

# Planning for Growth

## District Plan Review

### Affordable Housing and Inclusionary Zoning

#### Issues & Options Report



Picture - New assisted housing units through inclusionary zoning in Queenstown

## Document Information

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## Executive Summary

Council seeks advice on inclusionary zoning in the inner city, CBD and around key public transport routes, and how this can be implemented in the district plan. Inclusionary zoning is just one approach among many to increase the number of affordable and assisted houses. This report includes this broader affordability context for its issues and options.

Inclusionary zoning is land use planning rules that require or enable a share of new construction to be affordable for people with low to moderate incomes.

Wellington City rentals and house prices are expensive. This stops people from moving to Wellington and makes life more difficult for those already in Wellington (who do not own homes).

The Spatial Plan identifies actions that will help increase supply and make housing more affordable in the long term. However, long-term housing supply solutions do not fully address short to medium term socio-economic externalities:

- Lower social diversity in some neighbourhoods
- Lower economic vitality
- Lack of access to opportunity.

To resolve this, we want to increase the amount of affordable and assisted houses available for people to rent, buy and other options like leasehold and rent-to-buy. This supply of “middle” housing between social housing and market housing is starting to grow:

- Government and community housing construction of new social and assisted housing units
- Partnerships with developers to increase affordable and assisted units, e.g. KiwiBuild, Te Kainga.
- Retirement villages and rest homes
- Boarding houses and long-term rental developments

Inclusionary zoning is another method to add to the number of assisted housing units, for people who can't afford market house prices or rents but are not eligible for the limited social housing available. Inclusionary zoning would only be a minor contributor to the supply of assisted housing alongside other providers like Kāinga Ora, Wellington City Council's Te Aroha Kainga programme, and community housing providers.

There are a number of district plan methods that could enable assisted housing in Wellington City in the current Resource Management Act system, alongside inclusionary zoning. The methods are listed below. The ones that staff recommend consulting the public in the draft district plan are shaded blue. The methods with diagonal stripes are true “inclusionary zoning” methods. The public can be consulted on these as well, however the contribution rate from development to go towards assisted housing should depend on the results from the Property Economics quantitative market assessment.

<b>Voluntary methods</b>	<b>Inclusionary zoning methods</b>
Provision of assisted housing considered a positive factor when assessing resource consent for a new development	All new residential buildings that exceed the District Plan maximum height limits to contribute towards assisted housing

100% assisted housing (and social housing) would be a controlled activity (i.e. guaranteed consent, but Council can impose conditions on the consent)	All new multi-unit residential development to contribute towards assisted housing
Height or density bonuses considered for provision of assisted housing as part of a resource consent	All multi-lot residential subdivisions to contribute to assisted housing
Discount the consent costs of affordable or assisted housing, including development contributions	All large residential developments to have some affordable units
Non-notification of resource consents that include affordable/assisted/social housing	
Fast-track consenting	

We want to encourage developers that choose to negotiate voluntarily with government, Council or community housing providers to develop, manage or sell some (at least 10%) assisted housing units. In these instances the “rule book” district plan inclusionary zoning options shouldn’t apply.

The specifics of any inclusionary zoning policy will also need to consider:

- *Who should receive the assisted housing contributions?* This paper recommends contributions towards assisted housing, not requiring developers to sell residences at below a certain price point. Under the RMA, these contributions must be in the form of land or money. However, if developers prefer to provide assisted housing to a provider directly, this is a suitable alternative to the financial contributions. This paper proposes that the Council’s Housing Development team receives financial contributions in trust, which can only be used for assisted housing purposes. These purposes should be directed by Council’s Housing Strategy and Action Plan.
- *Where should the assisted housing be built?* The Council’s Spatial Plan and other policy documents directs housing intensification in the city centre, suburban centres and along key public transport corridors. Assisted housing will most likely need to be high-density housing, so is best located in these areas. These locations are also more affordable for households generally. Transport costs are lower when people can use active or public transport to their work, school, and other destinations nearby.
- *What should be the assisted housing contribution amount?* This is a critical question. Staff have commissioned an economic assessment tied to the Council’s updated Housing and Business Development Capacity Assessment model to answer this question. For comparison, the Queenstown Lakes District Council’s inclusionary zoning proposal uses 2% of the estimated sale price, and a higher rate for new subdivisions.
- *What if the developer wants to provide assisted housing directly?* The report recommends that if a development sells or transfers at least 10% of the new units to government, Council or community housing providers to be assisted housing, the financial contributions wouldn’t apply. This may be an incentive for developers to negotiate with these providers to sell them housing units. This is another way to achieve the goal of more assisted housing options in Wellington City.
- *Can developers defer or trade their contributions?* The RMA enables some flexibility if rule requirements aren’t met. Council staff could consider any unique or unusual

characteristics or financial burdens, provision of assisted housing elsewhere, staging of payments, or other options, if these help achieve the Council's goal of increasing the supply of assisted housing in Wellington City.

- *How does inclusionary zoning fit with other district plans in the Wellington region?* A consistent approach across the other Wellington metro councils: Upper Hutt, Hutt City, Porirua, is being investigated. Consistency will help for when the new regional Natural and Built Environment Plan replaces district plans as part of the government's resource management system reform. It would also prevent developers avoiding the requirement by locating their investments in a neighbouring district.

Any inclusionary zoning in the district plan should be approached with caution, because:

- International evidence shows some inclusionary zoning schemes have limited effect on overall housing affordability, and often needs public funding or other incentives to support it.
- Inclusionary zoning has considerable administration costs
- Inclusionary zoning risks reducing the overall supply of new housing units
- Merit challenges and legal challenges to inclusionary zoning through submissions, hearings and the Environment Court is highly likely.

The draft Natural and Built Environments Act (NBA) includes housing affordability as an environmental outcome that NBA plans must promote. The Ministry for the Environment and Ministry of Housing and Urban Development are investigating inclusionary zoning tools for the new NBA. These legislative tools, along with national guidance, would give greater legal certainty and greater scope for inclusionary zoning in the future NBA plans.

# 1 Introduction

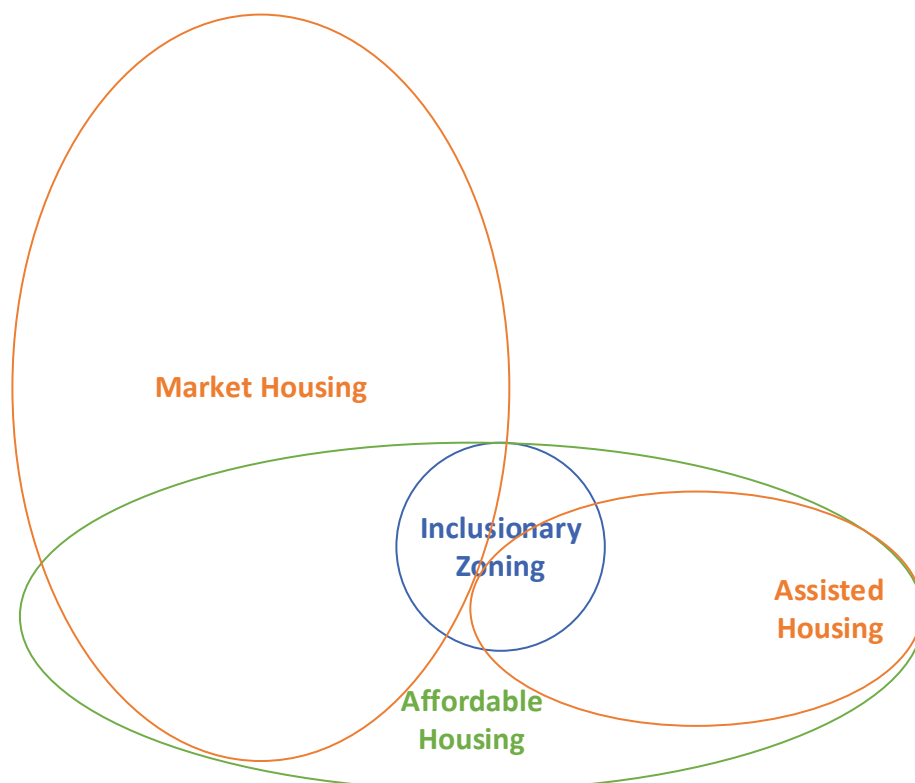
As part of the adoption of the Spatial Plan, on 24 June 2021, Council resolved to:

*Agree to seek advice on the establishment of inclusionary zones in the inner city, CBD and around key public transport routes and instruct officers to report back on how these zones might be implemented as part of the District Plan review work through the Pūrora Āmua | Planning and Environment Committee.*

At the same meeting, Council also resolved to “request officers *identify incentives such as enabling more height if developments include a percentage of affordable housing, outdoor shared space, community gardens, green roofs as part of the District Plan review [emphasis added]*”.

This report explains “inclusionary zoning” and its context in affordable housing supply. It builds off the underlying issue of unaffordable housing to explain the planning rationale for inclusionary zoning specifically. The report then sets out district plan options to enable more assisted houses, and to require them (inclusionary zoning). Some nuances of inclusionary zoning, and its disadvantages, are discussed. The report concludes with a recommended mix of methods for affordable housing in the draft district plan. The Appendix summarises similar and different approaches to affordable, assisted and social housing elsewhere in the world.

