

Inclusionary Housing

A Path Forward in Aotearoa
New Zealand



Community
Housing
Aotearoa

NGĀ WHARERAU O AOTEAROA



Affordable, healthy homes are at the heart of strong communities. Like clean water, like hospitals, like transport, they are essential infrastructure in the lives of our people.





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Foreword

Queenstown Lakes is not the first place that springs to mind when you think of affordable housing. And quite rightly with entry level homes starting at \$1 million, and the average rental property costing around \$750 per week.

However, this problem is not new, and in 2007 our local Council acknowledged the lack of affordable housing and acted upon it by initiating the formation of our Trust (QLCHT). As an independent, not-for-profit registered Community Housing Provider (CHP), we maintain a strong relationship with Council and share the common goal of creating decent, secure and affordable housing for our community.

QLCHT has one very unique point of difference from most other CHPs around the country, and that is the benefit of a special process called Inclusionary Housing (IH). Facilitated by Council, this planning tool has resulted in QLCHT receiving around \$25m in land and cash contributions from developers over the past 15 years. In turn, this has enabled us to assist hundreds of locals into homes to call their own.

We operate broadly across the housing continuum, having assisted 170 households into our assisted ownership programmes, 12 households into rent-to-buy, and 59 households into Assisted Rental, Public Housing Rental and Senior Housing properties.

Due to the unique issues within our district, we have a particular interest in prioritising key workers such as teachers, nurses, police and social workers. However, beyond this we are also housing regular individuals, couples and families, most of whom are working full time and form part of the fabric that makes up our special community.

In 2018 we set the big, hairy, audacious goal of providing 1000 more homes over the next 10 years. Although we are still a long way from this target, we believe it is achievable with planning mechanisms such as IH, which will enable us to scale up.

We welcome this report from CHA and their ongoing commitment to advocating for Government legislation to enable more Councils to implement IH provisions into their District Plans. Just think how many more thousands of whānau could benefit from affordable and stable housing!



Julie Scott, CEO,
Queenstown Lakes Community
Housing Trust





It is no secret that Queenstown Lakes has one of the worst longstanding housing affordability rates in the country, despite our efforts and indeed the efforts of the development market to develop land and housing. Over the past 15 years, this Council has been at the forefront of initiatives to try and address this, setting up the Queenstown Lakes Community Housing Trust (QLCHT) and initiating an early form of Inclusionary Zoning¹.

Through those original initiatives, and more latterly through using a similar approach in Council approving Special Housing Areas, QLDC have been able to deliver land to QLCHT that they have then used to deliver around 110 affordable houses to date with almost a further 150 in the pipeline. This is a direct result of the Inclusionary Zoning approach whereby a portion of development land is retained as a community investment for the supply of perpetually affordable housing. This has resulted in nearly 250 households being homed by QLCHT over the 15-year period.

That has made a significant and lasting positive effect on the households going into those houses – households who have been able to have certainty of tenure and ownership that has then enabled them to put down roots in the community.

So firm in our belief that this is fundamentally a good thing and is needed if we are to try and address at least a small portion of housing affordability in our District, that this Council will shortly make another attempt at getting Inclusionary Zoning provisions into our District Plan, imbedded for the future benefit of our community.



Jim Boulton ONZM
Mayor, Queenstown Lakes District Council

¹ Inclusionary Zoning is another term for the process which we refer to as Inclusionary Housing.

Introduction

Affordable, healthy homes are at the heart of strong communities. Like clean water, like hospitals, like transport, they are essential infrastructure in the lives of our people. Yet, even as we reckon with our decades-in-the-making housing crisis, we are yet to establish a planning tool that explicitly generates affordable housing.

Decades of under-supplying lower-quartile value homes have culminated in ever-increasing housing affordability stress and homelessness in Aotearoa New Zealand. It is a key reason why the private rental and homeownership markets have become increasingly inaccessible for the ‘intermediate market’ of income-earning people.

It is well-recognised that new supply is important in addressing our housing crisis and as a peak body for the community housing sector, Community Housing Aotearoa supports the efforts being made in the Resource Management Act reforms to incentivise new supply.

However, the evidence shows that *supply alone does not guarantee affordability*, and it especially does not incentivise ongoing, or retained, affordable housing. The private market has not, cannot, and will not deliver truly affordable homes nor substantively improve affordability without intervention, necessitating policy responses which are proportional to the magnitude of housing need in Aotearoa New Zealand.

At Community Housing Aotearoa, we have consistently advocated for Inclusionary Housing as one such intervention which should be integrated into our housing toolkit through legislation.

This paper is the third in our series on IH and builds on the work of the previous two papers to answer the specific question of how to design an IH policy approach suited to our local contexts and our critically urgent need for more affordable homes.

We discuss the latest local and international evidence on the unintended consequences of the liberalisation of planning regimes without an affordability tool in place; investigate the ingredients for success in various IH models; and make recommendations about how we may seize the moment presented by the RMA reforms to support inclusionary housing through law.

Fundamentally, this paper evaluates the “why” and the “how” of Inclusionary Housing in Aotearoa. ‘Why’ IH is a necessary addition to our housing system and ‘how’ government can most effectively enable IH to deliver affordable homes.

We also discuss the ways that IH can strengthen the community housing sector, which is expert at delivering developments for lower income households and is driven by the purpose of ensuring everyone has a decent home as a right.



Definitions

What is Inclusionary Housing?

Inclusionary Housing (IH) is a planning tool commonly used overseas that requires or provides incentives for private developers to incorporate affordable housing into developments. Under this regime – for projects over an agreed size or number of units - developers set aside a proportion of that development for ‘affordable housing’, land, or payment in lieu, often vested with not-for-profits for the purposes of providing affordable rental and homeownership options.

Seen in this way, IH is simply a trade between private developers and the councils who uphold and protect the interests of their communities. In exchange for meeting these social expectations, developers are granted license to operate in an area and benefit from planning uplifts associated with council activities.

There are many options for how IH is implemented by councils to meet the needs of their community. Some decisions which councils have to make include: determining the community’s housing objectives; deciding a process for how IH contributions will be calculated and transferred; and determining a mechanism for retaining the affordable homes created.

A significant aspect of IH is that it is a supply-side response which increases the volume of affordable homes in a community (Pawson et al., 2022). This will provide a counter-balancing force to the current government approach of demand-side responses which can fuel further rent and house price rises in an already expensive market.

While it is mainly discussed as a tool to create the conditions for affordable housing, IH is also a key mechanism to support the different types of homes that may be lacking in a community. For example, where there is a higher need for smaller, accessible homes for an older population. Ultimately, it is about creating communities that offer a wide range of housing options for a wide range of households.

What is Affordable Housing?

There is no definition nor agreed upon understanding of “affordable housing” in Aotearoa New Zealand. There is also much confusion between housing affordability and affordable housing, likely due to the lack of an adopted definition. CHA’s position is that adopting a threshold for housing costs at or below 30% of gross household income is a definition of affordable that we should be measuring Aotearoa New Zealand’s performance against. Internationally, it is common for governments to adopt a formal definition and to base their housing interventions on addressing shortfalls in the provision to the agreed definition.

Although Public Housing² in Aotearoa New Zealand meets this definition of affordable housing, it is the recommendation of this paper that contributions accrued through Inclusionary Housing programmes are used to deliver affordable housing options which are not already subsidised as Public Housing. IH is intended to act as additional lever for the provision of affordable housing options which are separate from but supplementary to, existing funding approaches which subsidise the provision of affordable homes.

² Public Housing (previously “Social Housing”) is subsidised rental housing receiving the Income Related Rent Subsidy administered by the Ministry of Housing and Urban Development along with the Ministry of Social Development. The tenancies are managed by Kāinga Ora or registered Community Housing Providers.

A working distinction offered by Local Government New Zealand is helpful to understand two common lenses:

Housing Affordability – Urban lens

The overall price levels in the market, canvassing all types of housing consumption in the aggregate. Improved affordability means more housing consumption (i.e., quality and size of housing) for the same price or equal levels of housing consumption for a lower price.



Affordable Housing – Housing lens

Individual housing units that are affordable for households with below to median income, and/or individual housing units at below market price (subsidised) made available through some provider, such as central government (Kāinga Ora), local government (councils) or community housing providers (CHPs), including iwi authorities. Homes provided by Kāinga Ora or registered Community Housing Providers through the Income Related Rent subsidy are also referred to as “public housing”.



Background and Context

With the current housing environment limiting many households' ability to realise their right to a decent home, councils are examining how IH programmes have delivered affordable homes domestically and internationally and how IH could be most effectively implemented to meet the needs of their region. Our papers have built on much of the work conducted by councils in their design and feasibility testing of Inclusionary Housing in their communities.

CHA is not alone in our advocacy for IH. We are supported by Local Government New Zealand (LGNZ) and the many councils who see the value in IH as a mechanism for providing affordable homes to their communities. CHA began working with LGNZ to coordinate our activities and provide joined up input to a local government/central government/community housing working group throughout 2021. This group has at times included participants from the Ministry for the Environment, Ministry of Housing & Urban Development, and The Treasury. The focus has been on exploring how IH could be enabled through the RMA reform legislation, the policy rationale for IH, and practical legislative requirements.

