

Submission

By

**THE
NEW ZEALAND
INITIATIVE**

to the Environment Committee

on

**The Natural and Built Environment Bill
and Spatial Planning Bill**

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1 INTRODUCTION AND BACKGROUND

- 1.1 This submission in response to the Natural and Built Environment Bill is made by The New Zealand Initiative (the **Initiative**), a Wellington-based think tank supported primarily by major New Zealand businesses.
- 1.2 The Initiative has been deeply concerned about resource management policy and practice since its establishment in 2012. The Initiative, like most others who follow the topic closely, has viewed the existing Resources Management Act as being fundamentally unfit for purpose. It prevents better environmental outcomes, blocks housing from being able to be built in places where people want to live, and stymies economic development – all at enormous process cost for everyone involved.
- 1.3 Deep dissatisfaction with the Resource Management Act stems from matters including:
 - 1.3..1 A failure to identify the problem for which sustainable management is the solution, leading to overbroad coverage;
 - 1.3..2 Difficulty in establishing agreement over environmental bottom lines in a system where opportunity costs are not recognised;
 - 1.3..3 Elimination of the common law test of standing, expanding the number of parties who are able to veto or to dramatically increase the cost facing anyone wishing to do anything that requires a consent;
 - 1.3..4 Rejection of property rights, where Section 85 of the original Act ruled out compensation for lost value in private property when use rights are restricted for the benefit of non-owners;
 - 1.3..5 Lack of an effective mechanisms for enforcing compliance with Section 32 of the original Act, which required cost-benefit assessment;
 - 1.3..6 Failure to distinguish public good from private good situations.
- 1.4 These flaws lead to predictable adverse consequences. When anyone can object to a change in resource use without being confronted with the costs imposed through delay, the RMA made it more difficult for beneficial land use changes to proceed. Objectors not confronted with the costs they impose are encouraged to overstate their losses from land-use change. This also makes it harder to identify cases in which real and substantial harm would be imposed by land-use change.
- 1.5 The complexity of the contending considerations inevitably disenfranchised those who could not afford to hire experts. Planners made decisions about plans in a state of ignorance about the cost of the forgone opportunities, or even knowledge of what were realistic alternatives.
- 1.6 As flawed as the Resource Management regime has been, we suggest that these Bills be withdrawn and that the government try again. Improved resource management guidance through national policy statements has mitigated some of the problems in the existing system. And the Bills as presented pose too great a risk of worsening outcomes rather than improving them relative to the current status quo.
- 1.7 At their heart, planning laws should help discover the best use of scarce resources. They do this by controlling externalities like pollution, and by helping to coordinate the provision of public spaces and infrastructure corridors.
- 1.8 In place of the RMA's ill-defined objective of "sustainable development", the new regime proposes strict environmental "bottom lines." But resource use decisions involve trade-offs. And whereas the RMA permitted assessments of costs and benefits of these trade-

