

Hon Megan Woods
Minister for Housing
By email: m.woods@ministers.govt.nz

Hon Judith Collins
National Party Leader
By email: judith.collins@parliament.govt.nz

Sunday, 24 October 2021

Dear Megan and Judith,

On Tuesday 19 October the Government alongside the National Party announced a Bill to amend the Resource Management Act (RMA). The Bill would, amongst other things, accelerate the densification requirements under the National Policy Statement on Urban Development and impose a new Medium Density Residential Standard (MDRS). The MDRS would be imposed on all Tier One residential areas (Auckland, Christchurch, Wellington, Hamilton and Tauranga), and allow it to be imposed by regulation on Tier Two cities.

Both parties have made two underlying promises to the public:

1. That they will ensure significantly more homes are built in New Zealand's larger cities
2. That they are prepared to set aside their usual political differences and work collaboratively to achieve it

ACT agrees that there is a major problem with housing affordability, and we are pleased to see a supply side solution proposed. We have long campaigned that there is a problem with housing, and that it is a supply side problem. The costs in terms of fairness between generations, opportunity, and overall welfare when many people cannot afford a home make housing arguably New Zealand's single largest long term problem.

We also welcome collaboration across normal political lines to help solve large and urgent problems. However, with the greatest of all due respect, both of your underlying promises are vulnerable to strong criticism. Frankly, you have promised one generation houses that councils cannot afford to service, and needlessly scapegoated another in the process.

Due to these vulnerabilities, ACT cannot support the Bill as introduced. However, we are interested in collaborating to fix these vulnerabilities and improve the policy. Our goal is a better Bill that can be supported by all parties.

Collaboration Problems

Dealing with the collaboration promise first. The unconventional political manoeuvre behind the announcement apparently required the policy to be kept secret from everyone but the Government and the National Party. Those excluded include relevant senior figures from Auckland Council, for instance, who were refused even a briefing before the announcement, let alone be involved in its development. This is contrary to the Government's own Engagement Principles for Local Government. The rhetoric surrounding the announcement, far from being a constructive and cooperative solution, can be summed up by a *New Zealand Herald* editorial headline 'putting NIMBY's to the sword.'

The announced intention to pass the legislation under urgency with only a three week Select Committee process means there is now little opportunity to remediate this unfortunate situation. Auckland and Hamilton Councils, in particular, will struggle to turn around a quality submission in the time available under COVID restrictions. The lack of a Regulatory Impact Statement, at least at the time of writing, means that no problem definition or comparison of alternatives is available, further compounding the lack of consultation that has occurred.

Over the past few days since the announcement, I have consulted with a number of people who might have had input into it. These included planning experts, developers, and Councillors, all of whom raised similar concerns.

The lack of genuine and wide collaboration has resulted in serious problems with delivering on the first promise, to which I now turn.

Policy Problems

Imposing the MDRS goes beyond the support that the Cost Benefit Analysis (CBA) affords. The modelling observes that introducing the Mixed Housing Suburban (MHS) and Mixed Housing Urban (MHU) zones under the Auckland Unitary Plan (AUP) saw an increase in the Floor Area Ratio (FAR) of affected land. Therefore, it concludes, extending the MDRS to all residential land in Tier One cities that is not already zoned for an even higher intensity will lead to a further proportionate increase in FAR, or more homes.

There are two highly questionable assumptions in this argument:

1. Zoned land remains the binding constraint on development that it was when the AUP was introduced in 2016.
2. The MDRS is the Auckland MHU.

Dealing with infrastructure first. The CBA shows that the availability of zoned land certainly was a constraint on development at the time the AUP was introduced in 2016. It is not clear that is the case now, nor does the CBA test this assumption.

The strong feeling amongst the people I have consulted is that infrastructure funding is indeed the binding constraint on development today. If they are correct, then the assumption that more zoned land will lead to proportionately more building is wrong. In fact, it would be more effective to get homes built by funding infrastructure to build them on land currently zoned for growth.

The CBA asserts, (based on five year old macro level assumptions) that the policy will decrease infrastructure costs for councils. However, it is more likely that the policy will reduce the efficiency of infrastructure provision. Councils use zoning to manage infrastructure costs, and to ensure development occurs in areas that they can more efficiently service. The policy bans zoning from all but existing high intensity zones, and as a result may make infrastructure provision less efficient.

Below, ACT proposes that central Government begin splitting GST collected on construction activity evenly between itself and the relevant TLA.

Turning to the second assumption. The MDRS is not the MHU, let alone the MHS or any similar tier one city zone. It goes far beyond the specifications of those zones, and similar zones in other tier one cities. This means that impacts on neighbours and communities will be much greater than necessary to achieve the modelled outcomes in the CBA. Below, ACT makes a proposal that would allow an increase in intensity without introducing a new and far more radical zone than currently exists.

