

Submission

by

**THE
NEW ZEALAND
INITIATIVE**

to the Environment Committee

on the

**Resource Management
(Consents and Other System Changes) Amendment Bill**

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1. INTRODUCTION AND SUMMARY

- 1.1 This submission on the Resource Management (Consents and Other Systems Changes) Amendment Bill is made by The New Zealand Initiative (the **Initiative**), a Wellington-based think tank supported primarily by major New Zealand businesses. In combination, our members employ more than 150,000 people.
- 1.2 The Initiative undertakes research that contributes to the development of sound public policies in New Zealand, and we advocate for the creation of a competitive, open and dynamic economy and a free, prosperous, fair and cohesive society.
- 1.3 The Initiative's members span the breadth of the New Zealand economy; a well-functioning and efficient approvals regime for infrastructure and development projects is important to them. The views expressed in this submission are those of the author rather than the New Zealand Initiative's members.
- 1.4 In summary, we submit that the Bill should proceed, subject to the following:
- (a) Making the medium density residential standards (MDRS) optional should include stronger guardrails to ensure housing targets will be able to be met, including:
 - (i) The retention of ministerial approval for streamlined planning process decisions, including for those wishing to opt-out.
 - (ii) Opt-out being allowed only for those councils demonstrating, through price indicators, that housing in their area is already affordable - with ongoing checks ensuring that it remains affordable.
 - (iii) Opt-out councils being required to approve upzoning private plan changes at zoning boundaries where the boundary imposes a substantial price premium.
 - (b) Provisions making it easier to cut red tape for investment in renewable energy should be extended to all infrastructure investment. Emissions targets should be met through the emissions trading scheme.
 - (c) Where significant natural hazards are present, councils should not be able to decline or attach conditions to otherwise compliant land use consents. Property owners should be able to develop and use their land at their own risk and accepting of any consequences.
 - (d) Consideration of whether iwi/hapu should be recognised as planning, zoning, and consenting authorities on their own land.
 - (e) Inclusion of a sunset clause that provides for the Bill's provisions to be repealed once the RMA replacement has been enacted.

2. GENERAL COMMENT

- 2.1 The Government has introduced the Resource Management (Consents and Other System Changes) Amendment Bill with the aim of:
- Making it easier to consent new infrastructure, including for renewable energy, building houses, and enhancing the primary sector.
 - Cutting red tape to unleash the investment in renewable energy for New Zealand to meet its emissions reduction targets.
 - Making the MDRS optional for councils, with the need for councils to ratify any use of the MDRS, including for existing zones.
 - Implementing the Going for Housing Growth policy to unlock land for housing, build infrastructure, and allow communities to share the benefits of growth.

- Facilitating the development and efficiency of ports and strengthening international supply networks.
- Simplifying the planning system.

2.2 The Initiative strongly supports reform of the Resource Management Act (RMA) to replace it with legislation based on the respect of property rights. In 2024, we submitted on the Fast Track Approvals Bill and the Resource Management (Freshwater and Other Matters) Amendment Bill. We supported these Bills as necessary but interim measures.

2.3 This Bill is another interim measure on the way to replacing the RMA. The Initiative supports the Bill, but we suggest some amendments. Making the MDRS optional is discussed in section 3 of this submission with comments on other aspects of the Bill contained in section 4.

3. MAKING MDRS OPTIONAL FOR COUNCILS

3.1 The MDRS was enacted by the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021. The Act had arisen from a housing accord agreed between the Labour-led government and the opposition National Party.

3.2 The Initiative supported the MDRS in its November 2021 submission to the Environment Select Committee on the Resource Management (Enabling Housing Supply and Other Matters) Amendment Bill. This reflected our strong interest and concern about housing supply and its impact on housing affordability. As we said in our submission:

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.