- offs, the proposed reforms offer no such safety-net. Instead, Parliament and central planners will cast decisions in stone.
- 1.9 Efficiency can be a reasonable standard for assessing trade-offs between outcomes. But the Bill omits any reference to property rights and price mechanisms necessary for economically efficient outcomes. Worse, equity is included as a goal for planners. Equity is vitally important but is better addressed through central government social welfare systems.
- 1.10 Overlaying the Bill's principles is a Te Ao Māori concept incorporating the relationship between iwi and individual hapū and the natural environment. Called Te Oranga o te Taiao, this principle will place considerations at the heart of the planning framework that are inadequately defined, in a legal sense. Planning outcomes will become less predictable.
- 1.11 And problems with the existing Resource Management system remain. Regional spatial strategies need not put much weight on the cost of prohibiting land use change when making determinations. It assumes that politicians, bureaucrats, and planners come to the task without their own personal views and able to assess trade-offs between conflicting objectives to come to a best outcome for the community. Those wishing to prevent a private land owner from changing the use of that land are not confronted with the opportunity cost of the restriction. Determinations are then fraught.
- 1.12 It is deeply strange to be writing a submission favouring the status quo Resource Management regime over an alternative. It is even stranger to do so when our organisation strongly supports the government's Urban Growth Agenda and recognises that the government sees the NBEA and SPA as part of that agenda. We submitted recently in vehement support of the MRDS. We have consistently supported policies that we believe will help sustainably increase housing supply.
- 1.13 Nevertheless, we urge that these Bills be withdrawn. Getting resource management right is important. The legislation here proposed is too flawed. We share many of the concerns raised by Federated Farmers.
- 1.14 Deep flaws in the proposed regime include:
- 1.14..1 Setting eighteen system outcomes with no hierarchy among them or ways of weighing different objectives against each other when they conflict may make it impossible to set a National Planning Framework that could survive legal challenge and judicial review;
- 1.14..2 Undermining both subsidiarity and the viability of local councils themselves when planning decisions best left to Councils are shifted up to regional councils;
- 1.14..3 Further denigrating subsidiarity by incorporating greenhouse gas emissions into regional planning, when it is already and best handled by central government;
- 1.14..4 Failing to address the incentive issues that have been at the core of poor council planning.
- 1.15 Most simply, the Bills are trying to solve a deep incentives problem in how councils go about planning within a far-from-perfect resource management framework by pulling planning up to regional bodies. Legislation should instead address the incentive issues that lead to current outcomes while avoiding duplicating inadequacies of the current system.
- 1.16 In a nutshell, the RMA's architects created a tragedy of the anti-commons problem, in which too many veto players means any change becomes far too hard, by failing to see that ill-assigned private property rights impair both development and the natural environment. The architects of the current measures have made the same mistake.

2 SPECIFIC ANTICIPATED PROBLEMS WITH THE REGIME

- 2.1 The list in this section does not purport to be comprehensive. The legislation is too lengthy with too little time for adequate review. They are simply aspects that struck us as obvious.
- 2.2 Councils and regional planners have no competence in weighing emissions. Worse, when emissions are already regulated by central government – for example, through the Emissions Trading Scheme and coming pricing of biogenic agricultural methane emissions – the effect of local regulation on net emissions becomes very difficult to establish.
- 2.2..0 Councils, and regional planning, have critical roles to play in helping ensure cost-effective paths to net-zero. But that is sharply different from requirements that Regional Planning Committees consider emissions as part of planning and consenting.
- 2.3 Providing regional planning committees with 18 objectives and no reasonable way to weigh those objectives against each other introduces near-infinite degrees of freedom for those committees to set any outcome they had wanted prior to considering any of those objectives. Some weighting of the eighteen objectives will be consistent with nearly any outcome that a planning committee desired. Decisions then become arbitrary and unpredictable. People do not know what they can do with their own property when decisions are unpredictable. If a committee wishes to block an activity for a reason not allowed by legislation, some combination of the eighteen objectives will suffice. Committees that dislike suburban growth for aesthetic reasons could easily invoke emissions, even though transport emissions are entirely covered by the binding cap in the ETS.
- 2.3..0 It is worth noting that Auckland Council, in its draft submission at Paragraph 109, strongly welcomes greenhouse gas constraints as mechanism for opposing urban sprawl.¹
- 2.3..1 The Urban Land Markets Working Group was an informal working group established by Associate Minister Twyford and authorised by Minister Parker to provide an independent stream of policy advice on housing and competitive urban land markets.
- 2.3..2 That Urban Land Markets Working Group’s submission to the Ministry for the Environment on the Emissions Reduction Plan, 24 November 2021, urged caution in measures allowing or requiring councils to target greenhouse gas emissions directly, over and above measures already encouraged or required by existing policy initiatives. It also urged that any such measures be accompanied by rigorous assessment of their relative cost-effectiveness.
- 2.3..3 The Urban Land Markets Working Group’s submission stated:
- “Councils could use the [Emissions Reduction] Plan to justify more substantial restrictions on suburban development, which would hinder the government’s overall supply agenda not just in preventing some homes from being built at the city fringes, but more substantially in affecting urban land prices across an entire urban area.
- If paddocks at the city’s fringes can become subdivisions with land costs only higher than bare-paddock cost because of the associated infrastructure, land prices elsewhere in the city are anchored by competition from those fringes. REINZ data on rural land prices suggests that farm prices (arable, dairy, livestock) have stayed around \$20k to \$40k per hectare (ie, \$2 to \$4 per m2)

