

Housing Legislation Amendment Bill – Q&As September 2016

1: What is the purpose of the Housing Legislation Amendment Bill?

The purpose of this Bill is to support the wider Government programme of work to increase the supply and affordability of housing, and to maintain the momentum of strong growth in new home construction.

2: What are the main elements of the Bill?

This is an omnibus Bill, which will amend two Acts – the Housing Accords and Special Housing Areas Act 2013 (HASHAA) and the Housing Act 1955.

Amendment to HASHAA

3: How will the Bill amend the HASHAA?

The Bill will amend HASHAA in two main ways:

- By extending the date by which Special Housing Areas can be established by three years to 16 September 2019; and extending the date of repeal of the entire Act by three years to 16 September 2021. It will set time limits for lodging resource consents and plan variation applications at 12 months, and provide stronger ministerial discretion to revoke Special Housing Area status to ensure progress is maintained in Special Housing Areas.
- Allowing plan variation applications begun but not completed under HASHAA to continue when a proposed District Plan becomes operative and it will clarify the relevant planning document that local authorities use to assess resource consent and plan variation applications under HASHAA.

It also changes the way in which SHAs can be described in Orders in Council by incorporating by reference a map, plan, or similar document. This avoids the need for the area to be described in the order itself.

4: Why has the Act been extended by three years?

House prices continue to rise and the supply of housing continues to lag behind demand. The extension of HASHAA by three years will allow additional special housing areas to be established and provide faster housing development and increased housing supply for more areas of New Zealand. This will continue to incentivise developers to use their land and will encourage residential development.

Three years is also considered an appropriate amount of time to ensure HASHAA remains a short term measure while also allowing sufficient time for other government initiatives such as the Resource Legislation Amendment Bill (RLAB) and

the NPS Urban Development Capacity to imbed in the resource management framework.

5: Will existing Housing Accords be automatically extended?

Existing housing accords will not automatically be extended.

Housing accords are agreed between the Government and relevant Councils and have varied expiry dates. Some are not due to expire in the short term. Any Accords that are due to expire may be renegotiated with the relevant councils and new targets set if both parties agree that a further/extended Accord is necessary.

6: Why does the Amendment Bill need to go through the House in urgency?

Urgency is required to ensure a smooth a transition to the Unitary Plan on 16th September. We could not determine the nature of the transitional problems until the Unitary Plan was finalised and we were clear on where Council was up to on each of the plan change and resource consent applications

7: What happens to SHAs that have not lodged consents for qualifying developments before 16 September 2016?

Consents lodged and plan variations approved by relevant councils for qualifying developments within SHAs will continue to have access to HASHAA provisions. Any SHAs that were established (gazetted) before 16 September 2015 and as yet have no consents or plan changes lodged with the Council will have been in force for more than 12 months and will be disestablished on 16 September 2016. Any SHAs gazetted after 16 September 2015 will continue in force and will be disestablished 12 months from gazettal if no consents or plan changes have been lodged. Additionally, new SHAs will also have 12 months from gazette day to lodge consents or plan changes. I have discretion to extend this time limit for new SHAs if I believe best endeavours have been made to lodge consents or plan changes.

8: How have SHAs helped grow housing supply in Auckland?:

154 SHAs have been established in Auckland on which, at 30 June, 1342 homes had been completed, 2208 building consents approved and 6731 resource consents for sections approved.

These made up 6 per cent of building consents in the first year of the Housing Accord, 9 per cent in the second and 14 per cent in the third year. This reflects the growth in the pipeline as developments go from planning to resource consents, infrastructure construction, building consents and on to home construction. SHAs are projected to make up 50 per cent of the new homes and sections in Auckland during the next 10 years.

9: What would happen to the SHAs listed if the Bill does not progress?:

The SHAs listed would lapse and the developers concerned would need to restart the plan change process under Schedule 9 of the Resource Management Act. This would delay the housing coming on stream by at least two years and, potentially, five years.

10: Why was this problem not picked up earlier?

We were aware that this situation could occur but we could not know for sure until the Unitary Plan was completed and we had an update on where each plan change process was up to. The latest update from Auckland Council last week confirmed eight were affected. It is possible some of these may be concluded before 16 September. I indicated in a press release on 25 May that such legislation could be required.

11: What will HASHAA contribute to the Auckland Housing situation now the Auckland Unitary Plan is to become operative?

It is anticipated that the Auckland Unitary Plan will provide the appropriate amount of development capacity to meet Auckland's needs. However, some time is required before this capacity will be realised. In the interim, any plan changes or consents lodged for qualifying developments in Auckland can continue to progress under the HASHAA.

HASHAA will also continue to enable developers to utilise the more permissive and quicker consenting processes.

12: Will other Housing Accords be established?

That is possible, though certain criteria need to be met for a new Accord to be considered. Accords are agreed between Councils and myself in areas experiencing supply and affordability issues and high growth. Some mayoral aspirants have expressed an interest in developing a housing accord with Government, which we will consider following the Local Government elections on 8 October.

13: How does the amendment to HASHAA work with other government initiatives to address housing supply and affordability?

The provisions contained in RLAB relating to streamlining and simplifying resource consent processes will provide good continuity with HASHAA. However, when considering an application for a resource consent under HASHAA the local authority must have regard to several matters, of which the purpose of housing supply is given the highest weighting, above the matters contained in Part 2 of the RMA. This gives

a preference to housing under HASHAA and is a key difference to the provisions contained in RLAB.

Further complementing an extension of HASHAA is the proposed introduction of the Housing Infrastructure Fund (HIF). Although not specifically targeted at SHAs, the HIF can assist financially constrained councils to advance infrastructure projects that would otherwise hold back housing developments. The advancing of projects may have several benefits including:

- removing infrastructure constraints that may have prevented the approval of some SHAs; and
- allowing councils to transfer funds set aside for infrastructure projects in one area to alleviate infrastructure issues in another (e.g. a SHA)

Urban Development Authorities (UDAs) provide further continuity with HASHAA provisions. The key differences are that the Urban Development legislation is intended to be permanent, includes land assembly, infrastructure and funding mechanisms, intended as a central government tool to enable larger scale development, and may include purposes wider than housing. It is uncertain when legislation to enable these powers could come into force; therefore it is important to continue to provide benefits of streamlined consenting through HASHAA in the interim.

Amendment to Housing Act

14: Why is the change to the Housing Act necessary?

The Crown has established a programme to facilitate housing development on vacant and underutilised Crown land in Auckland. The amendment will ensure that there are no unnecessary delays to the programme delivering much needed housing in Auckland due to misunderstandings about the rights of former owners.

15: How will the rights of former owners be affected by the amendment to the Housing Act?

The position of former owners is unaffected. This is a technical clarification consistent with the prevailing interpretation of the existing law and established practice.