

Regulatory Impact Statement

Establishing Special Housing Areas in Auckland under the Housing Accords and Special Housing Areas Act (2013)

Agency Disclosure Statement

- 1 This Regulatory Impact Statement has been prepared by the Ministry of Business, Innovation and Employment (MBIE).
- 2 It provides an analysis of options to establish a first tranche of special housing areas (SHAs) in Auckland in order to increase the supply of land available for residential development and thereby reduce pressure on land and house prices in Auckland. These SHAs would be established under the powers of the Housing Accords and Special Housing Areas Act (the HASHA Act), which came into force on 16 September 2013.
- 3 The analysis of options in this paper is necessarily limited by government's powers under the HASHA Act. These SHAs have been recommended by Auckland Council under its housing accord with government. The Act prevents the Minister from recommending the establishment of SHAs in a district covered by a housing accord unless this is done on the recommendation of the territorial local authority. In this instance the territorial local authority (Auckland Council) has recommended 11 SHAs.
- 4 The options in this paper are therefore limited to accepting or declining the proposed SHAs. MBIE has assessed each of these SHAs as meeting the SHA establishment criteria under the HASHA Act, and does not have sufficient information to determine the marginal impact of each SHA compared to the others. Central government is therefore not in a position to recommend agreeing a subset (over others) and does not have the legislative basis to recommend alternatives because the areas have been identified under a housing accord.
- 5 Analysis of the expected impact of establishing the proposed SHAs and the extent to which they meet the criteria are based on data provided by Auckland Council, which has met with developers, infrastructure providers and other stakeholders and analysed the expected impact of declaring each area a SHA. Our analysis of the options in this regulatory impact statement assumes that these data are accurate and fully capture the expected impact of establishing each SHA.
- 6 A further limitation of analysis in this paper is due to time constraints (which also meant that this Regulatory Impact Statement (RIS) was not prepared and tabled with the original Cabinet paper). As such the purpose of this RIS is not to inform Cabinet's decision on whether to instruct Parliamentary Counsel Office to draft an Order in Council to recommend SHAs, but rather to inform consideration of the package of SHAs identified in the draft Order.

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Introduction

- 7 This RIS regards the proposal to establish 11 SHAs in Auckland by Order in Council on the recommendation of the Auckland Council. Auckland Council has made this recommendation to the Minister of Housing under its agreed housing accord with central government and, ultimately, under the powers of the HASHA Act.

Background

- 8 In 2011, the Government asked the Productivity Commission to conduct an inquiry into housing affordability in New Zealand. In response to that inquiry, in October 2012 the Cabinet agreed to a broad programme of work to address the following four areas affecting housing affordability:
 - a. land supply restrictions;
 - b. paying for infrastructure development;
 - c. productivity in the construction sector;
 - d. costs and delays in the regulatory process.
- 9 The first of these points (increasing land supply), is being tackled through the HASHA Act.

Status quo

Housing Accords and Special Housing Areas Act passed

- 10 The purpose of the HASHA Act is to increase the volume of land released for housing development and redevelopment over the short term so as to reduce pressure on housing supply in parts of New Zealand that face significant affordability issues (such as Auckland). If achieved, it is expected this will decrease pressure on land prices, and by so doing contribute to improvements in housing affordability.
- 11 The HASHA Act was introduced in April 2013 (CAB Min (13) 12/14 refers) and came into force on 16 September. The Act provides for regions and districts that have significant housing supply and affordability issues to be added to Schedule 1 of the Act. Once a region or district is identified in Schedule 1, a housing accord may be agreed between the Government and a territorial authority within the region or district.
- 12 Under the HASHA Act, SHAs can be established in scheduled regions or districts and more permissive consenting powers provided by the Act can then apply to qualifying developments in these areas.
- 13 SHAs are defined geographic areas within scheduled regions or districts that have the potential to deliver increased land and housing supply. They are established by the Governor-General via Order in Council on the Minister's recommendation. Before making a recommendation to establish SHAs, the Minister must have regard to existing geographic boundaries, the relevant district plan, and any relevant proposed district plan to ensure that the boundaries of the proposed SHA are clearly defined in the Order in Council and easily identifiable in practice.
- 14 Before the Minister can recommend the making of an Order in Council to establish SHAs the Minister must also be satisfied that the areas meets three criteria:

- a. that adequate infrastructure to service qualifying developments in the proposed SHA either exists or is likely to exist; and
 - b. there is evidence of demand to create qualifying developments in specific areas of the scheduled region or district; and
 - c. there will be demand for residential housing in the proposed SHA.
- 15 In areas where a housing accord exists, the Government can only identify SHAs on the council's recommendation and the powers to grant resource consents for housing development on a more flexible basis would only be exercisable by that council (in this case Auckland Council).
- 16 For qualifying developments¹ in these SHAs, the Council will be able to take a more flexible approach to granting the resource consents necessary for subdivision and development, thereby increasing the amount of land and housing that is available to be consented and moved onto the market.
- 17 Auckland is currently the only scheduled region in the HASHA Act and the only territorial local authority to have a signed housing accord with government.² Auckland is therefore the only area where SHAs can currently be established.

Auckland Unitary Plan

- 18 The Auckland Unitary Plan is intended to ensure that Auckland can meet its economic and housing growth needs and help its centres meet their real potential, while protecting and enhancing the region. It replaces the previous Regional Policy Statement and 13 previous district and regional plans.
- 19 The Unitary Plan sits within the broader framework of the Resource Management Act (the RMA). It will determine:
- a. what can be built and where;
 - b. how to create a higher quality and more compact Auckland;
 - c. how to provide for rural activities; and
 - d. how to maintain the marine environment.
- 20 The Unitary Plan was notified on 30 September 2013 and will become operative in 2016. When considering applications for resource consents in SHAs made under the HASHA Act, Auckland Council must have regard to the purpose of the HASHA Act, the RMA and the Auckland Unitary Plan (along with additional considerations). This requirement to consider proposed plans effectively brings elements of the Unitary Plan (such as height restrictions), into effect now and ensures that resource consenting decisions made under the HASHA Act will be consistent with decisions made in the future under the Unitary Plan.

¹ A qualifying development in a SHA is a development that will be predominantly residential; and that meets height, dwelling number, and affordability criteria that are specified in the Order in Council that establishes the SHAs.

² The Auckland Mayor and the Minister of Housing signed the Auckland housing accord on 3 October.

The Auckland housing accord

- 21 The Auckland housing accord (the housing accord agreed by Auckland Council and the Government) sets out how the two parties intend to address housing supply and affordability in Auckland in the interim period until the Auckland Unitary Plan becomes operative in 2016. The Auckland housing accord will facilitate residential developments that are consistent with the notified Unitary Plan. It lists the criteria Auckland Council will use when considering resource consent applications for qualifying developments.

Problem definition

- 22 The HASHA Act is intended to facilitate the supply of land available for residential developments in areas with significant housing affordability issues. These areas are to be identified in Schedule 1 of the Act.
- 23 Auckland is the currently the only scheduled region in the Act, and is therefore the only area within which SHAs can be established. Cabinet agreed to include Auckland in Schedule 1 at the time it invited the Minister of Housing to issue drafting instructions to the Parliamentary Council Office to draft the HASHA Bill (CAB Min (13) 12/14 refers).
- 24 Auckland Council has notified its Unitary Plan and has agreed the Auckland housing accord with central government. The establishment of SHAs is required to give effect to these instruments.
- 25 The principal issue discussed in this RIS is whether Cabinet should agree to this first package of SHAs recommended by Auckland Council. Agreeing these SHAs gives effect to the Auckland housing accord and allows the Council to use the expedited resource consenting powers for qualifying developments within those areas.

Auckland Council process

- 26 Auckland Council has identified 11 sites that it is recommending to form the first tranche of SHAs (it is probable that there will be further areas identified in the future for a second package). These areas were identified through a combination of:
- a. developers proactively approaching Council to express their interest (e.g. Addison, Anselmi Ridge and Wesley);
 - b. Council prompting developers who were already applying under normal RMA processes to consider having their land become an SHA (e.g. Flatbush School Road and Flatbush B8B); and
 - c. Council contacting developers directly to encourage them to express their interest.
- 27 When ratifying the Auckland housing accord, Council adopted criteria of its own for the selection of SHAs. These criteria go beyond those imposed by the HASHA Act in Section 16(3).³ Auckland Council's additional criteria are intended to provide certainty and consistency of approach so that developers are clear about what the opportunities and general requirements are. Significant criteria include:

³ These criteria include adequate infrastructure and evidence of demand to create qualifying developments, and demand for residential housing in the proposed SHA. The HASHA Act does not prevent accord territorial authorities from introducing additional criteria for the selection of SHAs and from a policy perspective it makes