¹ Available at

https://infocouncil.aucklandcouncil.govt.nz/Open/2023/02/20230202_PEPCC_ATT_11302_WEB.htm

the last 15 years, despite interest rate reductions since the GFC. Even if few choose to live at the edges of town, that potential competition helps ensure affordability across the entire city.”

- 2.4 The Urban Land Markets Working Group’s warnings are already proving prescient. The draft legislation risks making this worse. We strongly urge that the Committee consider the matters raised by that Group in its submission on the Emissions Reduction Plan. We have appended a copy of that submission to this submission. One author of this submission was a member of the Urban Land Markets Working Group.
- 2.5 While regional planning bodies do not face the same incentives that councils face to stymie growth, neither do they have much incentive to facilitate it. Where councils appoint members to the regional planning bodies, would it be unreasonable to expect that they would bring with them their local council’s wish to block housing growth in politically sensitive areas, and to strike bargains with similarly-minded representatives from other councils?
- 2.5.0 It is worth noting that Auckland Council, in its draft submission at Paragraph 151, has already objected to clause 58(c) which requires that the National Planning Framework provide direction on enabling development capacity well ahead of expected demand – something critical to housing affordability and to the government’s urban growth agenda. Should Parliament not expect any Auckland Council representative on a Regional Planning Committee to exert strenuous efforts to block development in places where Council wishes to prevent urban growth? Auckland Council cites inadequate financing tools and overall financing constraints.
- 2.6 It is reasonably easy to see how central government could adjust incentives so that local councils would welcome housing and strike an appropriate balancing of local considerations.
- 2.6.0 The National Party has suggested housing encouragement grants providing a fixed amount for every new dwelling constructed.
- 2.6.1 ACT has suggested providing grants to councils equivalent to about 7.5% of the value of new building (equivalent to half of the GST on new builds).
- 2.6.2 The Initiative has suggested grants benchmarked to central government’s approximate GST take from new building at the territorial authority level. We have also suggested a broader alternative: when Territorial Authority-level GDP increases more strongly than forecast, central government would provide council with a share of the resulting *increase* in central government’s tax take.²
- 2.6.3 All of these kinds of options could help local councils come to welcome growth because they would no longer see it as a cost to be mitigated.
- 2.6.4 But it is more difficult to see how to directly incentivise a regional planning authority to make decisions consistent with the national interest.
- 2.7 Unfortunately, the proposed measures in the Bills reduce the likely effectiveness of such options by greatly reducing the influence o of councils.
- 2.8 Federated Farmers warns that truncating consent rights to 10 years will be out of synch with investment decisions. We agree. The Initiative’s prior work on freshwater

² See *In The Zone*, New Zealand Initiative, 2015. Available at <https://www.nzinitiative.org.nz/reports-and-media/reports/in-the-zone-creating-a-toolbox-for-regional-prosperity/>

management suggested consent periods of twenty-five years to roughly match the life of relevant capital equipment.