## Definitions



“Affordable housing” is usually based on what certain households can reasonably afford. This may be assisted housing, or market housing that happens to be generally “affordable” due to its location, quality or size.



“Assisted housing” is a category between social housing and market housing. It includes long-term rentals at a lower-than-average market rate, shared ownership/equity houses, leasehold houses where the land is owned by the assisted housing provider, and other assisted housing products.

“Inclusionary zoning” means land use planning rules that require a share of new housing to either be affordable outright by people with low to moderate incomes, or to be managed by public/community providers to assist these people into housing. It can apply to land rezoned from rural to urban, land up-zoning to a higher density, height or density bonuses, or to all or some new buildings.

## 2 Context

### Wellington City housing is expensive

Wellington City’s housing has become increasingly unaffordable for many existing Wellington City residents and those looking to move into the City.

- Median weekly rent in Wellington City was \$710<sup>1</sup> in March 2021 (Wellington metro area is \$580). Rental costs have increased by 38 percent over the past five years.
- The lower quartile house price (typical for first home buyers) was \$670,000 in June 2021<sup>2</sup>. House prices have increased 84 percent over the past five years.
- Only 53 percent of Wellington residents owned their home in the 2018 census.

For comparison, Auckland’s median weekly rent in March 2021 was \$579, with the Auckland isthmus area at \$695. This is equivalent to Wellington’s rents at a city and regional level, despite metro Auckland being three times larger (and growing at around 2%) than metro Wellington (Wellington City is growing at 1.3%)<sup>3</sup>. Christchurch City’s median weekly rent is \$460, despite being a similar size to Wellington and growing at around 2% p.a.

There are many factors causing these high rental and property prices. Low interest rates, immigration into Wellington and tax policy have contributed to increasing demand to purchase homes, especially since the COVID-19 lockdown in March-June 2020. At the same time the amalgam of restrictive land use planning, limited incentives to upgrade infrastructure, low construction sector productivity and capacity, and bank lending criteria have constrained supply.

As well as the general supply constraints mentioned above, Wellington City has other constraints that increase the cost of new houses and reduce supply, when compared to other New Zealand cities:

- limited land suitable for greenfield housing subdivisions
- steep land
- narrow properties, narrow streets and limited access in some cases
- natural hazards risks, especially relating to earthquakes

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<sup>1</sup> <https://www.interest.co.nz/property/rent-ratio>

<sup>2</sup> <https://www.qv.co.nz/price-index/>

<sup>3</sup> Population growth rates taken from the 2016-2021 average

House prices have increased not just nationally but globally too. In part, this is due to much lower mortgage rates. Population ageing has produced a glut of savings that has reduced real interest rates globally. The response to COVID-19 has only exacerbated the availability of credit that has pushed up house prices in most OECD countries. Nationally, ten percent population growth in the space of five years has also pressured demand.

### **District plans are able to address housing affordability under the RMA**

Case law currently states that the district plan can address housing affordability. In the legal arguments around Queenstown-Lakes' Plan Change 24 (Community and Affordable Housing), the Environment Court found that affordability of housing is an effect that can be managed by district plans under the RMA.<sup>4</sup> This was supported by the High Court.

### **Councils are looking at inclusionary zoning as an alternative**

Central and local government have tried a number of tools to shift the headline rate of house price inflation. Major tools include zoning for increased density along key public transport routes and city/town/neighbourhood centres, and improving water, wastewater, stormwater and transport services to greenfield and brownfield sites.

Now that house prices are so high, inclusionary zoning is an appealing new strategy to meet the needs of those excluded from housing. As at September 2021, Queenstown-Lakes District Council is consulting on inclusionary zoning options for its district plan: <https://letstalk.qldc.govt.nz/planning-for-affordable-housing>

### **Inclusionary zoning comes in different flavours**

At its most basic level, inclusionary zoning requires that a fraction of new dwellings are set aside to provide affordable housing for people on low incomes.

Inclusionary zoning can be voluntary – where developers opt-in for inclusionary zoning in return for waivers of consent fees, land use restrictions on density, height or massing restrictions. Alternatively, inclusionary zoning can be mandatory, where developers must construct additional dwellings or pay a fee for exemption.

Outcomes can be dependent on both the type of inclusionary zoning, the geographic coverage and timing of the policy.

### **Indicators for affordability in Wellington**

Council has developed the Wellington Housing Affordability Model (WHAM)<sup>5</sup>. WHAM is used to understand what housing is affordable, and for whom. The model is supplementary to other affordability measures.

WHAM is based on the premise that assessing affordability depends on a household's circumstances and composition, and that housing affordability is more complex than only one set dollar amount or ratio.

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<sup>4</sup> <https://www.qldc.govt.nz/your-council/district-plan/operative-district-plan/plan-changes-to-the-operative-district-plan>

<sup>5</sup> More information on WHAM is at <https://wellington.govt.nz/your-council/plans-policies-and-bylaws/policies/housing-strategy>

WHAM makes assumptions about a household's expenditure (excluding housing cost) to understand the income available for housing. It is applied in different ways depending on three questions the user seeks to answer:

- Who can afford a particular rent or purchase price
- What is affordable for a particular population or group
- how affordable a rental or purchase price is for a particular group (and by how much).

Other indicators for reference:

- The Auckland Plan 2050 defines affordable housing as a “home that a household could occupy for less than 30% of its income whether renting or purchasing.” This is a commonly used metric across the world. It is useful for renters, but less useful for home ownership as it does not factor in the ability of first home buyers to save the initial house deposit, or the risk of interest rates rising and making house mortgages unaffordable.
- Building houses near good public transport corridors tend to increase overall affordability, as average transportation costs are lower. As a rule of thumb, to be affordable, housing + transport costs should not exceed 45% of a household budget.
- In the often-quoted Demographia International Housing Affordability Survey, housing is affordable at a ‘median multiple’ of 3.0 or less, moderately unaffordable at 3.1 to 4.0, seriously unaffordable at 4.1 to 5.0, and severely unaffordable at over 5. Median multiple is the median house price divided by median household income. Wellington City was at 7.1 on July 2020. Interestingly this is lower than Kapiti Coast and Porirua (7.8) because of higher household incomes in Wellington City<sup>6</sup>. The Demographia measure is a useful long-term measure for buying a house, as it does not account for mortgage interest rates. It is not helpful for renters.
- The current KiwiBuild price cap for a Wellington three-bedroom house is \$550,000, and \$500,000 for studio, one- and two- bedroom houses.
- Under the expired Housing Accord and Special Housing Areas Act 2013, Auckland Council defined ‘affordable housing product’ as either:
  - Homes for first home buyers priced at 75 percent of the Auckland median house price; or
  - Held by community housing providers and made available to owner occupiers such that their monthly mortgage payments would not exceed 30 percent of the median household income<sup>7</sup>.

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<sup>6</sup> [https://cdn-flightdec.userfirst.co.nz/uploads/sites/plimmertonrotary/files/Viewpoints/2020/HOUSING\\_AFFORDABILITY\\_2020.pdf](https://cdn-flightdec.userfirst.co.nz/uploads/sites/plimmertonrotary/files/Viewpoints/2020/HOUSING_AFFORDABILITY_2020.pdf)

<sup>7</sup> Auckland Council. 2018. ‘Affordable housing in Auckland ‘A snapshot report about the need and initiatives to increase low cost housing, assisted rent and assisted home ownership’.

## Different housing types

Housing exists in a continuum from those provided by the Government for emergency housing, through to full private ownership (Figure 1). There are relative levels of affordability within each part of the continuum.



Figure 1: The housing continuum (Wellington Housing Strategy)

'Affordable housing products' commonly refer to lower cost homes including low cost homes controlled at a defined 'affordable' price, assisted rental products, and assisted home ownership products such as rent-to-buy, shared equity and leasehold arrangements.

### Affordability to rent and to buy is different

Home ownership and rentals have different rates of relative affordability. Rental affordability is a more accurate indicator of housing supply relative to number of households. Having affordable houses for people to buy typically raises household wealth, permanence and well-being, which then adds to community wealth, stability and wellbeing. However, house prices can become divorced from housing need. The factors listed in [paragraph 15] can push prices well above their rental returns.

Wellington's current gross rental yield ranges from 4% – 6% depending on the suburb. This ratio is dropping over time as buying a house becomes more unaffordable than renting a house. For an example of how separated rental and buying affordability can be, the gross rental yield in Taipei is only 1.04% meaning rent is affordable, but houses are very expensive to buy.

### Housing Strategy and Action Plan is being updated

Planning for Growth is identified in the Council's Housing Strategy and Housing Action Plan<sup>8</sup> as one of 5 priority areas to address the challenge of affordability, access, quality and supply of housing in the city. This report focuses on options for how the Council can address housing affordability within the new district plan.

