 2.4 Property Council is the leading not-for-profit advocate for New Zealand's largest industry - property. Connecting people from throughout the country and across all property disciplines is what makes our organisation unique. We connect over 10,000 property professionals, championing the interests of over 550 member companies have a collective \$50 billion investment in New Zealand property.

3. Overview

- 3.1 Property Council supports the proposed legislation introduced to Parliament with bi-partisan support from the Labour and National parties. We applaud the collaborative approach and agreement by both major parties that New Zealand's housing crisis needs serious and immediate intervention through the introduction of new housing supply.
- 3.2 While we support the legislation's intent, we also want to see quality urban design materialise in New Zealand's neighbourhoods: as next generation New Zealander's deserve nothing less.
- 3.3 The government has embarked on an ambitious work programme in many sectors (not just housing) and therefore coordinated alignment is paramount. At the very least other programmes should not impede the intended outcomes of this Bill.
- 3.4 Good legislation is also timely legislation, and timing is everything. We currently live in a pandemic-based world, and as a result, New Zealand is facing a significant skills shortage, fuelled by border-restricted migration pressures. Any move to quickly and efficiently add to New Zealand's housing stock must keep these realities in mind.
- 3.3 While we support an expedited process for new house builds, we acknowledge the risk that the quality of those developments, safety on sites, and a potential backlog of Code of Compliance ("CCC") requests may result from little contact with councils until that CCC point.
- 3.4 We are concerned that the number of developments anticipated in a short time frame will not materialise. Developments still need to be feasible and pass a code of compliance and it is important that expectations are set in the right place.
- 3.5 Property Council's consistent view having submitted on many central government legislative proposals is that they often lack details on funding/resourcing where local government is concerned. In this instance, the Bill also lacked communication. It is

important that the relationship between central and local government be open, transparent, and robust if we are to find answers to our severe housing shortage.

- 3.6 Bringing forward the timeline for the NPS-UD while problematic, will ultimately give more certainty to not only the property sector, but also for applicable councils future infrastructure requirements through their regular three-year funding cycles and infrastructure plans ('Long Term Plans').

4. The need for quality urban design

- 4.1. It is important to emphasise the greater need for good quality design when it comes to intensification. While there are plenty of great urban design examples across the country, there is, overall, a lack of emphasis in this area inside major plans and legislation, e.g. Auckland's Unitary Plan and the NPS-UD.
- 4.2. There are also instances in which complying with the planning rules resulted in poorer urban design outcomes. For instance, the report on the Urban Review of Medium and High-Density Housing in Christchurch showed that many apartments built in parts of Christchurch since 2016 had "monolithic" appearance and "inadequate or poor" design (e.g. poor site layout and the street interface) (Figure 1 below).¹
- 4.3. There has also been insufficient space allocated to front gardens and accessway planting and the resulting environment is not as safe or as pleasant as anticipated. Other recurring issues related to Crime Prevention Through Environmental Design and were caused by privacy conflicts that discouraged passive surveillance, and a lack of a sense of ownership of spaces.



Examples of tall front fencing

Figure 1. Sourced from the Medium and High-Density Housing in Christchurch Urban Design Review 2020

- 4.4. While the developments looked at in the review all complied with existing planning rules, the housing outcomes led to calls for the District Plan to be modified.

¹ Christchurch City Council Urban Development and Transport Committee (2020). 'Item 8: Urban Design Review of Medium and High-Density Housing in Christchurch'. In Minutes of Urban Development and Transport Committee Meeting 9 September 2020. Christchurch City Council. Retrieved from https://christchurch.infocouncil.biz/Open/2020/09/UDATC_20200909_AGN_4097_AT.htm#P_DF2_ReportName_28342

- 4.5. The Bill proposes introducing more flexible height to ratio boundary rules and smaller private outlook and outdoor living spaces with reduced side yard setbacks. High-quality urban design is required to ensure the proposed rules do not relate in negative outcomes that are detrimental to amenity values. Given the above, we recommend taking a balanced approach to delivering intensification by ensuring good urban design is in place (e.g. use of urban design panels or at least having some process for an urban design assessment).
- 4.6 Improving the design and quality of developments will be an ongoing challenge to which there is no simple solution, but none-the-less a challenge legislators must take up on behalf of New Zealanders.