- a. That the SHA be “located inside the notified Rural Urban Boundary or an existing applicable zone”.
 - b. That “sufficient and appropriate infrastructure (physical and social) will be provided to support the development.”
 - c. That the SHA must be “compatible with Unitary Plan provisions”.
 - d. That the SHA must have “reasonable access to employment and essential services”.
 - e. That the SHA has a “motivated developer ready to go, and likely to achieve early consent activation and the intended yield of sites/dwellings within the accord period.”
 - f. That the proposed SHA contribute “to housing affordability either in terms of overall housing supply or pricing of the intended housing product.”
- 28 These criteria are also being published on Council’s website to inform the developer community.
- 29 Following the identification of a long list of potential SHAs, Auckland Council has applied these criteria and conducted a series of workshops and other consultation exercises with stakeholders including infrastructure companies, local iwi, and potential developers. This analysis and consultation has resulted in the final package of potential 11 SHAs that Cabinet is being asked to consider.

Objectives

- 30 The objective of establishing the proposed package of SHAs is to give effect to the Auckland housing accord and the HASHA Act. Because the powers of the HASHA Act are limited to the next three years (when we expect the Unitary Plan to become operative), the establishment of these SHAs is constrained by the time limits imposed in the Act.
- 31 The criteria employed to assess the three options in this RIS relate to this objective (i.e. whether the proposed package of SHAs will give effect to the purpose of the Auckland housing accord and the HASHA Act.) In order to make this assessment we have analysed each option against the factors the Minister must have regard to under the Act before recommending SHAs. These are:
- a. that adequate infrastructure to service qualifying developments in the proposed SHA either exists or is likely to exist; and
 - b. there is evidence of demand to create qualifying developments in specific areas of the scheduled region or district; and
 - c. there will be demand for residential housing in the proposed SHA.

Options and impact analysis

- 32 There are two options available to Cabinet. Both options are predicated on the assumption that Auckland Council has supplied full and accurate data and analysis with respect to the expected impact of declaring SHAs and the extent to which the identified areas meet the criteria set out in the HASHA Act. The options are:
- Option 1 (preferred): agree the package of 11 SHAs recommended by Auckland Council, or
 - Option 2: decline to agree the package of SHAs recommended by Auckland Council.

Option 1: agree the package of 11 SHAs recommended by Auckland Council

- 33 The first tranche of areas that Auckland Council is recommending become SHAs is estimated to yield 5,808 dwellings on just under 500 ha of land (see Table 1, below).

SHA	Location	Land parcels	Yield	Land size	Type
Addison	Papakura	1	500	32 ha	Greenfield
Alexander Crescent	East Tamaki	2	148	8 ha	Greenfield
Anselmi Ridge	Pukekohe	3	64	6.7 ha	Greenfield
Flatbush Murphy's Road	East Tamaki	12	275	37.8 ha	Greenfield
Flatbush School Rd	East Tamaki	1	300	7 ha	Greenfield
Hobsonville Point (Catalina Precinct) and Marine Industry Precinct	Hobsonville	4	1,000	28.5 ha	Greenfield
Huapai Triangle	Kumeu	16	2,000	70.6 ha	Greenfield
McWhirter Block	West Harbour	4	166	10.1 ha	Greenfield
Orakei	Auckland City	7	75	0.8 ha	Brownfield
Wesley College	Pukekohe	11	1,000 ⁴	296 ha	Greenfield
Weymouth	Manurewa	1	280	15.9 ha	Brownfield
Total			5,808	513.4 ha	

⁴ Stage 1 of the Wesley SHA is estimated to yield 1,000 dwellings. This will occupy a lot less than 296ha. Over time, the balance of the area will be developed and is eventually expected to yield 6,000 dwellings.

- 34 MBIE has assessed each of these areas in terms of the criteria in the Act (see paragraph 31, above). This assessment was based on information from Auckland Council indicating whether adequate infrastructure exists or is likely to exist in each SHA, and whether Council was aware of significant interest from developers. Assessment against the third criteria was based on increasing house prices and projected population growth.
- 35 This assessment shows a varying but clear demand in each instance, based on actual and projected population growth, and the percentage of increase in house prices in adjacent areas in recent years. For each of the proposed areas MBIE considers:
- a. sufficient information has been provided by Auckland Council to satisfy the 'adequate infrastructure' criterion;
 - b. that significant interest from developers (as indicated by Auckland Council) is sufficient evidence of demand to create qualifying developments; and
 - c. that strong interest and demand in adjacent areas (again, indicated by Auckland Council) is sufficient evidence of demand for residential housing.
- 36 In addition to assessment against the legislative criteria demand is clear from pressures on the market due to current and projected population growth, and the deficit of approximately 30,000 dwellings outlined in the MBIE land supply study for Auckland.
- 37 A variant of option 1 was considered, whereby Cabinet agrees to a number of the SHAs, but not the entire package. However, since each SHA meet the criteria, the option of considering a subset of SHAs is not relevant.