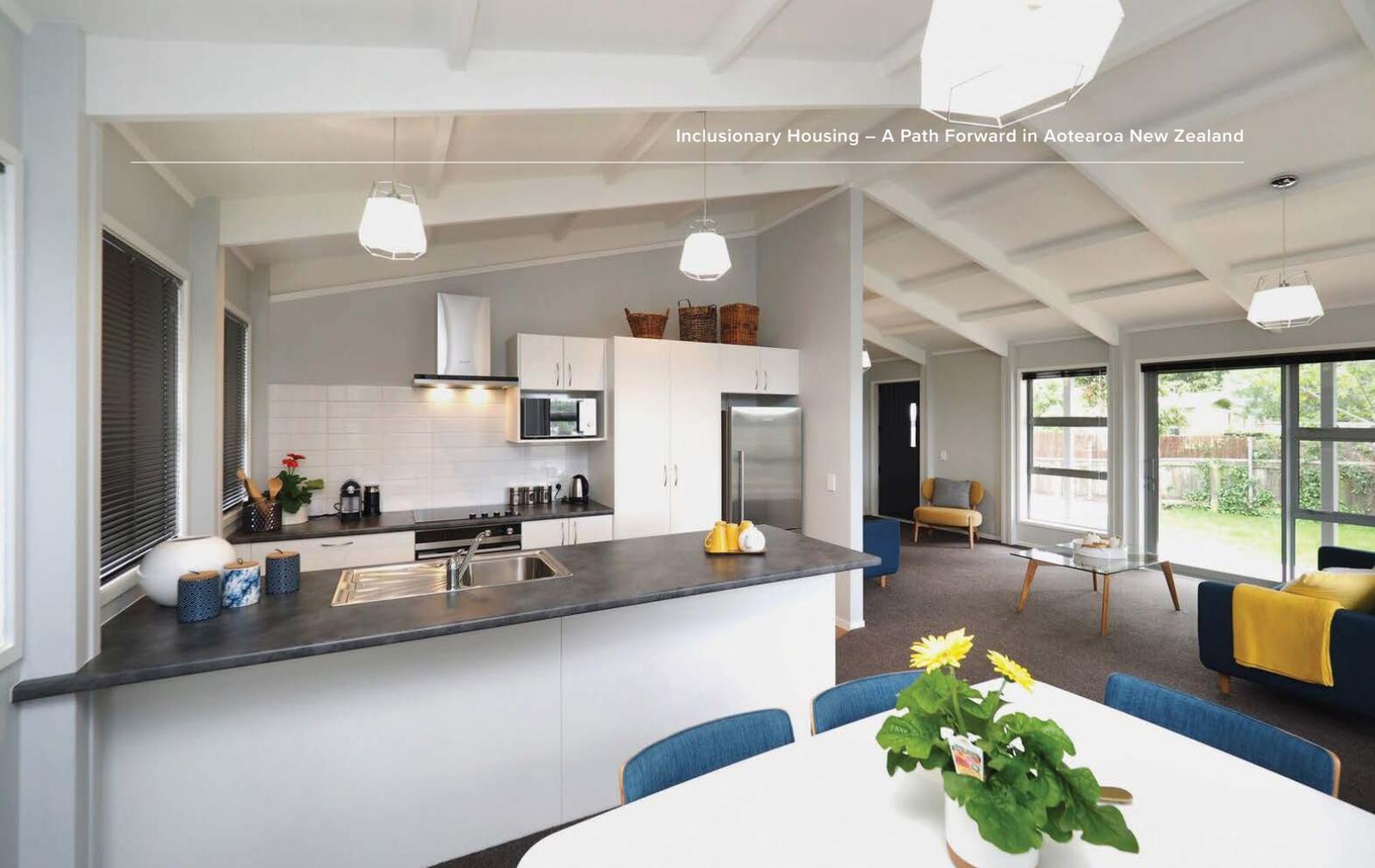
There is much work still to be undertaken to implement IH in Aotearoa New Zealand. Importantly, engagement with iwi and Māori to ensure exclusion of their land from IH requirements is required. As a starting point, all land subject to the Te Ture Whenua Act 1993 should be exempt.

This report and our two previous papers have benefited from decades of work by council planners across the country. This paper draws from, consolidates, and supplements many of their efforts.

CHA's Previous IH Papers

This paper is the final in a series analysing Inclusionary Housing in the Aotearoa New Zealand context. The first paper, *Is there a place for affordable housing planning requirements in New Zealand?* was released in November 2020 and documented the rapid decline of low-median value homes since the 1990's and reviewed evidence on IH. The paper identified good design principles for IH to be effective which are incorporated in the recommendations herein.





The second paper released in June 2021 analysed the *Affordable Housing: Enabling Territorial Authorities Act of 2008* for lessons and identified a solid policy framework which remains largely applicable in the current context. The Act was repealed prior to implementation by councils so its effectiveness remains unknown. Queenstown Lakes District Council (QLDC) has progressed IH, but faced legal challenges that remain unresolved. In this space of legislative uncertainty, few councils have been willing to progress IH programmes without explicit authority. As land prices have continued to escalate and the viability of affordable housing provision diminishes, some of them are now willing to face the legal questions that remain under the RMA.

Council Activity

Alongside these papers and the initial RMA reform work, there has been a significant interest in and work completed by councils on Inclusionary Housing. This interest is evidenced in the remit passed by Local Government New Zealand at its Annual General Meeting in 2020, which stated that LGNZ:

“Calls on 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’.”

Since that call was made, several councils have proceeded to advance prospective IH programmes through their district planning processes.



Queenstown Lakes District Council

QLDC has utilized IH since 2003 to capture a portion of the value created when land is up-zoned. The policies have provided nearly \$25m in funding and land for its community housing trust. It faced pushback at the outset of the programme and following years of legal challenges and appeals, QLDC made significant compromises that limit the effectiveness of the IH provisions in its District Plan. Throughout this process the Environment Court has repeatedly ruled that IH provisions are consistent with the Resource Management Act, but it hasn't ruled on the legality of specific design features of such provisions (and there are many choices to make). In 2010, the Environment Court, in addressing QLDC's Plan Change 24, accepted that the AH:ETA was complementary to RMA processes and that affordable housing was not prevented from being addressed under the RMA ([2010] NZEnvC 234).

QLDC's IH policies have garnered widespread public support. In a recent review of QLDC's own IH policies through their District Plan consultation process, 71% of submissions supported the expansion of IH provisions to include mandatory contributions on all developments and 86% of submitters supported IH provisions generally (Queenstown Lakes District Council, 2021b). After decades of success with an incentivise-based model of IH, QLDC's preferred option is that all new residential developments include mandatory retained affordable housing contributions (Queenstown Lakes District Council, 2021a).

This paper draws from many of the successful elements of QLDC's IH programme to inform our recommendations for the implementation of a national IH framework.

Hamilton City Council and the Future Proof Partnership

Hamilton City Council is also actively pursuing new tools to address housing need. In response to a 39% house price increase since 2016, Hamilton City Council included in their Action Plan their intentions to “undertake a report examining the potential to introduce Inclusionary Zoning [Housing] into the District Plan” (Hamilton City Council, 2020). Hamilton CC cites the success of Queenstown Lakes District Council in their decision to support the establishment of a Waikato Community Lands Trust to provide a vehicle for retained affordable homes, including those generated through any future IH policies (Hamilton City Council, 2021).

The Council is also considering how it might promote the provision of affordable housing and jointly exploring potential pathways with Waipā District Council and Waikato District Council through the Future Proof Partnership. The Partnership and the councils have proceeded to investigate adopting Inclusionary Housing and commissioned housing needs and economic assessment reports. The *Waikato Affordable Housing Issues and Options* paper provides a good overview of the RMA-related issues related to adopting IH. The analysis concludes that careful design can address those issues (Hill Young Cooper Ltd, 2021).

Wellington City Council

Wellington is estimated to need 30,000 affordable homes over the next 20 years (Wellington City Council, 2018). Delivery of this quantum of new homes without new tools is simply not realistic. Wellington City recently consulted on IH options that they termed ‘Assisted Housing’³ in a process to inform their Draft Proposed District Plan. Assisted Housing was proposed to be required for new housing and commercial developments in identified growth areas where additional height has been enabled. The Draft Proposed District Plan proposed that 10% of relevant new developments would be built as ‘assisted housing’ or for the developer to pay a financial contribution of \$125/m² of net new floor area.

Of four options presented to the public, many submitters expressed strong support for voluntary or compulsory Assisted Housing provisions. Developers and property owner/investor groups largely opposed the assisted housing provisions. Kāinga Ora also opposed the assisted housing provisions, stating that the District Plan and the RMA are not the right tools to manage these issues. It went on to describe the provisions as unlawful under the RMA without providing any rationale for this statement.