5. Need to address materials and skills shortages

- 5.1. There are at least two other areas in the sector that require urgent actions from Government to ensure successful implementation of intensification, namely materials and skills shortages. The wider property sector is currently facing these shortages, exacerbated by COVID-19. It is critical to address these issues to improve productivity of the sector and reduce the cost of infrastructure.
- 5.2. Back in May 2021, the Government announced 500 spaces a fortnight in managed isolation allocated over the next 10 months for skilled and critical workers². These included spaces for 300 specialised construction workers between June and October 2021 and a further monthly allocation since. Numbers will need constant monitoring to meet the increasing demand for housing and infrastructure. Therefore, we recommend assurance that MIQ spots will be increased to accurately match demand in the sector should it be required and/or extend the self-isolation pilot by allowing self-isolation for skilled workers who have been double vaccinated.

6. Alignment between different work programmes

- 6.1. It is important to ensure that the Bill (and what the Government is trying to achieve through the Bill) aligns with other relevant government work programmes. This includes:
 - The Local Government review;
 - Building System Legislative reform (including annual Building Code updates);
 - RMA reform;
 - The rest of the NPS-UD workstreams
 - Delivery of the Infrastructure Funding and Financing Act 2020 (i.e. use of SPVs);
 - Building for Climate Change Programme and Emissions Reduction Plan; and
 - Seismic strengthening workstreams.
- 6.2. Non-alignment between sizeable work programmes can result in costly and lengthy bottlenecks of procurement processes, infrastructure material availability, critical skills shortages and many more pain points. A masterplan approach across all initiatives will help ensure consistency and delivery of better outcomes.

² Thousands of MIQ spaces allocated to secure economic recovery. 10 May 2021. Retrieved from <https://www.beehive.govt.nz/release/thousands-miq-spaces-allocated-secure-economic-recovery>

7. Council involvement only at the Code of Compliance point

- 7.1. We are supportive of the Bill's proposal to reduce the need for resource consents. However, there are risks associated with council's involvement only at the CCC stage of new developments. First-time developers or those that misunderstand the rules may produce unintended consequences.
- 7.2. Without clear communication and guidelines, the risk of poor-quality materials and workmanship could be significant, so too the risk to health and safety and potential breaches due to lack of knowledge around latest requirements. We recommend Government work closely with councils in developing guidelines for first-time developers to help mitigate these types of issues.
- 7.3. We understand that many councils around New Zealand have consenting staff shortages and a potential backlog at the CCC end could still exacerbate the problem. We encourage Central and Local Government working together to better understand how this could be resolved.

8. Better Coordination between local and central government

- 8.1. We are concerned about the lack of prior forewarning/engagement with local government as it does not demonstrate the collaboration and communication needed between the two parties.
- 8.2. If changes to increase housing supply take place, so should the appropriate funding of councils. Their need for specific resourcing and expertise to address planning processes, but more importantly resultant infrastructure, will be paramount. This may not come easily with our current COVID-19 pandemic overlay placing pressures and shortages of specific skills in our labour force.
- 8.3. Property Council take partnership principles seriously, forming the basis of our organisation's values internally but also underlying some of our hallmark arrangements with government: for instance, the Construction Sector Accord. Committed participants sign up to a good faith and no surprises framework with early, fulsome and consistent communication. These are the same values that should always underpin the relationship between central and local government. Especially, when it comes to the wide-reaching planning powers contained in this Bill.
- 8.4. A three-week time frame for the select committee process for the private sector, the local government sector, and the public to respond to is tight by any standards.
- 8.5. We recommend the government refresh themselves of the 2016 Auckland Unitary Plan process in regard to public engagement and sentiment, both of which ran high. Central and local government will need to produce timely joint communications that purposefully demonstrate commitment to collaborative outcomes or risk a splintered approach amid no-doubt heightened and emotive public engagement.
- 8.6. In support of the premise that there should be better coordination between local and central government, the Productivity Commission report on local government funding and financing stated there is "a need to reset relationships between local and central

government”³. A key cause of funding pressures on local government is the accumulation of functions and responsibilities that central government has passed to councils over the years (e.g. NPS-UD, National Environmental Standards). Therefore, local government should have means to adequately fund its operations (e.g. recovering costs from regulated parties; direct funding contribution from central government). Failing to give local government such means may result in unfunded mandates.

- 8.7. The increasing tasks and responsibilities being placed on local government have now reached a point where the cumulative burden is difficult for many local authorities to manage. As a result, some councils, especially small ones, are unable to continue to comply with all the new responsibilities passed to them. This means that the policy objectives of central Government are not achieved.