Option 2: decline to agree the package of SHAs recommended by Auckland Council

- 38 The HASHA Act does not oblige the Housing Minister to recommend an Order in Council establishing the SHAs proposed by the accord territorial authority.⁵ In areas where a housing accord is in place, the Minister is prevented from recommending alternative SHAs. In Auckland, therefore, the impact of declining the current package of SHAs proposed by Auckland Council would be that no SHAs are established in the region.
- 39 Because each of the proposed SHAs meets the criteria for establishment under the Act it would be difficult to justify declining to agree the package on policy or legislative grounds. Further, taking this course of action would leave government with no ability to use the Auckland housing accord and HASHA Act instruments to address the clear pressures on the Auckland housing market.

Consultation

- 40 Before recommending the 11 SHAs, Auckland Council held a series of workshops to consider a longer list of areas in more detail. These workshops were attended by both Council officials and representatives of infrastructure providers (e.g. Auckland Transport and Watercare Services).
- 41 Council also took into account stakeholder views and how ready developers were to deliver new subdivisions and housing. Council has consulted with:

⁵ Section 16(5).

- a. the relevant land owner(s);
- b. the local boards in which the special housing areas are located; and
- c. local iwi.

42 Although the Auckland Council did not consult with the wider public on these particular proposals, it has consulted on similar proposals as part of its work on the Auckland Unitary Plan and this has informed their considerations

43 MBIE has not separately consulted on the Council's recommendations.

Conclusions and recommendations

44 The overall conclusion is that agreeing the package of SHAs recommended by Auckland Council best meets the objective of giving effect to the HASHA Act and the Auckland housing accord. Of the two options assessed, this is the option most likely to result in an increase in the supply of land for which there is adequate infrastructure and evidence of demand and is therefore the option most likely to result in an increase in housing supply to help meet Auckland's projected population growth.

Implementation plan

45 If this package of SHAs is agreed, Auckland Council will start considering resource consent applications under the Auckland housing accord criteria within the SHAs.

46 Responsibility for successful implementation of the SHAs rests with Auckland Council. Auckland Council has established a 'Housing Project Office' to deliver the operational elements of the accord, as well as analysing wider housing issues, including:

- a. identification of SHAs;
- b. assessing qualifying developments;
- c. Auckland housing policy; and
- d. implementing Auckland Council's Housing Action Plan.

47 More particularly, the office is intended to give developers a single point of contact in the Council for the overall consenting process. The 40-strong team includes secondees from teams responsible for policy, consents and asset management operations, as well as from Auckland Transport and Watercare Services.

48 The Office includes:

- a. master planners responsible for assessing proposed developments at the conceptual stage;
- b. consent planners responsible for processing subdivision consent applications;
- c. infrastructure analysts and engineers responsible for both:
 - a. forward planning infrastructure provision; and
 - b. assessing a developer's ability to meet the required standards within a proposed SHA; and

- d. policy analysts responsible for monitoring the ability of SHAs to deliver on the accord's targets and for developing Council's wider housing policy.

Monitoring, evaluation and review

- 49 The housing accord between government and Auckland Council is governed by two joint committees:
 - a. Joint Housing Steering Group: comprising the Auckland Mayor and Deputy Mayor and the Minister and Associate Minister of Housing; and
 - b. Officials Working Group: comprising senior officials from MBIE and Auckland Council.
- 50 The Joint Housing Steering Group is charged with monitoring and reviewing the implementation and effectiveness of the Auckland housing accord. It is also responsible for reviewing the accord's targets each year in light of reports on progress and the state of the construction sector.
- 51 The Officials Working Group meets at least monthly to:
 - a. receive reports from Auckland Council detailing information on approvals and consenting under the provisions of the Accord;
 - b. review progress in implementing the accord; and
 - c. review progress on all other areas of joint action.
- 52 Under the terms of the accord, a full review of the effectiveness of the accord and actions taken under it will be carried out by the Officials Working Group after 30 September 2014, and reported to the Joint Housing Steering Group.