On 18 February 2021, the Council's Long-Term Plan Committee resolved that Council will:

"investigate how it can increase its ability to provide more affordable housing outcomes for the city and that the [Long Term Plan] Consultation Document, via a signal, ask the public for their views on this topic to inform future work in this area."

<sup>8</sup> <https://wellington.govt.nz/your-council/plans-policies-and-bylaws/policies/housing-strategy>

The Build Wellington team is leading this investigation, as part of its review of the Housing Action Plan, on how Council can better enable the delivery of affordable housing. This includes an assessment of different levels of intervention and funding, also noting powers available through the Urban Development Act.

### **3 Underlying Issue: House and rent prices are unaffordable in Wellington City**

The report's Context above sets out the expensive nature of Wellington's rents and property prices.

The lack of affordable housing in Wellington City, especially for first home buyers, for people on low incomes to rent, and to source for public/community housing, is deeply concerning at many levels. It becomes difficult for people on lower incomes, such as students, young workers, singles and solo parents, beneficiaries, and other groups to have healthy full lives in the City, or even afford to live in the City at all.

Māori, Pasifika and some other minority ethnic communities are affected worse by unaffordable housing. Māori and Pasifika in Wellington City have low home ownership rates (38% and 35% respectively in 2013). Most Māori renters report cold, damp homes. DCM (Downtown Community Ministries) reports that Māori is the most common ethnicity of homeless people they serve.

#### **Supply matters**

The National Policy Statement on Urban Development 2020 (NPS-UD) requires councils to provide at least sufficient development capacity to meet expected demand for housing and for business land over the short to long term. Wellington City is expected to have a projected population increase of 50,000-80,000 people over the next 30 years, added to the current under-supply of around 4,600 houses from 2000 to 2016<sup>9</sup>.

*Our City Tomorrow – A Spatial Plan for Wellington City 2020* ('the Spatial Plan') directs increased housing density in and near the city centre, suburban centres and key public transport routes. It also directs increased investment in three waters, public and active transport, community services (such as parks), and better urban design and environmental quality. The Spatial Plan provides direction for the District Plan Review process. Rezoning to enable more housing supply is the most effective way the new district plan can support the provision of affordable housing overall.

While not dismissing Wellington City's particular constraints, as a comparison, Christchurch and Auckland's extensive house building in recent years has helped limit their rent rises relative to population growth, compared to Wellington.

Without these actions to enable house construction, Wellington City will always be dealing with the symptoms of the underlying housing affordability issue. However, these measures will take effect over the next 30 years. They will not be developed fast enough to reduce house prices and rents in the short to medium term. There is a lack of homes for people who can't

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<sup>9</sup> [Housing and Business Development Capacity Assessment for Wellington City 2019](#), pages 75-76.

afford houses to rent or buy in the current market, but who also don't qualify for social housing. Some refer to this as the "missing middle" of New Zealand's housing.

**Central issue for this report: long-term housing supply solutions do not fully address short to medium term socio-economic externalities.**

High house prices and rents have the greatest effect on low to medium income households. Wellington City Council has asked staff to investigate Inclusionary Zoning as a new tool to help ameliorate these effects on people who are effectively priced out of Wellington, despite efforts by local and central government and other housing providers to increase the supply of affordable housing units.

This underlying issue is generating three negative externalities that inclusionary zoning in the district plan could help address.

**Externality 1: Lower social diversity in some neighbourhoods**

The Spatial Plan's vision for Wellington City is a city that, among other things, celebrates Wellington's diverse cultures, where housing is affordable and accessible – a welcoming home for all. In urban areas with high property costs, existing housing stock is replaced, improved and renovated by people on higher salaries, replacing middle- and lower- class households. New medium and high-density development can help with this at a city level by providing more housing. This enables households to have more options for better quality housing at a regional level. All else being equal, this reduces rent price rises and increases housing quality.

At a neighbourhood level however, renovation and replacement of existing houses, and construction of higher density, higher quality apartments and terrace houses, may exclude poorer households and larger families who currently live there. Gradually, social diversity may be diluted within Wellington City, with loss of welfare and established community connections.

A social mix can be seen as part of Objective 1 of the National Policy Statement on Urban Development: well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future<sup>10</sup>. Quality of life and wellbeing are enhanced if people live and interact in diverse communities rather than polarised ones. Diverse communities experience better health outcomes, higher engagement in civic processes, and increased social capital regardless of income levels.

**Externality 2: Lower economic vitality**

Wellington City's economy relies on workers in the hospitality, construction, tourism, community, transport, and many other sectors with low to median wages. High house prices and rentals force these workers and their families to live beyond Wellington City and in some cases out into satellite areas like the Wairarapa, Otaki and Levin. This creates large distances between where people live and work and leads to further urban sprawl. It increases travel time, carbon emissions, and health issues for these workers. It increases costs and restricts

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<sup>10</sup> National Policy Statement on Urban Development 2020:  
<https://environment.govt.nz/assets/Publications/Files/AA-Gazetted-NPSUD-17.07.2020-pdf.pdf>

business growth within Wellington City. Overall, this reduces the dynamism and flexibility of the City's economy to evolve and grow.

### **Externality 3: Lack of access to opportunity**

Wellington City has great jobs, educational centres, parks and community services. People who can afford to live in Wellington City have access to these services to improve their education, health, employability, and general standard of living. As with externality 1, suburbs that are redeveloped into housing only for those on higher incomes leads to spatial marginalisation of lower income households that have less access to these high-quality services. This means people can't reach their potential. Also, poor housing away from opportunities for work, school and recreation could mean a minority turn to anti-social behaviour.

### **Assessment specific to Wellington City of these externalities**

These three problems above are taken from literature and applied to Wellington City's situation. Measuring the scale of these problems, and the contribution of inclusionary zoning to solving them, would benefit from a specific social impact assessment. Staff are looking into commissioning this (as at September 2021). A similar impact assessment is planned for Council's existing assisted housing projects. These assessments could be combined or linked as the social outcomes should be similar.

## **4 Increase affordable and assisted housing**

To address the main issue that long-term housing supply solutions do not fully address short to medium term socio-economic externalities, we need to encourage the growth of assisted housing and affordable housing options generally. There are a number of ways this is starting to happen:

- KiwiBuild developments where a portion of housing developments are priced below a threshold and reserved for first home buyers
- Developers working with councils and iwi to reduce the rental or purchase prices for new houses and apartments, for example the Council's Te Kainga programme and the Koru Homes/Wai-Works partnership in Lower Hutt.
- Government construction of new social, affordable and market housing by Kāinga Ora
- New retirement village and rest home developments
- Boarding houses and long-term rental developments

The district plan needs to enable these sorts of affordable housing products.

### **District plan inclusionary zoning can be a minor contributor to assisted housing supply**

A review of resource consents for multi-unit residential developments in Wellington found that 4,912 residential units were consented from 2016 to 2021. If a 2% inclusionary zoning contribution was applied during this time, all else being equal, we could expect funding for approximately 25 assisted houses per year. A 5% contribution would provide funding for approximately 63 assisted houses per year.

In comparison, the Council's Te Kainga programme is targeting 1,000 assisted housing units delivered or under contract over the next 5 years, or 200 per year. Kāinga Ora and community housing projects are added to this, along with social housing projects through the city.

## **5 Voluntary, enabling district plan options**

To encourage developers to provide affordable housing products, the provision of lower margin products may need to be made more attractive and viable. We would also want to enable Kāinga Ora and social housing providers to invest in Wellington City.

In Wellington, affordability is optimised by multi-unit housing development. These can be built more efficiently, are denser and usually smaller than traditional standalone houses. This makes them more affordable per unit than detached bespoke houses. Improved certainty, shorter timeframes and cheaper costs for consenting this type of development may be an incentive to build affordable homes.

The advantage of using incentives rather than penalties for affordable housing is that the incentives do not reduce the viability of development projects. They may make some projects more viable. This encourages building more houses, as well as affordable houses, which targets the long-term supply issue as well.

### **Option 1: Assisted housing a positive factor when assessing resource consents**

District plan objectives and policies can promote affordable housing. For example, Queenstown-Lakes' proposed district plan has content such as:

*4.2.2.7 Explore and encourage innovative approaches to design to assist provision of quality affordable housing.*

*4.2.2.8 In applying plan provisions, have regard to the extent to which the minimum site size, density, height, building coverage and other quality controls have a disproportionate adverse effect on housing affordability.*

These sorts of provisions can help support applications for affordable housing, especially discretionary and non-complying activity applications. The consent planner can then weigh up the relative benefits of providing affordable houses when deciding whether to recommend granting consent, and what conditions to impose.

These provisions are also useful for private plan change applications. For example, if Kāinga Ora decided to apply for a plan change for a combination of affordable houses and social housing, these sorts of plan provisions would help the affordable housing aspect of the application.

Objectives and policies on affordable housing will also be needed to support any of the other mandatory and voluntary inclusionary zoning methods discussed above.

Many multi-unit developments in Wellington City are restricted discretionary activities. Extending Council's discretion to include an affordable housing matter would allow resource consent planners to consider the benefits of affordable housing when assessing applications. These provisions also enable the consent planners to recommend conditions to help ensure



that affordability is maintained over time, within RMA constraints. This is similar to the objectives and policies for discretionary applications discussed above.