9. Changes to the National Policy Statement on Urban Development

- 9.1 Property Council notes that implementation of the NPS-UD will be brought forward one year should this Bill pass into 2023, meaning it will be operative six months before the 2024 ‘Long Term Plan’ council cycle.
- 9.2 While we are concerned for the lack of resourcing councils will have to undertake their obligations both for enabling medium density residential standards and the completion of their NPS-UD requirements (as per our section 7) we believe it is in the best interest for plans to be operative six months prior to the long-term plans (council’s three yearly budgets) being out for consultation in February 2024. The operative plans will provide certainty and help feed into a council’s Future Development Strategy, which under the NPS-UD is required to be completed as part of the 2024 Long Term Plan process and sets out locations for future urban growth and infrastructure.
- 9.3 It may also be noteworthy that the Bill allows councils to amend or include new financial contribution policies in their district plans through the Intensification Stream-lined Planning Process (“ISSP”) to help support the cost of development infrastructure that may be required to incorporate the MDRS. Financial contributions are separate from development contributions but due to their complexity, many Councils do not avail themselves of the use of financial contributions. This point only serves to underscore the need for adequate funding/resourcing of local government inside this Bill.
- 9.4 In more general terms, careful consideration should be given to ensure the MDRS regime won’t compete with or possibly undermine the intensification policies under the NPS-UD. By nature, dispersing development opportunities and resources across a larger area, instead of concentrating developments in areas more suited for intensification, may result in a myriad of issues, many of which we have outlined above. There is a lack of data (in the PWC report or elsewhere) on the impact these standards may have on the current intensification policies.
- 9.5 We support the development intent of the Bill but query whether it should apply to *all* residential environments within our largest cities. Areas such as coastal and rural towns settlements (e.g. in Auckland, Waiuku and Leigh, and in Christchurch, Akaroa and Lyttleton) may need more detailed treatment. So too the outer fringe of urban

³ Local government funding and financing. Final report. November 2019. Retrieved from https://www.productivity.govt.nz/assets/Documents/a40d80048d/Final-report_Local-government-funding-and-financing.pdf

areas (e.g. in Auckland, Titirangi and Cockles Bay, and in Christchurch, Kennedy's Bush and Prebbleton).

- 9.6 Immediate clarification is required for plan changes that are currently in process around the country, and for which significant investment has been made. If the Bill is passed, it is unclear if and when councils will need to withdraw them and begin again under the new regime. An example is progress on the Omokoroa Stage 3 plan change in the Bay of Plenty, currently sitting with the Minister to use the streamlined planning process. The road upgrade required to unlock the growth area was granted central government funding through the infrastructure acceleration fund. There are a number of developers in advanced stages ready to go, some who have started earthworks.

10. Range of Powers - Minister for the Environment

- 10.1 It is unclear how exactly the Minister for the Environment will determine (in consultation with the Minister of Housing) the later incorporation of a Tier 2 council and we believe more clarity should be inserted into the Bill. It will take time and resource to adopt a MDRS regime and fulfill necessary NPS-UD requirements. It makes sense to have an agreed measurement that triggers the activation process for future councils, allowing them to plan ahead.
- 10.2 There are no appeal rights for the independent hearing panel's decisions as the Minister can nullify a council's ability to reject an element of the panel's decision. The time and cost of appeals can be significant when following a standard RMA Schedule 1 process and can cause large amounts of uncertainty in the sector. We support the intent of the Bill to address this, while acknowledging the concern it will likely give to councils. A judicial review option is still available.

11. Conclusion

- 11.1 Property Council is grateful for the opportunity to provide feedback on the introduction of medium density residential standards and bringing forward of the NPS-UD.
- 11.2 We support the proposed changes. Property Council believes the Government can and should undertake policy initiatives to increase housing supply such as this and applauds the collaborative nature of the legislation between themselves and the opposition.
- 11.3 If the Government does choose to advance these changes, we would want to see an appropriate regime that ensures developments reflect good urban design while still being built at scale and pace.
- 11.4 Property Council is available to share other ideas for increasing housing supply.
- 11.5 For any further queries contact Leonie Freeman via email: leonie@propertynz.co.nz

Yours sincerely,



Leonie Freeman
Chief Executive, Property Council New Zealand