- 2.9 The Initiative's prior work on freshwater management suggested cap-and-trade systems for improving freshwater quality. Paragraph 256 of the NBEA says that resource consents for an activity relating to water does not convey any property rights in water. This may hinder tradability of abstraction rights or emission rights, should a future government view cap-and-trade systems as desirable.
- 2.10 The NBEA sensibly restricts trade competitors against lodging complaints against each other's consents or zoning decisions affecting each other. But the restrictions, perhaps inadvertently, are broader than that.
 - 2.10..0 Section 223 restricts all consideration of trade competition, including beneficial effects of trade competition. If I wished to submit in favour of a consent application for a new supermarket because of the beneficial effects of stronger trade competition, the consent authority would be forbidden at 223(8)(a) from having regard to those effects.
 - 2.10..1 Similar restrictions are in place at section 372, 512 (1)(d), and 60(d), 126(1)(e) of Schedule 7.
 - 2.10..2 In other places, a trade competitor would be barred against submitting even *in favour* of a competitor's application if citing effects on trade competition. As example, if I were a jeweller submitting in favour of a competitor's consent application, because I hoped that our neighbourhood would become a major shopping destination for people in the market for jewellery, that reason for supporting my competitor's application would be disallowed.
 - 2.10..3 Where the Commerce Commission has been finding zoning and consenting to be a substantial barrier against workable competition, it seems perverse, and hopefully simply an oversight, to forbid consideration of the beneficial effects of competition.
- 2.11 We share Federated Farmers' concern that the reform package will spell the end of district councils; that it does not reflect principles of good governance and subsidiarity; that it is easier to see how the revised system would make processes more expensive, slower, and more unpredictable than it is to see how they will bring improvement; that poorly-defined concepts invite litigation and uncertainty; and, that a National Planning Framework cannot reconcile all of the objectives. Competent cost-benefit assessments could help throw light on the trade-offs, but there is no reason to expect they will be forthcoming.
- 2.12 We also share Federated Farmers' worry that this kind of de facto amalgamation into regional bodies ought to have been preceded by the promised, but never undertaken, assessment of Auckland amalgamation. The Bill's implicit rejection of subsidiarity in favour of greater direction from Wellington and less say for those elected by their local communities represents a material change in New Zealand's democracy and constitution. We would argue that it is a change for the worse.

3 OPPORTUNITIES FOR A BETTER SYSTEM

- 3.1 The most fundamental problem with the Bills, and indeed the RMA, is the rejection of a system of well-defined property rights for guarding against both the tragedies of the commons and of the anti-commons. When people are not sure what they can do with their properties, they cannot act. But they can act to block others with impunity.
- 3.2 Even if much greater scope for private property rights was contemplated, there would still be the problem that those determining resource consent applications might seek to protect their balance sheets against the costs that those councils perceive from urban growth and development. That problem should be addressed directly.
- 3.3 Revenue-sharing mechanisms, as described in 2.6, would help give councils a reason to welcome development suitable for their district.
- 3.4 So too would better funding and financing mechanisms. Central government should allow the issuance of long-term revenue bonds to fund specified works, with no recourse to council for bailouts if the project fails. This kind of mechanism reduces the costs councils face. It also allows a far closer tying of the costs of new infrastructure to the beneficiaries of that infrastructure, which reduces others' objections.³
- 3.5 An additional option would allow street-level upzoning, in addition to broader liberalised zoning, at the request of those on that street. The proposal was first made, in a UK context, by Policy Exchange. It has been discussed in a New Zealand context by the Initiative , and the ACT Party. Coupled with revenue bond options for funding any necessary infrastructure upgrades, the mechanism could enable a lot of dispersed density with far less local opposition.
- 3.6 Work is already underway to standardise zoning across the country. We urge the Committee to consider the framework in use in Japan.
 - 3.6..0 There, central government sets a small number of zoning templates for local councils to use. It is something of a paint by numbers approach in which councils can paint their local maps as they like, but with a very limited number of colours set centrally. Importantly, residential zoning includes limited retail mixed-use by default.
 - 3.6..1 Zones build on each other: everything allowed in the most restrictive residential zone is also allowed in the next less restrictive zone, plus a few more things. Zones tend to allow a maximum use, rather than an exclusive use.
 - 3.6..2 In a New Zealand context, central government could set (for example) four residential zones of varying intensity, with each zone in succession allowing more activity than the preceding one and greater amounts of mixed-use activity. Councils would be instructed that no more than a maximum percentage of an urban area could be set under the most restrictive zoning, and no less than a minimum percentage be set under the least restrictive zoning.
 - 3.6..3 Constraints on councils set this way could vary with housing affordability. A council where the median house costs less than five times median household income could face no restrictions at all in the proportions of the council plan under different designations; a council with severely unaffordable housing could face very tight restrictions on the proportion of the town plan under the most restrictive zoning. In this way, subsidiarity