3.3 While stating that the Bill addressed “a desperately important problem”, the Initiative also discussed the need to address the underlying drivers that have caused councils to restrict growth in housing supply. We stated that Incentives were also needed to make councils “welcome growth as a benefit to be sought rather than a cost to be mitigated through zoning and consenting”. In our submission, we suggested that:

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.

3.4 To its credit, the government is moving in this direction through its Going for Housing Growth reform programme, with its three pillars:

1. Freeing up land for urban development, including removing unnecessary planning barriers;
2. Improving infrastructure funding and financing to support urban growth; and
3. Providing incentives for communities and councils to support growth.

3.5 The Initiative strongly supports these reforms. However, they will take time to implement, meaning that in the short-term, councils will not have the incentives

necessary to welcome growth. Ideally, the MDRS would remain mandatory until stronger incentives are in place.

- 3.6 The National-ACT Coalition Agreement commits to making the MDRS optional. Recognising the need to preserve the MDRS's intent (to increase housing supply), the Bill will enable councils to opt out of it if they demonstrate 30 years of housing growth capacity. The Bill also requires councils to use the Streamlined Planning Process (SPP) to remove or alter the MDRS or withdraw an Intensification Planning Instrument.
- 3.7 Our main concern with making the MDRS optional is that the Bill's 30 years growth requirement could be gamed by a council to restrict housing supply either from concern about the costs of growth or because of pressure by 'NIMBY' interests. These councils could claim their future population growth will be very low, or they could put their housing growth capacity into small ultra-dense areas, including in areas where no-one wants to live. We recognise that the government is putting much effort into avoiding this kind of gaming. But it will be hard to police all ways of gaming. We view the 30-year growth targets as second-best to maintaining the MDRS in addition to the National Policy Statement for Urban Development (NPS-UD). This is in the context of a housing growth agenda that will have incentive payments for housing growth and better ways of funding and financing needed infrastructure to complement either approach.
- 3.8 The gaming concern might seem overblown, but even well-intentioned legislation can result in poor outcomes if the underlying issues (in this case, a lack of incentive for councils to welcome growth) are not addressed.
- 3.9 The Initiative submits that the Bill needs strong guardrails to ensure that housing targets can be met. We suggest that eligibility for opting out of MDRS be restricted to those councils demonstrating that housing is already affordable through a combination of price-based measures: rental prices as compared to household outgoing expenses, and median house prices as compared to median household income. Councils able to maintain affordability on those price measures would then not need additional policing.
- 3.10 Other price-based triggers could take the place of heavy central government oversight. For example, councils could be required to approve self-funding private plan changes that would upzone a property at a zoning boundary, where that boundary imposes a sharp land price discontinuity. So, if a property just inside the boundary for higher limits is worth a lot more than one on the other side, council would have to allow a private plan change to upzone at that boundary - so long as infrastructure requirements are self-funded (funded by the beneficiaries of the upzoning)
- 3.11 In the absence of setting price-based measures, or as a complement to weaker forms of those measures, we support the Minister for the Environment having new intervention powers to ensure compliance with national directions and powers to direct councils. We agree that Ministers should be able to appoint members of SPP Panels to ensure they are comprised of people with strong expertise. However, we also believe ministerial approval for SPP decisions should be retained. This should be required at the 'front-end' when councils seek to use the SPP to remove or alter the MDRS but also at the 'back-end' of the process.
- 3.12 Front-end ministerial approval is being maintained (with some amendments), but the Bill will remove back-end ministerial approval. We do not agree with this change. As stated by the Ministry of Housing and Urban Development (HUD) in the Supplementary

Analysis for this Bill, back-end approval is important given the potential for a proposed plan change to be materially amended by either a council or an SPP panel. We agree with HUD and consider it necessary to prevent the sort of ‘gaming’ which could frustrate the goal of ensuring sufficient development capacity.

3.13 Strong guardrails should be less necessary once a more permissive regime has replaced the RMA and once councils have stronger incentives to welcome growth and development.