Policy Proposals

ACT wants to support good policy to solve the housing crisis. We urge both National and Labour to demonstrate that they are serious about cross-party solutions by engaging with the concerns we raise in this letter.

Infrastructure

Consenting is one thing, but building is another. Many cities around New Zealand are already facing an infrastructure crisis. Auckland and Wellington both suffer regular reports of sewage spilling onto beaches and streets. Congestion costs New Zealanders time and quality of life across the country. The Government knows this. It's why they are pushing for major reforms of water infrastructure and transport funding already.

Every new home needs connection to water for the taps, roads to take the kids to school, and electricity for heating and powering the home. It costs money. As one councillor has put it to me, 'we don't actually build homes, we build communities.' Beyond core infrastructure, there is a great need for community infrastructure, and it does not automatically follow that brownfields infrastructure is always cheaper.

The Cost Benefit Analysis of this policy devotes just three of its 150 pages to infrastructure costs. These pages conclude, based on extrapolating a 2016 study, that infrastructure costs will be reduced because the MDRS will lead to more brownfields development with less expensive infrastructure.

A countervailing factor that the CBA did not consider is that Councils use zoning to manage infrastructure costs. By effectively removing zoning from the Councils' toolbox, the proposed policy would reduce Councils' ability to ensure development happens where it is most efficient to service.

A further difficulty is that the modelling assumes homes will not be built in greenfield sites, in order to reach its conclusion that infrastructure costs will be reduced. The reasoning is that housing demand will be met closer to the centre of cities if only zoning allowed it. Given the whole premise of the policy is that housing is severely undersupplied, the assumption that development will be reduced anywhere seems hopeful, but it also implies the promised numbers of dwellings will not all be additional, some will simply displace other homes. This may be a major error in the modelling that you have repeated as a promise.

In any event, the modelling found a net impact of around \$50 million nationwide, so the savings are not significant when compared with the multi-billion dollar infrastructure deficits that councils are facing. It makes them reluctant to see more housing built.

Furthermore, the proposal that Councils be able to set a Financial Contribution under the Resource Management Act (RMA) presents a number of problems. Councils such as Auckland have moved away from Financial Contributions under the RMA, preferring to use Development Contributions under the Local Government Act. Auckland Council would need to have two regimes for collecting revenue towards infrastructure for new developments. In any event, it will take years before these contribution levels can be established under the two statutes.

Across New Zealand, government and local councils have underinvested in the vital infrastructure needed in our communities to the tune of hundreds of billions of dollars. Overcoming this funding shortfall is one of the key challenges to unlocking New Zealand's housing potential. As one developer has put it to me, this Bill is the 'sewage in the streets bill.'

Proposal 1: GST Sharing

ACT supports the building of new homes, and we understand that homes come with infrastructure costs that need to be met. That is why we proposed a policy to ensure that local councils receive a payment equivalent to 50 percent of the GST for every new dwelling constructed in its territory.

The policy provides both an incentive for councils to enable building, and a means of covering some of the costs that fall on them as a result. It transforms development from being a source of cost to a source of revenue.

Adding tens of thousands of homes sounds good unless the water systems cannot deliver for them, pipes burst on streets, or congestion ruins air quality or liveability. Consenting a home is one thing but actually building it in a way that doesn't undermine already crumbling infrastructure is another. This can and should be addressed as part of these reforms.

The Government appears somewhat agreeable to the problem. The Housing Acceleration Fund provides funding to enable housing, but has been slow to date at actually getting money out the door. A better way would be to repurpose the fund to allow Tier 1 authorities who will be affected by this policy to claim back up to 50 percent of the GST of new buildings through this fund. That would allow an immediate covering of infrastructure costs and enable development faster without risking further infrastructure decay.

Using 2020 figures for the value of new residential building work put in place, the following amounts would accrue to different regions. The policy would disperse approximately a quarter of the Housing Acceleration Fund per year. In other words its cost would be comparable to the \$3.8 billion committed to the HAF over four years.

(2020 Figures)	New Residential Building Work Put In Place (\$m)	Councils' GST Share (\$m)
Auckland Region	\$5,700	\$428
Waikato Region	\$1,418	\$106
Wellington Region	\$987	\$74
Canterbury Region	\$1,848	\$139
NI excl Auckland, Waikato, Wellington	\$2,140	\$161
SI excl Canterbury	\$1,489	\$112
New Zealand	\$13,584	\$1,018

ACT proposes the policy be amended so that it:

1. Immediately repurpose the Housing Accelerator Fund to share GST with the affected councils.
2. Begin planning for establishing the fund as an enduring system for GST sharing across all councils.