³ See discussion in Eric Crampton, 2022. "Why revenue bonds could be a better option than Three Waters reform." The Dominion Post, 13 June. Available at <https://www.stuff.co.nz/business/128937806/why-revenue-bonds-could-be-a-better-option-than-three-waters-reform> . The bonds could be used far more broadly than water infrastructure.

is squared with overriding national concern with house prices. If councils have been able to deliver affordable housing, they could set their own path. If they contribute materially to national housing shortages, as evidenced by high median multiples, they lose flexibility in setting their own plans.

4 CONCLUSION

- 4.1 The Resource Management Act is fundamentally flawed. But successor legislation needs to be sufficiently better than the status quo to overcome the uncertainty that new waves of litigation over interpretation would bring.
- 4.2 The proposed bills do not meet that standard. They fail to strike at the root of existing dysfunction and likely exacerbate it. Purposeful decision-making is impossible when trade-offs between contending considerations are arbitrary. Protections against conflicts of interest seem to be minimal. Partisan interests are empowered. The measures put too much power in the hands of politically-partisan ephemeral politicians – the passing parade of ministers for the environment. We see the weakening of local democracy as a serious retrograde step when opportunities for maintaining subsidiarity while improving councils' incentives are available.
- 4.3 We urge that the bills be withdrawn and reconsidered. Rather than appoint an expert in existing New Zealand planning dysfunction to draw the plans for a new system, Parliament would be well advised to seek assistance from outside of the country to provide a challenge to existing structures. Too much of the draft bills look like the regime that came before, including the problems of that regime – perhaps because the architect was too embedded in the existing system.
- 4.4 We also urge that Parliament take up opportunities to improve the incentives facing councils so that they wish to enable urban growth, regardless of the planning apparatus facing them.

5 APPENDIX. SUBMISSION OF THE URBAN LAND MARKETS WORKING GROUP TO THE MINISTRY FOR THE ENVIRONMENT ON THE EMISSIONS REDUCTION PLAN.

- 5.1 Submission of 24 November 2021, appended overleaf.

Submission
to
the Ministry for the Environment
on the
Emissions Reduction Plan

24 November 2021

Prepared by members of the Urban Land Markets Group

Group members are providing advice for the public good and are not necessarily reflecting the views of their respective organisations. The advice is a collaborative effort, so individuals do not necessarily endorse every element in the advice.