³ Wellington City Council’s Draft District Plan describes ‘assisted housing’ as “residential units occupied by low to moderate income households at below-market rates, coordinated long-term by central government (for example Kāinga Ora), local government, iwi authorities, or community housing providers”.

Despite strong public support for the programme, councillors removed those provisions from the approved Draft for consultation on 23 June 2022. Strong opposition from some private property developers and a belief that increased density would provide affordable homes were identified as the reasons. As explained later in this paper, these conclusions are not supported by the evidence.

Wellington City Council's current work on its Draft District Plan demonstrates that councils desire to proactively address the housing affordability challenges they face, but encounter entrenched opposition from some developers and a belief that market based supply-side solutions are sufficient to resolve our housing affordability crisis. They are enabling more development and higher densities, but are unclear on ways to ensure that affordable homes are actually delivered instead of simply hoping this may result. The submission by Kāinga Ora also demonstrates the confusion swirling around adopting such approaches under the RMA.

This paper seeks to challenge some of these commonly-held myths surrounding Inclusionary Housing. We are encouraged and empowered by the widespread support from the public and the extensive work completed by the planners within Wellington City Council in progressing IH.

Other Councils' IH Activities

Auckland Council's Submission on the Resource Management (Enabling Housing Supply and Other Matters Amendment) Bill states that the enablement of IH would "make a meaningful difference" to affordable housing in Auckland (2021). This is significant given the previous implementation of a flawed IH policy in Auckland's Special Housing Areas resulted in a short-lived and largely ineffectual programme. Auckland Council are persisting with their advocacy of IH recognising its potential value in delivering affordable homes when implemented within a national framework and with a robust configuration.

Christchurch City Council (2021) is also examining the potential of IH to be adopted into the Christchurch District Plan. CCC are advocating for and supporting the advocacy of LGNZ for the enablement of IH through the Resource Management Act reforms.

These are just some of the examples of how councils across Aotearoa are responding to the house price and rental rises which are damaging the wellbeing of their communities. The success of QLDC's IH provisions are a shining light for these councils, many of whom want to emulate QLDC's success but are hesitant to do so under the current conditions of legislative uncertainty. It is within this context which this paper is written.

Throughout various consultation processes, councils have consistently been empowered in their exploration of IH by strong levels of public support. It is no surprise IH is so popular given the prevalence of unaffordability across Aotearoa and the proven efficacy of IH in generating affordable housing to meet local need.



Rationale for Inclusionary Housing in Aotearoa: The ‘WHY’

Rationale 1: IH is a Proven Housing Tool

IH is a domestically and internationally proven tool for generating affordable homes in extremely unaffordable housing markets with high land prices. Case studies in Australia, the United States, England, and of course, our very own Queenstown Lakes District, have demonstrated the efficacy of IH to generate affordable homes in a range of housing, planning, and statutory contexts. IH is a tool which can deliver for the ‘missing middle’ of households who don’t need or qualify for significant support provided by public housing to access or maintain a home, they just need an affordable rental or progressive home ownership option.



Queenstown Lakes: A Local Success Story

The success of Inclusionary Housing in Queenstown provides a local example of how it could be implemented by councils across Aotearoa. The local housing market continues to be unaffordable for most key workers, but hundreds of long term rental and ownership opportunities are made available through a local partnership between the District Council and the Queenstown Lakes Community Housing Trust (QLCHT) as a result of IH.

As of June 2022, QLDC’s mandatory and optional IH policies have generated \$24.7 million in contributions towards the development of 243 affordable homes. These homes are retained by QLCHT to provide affordable rental options or by low-income households in QLCHT’s progressive homeownership programme. The success of QLDC’s Inclusionary Housing policies have encouraged other councils to investigate how it could be emulated in their communities. IH proved its value to the Queenstown community, providing a tested vehicle for the creation of affordable homes in Aotearoa.



England: ‘Business as Usual’ for Housing Developments

Recent examples in England of Inclusionary Housing (named S106 contributions after the statutory provision which enables it), have demonstrated the effectiveness of IH as a means of delivering affordable homes.

In the 2020 financial year, 44,000 affordable homes were delivered by private developers through S106 provisions as a contribution from market value developments (Lord et al., 2021). Section 106 contributions are negotiable agreements between developers and the council to provide a certain percentage of a development as affordable homes (or in-kind contributions) with some density or rezoning allowances often being made to maintain viability.

S106 have become an expected part of the development process with most significant issues being the negotiability of contributions relative to the viability of developments meaning some developers can game the system through a “viability charade” (Crosby, 2019; Lord et al., 2021). Despite this, the policy has been effective at delivering affordable housing for decades and has contributed to England’s community lands trust sector being one of the most mature in the world.



Australia: Enabled by Central Government, Implemented by Local Government

In Australia, South Australia and New South Wales have similarly implemented IH policies to deliver affordable homes. South Australia’s mandatory IH policies have targeted large scale developments and rezoned growth areas to yield 5,485 affordable homes from 2005-15. SA endeavours to deliver 15% of all new supply as affordable homes (Gurran et al., 2018). NSW operates an incentive-based IH programme which encourages the provision of affordable homes by way of density bonuses or streamlined consenting. AHURI estimates that approximately 2,000 affordable rental properties have been delivered through NSW’s IH programme since 2009 (Gurran et al., 2018). These programmes were enabled by Australia’s central government creating the statutory potential for local governments to choose how, when, and where they would implement IH.



The United States: The Many Faces of IH

886 jurisdictions across the USA have implemented some form of inclusionary housing programme, generating approximately 173,707 affordable units and \$1.7 billion USD in impact or in-lieu contributions (Thaden & Wang, 2017). 1,379 inclusionary housing programmes are utilized across the 886 jurisdictions which demonstrates its ability to be configured to deliver in a wide range of housing markets.

IH programmes in the United States deliver both rental and homeownership products to very low-, low- and moderate-income households. The most common IH models mandate the provision of affordable units for sale and rental. The implementation of IH across the US is testament to the malleability of IH programmes to deliver in an array of housing markets.

Around the World: A Proven Concept

Many more countries have implemented some form of Inclusionary Housing including Austria, Netherlands, Canada, France, and Ireland, among others (Lawson & Ruonavaara, 2020). It is most commonly used in housing markets where house prices are high relative to local incomes. Time and time again, affordable homes have been generated at little or no expense to ratepayers by capturing unearned benefits passed onto landowners through the use of IH planning tools.

Some localities in the US have also implemented Linkage Zoning programmes associated with commercial developments.

Linkage Zoning is a targeted approach utilised when infrastructure improvements are made which substantially lift the value of nearby properties which benefit from the public investment to deliver the infrastructure.

In Aotearoa New Zealand, a good example is the City Rail Link project in Auckland. The economic analysis completed by Auckland Council demonstrates a windfall gain that can partially offset the project costs by linking rates in the zone benefitting from the gains.

Tying the revenues to delivery of affordable homes around the transit line would achieve multiple social and environmental goals. The Government Policy Statement – Housing and Urban Development identifies a priority to:

“ensure local government and central government agencies have the right funding tools available (including value-capture tools and infrastructure pricing), and the right incentives to use them”.



Rationale 2: Current Approaches Will Not Generate Affordable Housing

The current supply-side government approach to addressing housing unaffordability in the RMA reforms have ostensibly centred on the liberalisation of land use in the belief that this will generate sufficient new housing supply to improve affordability. Cameron Murray describes this as the “housing supply myth” (2020) which has been challenged for its efficacy in generating affordable homes (or substantively improving affordability) without being implemented alongside other tools.

We should be clear about what land use liberalisation can and cannot achieve. The Sense Partners and PwC’s Cost-Benefit Analysis of the Medium Density Residential Standards (MDRS) clarifies some of the limitations of land use liberalisation in generating affordability or affordable housing (PWC & Sense Partners, 2021) The report suggests the MDRS “reduces this transfer of wealth over time by narrowing the gap between the rate of real wage growth and the rate of housing price growth.”

Instead of addressing the magnitude of existing unaffordability, the changes are forecast to mitigate further increases in unaffordability relative to the forecasts in the current planning system. These changes are a step in the right direction but only entrench the current level of unaffordability without mandating the production of any homes which are truly affordable relative to incomes.

The MDRS report examines land-value shocks which are associated with land use liberalisation. These unearned benefits of the planning system are captured by property owners (including land speculators), furthering the divide between land owners and others. With the right tools in place, portions of these “land-value shocks” could be captured and employed for public good. Inclusionary Housing is one such example of a “value capture” tool which redirects some of this value to affordable housing. Vesting current and future solutions to affordability in widescale rezoning and land-use liberalisation regimes – without a value capture tool in place - incentivises speculation as private entities endeavour to capture land value windfalls associated with rezoning. Bradley (2021) describes this below:

“When planning for housing is understood as the deregulation of land markets and the provision of opportunities for the private capture of ground rent, the resulting increase in speculation comes at a cost to the delivery of new homes.”