### **Option 2: 100% assisted housing (and social housing) a controlled activity**

The district plan could have a controlled activity<sup>11</sup> rule for multi-unit housing development that has affordable or assisted housing products. Controlled activity consents are usually fast-tracked under the RMA and are rarely notified for submissions. Conditions may be imposed on the consent, but these conditions cannot be onerous to the point that they would in effect stop the development from happening.

This option would give developers considerable certainty and may de-risk affordable housing projects.

Under the draft District Plan, multi-unit developments are a restricted discretionary activity, and can be declined on a range of matters including building design. If affordable housing were a controlled activity, there are risks to Council in not being able to decline them. This may not align with the Council's current focus on 'density done well' and a significant focus on design matters.

It is preferable for assisted housing to be located in Wellington City's priority growth areas: the city centre, suburban centres and medium density residential areas around public transport corridors. This controlled activity rule would be best applied in these areas.

A further consideration is whether the benefits of reducing 'red-tape' for affordable housing in this way is worth trading off more design control of the building, beyond those matters controlled through consent conditions.

### **Option 3: Height and/or density bonuses for assisted housing**

The draft district plan is proposing a 'design excellence' assessment (or similar name) for buildings that apply to be higher than the maximum height standard for the zone, or are large developments (e.g. 25+ units). The intent behind this idea is that additional private development benefits beyond those enabled by the district plan should be paired with benefits to the local community and city overall. This could include public space, better access, accessibility for elderly/disabled, or environmental efficiency.

Contribution of assisted housing could also be a factor to allow additional building height. For example, a building could apply to exceed the maximum height limit by 25% if it scored 30 "points" from public benefit elements. Every 1% of floorspace that is 'affordable' or 'assisted' housing could equal one point. If the incentives were generous enough, the increased developer profit from the extra height or number of units could offset the cost of the affordable/assisted housing.

However, there are some disadvantages. We are already enabling housing in appropriate locations near public transport and city/suburban centres. This is where the NPS-UD, regional policy statement and draft spatial plan already tell us to enable housing generally. This means

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<sup>11</sup> Controlled activities must be granted resource consent, but conditions can be imposed within the matters the district plan has reserved control.

Wellington City's new district plan may have a limited scope to use height and density bonuses.

Allowing height or density beyond district plan standards may negatively affect neighbour sunlight, privacy, and neighbourhood character. These effects would need to remain part of a resource consent assessment so that we are not "trading off" one set of environmental and social costs for another set of environmental and social benefits.

#### **Option 4: Discount the consent costs of affordable or assisted housing**

The risk that resource consenting fees and related costs will spiral upwards is a risk for all developers, especially if the development is new or innovative. For example, the 26 Aroha development in Auckland which met almost all standards was pushed into a limited notification hearing by the volume of earthworks and a construction noise breach. This added nine months to the project and it cost \$800,000 to gain the resource consent<sup>12</sup>. In Wellington, the Zavos Corner apartments in Mt Victoria met all planning standards and guidelines, but because it replaced a pre-1930s building and the Mt Victoria Residents Association opposed it, the lawyers, council and architect costs were expensive<sup>13</sup>.

If multi-unit developments with a certain number of affordable houses were guaranteed a maximum resource consent cost, regardless of council-required expert assessments and hearing commissioners, this would be an incentive for developers who are considering building affordable houses. But there would be a corresponding cost for the Council for consents that are more difficult to process than expected or require a hearing. It could also enable developers to push the density limits or not bother with quality design, knowing that Council will bear the cost risk for processing the consent.

The Council already gives a rates remission of up to \$5,000 for new dwellings that are the first homes of New Zealanders. The Council should decide whether a risk of higher Council costs (paid by ratepayers) is worth the trade-off to incentivise more innovative affordable housing products.

#### **Option 5: Non-notification of affordable/assisted/social housing**

The district plan could state that if a development met an affordable housing threshold, along with the other rules and standards, it would not be notified for public or affected party submissions. If an application is notified, this significantly increases time and cost to get a resource consent, especially if a hearing is needed.

However, we currently intend to propose applying a non-notification rule to all multi-unit development that comply with the zone standards, so this would not be an incentive for affordable housing specifically.

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<sup>12</sup> Architecture New Zealand magazine, November/December 2020.

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[https://static1.squarespace.com/static/56ca5424c2ea51c475f63cee/t/570f05982eeb8126f679c81f/1460956290649/Parsonson\\_Zavos\\_corner.pdf](https://static1.squarespace.com/static/56ca5424c2ea51c475f63cee/t/570f05982eeb8126f679c81f/1460956290649/Parsonson_Zavos_corner.pdf)

### **Option 6: Fast-track consenting**

The district plan could state that if a development met an affordable housing threshold, along with the other rules and standards, it would be processed quickly.

Non-notified resource consents without hearings are already processed within 20 working days. The clock can be stopped if further information is required, but removing this would be impractical and would risk poor decision-making. This timeframe can be shrunk to 10 working days for controlled activities. Fast-track consenting would not be an incentive for affordable housing specifically.

## **6 Mandatory “inclusionary zoning” options**

### **Option 7: All new residential buildings above height maximums to contribute towards assisted housing**

If a residential building gets a resource consent to build above a height maximum, then assisted housing must be provided. This option is different to Option 3. Option 3 has assisted housing as one bonus factor among other public benefits to be considered in a resource consent application. In Option 7, all residential buildings that are granted resource consent that happen to have floor space above the height standard, must pay financial contributions towards assisted housing.

The benefit of this approach is that more development would be required to contribute to assisted housing. The drawback is that assisted housing goes from being a contributing bonus for extra height/density, to being a cost on all buildings that happen to be over-height.

The calculation of assisted housing should be relative to the amount of extra floorspace enabled by the extra height.

### **Option 8: All new multi-unit residential development to contribute towards assisted housing**

Every development of three or more residential units must contribute towards assisted housing for example apartments, terrace housing. This would be in the form of a financial contribution.

A variation of this option (Option 8A) is to apply the assisted housing requirement to all new development above a certain floor area. This would be more comprehensive but would be more complex to administer.

This option would ensure that all multi-unit housing developments contribute to the overall supply of assisted housing in Wellington. However, the amount of contribution would need to be set relatively low (1% - 5%). A more onerous contribution would risk the developments not going ahead at all because they become commercially unviable. Developments could also move to other local authority areas without this constraint or build smaller developments. This would result in fewer houses being built overall, which worsens the long-term trend of unaffordable housing.

### **Option 9: Require residential subdivisions to contribute to assisted housing**

Inclusionary zoning can also apply to “greenfield” development through subdivision. “Greenfield” is land that used to be rural and is converted into urban areas. The developer must provide new lots or a financial contribution for assisted housing. Queenstown-Lakes District Council is the only Council in New Zealand that has used this for some of its rezoned land.

Greenfield subdivision should contribute to assisted housing in a similar way to multi-unit development in existing urban areas – through financial contributions. However, we do not support contributions in the form of new lots for assisted housing to be built in our greenfield suburbs. We want to encourage more assisted and affordable housing in the city centre, suburban centres and along key public transport corridors. These locations allow people to walk, cycle and use public transport more often to get to their local shops and services, reducing overall transport costs which is important for people who cannot afford market priced housing.

### **Option 10: All large residential developments to have some affordable units**

Instead of developments paying a contribution towards assisted housing (or other contribution of assisted housing), a specific proportion of the new dwellings would need to meet an “affordability” threshold. “Affordable” could be calculated using the Wellington Housing Affordability Model to set thresholds based on location, house type or income level, or could be based on an external threshold such as the KiwiBuild limits. Affordable houses must be sold for under that amount.

Affordable housing is a benefit to the people who are able to buy them but have limited medium-long term effect on affordability if these people who buy affordable houses can on-sell them for a higher price in the future. For example, the Sunset West apartment block sold half studio/1 bedroom units for \$469-\$500,000 through KiwiBuild (as affordable apartments), and the other half privately for \$590-\$739,000.<sup>14</sup> New owners of the KiwiBuild apartments must own them for at least three years, unless they have a “significant change in circumstances”. This illustrates how the affordable apartments will eventually end up in the general market, with the profit difference between “affordable” and “market” price going to the first homeowner.

Queenstown-Lakes District Council is proposing “retention mechanisms” to retain the affordability of these units. This could include a covenant on the title that limits future sale price to the original sale price plus a small inflation adjustment. A supplementary tool is for an “option to purchase”. This option allows the Council (or perhaps a Housing Trust) to buy the affordable units whenever offered for resale. This right could also be exercised by assigning the option to a non-profit agency or to another eligible buyer.

We see these retention mechanisms as best managed outside the resource consent process, by making the residential units “assisted housing”, managed by the government, Council or community housing provider. The provider then has the freedom to apply the “option to purchase on resale” tool, or whichever other tool is appropriate for the target residents and for the wider community.

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<sup>14</sup> These apartments are very similar, with the private apartments are only 5 m2 larger than the affordable ones.

## 7 Specific questions

Depending on the options selected, other questions need to be considered about how inclusionary zoning will be applied.