INTRODUCTION AND SUMMARY

- 0.1 This submission on the Ministry for the Environment's *Emissions Reduction Plan* [the Plan] is made by members of the Urban Land Markets Group, an informal working group established by Associate Minister Twyford and authorised by Minister Parker to provide an independent stream of policy advice on housing and competitive urban land markets.
- 0.2 The Group aims to ensure policy and regulatory settings are consistent with achieving housing affordability. It has produced two working papers providing advice on competitive urban land markets and on complementary measures in infrastructure funding and financing to enable more housing development.
- 0.3 Members of the Group are concerned about unintended consequences of the Plan for housing supply and for housing affordability. When considering matters of urban form, urban design, and building standards, aspects of the Plan risk working at cross purposes to the government's urban growth agenda while potentially achieving little reduction in net national emissions.
- 0.4 The Group acknowledges circumstances whereby coordinated regulatory and investment initiatives can reduce net emissions by more than would be possible solely through the ETS.
- 0.5 Market failures may hinder appropriate responses to rising carbon prices, making adjustment unduly costly. Policies remedying those failures can make the ETS more effective, reducing the overall cost of reaching net zero. Such measures should be supported by appropriate cost-effectiveness evaluation.
- 0.6 If political constraints mean the ETS cap can only be reduced to the level the electorate can bear, rather than the level consistent with a durable path to net zero, additional policies that ease the political constraint and enable greater emission reductions may be warranted. This can be welfare enhancing if the initiatives are cost-effective relative to the best-available alternative options. However, demonstrating cost-effectiveness requires knowing what the optimum price would be if the government set the optimal cap — and this is unknown, and there is no process to discover it. This means in practice relatively prescriptive guidance is required for cost-effectiveness assessments.
- 0.7 Several central government initiatives are already underway that have consequential effects on urban emissions. These include:
 - (i) The RMA 1991's National Policy Statement on Urban Development;
 - (ii) the Enabling Housing Supply Bill currently before Parliament;
 - (iii) the Government Policy Statement on Housing and Urban Development;
 - (iv) the Government Policy Statement on Land Transport;
 - (v) plans for congestion charging and transport charging more generally; and,
 - (vi) the declining cap on net emissions provided by the Emissions Trading Scheme, which covers all consequential urban greenhouse gas emissions.
- 0.8 Unless they address other demonstrable market failures or ease local regulatory constraints against adopting lower carbon options, it is unlikely individual local government urban planning initiatives can have substantial cost-effective effects on net national emissions, when the existing suite of policy initiatives already in progress is considered. However, coordinated action across all councils, perhaps through the Plan may reduce national emissions, if political constraints have prevented further reductions in the ETS cap. But the issue is determining the

cost effectiveness of such collective initiatives. Other options may more effectively address the political constraints.

- 0.9 In our view, councils have used their zoning and consenting powers to protect their balance sheets against the costs that they believe is consequent to urban growth. Those incentives led to zoning and consenting decisions that have stymied urban intensification and housing development.
- 0.10 The government's housing supply agenda has worked to prevent councils from using zoning and consenting to stymie housing development. These measures will enable more intensive urban form by making it harder for council to use zoning and consenting to block new housing development.
- 0.11 Measures recommended by the Plan would provide councils with new tools capable of frustrating development and could undermine the government's objectives in housing supply.
- 0.12 Further, there are trade-offs between policy responses for emissions reductions compared to responses for climate adaptation. For instance, more dense and centralised urban form may reduce emissions from utility networks, but may increase exposure to risk by 'placing more eggs in one basket' when major storm events occur that cause network outages.
- 0.13 We urge the Ministry to consider very carefully the place of urban planning in the Emissions Reduction Plan. Measures already underway will work to reduce urban emissions and will have substantial effects on urban form. Asking councils to consider emission reductions explicitly in planning and consenting, over and above the consideration already given to those emissions in measures already underway, with insufficient guidance puts the housing supply agenda at risk for little potential greenhouse gas abatement.

1. Urban emissions and the current policy environment

- 1.1 When councils believe they face substantial costs in accommodating urban growth, they use zoning and consenting powers to protect their balance sheets. Over decades, these restrictions have had substantial effects on urban form, housing supply, and housing affordability. They prevent intensive development in places where infrastructure costs may be higher, while also restricting development at city fringes.
- 1.2 We have inherited urban transport infrastructure set in an environment where congestion was not priced and carbon emissions neither priced nor considered. This created a bias toward higher-emitting urban forms than is desirable to help today's climate change objectives.
- 1.3 The policy environment has substantially changed for the better. Past patterns of urban development will provide a poor predictor of future urban form.
- 1.4 Since 2020, the Emissions Trading Scheme has had a binding cap on net emissions, with a sinking-lid policy soon set to take effect. The ETS provides a price on carbon, making emissions more costly. All substantial urban emissions are covered by the ETS. Rising ETS prices, and expectations of rising ETS prices, will affect decisions made by households, firms, and councils, where they are allowed to do so.
- 1.5 Where council zoning and consenting practices have imposed undue restrictions on urban intensification, the Government's housing supply agenda works to enable more intensive urban forms. For example:
 - 1.5.1 The National Policy Statement on Urban Development enables substantial increases in density in places near transit nodes. More people will live in places well-served by lower-emission options. This will have effects on urban emissions. It also requires the

removal of minimum parking requirements from urban environments, which will indirectly enable higher density and support lower transport emissions.