We also retain concerns market manipulation and logistical constraints may hamper the actual development of the increased supply forecast by PwC and Sense Partners. Recent supply chain issues, related increases in development costs, and labour shortages have put significant pressures on the delivery of new homes. The efficacy of similar land use deregulation programmes in England have been plagued by purposive and logistical inefficiencies. When English planning authorities were required to rezone land for the purposes of easing housing production, average build-out rates more than doubled from two years to five years (ChamberlainWalker & Barratt Developments Inc, 2017). Developers often set unit completion targets at an 'absorption rate' to ensure that markets were not over-saturated. Letwin 2018 describes the development in local markets as "organised around the expected 'absorption rate' for the kind of homes being sold by the house builder at the price baked into the land value". Any additional supply being built in local markets was to meet rather than exceed demand and depreciate prices.

Land use liberalisation will likely not substantively improve affordability nor produce affordable housing as they are defined in this paper. By allowing and incentivising development at greater densities it may change the composition of our housing typologies to smaller homes with lower associated prices, but this does not necessarily satisfy the definition of affordability. Instead new homeowners are simply decreasing their housing consumption at the same or greater \$ per m². This is a desirable outcome as smaller homes and apartments may become more accessible to lower incomes, but we should not be satisfied that this is sufficient to address the magnitude of housing need that exists in Aotearoa New Zealand.

The stagnation of incomes and rising costs of living may undermine the efficacy of supply-side land use deregulation to improve affordability.

Land use liberalisation is a part of the solution to addressing our housing affordability crisis, but it should not be considered the solution. We will not simply build ourselves out of the affordability crisis. Recent experiences demonstrate that house prices are responsive to a number of factors such as monetary policy and debt access/serviceability, but there is little evidence to suggest that developers are market-makers capable of or incentivised to increase affordability by generating new supply. Demand-side (more responsible lending practices to investors) and supply-side (Inclusionary Housing) policies also need to be implemented to ensure that any benefit associated with the liberalisation of land use is captured by those the market is currently failing.

If the objectives of the MDRS (and widescale land use liberalisation programmes generally) are to address forecast affordability needs via greater housing supply and density, Inclusionary Housing is congruent and supplementary to these aims while generating truly affordable homes. Internationally and domestically, IH programmes have encouraged developers to build to maximum allowable densities and had little impact on housing supply.

Rationale 3: IH is Financially Feasible

The financial feasibility of IH is a question that central and local government alike are keen to answer, and it is important to demonstrate to developers that it is viable. Evidence from here and overseas shows that IH is feasible when it is built upon market area specific economic analysis.

Feasibility of Residential Developments

One of the key arguments against IH is that it will stop or reduce developments by making them financially infeasible. This ignores the residual land valuation approach utilised in real estate development decision making. The Housing Technical Working Group’s (2022) recent paper confirms that the adoption of IH in the Aotearoa New Zealand context would deflate land values, but would not affect housing supply or rent. Whilst a suddenly imposed application of IH can create a shock disrupting the market (the opposite of the value uplift shock documented with the sudden loosening of density controls) a phased approach will allow future land transactions to incorporate the requirements. It will also discourage landbanking and incentivise existing developable sites to begin construction prior to the IH requirements coming into force.



Feasibility studies completed in Queenstown (Sense Partners, 2020) and Wellington (Property Economics, 2021) in support of their proposed District Plan changes provide current evidence that IH will not make development infeasible in those communities. A prior study in Auckland simulated IH for retained housing showed requirements of up to 20 per cent of a development did not affect the feasibility of residential developments in greenfield areas or high value brownfield areas (Murphy and Rehm 2013).

If IH is implemented alongside density and land supply provisions, some of the associated “land value shock” can be captured and put towards retained affordable rental options. The Queenstown Lakes District Council Working Paper *Developing an Affordable Housing Provision* found that IH costs would likely not be conveyed onto developers or home-buyers, but instead “the most likely outcome is for costs to be passed back into land values”.

Murphy and Rehm (2013) describe the experience in England similarly, with the unearned benefit of higher land value being the cost that is captured, not the profit margin of the developer:

“within this system it is argued that affordable housing (Section 106) obligations are fully anticipated by developers and reflected in a lower gross development value. For any given profit margin of a developer, this lower gross development value reduces the residual value of a site and consequently the cost of affordable housing is borne by the landowner.” Murray and Rehm, 2013

The local and international evidence shows that developers who have been operating in housing markets where IH programmes have been active for decades begin to include such contributions into their financial projections as they would any other development cost. This result is consistent with the analysis of the Housing Technical Working Group (2022) on the current Aotearoa New Zealand housing system. This is largely enabled because the impact of IH is its affect on land values rather than housing supply or rent.

The trends suggested previously are not just theoretical but supported by evidence in an Aotearoa New Zealand context. In reviewing Queenstown’s IH programme, Sense Partners (2020) estimated it would deliver 1000 affordable homes over the next 30 years and also found:

“Our analysis of inclusionary zoning in QLDC so far show no perceptible negative impact on housing supply, house prices, house size or quality –the main concerns raised in international literature.” (Sense Partners, 2020)



IH is Effective Long-Term

By giving the market certainty that IH will be in place long term it will establish common expectations surrounding ground rent yields and associated land prices. This certainty will mean that IH will not incur any additional incentives to land speculation or increase build-out times. Fernandez et al. (2021) say about the Special Housing Areas in Auckland which featured a form of Inclusionary Housing “the SHAs in turn were expected to last around 3 years; developers may have decided for the option to wait until the termination of the programme until the AUP rules became clearer.” This likely hampered the effectiveness of SHAs as landholders preferred to wait for potential windfalls, from the upcoming AUP rather than build under the SHA’s affordable housing provisions. The market reacts to uncertainty and predictions that the future settings will be more or less favourable for development than the current ones. Once IH is enabled with permanency and bipartisan support - and councils demonstrate their commitment to IH provisions – it will become another spreadsheet consideration and the development industry will continue to react to land use regulations or changes to finances.

The proposed approach of mandatory IH within a housing market area enabled for use at a council’s discretion with consistent, universal rules and expectations means the market can still ensure the most effective use of developable land as all developers operate under the same conditions. This means the developers who are able to deliver at the lowest costs or maximise the development value are positioned to put the highest bid in for land while maintaining the requisite level of profitability to mitigate financial risk.



Land and housing supply alone will not resolve our affordability issues. Developer behaviours such as land-banking and purposely slow build-out rates maintain house-prices and maximise developer returns, but this is largely unaccounted for in the static conception of supply-and-demand (Bradley, 2021; Murray, 2020). To this extent, Murray (2020) concludes that “the amount of zoned planned stock in a region is unrelated to the rate of new supply” and therefore even notions of new land supply incurring increased development may be flawed. Aotearoa does not have the materials, the supply chains, a large enough workforce, or the infrastructure to ensure that rates of rezoned land will translate into any substantive increase in supply. International and domestic research consistently reach this conclusion, but an insufficiently nuanced static model of supply-and-demand is used to justify ineffective supply-side deregulation in lieu of increased capital investment or more courageous regulation in the housing market. IH is a financially viable and proven tool which needs to be implemented to supplement Government’s long-term policy objectives with a pipeline of truly affordable homes for those currently excluded from housing.

Enablement Through Legislation: The ‘HOW’

This section will discuss ‘how’ IH could be enabled by the RMA reforms and implemented by local councils in Aotearoa New Zealand. Specifically, we discuss why it is important to capture this significant moment in time – the RMA reforms – to enable IH and discuss what should be included as primary or secondary legislative provisions in the relevant legislation.

RMA Reforms – A Once-in-a-Decade Opportunity

The RMA reforms should take this once-in-a-decade opportunity to provide explicit authority for the implementation of IH and introduce a comprehensive national framework for doing so. Once there is legal certainty and a national framework – in legislation and regulation – councils can then be empowered to examine if IH is right for their locality and their people.

The current legislative authority to implement IH programmes is unclear. As discussed in the section on ‘Council Activity’ above, whilst the Environment Court ruled that affordable housing is not prevented from being addressed under the RMA, the specific design features of IH have not been tested. The recent submissions on the Wellington Council assisted housing programme provide evidence of the continued uncertainty of what is legal.

The replacement of the Resource Management Act by the Natural & Built Environments Act, the Spatial Planning Act and the Climate Change Adaptation Act is the moment in time to implement IH for four significant reasons:

- 1) If there is insufficient legislative certainty in the RMA for councils to adopt IH now, the opportunity to adopt this vital housing affordability tool may be lost for decades, as evidenced by the 30 years since the adoption of the RMA and the 11 years since repeal of the AH:ETA.
- 2) IH is best utilised when changes also allow for an increase in density as land value depreciation associated with affordable housing is offset by increased yields associated with density.
- 3) As discussed above, increasing land supply alone will not deliver more affordability and will predominantly benefit land speculators through increased land prices as a distillation of greater potential ground rent yields.
- 4) Local authorities want a clear legislative framework to enable IH.