### **Question 1: Who should receive the assisted housing contributions?**

Assisted housing must be held or managed by an assisted housing provider (government, Council, iwi or community), to retain its affordability for the medium-long term. Even if houses are sold as “affordable” with a retention mechanism to keep it affordable, an assisted housing provider needs to monitor this and facilitate transactions to retain affordability. Queenstown-Lakes District Council established a Community Housing Trust as an independent, non-profit, community owned organisation to manage the housing sourced from inclusionary zoning, as well as housing from other sources. Auckland Council on the other hand, recently noted it had 21 community and emergency housing partners working in Auckland, as well as Kāinga Ora. This could add complexity to an assisted housing programme in Auckland, and may need the Council to hold, coordinate or oversee assisted housing contributions to the other providers.

Wellington also has at least 17 community housing providers, as well as Kāinga Ora and Wellington City Council’s City Housing<sup>15</sup>. Wellington City Council already has an assisted housing programme (Te Kāinga) and team (Housing Development). It is well-placed to administer assisted housing from inclusionary zoning in line with its Action Plan. It can choose to transfer houses to community housing providers that meet its requirements with Council oversight, or include them in Council’s own assisted housing programmes.

The policy for how the assisted housing is managed or distributed would be in the Council’s Housing Strategy and Action Plan. The approach to managing assisted housing in Wellington City should be consistent, regardless of whether the houses come from developer partnerships, Council developments, inclusionary zoning or otherwise. The district plan only needs to ensure that there is contribution towards affordable/assisted housing, and conditions to protect its long-term affordability, to address the planning issue.

### **Question 2: Where should the assisted housing be built?**

The Council’s Spatial Plan and other policy documents directs housing intensification in the city centre, suburban centres and along key public transport corridors. Assisted housing will most likely need to be high-density housing, so is best located in these areas. These locations are also more affordable for households generally. Transport costs are lower when people can use active or public transport to their work, school, and other destinations nearby.

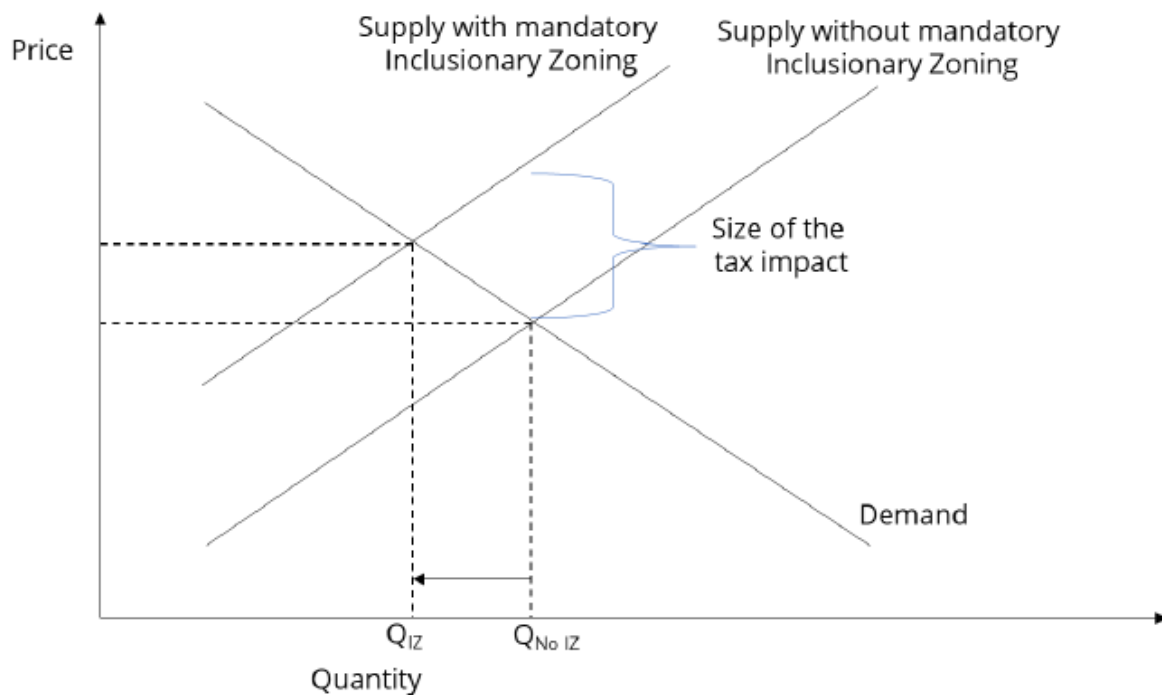
### **Question 3: What should be the assisted housing contribution amount?**

The most important factor when determining how much developers should contribute to assisted housing should be the effect on the overall supply of houses to the market. Under standard economic models, inclusionary zoning would increase the cost for the same amount housing, thus reducing supply.

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<sup>15</sup> <https://dwell.org.nz/find-housing-2/where-can-i-find-affordable-housing>

FIGURE 3 IMPOSING INCLUSIONARY ZONING CAN REDUCE HOUSING SUPPLY



Developers are constrained from simply increasing the price of the non-assisted units developed for the private market, because the local market sets the price for housing. Instead, developers can respond by:

- reducing input costs and sometimes quality of the houses
- taking a cut on any profits
- reducing the supply of housing, possibly in part by building houses in other council areas without inclusionary zoning

Staff have commissioned an economic assessment to estimate the drop in supply of houses from different assisted housing contribution rates. This quantitative assessment uses the updated Housing and Business Development Capacity Assessment for Wellington City, which looks at the commercially feasible and realisable development rates in the City. For comparison, the Queenstown Lakes District Council's inclusionary zoning proposal uses 2% of the estimated sale price, and a higher rate for new subdivisions.

Inclusionary zoning should not result in a significant reduction in housing supply. Such a scenario would make overall housing affordability and housing quality worse in the long term.

#### **Question 4: What if the developer wants to provide assisted housing directly?**

This is a great situation. Voluntary ways to partner with housing providers on assisted housing should be encouraged. The report recommends that if a development sells or transfers at least 10% of the new units to government, Council or community housing providers to be assisted housing, the financial contributions wouldn't apply. This may be an incentive for developers to negotiate with these providers to sell them housing units. This is another way to achieve the goal of more assisted housing options in Wellington City.

However, we note that the assisted housing market in Wellington is small (but growing). There is limited finance to acquire new houses. Providing a financial contribution is likely to be easier to manage under the RMA instead of negotiating sale, lease or management of assisted housing at a discounted price. This could change through the district plan process after consultation with developers and assisted housing providers.

### **Question 5: Can developers defer or trade their assisted housing obligations?**

Developers will want flexibility for how they provide their assisted housing, to maximise economic returns and development outcomes, while still complying with district plan rules. For example, a developer may have already built an assisted housing complex in partnership with the Council or a community housing provider and may want to use it as “credit” for their future developments. Another developer may want to sell its assisted housing obligation to another developer who is better placed to deliver the houses.

Discretionary and non-complying rule statuses in the district plan allows for these variations to be argued on their merits, as long as the effects are no more than minor, or the objectives and policies of the district plan are met. This means the district plan policies and assessment matters are clearly framed in a way that enables assessment of alternative proposals, that consider if:

- the site or development has unique or unusual characteristics
- the contribution rate would make a development unviable, as demonstrated by a site-specific development feasibility assessment
- assisted housing is provided elsewhere in Wellington City
- staging or scheduling of contributions.

### **Question 6: How does inclusionary zoning fit with other district plans in the Wellington region?**

Hutt City Council, Porirua City Council and Upper Hutt City Council have all considered inclusionary zoning in their district plan reviews. Porirua and Upper Hutt have decided not to include inclusionary zoning in their proposed (Porirua) and draft (Upper Hutt) district plans. Hutt City is considering its options.

Staff are working across these councils, and with Ministry for the Environment and Ministry of Housing and Urban Development about the best way to approach inclusionary zoning at a metro Wellington level. The more that councils can agree on their approach to inclusionary zoning now, the easier the system can move into the Natural and Built Environments Act – discussed later in this report.

A common approach across the Wellington metropolitan area would reduce the risk of developers choosing to supply more houses in the council areas without inclusionary zoning, or with a lower contribution rate.

## 8 Disadvantages of inclusionary zoning to consider

### International evidence shows limited effect on overall housing affordability, and needs public funding

International evidence on the effects of mandatory inclusionary zoning is mixed<sup>16</sup>. A summary of studies in the USA found that while some programmes result in limited numbers of affordable homes being built, there are generally no impacts on supply, and no or modest increases on prices<sup>17</sup><sup>18</sup><sup>19</sup>. In general, mandatory programmes in strong housing markets that have predictable rules, well-designed cost offsets or bonuses for the developer, public sector investment, and flexible compliance alternatives tended to produce the largest number of affordable homes.

The relatively successful mandatory inclusionary zonings overseas are difficult to translate to the New Zealand context. Many regulations in European and North American cities target the long-term rental apartment sector, requiring them to set lower rents, often in exchange for incentives like density bonuses, low interest, etc. New Zealand's market-based long-term rental sector is in its infancy.<sup>20</sup> Our long-term multi-unit rental sector is almost entirely run through central government, local government and non-profit organisations.