3.14 A wider concern we have about making the MDRS optional was the breaking of the 2021 housing accord between Labour and National and its implications for other policy areas with long-term implications. For example, there have been calls for a bipartisan approach to RMA reform and infrastructure policy. It would be concerning if the experience with the housing accord impedes other bipartisan agreements through a lack of trust.

4. OTHER ASPECTS OF THE BILL

4.1 The Initiative supports simplifying the listing and delisting of heritage buildings and structures. The current process is very complicated and convoluted and can impede much needed urban renewal and housing development, such as the case of an unsuccessful attempt to de-list Wellington’s Gordon Wilson flats. Ideally, properties should only be listed with the consent of the owner, with the owner retaining the option to remove the listed status while foregoing any ongoing subsidies that might be provided for the provision of heritage amenities.

4.2 The Initiative supports making it easier to consent new infrastructure and cutting red tape for investment in renewable energy. The justification is to help New Zealand meet its emissions targets. This is a laudable goal, but we would prefer making consenting and re-consenting easier for all energy and infrastructure investment types, not just renewable energy. A properly functioning emissions trading scheme should be the primary way to meet emissions targets.

4.3 On natural hazards and emergencies, the Initiative supports changes to support emergency responses and recovery efforts. Councils need to be protected against the risk of high costs of servicing properties that become difficult to service because of environmental hazards. Without that protection, councils will be tempted to forbid activities that impose at least some risk of future cost to council without assurance that those costs can be recovered from the benefitted properties.

4.4 However, we are not convinced about ‘clarifying and reinforcing’ councils’ ability to decline (otherwise compliant) land use consents or to impose conditions when significant natural hazard risks are present. Consistent with the principle of respect for property rights, property owners should be able to develop and use their land at their own risk, subject to their acceptance of the consequences of that risk. At the very least, there should be a high threshold for what is a ‘significant’ risk.

4.5 The Initiative supports the validation of royalties collected by regional councils to remove sand, shingle, or other natural material. This is consistent with our support for funding tools that would make councils more welcoming of growth and development. Ultimately, we would like to see a similar approach for minerals, with the government

sharing its Crown minerals royalties with councils. Further, sharing minerals royalties with iwi/hapu within whose rohe mining activity occurs could be considered.

4.6 The Bill makes several other systems improvements. The Initiative believes another improvement worth considering would be for iwi/hapu to be recognised as planning, zoning, and consenting authorities on their land through an opt-in process. This could be combined with making complicated, time-consuming, and costly iwi/hapu consultation on RMA plans voluntary rather than compulsory.

4.7 Finally, and more generally, the objective of longer-term RMA reform is to fully replace the RMA based on respect for property rights. This Bill is an interim measure, and its provisions should not be necessary once a more permissive regime is in place. Under replacement legislation, there should be no need for sector-specific treatment. Externalities should be internalised through price mechanisms, such as the emissions trading scheme. Although the Bill aims to be consistent with the objective of RMA reform, the committee should consider including a sunset clause to repeal the Bill's provisions once the RMA replacement has been enacted.

5. CONCLUSION

5.1 The Resource Management (Consents and Other Systems Changes) Amendment Bill is a necessary interim step on the way to replacing the RMA.

5.2 The Initiative submits that the Bill should proceed, subject to the following:

- (a) Making the MDRS optional should include stronger guardrails to ensure housing targets will be able to be met, including:
 - (i) The retention of ministerial approval for streamlined planning process decisions, including for those wishing to opt-out.
 - (ii) Opt-out being allowed only for those councils demonstrating, through price indicators, that housing in their area is already affordable - with ongoing checks ensuring that it remains affordable.
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- (e) Inclusion of a sunset clause that allows the Bill's provisions to be repealed once the RMA replacement has been enacted.

5.3 We appreciate the opportunity to submit on this Bill. We hope the Environment Committee finds our submission constructive.

ENDS.