With IH set up through the RMA reforms, a consistent approach can be implemented across local markets and embedded in the broader Aotearoa New Zealand housing system. This will make it easier for councils when adopting programmes and enables a learning system whereby lessons can be more easily applied across markets.

The fundamental reshaping of the planning system underway through the reforms is the natural place to accomplish this. Integrating the approach and requirements into the legislation allows it to be considered through the drafting process. The specific requirements and interactions with other components of the legislation can be identified and addressed up front.

Putting off the work for a separate Bill to be introduced at a later date is not advisable given the urgent need in nearly every community and the lack of certainty about when or whether that legislation would be introduced. Layering new legislation on top of the three proposed Acts will be a complicated process and could result in ambiguities or inconsistencies which would be avoided by acting now.

IH requires explicit authority to be enabled through the RMA reforms

There is a need for explicit legislative enablement of inclusionary housing programmes. The lack of certainty experienced under the Resource Management Act has inhibited councils from pursuing the use of this tool. The Affordable Housing: Enabling Territorial Authorities Act of 2008 provided that certainty, but was not in place long enough to be implemented prior to a change of government and its repeal.

The Housing Accords and Special Housing Areas Act 2013 also enabled local authorities to require delivery of affordable homes, but had limited application and has also expired.

Legal uncertainty does not benefit anyone. Councils and developers alike want to avoid lengthy and costly challenges and appeals processes. As evidenced by the LGNZ remit passed in 2020, Councils are seeking legal mandate of the process and key features of affordable housing planning requirements to resolve this. Beyond Councils and the developer community, such a fundamental public policy issue as ensuring that everyone has the ability to realise their right to a decent home must be clearly enabled through legislation.

A National IH Framework through the RMA reforms

The role of central government is to set a national framework which provides certainty and reduces risk to all participants. The AH:ETA provides a guide to the components of the framework. This is reaffirmed in the international evidence of successful programmes. The components required in primary legislation are summarised on the following page. Through these national settings, a consistent approach can be implemented across local markets and the broader Aotearoa New Zealand housing system. This national framework will provide councils, lenders, developers, planners, builders and other professionals with a common base which can be applied to their work in multiple local markets.

The recommendations provided in this paper follow the suggested key components based on international experience above and the AH:ETA to include in the new legislation and regulations:

1

Define the Housing Needs Assessment methodology, and its application across NZ.



2

Align the Housing Needs Assessment methodology with MHUD's place-based approach and the NPS - Urban Development capacity assessments for a given market area.

3

Mandate the proposed Regional Spatial Strategies to define Housing Market Areas that may cross local authority boundaries.



4

Publish area median household incomes for each Housing Market Area across New Zealand annually (or if required, quarterly) using a consistent methodology.

5

Adopt national legislation providing clear authority for binding commitments with no compensation required to the landowner for the contributions required under an Inclusionary Housing programme.

6

Enable both Inclusionary Housing and Linkage Zoning through the legislation.



7

Enable land to be sold or granted to a Registered Community Housing Provider, for either nil consideration or at a submarket price to achieve the affordability outcomes set out in an Inclusionary Housing policy.

We recommend that regulation be used to further detail the exact mechanisms, processes and documents to adopt, implement and monitor Inclusionary Housing programmes. This approach will ensure IH programmes retain the flexibility to adapt to changing market conditions and allows our approach to be informed over time by the experiences of councils. Given the difficulty of amending primary legislation, this is the prudent approach to ensure IH remains fit for purpose over time. We offer more a fulsome description about what could be included as legislation and regulation in the section below.

Councils Make Decision to Adopt

Councils are seeking central government enablement of inclusionary housing for councils to implement should they choose. Councils are closest to their communities and best understand whether IH is necessary and appropriate in their local context. The legislation will ensure that councils follow good practice and meet specific requirements when they choose to adopt IH.

As discussed above, several councils are already moving to implement local programmes. Not all councils will follow this path as they will determine it is either not needed or not feasible after following the processes described below. By providing a safe route to implementation, this will add another tool for a place-based approach to addressing housing needs.

Primary Legislative Provisions

The construction of any IH enabling act needs to be carefully considered in order to balance the requisite flexibility to respond to the changeable nature of Aotearoa’s spatial and temporal contexts, while giving actors in the housing market surety about key facets of IH in the long-term. We present some suggestions about what should be included as primary and secondary legislative provisions to strike such a balance.

Four elements seen to be critical to the success of any IH policy: the policy is easy to understand; is mandatory; has broad coverage; and involves low transaction costs (Hill Young Cooper Ltd, 2021). Included in the Primary Legislative Provisions we suggest that elements such as Housing Needs Assessments, Housing Strategies, the Land Transfer Process, and Value Retention Mechanisms are all mandated with their particular composition being addressed in regulation for greater flexibility over how these instruments are administered. Our recommendations match many of those made by ‘The Constellation Project’ which examined the best practice for a national framework for mandatory inclusionary zoning in Australia (The Constellation Project, 2020).

The repealed Affordable Housing: Enabling Territorial Authorities Act 2008 provides a good roadmap to follow. Importantly, the AH:ETA provided a clear set of definitions and clear purpose to deliver affordable housing. Affordability is grounded in relation to household incomes rather than relative to the market and the purpose is extended to include ensuring the community has a variety of housing sizes and tenures in addition to costs. This is an important consideration as the dominant housing typology of new homes is typically not culturally suitable for Māori and Pacific households, not accessible for disabled households and not sized to meet the needs of single and couple-only households. Given the situation where current Government housing policy is focused primarily on social and public housing, this ‘missing middle’ is a point of difference where AH:ETA was designed to assist. Thus, enablement provisions should be seen as a complimentary suite of tools alongside existing policy, part of a well-functioning housing system.



Housing Needs Assessment

Housing Needs Assessments provide the basis for councils to document the housing needs and outcomes in their region through a quantitative analyses of their constituency and how the housing system is responding to their needs. The current National Policy Statement-Urban Development already requires a form of this assessment upon which a more comprehensive model can be built. These are critical pieces of the IH approach and the starting point for assessing whether an IH programme is necessary. They can inform where affordability is at the highest need, what housing typologies are required to best serve the community, where there is a supply of land for development, and projected demand over time. Furthermore, it can inform what social infrastructure and services that a particular cohort may require to fulfil their needs once affordable IH units are delivered.

Needs Assessments are described by Fernand Soriano (2013) as a “well-thought out and impartial systematic effort to collect objective data or information that brings to light or enhances understanding of the needs for services or programmes”.

This reveal who a given system is serving, what is working well, and what needs are currently not being met. The answers to these question should in-turn inform the policy decisions of the council.

AH:ETA provides an Aotearoa New Zealand specific example of the legislative requirement for councils to adopt a Housing Needs Assessment. The assessment should use Statistics New Zealand household demographic and income information, local home price and rent information, and other supply and demand information. It should require, as in AH:ETA, “an estimate of the number of households that currently need affordable housing, and the number that are likely to need it in the reasonably foreseeable future”. It should also provide household level detail by household type to identify the needs of specific cohorts (eg single parents, couple-only, single persons). The numbers of stressed renter households and those who can affordably rent but can’t buy should also be quantified. The housing outcomes for Māori and Pacific households should also be clearly assessed. Finally, the time period for updating the Housing Needs Assessments should be provided, with a suggested period of at least every 5 years in line with the Census.

This will provide certainty that a proportion of all residential development will be affordable to this cohort of residents. It directly links the housing needs of the community to the ability of a council to mandate or require what the proportion should be in the community. Doing so ensures that the local housing policy serves both those in highest need, as well as looking after its workforce housing needs.

The utility of Housing Needs Assessments exists beyond IH and they can be used to inform all regional housing policies. Councils can garner an understanding of their cohorts’ housing requirements, be it; housing typologies required long term, where and what infrastructure is required for the district, how councils can facilitate the provision of bespoke support services, and gauge the required levels of affordable housing.





“Housing Needs Assessments
reveal who a given system is
serving, what is working well,
and what needs are currently
not being met.”

Housing Strategy

A central component of any Housing Strategy is determining the objectives and desired housing outcomes for a community. As housing has become increasingly unaffordable, many councils have adopted housing strategies to respond to those needs. The form of the strategies and information included has varied across areas. Recently, the Ministry of Housing and Urban Development has adopted a place-based approach to analyse and address the unique circumstances of differing communities. This approach can be the basis for connecting local housing needs assessments to consistent housing strategies which document the place-based approach for a region. These strategies should respond to the identified needs with clearly stated outcomes and objectives.

The enabling Act should set the high level requirements to be included in the Housing Strategy. These should include that it be based on a Housing Needs Assessment and that it identify how it will meet the current and future needs of the community for different types of homes and tenures. The strategy should state the existing and potential policies which will contribute to the supply of new, affordable homes and other related policies and actions to meet needs. Where it is determined that the needs of households identified in the Housing Needs Assessment are not being met, then the council can choose to pursue inclusionary housing to meet those needs. The Housing Strategy should also require quantifiable outcomes and objectives to measure progress. The exact process and requirements of the Housing Strategy can be provided through regulation.