The Productivity Commission's 2015 report *Using Land for Housing*<sup>21</sup> presented international evidence to suggest inclusionary zoning policies have little impact on the overall supply of lower-priced housing. They can have undesirable effects including uncertainty and delays, higher prices for non-targeted homes, and significant administrative costs. The evidence provided in the report suggested inclusionary zoning was most successful when accompanied by a wider suite of tools, including government funding.

Inclusionary zoning tools in New Zealand are constrained by the inability to incorporate financial tools: grants, penalties, etc. with land use planning. This can be done through Council agreements with developers, but not through district plans under the RMA.

When the Auckland Unitary Plan proposed inclusionary zoning in 2016, submissions and evidence from MBIE, Housing New Zealand, and others stated that the proposed provisions were effectively a tax on the supply of dwellings and would simply be redistributive in effect. They would risk reducing the overall supply of housing due to lower developer margins. For

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<sup>16</sup>[https://www.urban.org/sites/default/files/publication/99647/inclusionary\\_zoning.\\_what\\_does\\_the\\_research\\_tell\\_us\\_about\\_the\\_effectiveness\\_of\\_local\\_action\\_2.pdf](https://www.urban.org/sites/default/files/publication/99647/inclusionary_zoning._what_does_the_research_tell_us_about_the_effectiveness_of_local_action_2.pdf)

<sup>17</sup><https://www.chapa.org/sites/default/files/Center%20For%20Housing%20Policy%20Research%20on%20Inclusionary%20Zoning.pdf>

<sup>18</sup> [https://www.huduser.gov/publications/pdf/awm\\_rep\\_0902.pdf](https://www.huduser.gov/publications/pdf/awm_rep_0902.pdf)

<sup>19</sup>

<http://www.seattle.gov/Documents/Departments/SeattlePlanningCommission/MinutesAndAgendas/IZPolicyBrief.pdf>

<sup>20</sup> <https://www.hud.govt.nz/assets/News-and-Resources/Proactive-Releases/Second-Tranch/c06b6cb7c0/Information-on-the-Built-to-Rent-sector.pdf>

<sup>21</sup> <https://www.productivity.govt.nz/assets/Documents/6a110935ad/using-land-for-housing-final-report-v2.pdf>



some of these reasons, Auckland Council officers recommended not including mandatory inclusionary zoning interventions into the Unitary Plan in November 2020<sup>22</sup>.

### **Inclusionary zoning has considerable administrative costs**

If mandatory inclusionary zoning is to work over the medium to long term, it requires ongoing monitoring, administration and enforcement. Monitoring of NZ's attempts at inclusionary zoning, such as Hobsonville and Special Housing Areas, has been limited, including how many affordable houses were actually built, whether household income limits were met, and whether the houses were held as affordable in the short-medium term.

If Wellington City had inclusionary zoning, Council would have to invest considerable effort to run and monitor the process over time to ensure the affordable houses went to those who need them, and that houses were not on-sold or sub-let for market prices. Contracts and covenants may be needed as well as consent conditions to ensure the house values or rental returns remain at an affordable level for an appropriate period of time, and not on-sold by the housing providers who own/manage them.

### **Effects on overall supply of new houses**

Any inclusionary zoning methods should not have the side effect of reducing the overall number of houses being built. Otherwise, while a few affordable houses may be built, long-term affordability for everyone else is reduced. It is essential to analyse the likely effect on mandatory affordability methods on development feasibility, housing typologies and tenures, and the overall supply and cost of houses.

If affordable houses required in the district plan rely on price differential, we want to ensure this is long-lasting with legally robust conditions and monitoring so that the houses aren't on-sold or sub-let on the open market at a higher price.

If the Council wants to pursue mandatory inclusionary zoning, we would recommend this is done with caution and with a strong evidence and evaluation base. This may include investigating how regulatory incentives (such as those discussed below) and financial incentives (for example lower development contributions, rates and Council partnerships) should be used with mandatory inclusionary zoning to increase its chance of success.

### **Legal challenges**

Mandatory inclusionary zoning has not been tried before in New Zealand. The exception is Queenstown. Its affordable housing system currently applies only to development beyond what is enabled by their district plan (as a discretionary/non-complying activity). The Queenstown-Lakes District Council has proposed re-introducing an inclusionary zoning system alongside an update to their Housing Strategy<sup>23</sup>.

The three risks above make it highly likely that mandatory inclusionary zoning provisions will be challenged in the Environment Court. Even if the district plan provisions are found to be *vires*, Environment Court appeals are merit appeals. Provisions can be overturned on this basis. The RMA Section 32 appropriateness, effectiveness and efficiency analysis, including

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<sup>22</sup> Affordable housing report back: Inclusionary zoning and options for a planning response. Report to Planning Committee. 5 November 2020. File No.: CP2020/15492

<sup>23</sup> <https://letstalk.qldc.govt.nz/planning-for-affordable-housing>

the cost benefit analysis, would need to be sufficient to justify the mandatory inclusionary zoning.

## 9 Opportunities in the new Natural and Built Environments Act

The government announced on 10 February 2021 that the RMA will be repealed and replaced with three new Acts:

- **Natural and Built Environments Act (NBA)** to provide for land use and environmental regulation (this would be the primary replacement for the RMA)
- **Strategic Planning Act (SPA)** to integrate with other legislation relevant to development, and require long-term regional spatial strategies
- **Climate Change Adaptation Act (CAA)** to address complex issues associated with managed retreat and funding and financing adaptation.

The NBA will be processed first, with the Minister for the Environment expecting the complete NBA will be formally introduced to Parliament by the end of 2021. The NBA will consider the problem of housing affordability, as outlined in the Resource Management Review Panel's June 2020 report. The Strategic Planning Act is also likely to focus on the housing affordability issue.

The government will run a submission and select committee process this year on a working draft of the NBA. This is an opportunity for the Council to advocate for new planning and financial tools that could work together to build more houses and better enable a range of affordable housing products.

Local Government New Zealand members have passed a remit to ask the Government to introduce legislation that would “fully enable Councils to address housing affordability in their communities through a range of value uplift and capture tools, one such tool being ‘inclusionary zoning’.”

The Ministry for the Environment and Ministry of Housing and Urban Development are investigating inclusionary zoning tools for the new Act. Council staff from the Wellington metro councils are meeting with Ministry officials to discuss how these tools could work effectively.

## 10 Recommendations

This report recommends:

1. Proceeding with a mix of four possible methods for provision of assisted housing in the draft district plan:
  - **Option 1 Controlled activity:** allow developments of 100% assisted housing to be processed as a controlled activity in residential and commercial/mixed use zones if it meets the zone standards.
  - **Option 2 Height incentive:** enable additional building height to be considered in the City Centre Zone and Metropolitan Centre Zone if assisted housing is provided. This is a matter of discretion that Council can consider as part of “Design Excellence” within these zones.

- **Option 3 Require with additional height:** require multi-unit residential development in all zones that exceed the height or height to boundary standards to pay financial contributions equivalent to xx% of the value of the additional floorspace enabled by the extra height, unless assisted/affordable housing is otherwise provided. *Note the quantum of contribution is waiting on the market economic assessment, but may be around 10%.*
  - **Option 4 Require all developments:** require all subdivisions and multi-unit residential development to pay a financial contribution equivalent to x% of the value of the total floorspace, unless assisted/affordable housing is otherwise provided. *Note the quantum of contribution is waiting on the market economic assessment, but may be around 2%. The amount for subdivisions may be higher if market assessment indicates a significant land value uplift happens when subdivision consent is granted.*
2. Inclusionary zoning contributions should be transferred to Wellington City Council for the Housing Development team to administer. These contributions must be used exclusively for assisted housing, in line with the Housing Strategy and Action Plan. The Council may partner with developers or other housing providers to build this housing.
  3. Consent notices, covenants or similar conditions should be applied to the titles of assisted housing to ensure the houses remain as assisted housing for the medium-long term.
  4. There should be clear and monitorable goals for the Council to check that the assisted housing methods are working as expected.
  5. Take a precautionary approach to inclusionary zoning, if included in the proposed district plan. This means applying rates of assisted housing contributions that do not significantly affect market production of housing, and ramping up over time if appropriate. This allows the effect on the housing market to be monitored, to ensure overall housing supply does not start decreasing or becoming more expensive. The 'develop and build' process takes several years, and inclusionary zoning should be built for the long-term as part of a developing wider assisted housing market in New Zealand.
  6. Aligning policies on assisted housing, including inclusionary zoning, with the Council's other existing policies, such as the Spatial Plan, Te Atakura First to Zero, and the Housing Strategy and Action Plan.
  7. Advise the Ministers of Housing and for the Environment on the powers and direction that should be included in the new Natural and Built Environments Act, so that the Council's work on this proposal can align with the future NBA system across greater Wellington.