- 1.5.2 The Enabling Housing Supply Bill, currently under consideration by Parliament, will require councils to allow far more housing. Development of up to three houses of up to three stories each will be allowed in most places in Tier 1 urban centres. While the Bill provides for a relatively modest increase in density, the large size of the area affected means the Enabling Housing Supply Bill has the potential to significantly increase housing supply. The effect of the change should be largest on underdeveloped lots in locations where people wish to live. This Bill enables more intensive urban forms, while leveraging existing polycentric city modes. Councils will wish to enable greater public transit options between those urban centres.
- 1.5.3 Other central government initiatives, including the Government Policy Statement on Housing and Urban Development, and the Government Policy Statement on Land Transport, also work to reduce urban greenhouse gas emissions. The GPS-HUD aims to make lower-carbon housing options simpler, while the GPS on Land Transport 2021 aims to support a rapid transition to lower carbon transport systems.
- 1.5.4 Plans for congestion charging and transport charging more generally will also substantially affect urban form over the longer term by internalising costs. Public transit options and housing closer to amenities and closer to employment will become relatively more attractive as a consequence. Councils working to meet resident demand for services will seek to accommodate that increase in demand for public transit. And central government initiatives already described will enable a more flexible housing supply response to those changes in demand.
- 1.6 Additional transport and land use policy measures could be undertaken that would enable councils to respond more quickly to the changed policy environment, improve urban form, and make it easier for households and businesses to have a lower carbon footprint. We addressed some of these issues in the Group's first paper on urban land markets.
 - 1.6.1 Flexible zoning options make it easier for households and businesses to make locational choices that best respond to rising carbon prices and to congestion charges. Current policy can make it challenging for people to relocate closer to work or education, though the NPS-UD and the Enabling Housing Supply legislation will ease that constraint. Flexible mixed-use zoning options could further assist.
 - 1.6.2 Policy could also support the establishment of transport corridors that enable the efficient provision of public transport and active mode options. Transport corridor designations then further the government's housing supply agenda while enabling lower carbon footprints.
- 1.7 The Group's first paper also warned that achieving better urban form outcomes does not require a restriction on the location of development. It noted that a well-designed mixed-use transit-oriented development 3km outside the existing urban edge will generate fewer car trips than a poorly-designed infill development 3km inside the urban edge. Further, the first paper noted that enabling development at a city's fringes anchors land prices throughout the urban area, making housing more affordable everywhere – including in the city centre.
- 1.8 The Group's first paper urged that urban policies be aimed at making it easier to choose home locations, work locations, and travel behaviours that require less vehicle travel and vehicle emissions, which would in turn reduce the cost of abating emissions within the ETS. This requires zoning flexible enough to accommodate changes in complex locational preferences.

- 1.9 Moving beyond those measures to explicitly target carbon emissions in urban planning, over and above measures already underway, brings considerable risks. While it is always possible that careful urban planning will address market failures not already covered by the ETS or already addressed by other central government initiatives, it is also possible that planning options encouraged by the Plan will be used for other purposes.
- 1.10 A broad remit to consider emissions reduction in urban planning risks providing councils with new tools to obstruct new housing development. Councils could justify restrictive planning and consenting practices on carbon-mitigation grounds, notwithstanding a lack of compelling evidence for such restrictions. Where the incentives facing councils still lead them to oppose urban growth, providing new tools to stymie housing development has risks. This therefore means that tight guidance and direction is needed for any initiatives that aim to do more than simply respond to existing and expected ETS prices.