Criteria for Allocation of Affordable Homes to Meet Outcomes and Objectives

The criteria used to allocate the IH contributions should be required to be defined in the Housing Strategy document and be based on meeting the priority household groups, typologies and tenures identified in the Housing Needs Assessment. For example, based on the Housing Needs Assessment a community may set an objective to increase the number of affordable rentals for older, single person and couple-only households with an outcome that none are paying more than 30% of their gross household income on rents within 5 years. Multiple objectives and outcomes can be set and allocations made to providers based on site suitability.

These stated objectives and outcomes provide the basis for monitoring the effectiveness of the IH programme and making adjustments over time. Local needs will evolve as communities grow and change and the criteria should adapt over time based on the results achieved and new needs identified through updated Housing Needs Assessments.



Processes and Mechanisms for Land Transfer

The transactional process to convey land (or in limited circumstances the monetary equivalent) for the IH contribution and for its retention is a critical component to the success of any programme. Councils and developers need a transfer process that is clear and easy to implement without undue administrative costs or lengthy approvals. The subsequent transfer to the affordable housing developer also should be included in the enabling Act.

The AHETA legislation provides good insight to what is needed in primary legislation. Beginning in Part 1 Section 25, the Act clearly set out the process to implement IH programmes. First, a clear definition of when the IH provisions will apply and how the contributions required will be evidenced is provided. Section 26 then clearly states that the local authority is not required to pay any compensation to the landowner for the contributions received under the local IH policy. The following section grants to the local authority the powers and rights to both receive the contributions and then utilise them in multiple ways to provide affordable housing. This provides flexibility to local authorities to design and operate their local IH based on their local circumstances and priorities. For example by granting or selling the land received cheaply to a person or body to use to provide affordable housing.

The AHETA legislation approach provides the certainty required by all parties to proceed efficiently through the land contribution transfer process.

The process above can also incorporate monetary payments in addition to land contributions. In some examples of inclusionary housing around the world, developers have the option to pay in-kind cash contributions or parcels of land on other sites to cover their IH contribution. This approach should only be allowed in limited circumstances at the discretion of the council, not the developer. Circumstances such as where suitable amenities are not located in proximity to the site or other overriding factors would be reasons for a local authority to accept payments in lieu of land.

The level of the contribution should be established through a feasibility analysis. As discussed earlier in this paper, council's have already completed these in Queenstown Lakes, Wellington and the Future Proof Partnership area of Hamilton City, Waikato and Waipa District Councils. The analysis should be based on the delivery to meet the outcomes and objectives of the Housing Strategy. Details on the feasibility analysis methodology should be prescribed in regulation.

The policy adopted in South Australia mandates that affordable housing be included in all new developments to avoid “inappropriate concentrations of social housing” and ensure that robust, mixed-income, mixed-tenure communities are created. These community outcomes are a key attribute of IH programmes that can be undermined if cash contributions or off-site parcels are allowed at the discretion of the developer.

Eligible recipients of the land are discussed in the section below.

The City of Johannesburg (2019) utilizes an incentivised mandatory IH system where developers are offered four models of Inclusionary Housing consisting of various density and floor-area allowances. In all options, developers are required to deliver 30% of their development as affordable houses while ensuring that the way they are administered is bespoke to the various density aspirations of the City of Johannesburg.

In the South Australia and City of Johannesburg IH programmes, the properties designated for affordable housing must match market housing in appearance. South Australia’s policy takes this a step further mandating that the appearance is consistent as is the “construction, materials, energy efficiency, and water conservation measures” (Gurran et al., 2018).

The City of Johannesburg also require that market and affordable units “must share (and have unconstrained access to) common spaces such as entrances, lifts, communal spaces, shared amenities”.

This is intended to mitigate the “poor door” phenomenon which undermines the social cohesion of new developments and segregates residents based on the homes they reside in.

30%

of new developments are required to be affordable housing.



Retention Mechanism Ensuring Public Benefit

Local authorities' IH policies should be required to state how the resulting affordable housing is to remain subject to meeting the needs of the community. The IH resulting from any programme needs to be retained long term and not flow through as a windfall to initial occupants.

The affordable properties (or in-kind cash/land contributions) built through Queenstown's IH programme are vested in the affiliated Community Housing Provider, the Queenstown Lakes Community Housing Trust. The Queenstown programme demonstrates how to meet local housing needs across tenures. The Queenstown Lakes Community Housing Trust, as recipient of the donated land, provides long term rental housing and offers home ownership through the Secure Home programme based on a ground lease with the non-profit trust retaining land ownership in both tenures. For the Secure Home programme⁴, the 100-year ground lease is set at a low rate and adjustments are tied to inflation, not to land values, to ensure payments remain affordable over time.

The system used in South Australia mandates that the homes developed through IH are accessed by those who would otherwise be priced out of the private market. For example, the units are owned by "Affordable Housing Providers", "Registered Housing Associations", or could be sold to "eligible buyers". These measures ensure that the unit is retained by those for whom the private market is inaccessible or the not-for-profit organisations who are best positioned to assist low-income individuals and families. Without similar protections in the Auckland Unitary Plan, there were concerns that developers were able to sell their affordable units to young family members or friends who are within loosely prescribed income bands, but who had low levels of housing need relative to many others.

Under the AHETA framework, councils were given a few suggestions for how IH units were to be retained which we believe could be reimplemented. In most instances the homes were to be retained by the council, a council-controlled organisation, a council organisation, or trust who would rent or sell the house to a person in housing need as constituted under the council's Housing Needs Assessment. Vesting the property to another organisation will avoid some of the previously discussed failures of the Auckland Unitary Plan and allocation will be based on the severity of need. The recommended recipients include registered Community Housing Providers, Iwi authorities and registered Charities.

⁴ www.qlcht.org.nz/our-programs/secure-home



Vesting any affordable housing produced through IH in registered Community Housing Providers, the council will know the value will be retained for social good within a highly regulated and experienced sector. Community Housing Providers are registered with the Community Housing Regulatory Authority (CHRA), hence these organisations need to fulfil CHRA's performance standards. In addition, Charities Services regulates other Registered Charities providing housing who may or may not be registered with CHRA. The former ensures that the organisations are responsible social landlords and are financially viable, while the latter requires that if an organisation was to wrap up their operations, their assets would be passed onto an organisation with a similar purpose.

Enabling Mandatory Inclusionary Housing and Linkage Zoning Approaches

International and local evidence demonstrates that Inclusionary Housing programmes are most effective when they are mandatory in the housing market where they are adopted. The primary legislation should embed a mandatory approach when council's choose to adopt IH. The primary legislation should also embed the ability to utilise Linkage Zoning to reduce windfall gains of private property owners from major public infrastructure projects.

Mandatory inclusionary housing programmes benefit from the certainty that all market participants are operating under the same requirements. The recently adopted Resource Management (Enabling Housing Supply and Other Matters) Amendment Act and the RMA reforms are enabling higher densities and streamlining the planning process to deliver more certainty to developers. Voluntary programmes function internationally by offering incentives such as density bonuses and streamlined planning processes. This was the approach adopted in the Housing Accords and Special Housing Areas Act 2013 with poor results on the actual delivery of affordable homes. As these incentives are already provided, it is unlikely voluntary participation will be successful.

Within an IH programme, consideration can be given to the contribution levels for differing development areas. Brownfield developments are known to be difficult and costly compared to greenfield sites. Therefore, the economic analysis undertaken to determine the level of contributions required should take into account these differences.

Consultation Process

The Resource Management Act reform legislation as previewed to date incorporates processes to ensure the upholding of Te Tiriti and the rights of tangata whenua. By enabling IH in the legislation, the consultation processes can be aligned and integrated. The intent is to provide a consistent and understandable approach that is not duplicative. Embedding IH as part of the Strategic Planning Act ensures coordination of consultation activities. Therefore, it is vital that the processes adopted are robust and that consultation with tangata whenua results in plans consistent with the views and priorities expressed by iwi, Māori and hapu.

Requirements to Monitor and Review

The Resource Management Act reform legislation as previewed to date incorporates processes to ensure compliance, monitoring and enforcement. By enabling IH in the legislation, the component processes can be aligned and integrated. The intent is to provide a consistent and understandable approach that is not duplicative. Embedding IH as part of the Strategic Planning Act ensures efficiencies and coordination of compliance, monitoring and enforcement activities.

It is vital that the IH processes adopted are robust and that consultation with tangata whenua results in plans consistent with the views and priorities expressed by iwi, Māori and hapu.

Secondary Legislative Provisions

We recommend that regulation be used to detail the exact mechanisms, processes and documents to adopt, implement and monitor Inclusionary Housing programmes. This approach will ensure IH programmes retain the flexibility to adapt to changing market conditions and experience over time is designed into New Zealand’s approach. Given the difficulty of amending primary legislation, this is the prudent approach to ensure Inclusionary Housing remains fit for purpose over time. The following information is offered as a starting point for the development of the regulatory provisions.