## 11 Next Steps

1. 10 August: Meet with staff from Porirua City Council, Hutt City Council, Upper Hutt City Council to discuss options for inclusionary zoning, and how inclusionary zoning could work in an upcoming Natural and Built Environments Plan covering the Wellington metro area.

2. August TBC: Meet with staff from Ministry for the Environment and Ministry of Housing and Urban Development to discuss support for inclusionary zoning under the current Resource Management Act and in the new Natural and Built Environments Act.
3. 23 August: Quantitative economic assessment from Property Economics due, to predict the effects of varying inclusionary zoning contributions on the development of new houses.
4. 25 August: present to councillor workshop on inclusionary zoning options, informed by the economic assessment if available.
5. Late August TBC: Queenstown-Lakes District Council to release their draft inclusionary zoning rules for consultation.
6. September: finalise draft district plan content on inclusionary zoning: initial targets, contribution rates and spatial application.
7. October, as part of draft district plan consultation: meet with assisted housing providers, developers and others to discuss the workability of inclusionary zoning options.

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## **Appendix 1 – inclusionary zoning experiences elsewhere**

### **Auckland**

Auckland's Proposed Unitary Plan (2014) aimed to increase the “intermediate” (assisted) housing market in Auckland through requiring developments of 15 or more new houses or sections to provide 10% of these houses or sections as affordable housing. The rule wouldn't apply to social housing.

The sections or houses had to be affordable for median households (80%–120% median), but the price could be increased if the houses were energy efficient or near public transport.

The Plan would have assessed the housing's design, location, delivery method, eligibility, and retention methods as part of the resource consent application.

The Plan's Independent Hearings Panel did not support these inclusionary zoning rules. The Panel instead enabled considerable upzoning for housing density in the city centre, suburban centres and at key public transport nodes. This was the Panel's main approach to enabling housing supply and diversity of housing types in the city.

The Panel found that developer costs incurred from inclusionary zoning would either be passed onto other housing or result in fewer houses being built, thus there was no overall affordability benefit. Inclusionary zoning also had significant administration and monitoring costs.

Auckland Council reviewed its position on inclusionary zoning in November 2020. The staff paper recommended that inclusionary zoning remain off the table. Instead, the Council should focus on other actions to increase affordable and assisted housing products, such as:

- a targeted rate to support assisted housing delivery providers
- help assisted housing developments get resource consents
- deliver affordable housing on the Council's surplus land
- actions in the Independent Māori Statutory Board's Kāinga Strategic Plan
- advocacy, collaboration and support for the assisted housing market
- waiting on the new policies and rules through the RMA Reform (NBA).

### **Queenstown-Lakes**

In October 2007, Queenstown-Lakes District Council introduced Plan Change 24 to provide affordable and community housing for low-moderate income families. “Affordable” was defined as 30% of low-moderate household incomes, i.e. earning <\$90,000 p.a.

The Council's rationale for inclusionary zoning was (in brief): Queenstown has many outstanding and amenity landscapes that constrain urban development. These landscapes create the tourism industry and support industries. These industries bring in low income workers, who need places to live. The Council can't enable large-scale apartment towers

and urban sprawl because of its landscapes. Therefore, assisted housing is needed to help house these low-income workers.

The inclusionary zoning would apply to rezoned land, and many developments *exceeding* the district plan height/density limits. Developers would need to provide 1 studio unit (or equivalent) per 15 sections, or 18 visitor units, or 183m<sup>2</sup> commercial intensive, or 283m<sup>2</sup> commercial large developments. The contributions could be within the development, elsewhere in the district, or as cash-in lieu.

A portion of these could be sold onto the open market as “affordable” houses. The rest became “assisted housing” and had to be vested with the Queenstown-Lakes Community Housing Trust with a covenant registered against the land title to ensure it remained assisted housing.

The plan change had considerable opposition from landowners and developers. The main initial point of legal challenge was whether housing affordability was even an RMA matter that the district plan could address? The Environment Court and High Court ruled that it was, and it could be.

In the meantime, the 2008 global financial crisis was hitting Queenstown hard. House prices dropped, and large subdivisions like Jacks Point held section sales. This reduced the political impetus for inclusionary zoning, and the plan change was shelved.

The Queenstown Lakes Community Housing Trust was established at this time. It was able to collect new sections and cash in-lieu through private plan changes for greenfield subdivisions (negotiated with the Council), subdivisions under the Housing Accords and Special Housing Areas Act, and contributions from Housing NZ and other sources. The Trust now has 115 properties. The Trust runs a wide range of assisted housing products: progressive ownership (60% of all properties), public housing, affordable rentals, rent-to-buy.

When COVID hit in 2020, housing markets reacted differently than in 2008. Rents dropped more than 20% then started recovering. However, house prices are increasing with median house prices reaching \$1.2 million in April 2021, up by 42.2% from a year earlier.

The Council is proposing to reintroduce inclusionary zoning. They are releasing a draft for early consultation in August 2021. The proposal is similar to the 2007 one, but only targets residential development rather than a range of residential and commercial developments.

## **South Australia**

South Australia introduced inclusionary zoning for government and large residential developments - 15% had to be affordable, meaning less than \$AUD 365,000, or up to \$422,000 if energy efficient and close to public transport. Alternatively the developer could sell the 15% apartments to an assisted housing provider, or partner with this provider.

The developer had to try selling the affordable houses to mid-low income first home buyers, then on open market. Incentives included developer tax breaks, which were negotiated and confidential. A developer could contest the affordable housing requirement if there were a “clear planning rationale”

During 2005-15, the state government stated that 17% of new houses were “affordable”. However other analysis has found that two thirds of these affordable houses were on government land or used government payments. In Adelaide, many residential developments didn’t meet the 15% requirement. Also, the affordable apartments (2300) were sold to investors, but at least 345 apartments should have gone to low-income buyers.

This illustrates the importance of monitoring and enforcement of inclusionary zoning, especially where developer agreements and concessions are involved. Not enough monitoring, enforcement of developers granted concessions. Similar issues have emerged on affordable housing targets that Special Housing Areas under HASHAA were supposed to deliver.

Criticism of the South Australian scheme include concerns that cheaper apartments are paid by higher prices elsewhere, not from the developer margin. Also the houses sold as “affordable” may not stay that way, as buyers can on-sell them in the private market.

### **Sydney’s City West**

The City West scheme in Sydney requires all development to contribute to a non-profit assisted housing trust similar to the Queenstown-Lakes Community Housing Trust. 0.8% of all multi-unit housing, and 1.1% of all non-residential development, must be given to the Trust as finished residential units or as cash-in-lieu.

The Trust now has over 900 assisted housing units. Some of these units are from inclusionary zoning, but most of them come from public money given to the Trust.

This system benefits from being simple, non-negotiable, universal, with low transaction costs. The low rate of contributions means that this inclusionary zoning requirement hasn’t appeared to restrict the number of developments happening in City West. It is an example of how inclusionary zoning can be effective when it contributes into an existing system of assisted housing, mainly funded and run by local government or non-profit organisations.

### **Queensland, Australia**

The Queensland Government has pursued site-specific affordable housing initiatives in recent years through urban renewal projects by its Urban Land Development Authority (ULDA), established in 2007. The ULDA has applied a combination of land supply, barrier reduction, affordable housing incentivisation and inclusionary zoning to large renewal sites in Brisbane.

Land use planning and development are recognised as critical to housing affordability outcomes under the Queensland Government’s ‘Housing Affordability Strategy’ (2007) and Sustainable Planning Act 2009. The Housing Affordability Strategy sets out a series of land and planning initiatives aimed at increasing efficiency and reducing the timelines and holding costs associated with bringing new land to the market. The Strategy commits the Queensland Government to improving housing affordability through reform of the planning and development assessment process, and through the introduction of the ULDA.

Focusing on large residential redevelopment sites in high growth areas, the ULDA specified a target of 15 per cent of dwellings in the ULDA projects to be affordable to those on low and moderate incomes. This target is to be enforced through mandatory planning provisions, with



the percentage of dwellings to meet defined affordability criteria varying by site. Some ULDA schemes also offer a voluntary density bonus in return for affordable housing (to be provided as either a cash contribution or as completed dwelling units, for rent or sale at specified affordability thresholds). In Queensland, 75 single-bedroom apartments have been procured to date (see Table 2 below) and 5 ULDA schemes are underway.

Five of the eight Australian states and territories refer to affordable housing, or housing diversity in their overarching planning legislation, opening the door for affordable housing to be considered when plans are made and proposals assessed, although further work is needed to operationalise specific planning mechanisms in most instances.

## **Copenhagen, Denmark**

### *Affordable housing targets and use of cooperatives*

By Danish law, each municipality is allowed to require that up to 25% percent of its housing stock be affordable housing. Copenhagen has chosen 20%.

Denmark has a greater use of ‘cooperatives’ possibly as many as 40% of housing units in parts of Copenhagen, but some are being broken up as people want to buy their own homes. Housing cooperatives enable groups of people to own their individual homes but share common facilities, such as dining areas and common gardens

The cooperative process is helped by grants from the city councils. The state has controlled land with a land value tax since 1924, based on the market price of land, revalued every two years. Land tax is payable to the local authority and county based on a thousandth share of the value of the land. The tax goes first to the government, and supplements the income tax, which is then returned to the municipality based on a formula.