Proposal 2: Public-Private Partnerships

Tapping into private sector investment will help fund new projects faster and at less cost to New Zealanders. By using public-private partnerships, the Government can limit the cost and risk taken on by taxpayers and councils.

To date PPP's have been used in a limited way by the Government. This should change.

The Government has already put in place the Infrastructure Funding and Financing Act 2020. That law is intended to provide a funding and financing model to support the provision of infrastructure for housing and urban development that supports functioning urban land markets and reduce the impact of local authority financing and funding constraints.

However, when asked by ACT, the Minister of Housing and Urban Development has stated that proposals under this Act are not expected until mid-late 2022. To put it frankly, it is unacceptable that the Government is willing to act so quickly without notice on consenting but drag their feet when it comes to providing policies to support the consequential infrastructure for development.

ACT believes the Government should:

1. Immediately fast track and seek proposals under the Infrastructure and Financing Act
2. Immediately begin work to seek out and secure private capital for new infrastructure projects (ACT has supported combining Crown Infrastructure Partners and the Infrastructure Commission with this mandate, but we are open to discussion on the method of delivery).

Balancing rights between current and new homeowners

The proposed specifications of the MDRS are extreme, and unsupported by the Cost Benefit Analysis presented along with the Bill.

The premise of the modelling is that introducing the Mixed Housing Urban (MHU) and Mixed Housing Suburban (MHS) zones as part of the Auckland Unitary Plan led to a given amount of new housing construction in Auckland, and so imposing the MDRS over all Tier One city residential zones that currently have a lower intensity will lead to a proportional increase in home construction.

The modelling also finds only marginal differences in the Probability of Development and increase in FAR between land zoned as MHS and land zoned MHU.

If the modelling was used as the basis for the policy, the policy would be to require that Councils upzone all land except for Permissive Zones to the MHU. That in itself would be a radical policy, but one that kept many of the safeguards that help existing residents accept development according to familiar standards. However the specifications of the MDRS are not the same as the MHU or MHS zone, or any equivalents in other Tier 1 cities. It differs because:

- The height to boundary conditions lead to much greater bulk than the current zones the MDRS is supposed to approximate. Combined with a one metre setback, the MDRS height-to-boundary requirement of 60 degrees starting at six metres' height allows a three story wall one metre from the boundary. This is compared with the MHU standard of 45 degrees starting at three metres height, which allows one storey at one metre from the boundary, and further storeys set back further.
- Outlooks spaces are significantly smaller, at three metres by three metres for the principal living space and one square metre for other habitable rooms, in comparison with six by four metres for the principal living room, and three by three metres for the principal bedroom under the MHU zone
- Site coverage at 50 per cent is slightly larger than for the MHU zone at 45 per cent, and the same or larger than most equivalent zones in other tier one cities.
- The requirement in New Schedule 3A Section 2(3) that the building standards in Part 2 of the Schedule are the totality of building standard requirements means that any

considerations with respect to shading and overlooking such as those recommended in the Auckland Design Manual cannot be made.

All of these deviations from MHU will act as extreme irritants to existing residents, even though they are not necessary to achieve the promised goals of the policy. This is a nonsensical position unless the purpose is to divide rather than unite people. Furthermore, it is not clear that the MHU zone is needed. While the CBA did not test the result of moving to an MHS level zone, the Probability of Development and FAR modelling suggest this would achieve intensification comparable to MHU in any case.

Proposal 3: Abandon the MDRS and use the existing Auckland MHS Zone to achieve intensification

ACT proposes that, instead of imposing an entirely new zone, the legislation should simply require that zones with lower intensity than those that currently exist are upzoned to MHS and, in cities where such a zone does not exist, use the MHS zone.

The exemption from Resource Consents could remain, simply using the Auckland MHS rules, and removing the restriction on further quality standards in building consents.

Conclusion

You are in danger of failing to deliver on your promises, and creating a lot more division and resentment in the community than is necessary in the process. If you focus on infrastructure and pull the zoning changes back to a level supported by the actual modelling, you would be in a much better position.

ACT's three proposals are simple and effective ways to make sure that the proposals put forward by your parties can actually deliver the new homes you have promised and do so in a way that does not simply shift the harms of a housing crisis into new areas.

I believe that both your parties, like ACT, want to deliver solutions that will make the lives of New Zealanders better. But the proposed Bill does not deliver in its current form.

I recognise the tight timeframe, however you have set it. I am available to meet anytime between now and Tuesday when the Bill is expected to be debated.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "David Seymour".

David Seymour
ACT Party Leader