Housing Needs Assessment Details

The Affordable Housing: Enabling Territorial Authorities Act 2008 describes a process for conducting “needs assessments” which has become an industry standard even after the Act itself was repealed. Section 8 (2) of the AH:ETA mandates that Housing Needs Assessments include:

- a) A description of the current balance between supply and demand in the housing market generally, and, if relevant, in different sectors:
- b) The identification of land available for housing development;
- c) An estimate of the number of households that currently need affordable housing and the number that are likely to need it in the reasonably foreseeable future.



The council must then identify what types of development is considered under the policy and what actions are required by persons conducting such developments. Furthermore, the council would need to identify how they could support the provision of affordable units and the methods of retaining those homes for a social good.

The regulatory provisions should build upon the AH:ETA approach and incorporate current practice tools and methodologies. It should also build upon the National Policy Statement – Urban Development requirements and the work undertaken by the Ministry of Housing & Urban Development in the place-based approach. Ideally, much of the information required for the Housing Needs Assessment will be made available by central government directly to councils. In addition, the reporting requirements of related legislation and regulation will be aligned in a single approach that can have additional required ‘components’ for councils which have IH programmes.

Housing Market Area Definitions

Inclusionary Housing policies need to be applied across housing market areas to avoid unintended changes in development patterns. The Ministry of Housing and Urban Development is implementing a place-based approach to housing which looks at housing market areas that extend beyond territorial authority boundaries. Several groupings of councils have also been coordinating spatial planning for many years including SmartGrowth in the Western Bay of Plenty and the Greater Christchurch Partnership.

The Strategic Planning Act is signalled to require the creation of long-term Regional Spatial Strategies. These strategies identifying regional growth over the next 30 years appear to be the best place to define housing market areas. They set objectives for growth, coordinate infrastructure and will have provision to address cross-boundary issues. As they are subject to periodic review, the ability to adapt to market area changes over time can be accommodated through that process, without the need to amend legislation. The Regional Spatial Strategies appear to be the best mechanism to define the Housing Market Areas. If during the legislative process this changes, a different means to define these will need to be selected.

Definition of Affordability and Measurement Tools

New Zealand needs to adopt an official definition of affordability based on household incomes. This is the norm internationally and provides a specific and measurable way to ensure comparability of different programmes and interventions. As needs and tools will evolve over time, regulations should set the acceptable price points based on percentages of median income. Housing Needs Assessments and a Councils' adopted Housing Strategy will then define who the IH programme will serve locally.

In New Zealand, income and price limits are already used in various programmes including Public Housing, First Home Grants and Loans, and the Progressive Home Ownership Programme.

These are calibrated to the specific outcomes and tenures of the programmes, so the income maximum for Public Housing is much lower than for Progressive Home Ownership. In general, the thresholds for Inclusionary Housing should be set above the eligibility for accessing Public Housing and around the area median income as an upper limit. This would essentially target those households who are 'stuck' in the private rental market and provide opportunities to pay affordable rents and save for ownership should they choose that as a goal. In terms of median incomes, this will likely result in IH serving those between 60-100% of the area median, depending on the market area.

To ensure reliable and consistent information is available, we recommend that Stats New Zealand and the Ministry of Housing and Urban Development publish area median household incomes for each Housing Market Area across Aotearoa New Zealand annually (or if required, quarterly) using a consistent methodology. Utilising set measures of affordability and income targets are well established mechanisms both within New Zealand and internationally. It is also consistent with the evidence on good programme design.

Specifics of the Land/Contributions Process

Regarding the level of contributions, the details of the feasibility analysis required are also best set out in regulation. In the Rationale 3 section above, the feasibility of implementing IH is discussed in more detail. In addition, as described in our review of current council activities there are recent examples of the necessary components of the analysis already being undertaken by some proactive councils. The economic analysis is necessary to tailor the contributions based on the local market conditions and development typologies. The constituent parts of construction and land costs reflected in home values will be different across markets. Once implemented IH could mitigate volatility in the land market associated with relaxing density restrictions to enable additional supply. Depending on the configuration of IH policy and the extent of the “land value shock”, affordable rental housing could be brought online at no additional costs to developers by capturing a portion of the unearned benefits of the regulatory change which otherwise would be solely conferred onto landowners without IH being implemented. This land value shock is further described in Rationale 2 above.

The process to transfer the land contribution from the developer through to the organisation which will own the completed homes long term needs to be standardised. The primary legislative provisions above – based on the principles established in the AH:ETA legislation - describe what should be included to establish clear legal authority. The further details on the process must be simple and certain for all parties involved.

This is best done through regulation which better enables learnings to be incorporated over time. The experience of the Queenstown Lakes District Council provides a starting point to develop appropriate regulations and related model documents.

Timing of Implementation

Abrupt changes in land use regulations – both those loosening or imposing conditions – can result in a value shock. The proposed planning processes described in the RMA reforms to date indicate that there will be a multi-year phase in period from when a Council signals it intends to investigate and then adopt an IH programme. This should allow sufficient time for developers and landowners to anticipate the impact on their developments and value of land holdings and incorporate that information into their pricing considerations. Where density allowances are forecast to result in a land value shock, this can be mediated by early signposting of governments’ (both central and local) intention to enable and implement Inclusionary Housing programmes.

Specifics of the Retention Mechanisms

There are a range of mechanisms used to ensure the value of IH contributions are retained such as covenants, retention of rental stock, and the recycling of capital gain in shared equity arrangements. The choice of which will be used is best handled through regulation. The type of retention mechanism should also be tailored to the tenure provided and the the type of entity providing the affordable homes created through the IH programme.

There is significant need for long term affordable rental homes across New Zealand and we believe that IH programmes are well-suited to deliver this as the primary tenure. Many households can benefit from these homes over time and no individual will receive a windfall gain from the programme. Forms of ownership are also an option for IH, evidenced locally in Queenstown. We believe that a land leasehold approach based on the Secure Home model is most appropriate as it retains the land contribution while also delivering the security of tenure and ability for the household to gain equity as their mortgage on the building is repaid over time. Additional alternative tenures may also be applicable in some locations, such as cooperative and co-housing. Given the variety of potential needs to be addressed, regulations are best suited to tailoring the retention mechanism to the tenure.

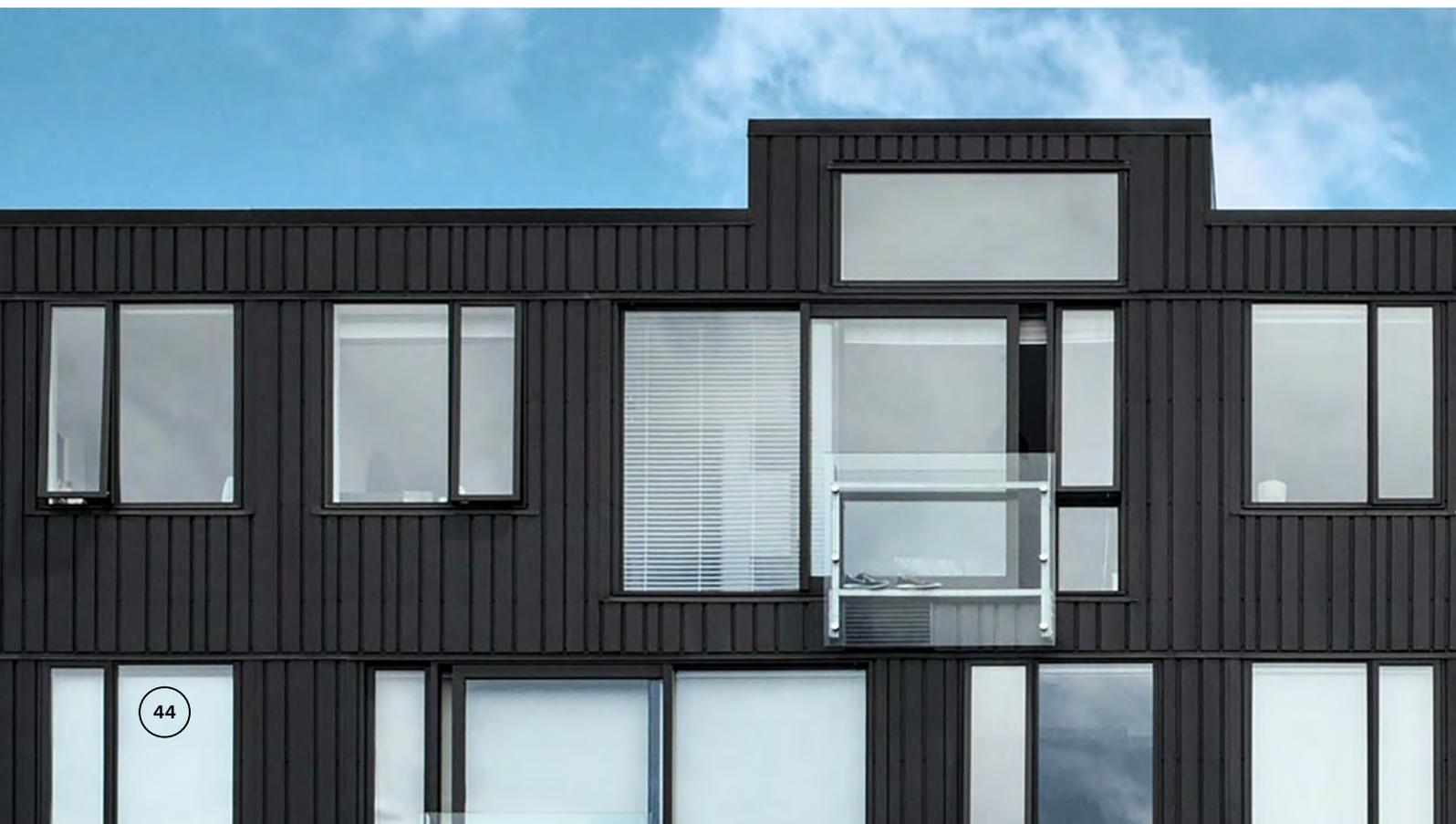
In the Primary Legislative Provisions, we recommend that registered Community Housing Providers are a preferred recipient of IH contributions. As they are already regulated by the Community Housing Regulatory Authority, monitoring by councils can be light touch and not overly burdensome for either the council or the CHP. Where non-CHP iwi authorities and registered Charities are recipients additional requirements may be needed. Any formal retention mechanism needs to consider the impact on the ability for the provider to raise the necessary capital to build the unit and not unduly restrict them. With these recipients, restrictive covenants may not be necessary to ensure retention and use for the specified purpose over time. Doing so can undermine the intent of the IH programme. As with the approach to the tenure offerings, regulation is best suited to identifying the appropriate retention mechanism for differing types of organisations receiving the IH contributions.