2 New tools for protecting the council balance sheet

- 2.1 In our view, councils have historically used restrictive zoning and consenting measures to protect their balance sheets against the perceived costs of urban growth. The Government's urban growth agenda prevents councils using some tools in overly restrictive ways. For example, the NPS-UD requires that more intensive land uses be allowed near transport nodes, and the Enabling Housing Supply legislation would allow slightly more intensive land use more generally.
- 2.2 Where the incentives facing councils to restrict growth have not yet been substantially affected, providing new tools that enable restrictions on urban development, even if they are nominally intended to reduce urban greenhouse gas emissions, could threaten the government's housing supply agenda.
- 2.3 The Plan suggests measures including reduced fossil gas use in buildings, capping the emissions from buildings, investigating and potentially implementing a range of actions to lower emissions from buildings, reducing construction waste, reducing organic waste to landfill, implementing mode-shift transport plans, reducing vehicle-kilometres travelled and more.
- 2.4 The Plan also suggests that "rapid outward growth has led to poorly functioning urban form and higher emissions", and that strategic planning emphasising medium- and high-density development can mitigate emissions. The group notes that outward growth has not been "rapid". Built-up areas (settlements) increased from about 167,000 hectares in 1996 to 196,000 in 2018, which is only 0.73% per annum compound growth, relative to population growth rate of about 1.5% per annum.
- 2.5 Many of the Plan's measures could be warranted in particular circumstances. But they risk being used by councils to restrict development in places where councils are otherwise constrained against blocking new housing development by the NPS-UD and by the Enabling Housing Supply legislation.
- 2.5.1 We have already seen objections to the Enabling Housing Supply legislation based on potential construction waste.
- 2.5.2 Councils could use tight building emission standards not to reduce net emissions, but to increase the costs of development in places where council wishes to restrict development.
- 2.5.3 Good transport planning can reduce vehicle-kilometres travelled. While it is true that dense cities have lower per-person carbon footprints, suburban development – when

planned properly with access to appropriate transport corridors – can also involve relatively low carbon footprints. But reducing vehicle-kilometres travelled could also be used as blanket justification for preventing development at city fringes, or indeed in many locations, driving up the costs of land and undermining housing affordability.

- 2.5.4 Councils could use the Plan to justify more substantial restrictions on suburban development, which would hinder the government’s overall supply agenda not just in preventing some homes from being built at the city fringes, but more substantially in affecting urban land prices across an entire urban area.
- 2.5.4.1 If paddocks at the city’s fringes can become subdivisions with land costs only higher than bare-paddock cost because of the associated infrastructure, land prices elsewhere in the city are anchored by competition from those fringes. REINZ data on rural land prices suggests that farm prices (arable, dairy, livestock) have stayed around \$20k to \$40k per hectare (ie, \$2 to \$4 per m²) the last 15 years, despite interest rate reductions since the GFC. Even if few choose to live at the edges of town, that potential competition helps ensure affordability across the entire city.
- 2.6 We consequently urge caution in measures allowing or requiring councils to target greenhouse gas emissions directly, over and above measures already encouraged or required by existing policy initiatives.
- 2.7 We also urge that use of such measures be accompanied by rigorous assessment of their relative cost-effectiveness. It is eminently possible that some council measures targeting urban greenhouse gas emissions will make it easier for New Zealand to reach Net Zero. But where there is risk that councils use those measures to achieve other ends, cost-effectiveness assessment can help ensure that measures are used appropriately.
- 2.8 If collective public action were to seek to reduce aggregate demand for emissions in order to reduce the government cap, then a cost effectiveness assessment needs to demonstrate the costs of doing so are less than simply reducing the cap and having higher emissions prices. Alternative options, like a carbon dividend, could be assessed and considered. A centre of expertise should prescribe what higher emissions price should be used in such assessments to help prevent non-ETS driven policy responses causing more harm than good. International carbon prices may provide some guidance.
- 2.9 Councils will require guidance and support in setting these assessments; carbon accounting and forecasting is not within the core competences of local councils. Central government can assist. This would also provide oversight ensuring that tools are used appropriately. Such assessment should demonstrate that measures taken will reduce net national emissions, after taking into account other policy measures already in place, including the effects of the Emissions Trading Scheme.