### *Land is allocated to development of assisted and social housing*

Denmark boosts housing supply by attracting private investors and developing new sites for residential building via land reclamation and on former protected areas.

Using strategic housing sites and public owned (either local or central government) land for housing has helped to keep development affordable. Copenhagen uses a hybrid model for financing urban development and infrastructure that relies on pooling public land assets. Using Public Asset Corporations to pool land that is publicly owned but privately managed is cost and time effective, and helps capture land value uplift to fund infrastructure.

Access to cheap finance helps develop sites rapidly and in ways that meet community needs. By having a board made up of business representatives, government officials and local politicians, the corporation is able to take a long-term view, and invest in projects that the private sector would find too risky. Developers and social housing corporations are then allocated land to build market housing and assisted/social housing.

### *Assisted communal housing developments*

The “Social Housing Plus” (“AlmenBolig+”) concept (SH+) was developed by the Copenhagen Social Housing Association (KAB) from 2007 to address a lack of affordable housing in Copenhagen after rising house prices. The concept was a reaction to the former Mayor of Copenhagen’s goals to build 5,000 affordable houses did not include assisted

housing providers as partners. The concept aims for a rent level 30% lower than comparable new housing, based on:

- 10% reduction in production price compared to “normal” social housing through large tenders, standardised housing and prefabrication
- Low-energy buildings
- “Basic concept” buildings with many interior elements left to the residents
- Residents responsible for shared outdoor areas and much of the building operation, and reducing maintenance costs in the first years

The main target-group for SH+ concept are “core-workers” (typically articulated as “policemen and nurses”), who normally struggle to find an affordable house in Copenhagen, but who do not want to be part of social housing/welfare. The self-management concept of SH+ is functioning as expected, and brings a sense of ownership to the buildings and neighbourhood, in contrast to the welfare approach of social housing.

## **Germany**

Germany has a range of assisted and social housing types. They also apply rent caps and public rent subsidies to mediate hotspots. In 2006, the federal government devolved responsibility for housing supply (including social housing) to state and municipality governments. Assisted housing and social housing is taken on mainly by municipalities.

Many German cities provide social housing through independent, not-for-profit organisations, termed ‘Municipal Enterprises’. Municipal Enterprises work alongside local and state government to provide social housing but can act independently.

Low-income households often receive rent subsidies for market housing.

De facto social housing (housing cooperatives) refers to a variety of low-priced housing managed by housing cooperatives and social unions, but today it is run primarily by municipal housing companies (50% of this stock had originally been state housing). These municipal companies usually rent their units for well below market-rent in order to provide dwellings according to welfare legislation such as for low income, vulnerable or refugee demographics.

Housing co-operatives are a middle course between rental and owner-occupied housing. Members purchase a share in the co-operative, which gives them access to a home to rent, at a rate which is frequently below market rental rates. In general, the cooperatives do not sell their rental property and members enjoy security of tenure through a perpetual lease.

Joint venture buildings (‘baugruppen’) are also an alternative pathway to home ownership. These are self-financed communal housing projects with community spaces or common facilities.

## **Scotland**

[content from John McDonald to be added]

## **London, United Kingdom**

*Right to Buy and Help to Buy schemes*

In 1980, Margaret Thatcher introduced “Right-to-Buy” which let social tenants buy their homes at a significantly subsidized price. This is a major factor explaining the significant rise in homeownership in the UK from 1980 until 2002.

The “Help-to-Buy” policy was introduced in 2013. The aim was to stimulate housing demand through equity loans, mortgage guarantees, shared ownership, and a “new buy” scheme only required a 5% deposit for new-builds.

#### *Minimum affordable and assisted housing*

Local councils in England rely substantially upon the planning system to enable them to build new affordable homes, but negotiations between local authorities and developers over development contributions and agreements vary substantially between regions and over time. They are typically reduced during periods of economic recession, and in areas of low demand. They are also shaped by place-specific conditions.

In London, having a proportion of social and affordable housing as a condition of planning permission is generally accepted.

As a precondition of planning permission for large scale developments (triggered at the point of 10 or more residential units), developments are required to provide an affordable housing contribution. Local councils can set specific thresholds for affordable housing and the tenures of affordable housing. Developers must generally make an on-site contribution. In other cases, developers may offer a sum of money to the local authority in lieu of providing affordable housing.

While planning policies require a specific minimum percentage of affordable housing, the empirical evidence shows that the expected numbers often do not materialise. It is also the case that, when affordable housing is delivered as part of a residential development, it is frequently in the form of shared ownership rather than social rent, as the former is the tenure preferred by developers.

Where schemes do not provide the specified percentage of affordable housing, developers must provide financial viability assessments to demonstrate the contribution that can be made. Developers and the Council then renegotiate S106 contributions towards affordable housing on the grounds of viability, responding to site and scheme specific circumstances or changes in the wider housing market. Since 2012, negotiations on the grounds of economic viability have been used by developers to justify lower levels of affordable housing than the local targets require based on the specific economic viability of the scheme. On the other hand, Councils have used this process to increase the contribution from the initial offer presented (sometimes developers propose 0%), based on a review of the financial viability assessment. Either way, this is a complex and costly tool. Councils need specialists to assess these. Many councils have to outsource the assessment or they accept low offers from developers because they don't have the expertise to argue viability.

In order to incentive the delivery of affordable homes, and provide more certainty to developers, the London Plan introduced a Fast Track Route through the planning system for developers that provide at least 35 per cent affordable homes without public subsidy, (or 50 per cent on public land or industrial sites) and where the offer delivers a specified mix of tenures (social rent and intermediate). The benefit to developers is to avoid complex viability

assessments. It also incentivises applicants to implement planning permissions within two years. Financial and other support from the Mayor, councils, and housing associations can then be used to increase the proportion of affordable homes towards 50 per cent and above.

Schemes that do not meet the threshold are subject to a detailed viability analysis under a consistent methodology with clear review mechanisms. The approach aims to encourage landowners and developers to work on the assumption that, in as many cases as possible, their sites will need to provide at least 35 per cent affordable homes – thus embedding the cost of doing so within land values.

The overall aim is that the new fast track threshold approach, coupled with a consistent viability analysis methodology, will both increase the number of affordable homes and speed up the planning system, thereby ensuring more homes are built faster.

#### *Assisted housing helps low-income earners in unaffordable London*

London is very expensive compared to the U.K. overall. House prices were four times earnings in 1997, but by 2016 the ratio had risen to around 12. The 2008-2009 crash, when prices fell more than earnings, caused only a temporary improvement in affordability.

London's success depends on people from a mix of incomes and backgrounds being able to live in the city. Social housing is the basis of having a mixed city, yet for many years, London has failed to build enough new genuinely affordable homes which has put London's existing housing stock under increasing pressure.

The London Plan approach is committed to investing in homes based on social rent levels for Londoners on low incomes. This includes investing in London Living Rent homes for middle income Londoners struggling to save for a deposit, as well as investing in shared ownership homes for Londoners who cannot afford to buy on the open market.

The Mayor is investing £4.82bn funding to support 116,000 affordable home starts by 2022. This approach will also necessitate the need to work with others so that London's surplus or under-used publicly-owned land can support more genuinely affordable homes, with clear targets for land.

The Mayor wants social houses sold through the 'Right to Buy', or demolished for redevelopment, to be at least replaced on a like for like basis. For large schemes where demolition is involved, the Mayor will only agree to provide funding where there has been a successful ballot of existing residents. He will also support a more efficient use of London's social housing, including helping tenants who want to move to more appropriate homes.

An analysis of major residential applications (more than 10 residential units) across London (excluding permitted development rights schemes) indicates an average of 34% overall affordable housing provision since publication of the Affordable Housing and Viability Supplementary Planning Guidance (SPG, August 2017). This is well over double the low point of 13% residential approvals reached in 2014/2015.

#### *Grants and incentives for affordable and assisted houses*

Affordable housing provision is underpinned by significant central and local government funding and investment.

A developer-led route offers Greater London Authority (GLA) grant at a fixed rate per affordable home, to increase the level of affordable housing above the level viable without grant. In cases where this grant enables the level of affordable housing to be increased to 40 per cent or more, it can be applied to every affordable home within the scheme. This creates a significant financial incentive for developers to increase the number of affordable homes in their schemes. In November 2016, the Government funded £3.15 billion to support 90,000 genuinely affordable home starts.

The 'Homes for Londoners: Affordable Homes Programme' helps housing associations, community groups, councils, and private developers to build new affordable homes in London. It explains how to seek funding from the Mayor and any rules that apply. The funding supports a range of types of affordable homes, chiefly:

- Homes based on social rent levels - for people on low incomes;
- 'London Living Rent' homes - helping Londoners on average incomes save for a deposit to buy their first home; and
- 'London Shared Ownership' homes - for people who want to buy but cannot afford the open market.

An Innovation Fund supports providers who want to deliver affordable housing using Greater London Authority investment in an innovative way, such as community-led housing, precision-manufactured housing and new accommodation for homeless households.