Specifics of the Monitoring and Review Process

As described above in the Primary Legislative Provisions section, The Resource Management Act reform legislation as previewed to date incorporates processes to ensure compliance, monitoring and enforcement. By enabling IH in the legislation, the component processes can be aligned and integrated. The intent is to provide a consistent and understandable approach that is not duplicative. Embedding IH as part of the Strategic Planning Act ensures efficiencies and coordination of compliance, monitoring and enforcement activities.

Concluding Remarks

Resolving our housing affordability crisis requires all of us. Every lever needs to be pulled and every stakeholder needs to be committed to creating a more equitable Aotearoa New Zealand where our fundamental rights to a decent home are progressively realised. The enablement of Inclusionary Housing – especially at this juncture - provides an opportunity for central government, councils, the developer community, the community housing sector, and other key stakeholders to work together on improving the health of our communities. The forewords in this paper provided by QLDC Mayor Jim Boulton and QLCHT CEO Julie Scott are a local testament to what can be achieved when councils, community housing providers, and developers are working towards a common goal.



Councils across Aotearoa have the public mandate and expertise to emulate the success in Queenstown, but require explicit authority from central government to do so. This paper provides recommendations for how IH could be most effectively enabled through the RMA reforms in both primary and secondary legislation. Once enabled, councils can identify the needs of their community and implement the IH programme (or not) which delivers the best outcomes for their people.

Domestic and international evidence demonstrates that IH is a proven vehicle for delivering retained affordable homes.

In all the discussions of delivery statistics we should not lose sight of what a warm, dry, safe, and affordable home means for those who reside in them. Failing to enable IH through these RMA reforms may not just jeopardise our communities in the short term, but may have a generational impact. With rising housing costs placing increasing pressures on our families and communities, can we justify letting the opportunity to generate new affordable homes pass by without enabling this proven tool?



References

Auckland Council. (2021). *Submission to the Environment Select Committee on the Resource Management (Enabling Housing Supply and Other Matters Amendment) Bill*.

Bradley, Q. (2021). The financialisation of housing land supply in England. *Urban Studies*, 58(2), 389–404. <https://doi.org/10.1177/0042098020907278>

ChamberlainWalker, & Barratt Developments Inc. (2017). *The Role of Land Pipelines in the UK Housebuilding Process* (Issue September).

Christchurch City Council. (2021). *Central City Residential Program (PROJECT 8011): Supporting Alternative Housing Approaches and Projects - Findings report*.

City of Johannesburg. (2019). *Inclusionary Housing: Incentives, Regulations and Mechanisms*. October 2018, 1–23.

Community Housing Aotearoa, & Community Housing Solutions. (2020). *Is There A Place For Affordable Housing Planning Requirements In New Zealand*.

Community Housing Aotearoa, & Community Housing Solutions. (2021). *Enabling Inclusionary Zoning : What can we learn from the repealed Affordable Housing: Enabling Territorial Authorities Act of 2008*

Crosby, N. (2019). Development viability assessment and the provision of affordable housing: A game of 'Pass the parcel'? *Town Planning Review*, 90(4), 407–428. <https://doi.org/10.3828/tpr.2019.27>

Fernandez, M. A., Sánchez, G. E., & Bucaram, S. (2021). Price effects of the special housing areas in Auckland. *New Zealand Economic Papers*, 55(1), 141–154. <https://doi.org/10.1080/00779954.2019.1588916>

Gurran, N., Gilbert, C., Gibb, K., van den Nouwelant, R., James, A., & Phibbs, P. (2018). Supporting affordable housing supply: Inclusionary planning in new and renewing communities. In *AHURI Final Report* (Issue 297). <https://doi.org/10.18408/ahuri-7313201>

Hamilton City Council. (2020). *HCC Housing Strategy Action Plan*. https://www.hamilton.govt.nz/our-council/strategiesandplans/Documents/23505%20HCC%20Housing%20Strategy%20Action%20Plan_WEB.pdf

Hamilton City Council. (2021). *Hamilton City Council Submission on the Waikato District Council's - Draft 2021-2031 District Plan*. <https://www.hamilton.govt.nz/our-council/consultation-and-public-notices/councilsubmissions/Documents/HCC%20Submission%20-%20Waikato%20District%20Councils%202021-31%20Draft%20Long%20Term%20Plan.pdf>

Hill Young Cooper Ltd. (2021). *Waikato Affordable Housing Issues and Options*.

Housing Technical Working Group. (2022). *Assessment of the Housing System: with insights from the Hamilton-Waikato Area Housing Technical Working Group*.

Lawson, J., & Ruonavaara, H. (2020). *Land policy for affordable and inclusive housing*. <https://smartland.fi/wp-content/uploads/Land-policy-for-affordable-and-inclusive-housing-an-international-review.pdf>

Letwin, O. (2018). *Independent Review of Build Out Rates Draft Analysis*.

Lord, A., Cheang, C. W., & Dunning, R. (2021). Understanding the geography of affordable housing provided through land value capture: Evidence from England. *Urban Studies*. <https://doi.org/10.1177/0042098021998893>

Murphy, L., & Rehm, M. (2013). *Inclusionary Zoning and Brownfield Residential Development : A Feasibility Study Report prepared for Auckland Council July 2013*. July, 1–45.

Murray, C. K. (2020). Time is money: How landbanking constrains housing supply. *Journal of Housing Economics*, 49 (June), 101708. <https://doi.org/10.1016/j.jhe.2020.101708>

Pawson, H., Martin, C., Lawson, J., Whelan, S., & Aminpour, F. (2022). Assisting first home buyers: an international policy review. In *AHURI Final Report* (Issue 381). Australian Housing and Urban Research Institute (AHURI). <https://doi.org/10.18408/ahuri7127201>

Property Economics. (2021). *Wellington City Inclusionary Zoning Options Economic Assessment*.

PWC, & Sense Partners. (2021). *Cost Benefit Analysis Proposed MDRS*.

Queenstown Lakes District Council. (2021a). *Planning for Affordable Housing*.

Queenstown Lakes District Council. (2021b). *Planning for Affordable Housing Submissions*. <https://letstalk.qldc.govt.nz/70801/widgets/347922/documents/216102>



Sense Partners. (2020). *The economic case for Inclusionary Zoning in QLDC An important piece of the puzzle* (Issue October).

Soriano, F. (2013). *Conducting Needs Assessments: A Multidisciplinary Approach* (2nd ed.). Sage Publications.

Thaden, E., & Wang, R. (2017). *Inclusionary Housing in the United States: Prevalence, Impact, and Practices*. September, 67. <http://www.lincolninst.edu/publications/working-papers/inclusionary-housing-united-states>

The Constellation Project. (2020). *Establishing a National Framework for Mandatory Inclusionary Zoning*.

Wellington City Council. (2018). *Our 10-year plan: Wellington City Council, housing strategy*.

At Community Housing Aotearoa, we have consistently advocated for Inclusionary Housing as one such intervention which should be integrated into our housing toolkit through legislation.



**Community
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